

# **City Council Agenda Memo**

**From:** Bonnie Foster, City Clerk

**Council Meeting:** August 25, 2020

**Subject:** Video Lottery for BP of Brookings, Suite B

**Person(s) Responsible:** Bonnie Foster, City Clerk

## **Summary:**

The City of Brookings has received a request for Video Lottery for Park Place, Inc., dba BP of Brookings, Dan Park and Lance Park, owners. All required documents have been submitted.

## **Background:**

A public hearing and action by the local governing body is required. The Video Lottery License would be effective August 2020, and is subject to an annual renewal. If approved, the application would be forwarded to the State Lottery Office for final action and issuance of the license.

This business located at 2420 6<sup>th</sup> Street holds a current On-Off Sale Malt License, with 10 video lottery machines.

## **Item Details:**

Park Place, Inc., dba BP of Brookings, has applied for up to 10 video lottery machines in conjunction with their application for an On-Off Sale Malt License for 2420 6<sup>th</sup> Street.

They are remodeling the former car wash portion of the BP of Brookings Convenience Store into two suites for video lottery, each holding up to 10 video lottery machines. In order to satisfy State Video Lottery Regulations, there must be separate and distinct physical facilities maintained and utilized for the sale and consumption of alcoholic beverages for each of these separately described premises.

Their plan indicates the separate spaces have been designated, and sales and consumption of alcoholic beverages are intended to occur at these 2 additional locations within the building. This would comply with the video lottery requirements if the City Council approves the additional On-Off Sale Malt License and if the City Council also approves Video Lottery for this additional location within the building.

**SDCL [42-7A-64](#). Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments.** A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments

issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2(12) and (16):

1. The number of establishments currently licensed for video lottery;
2. The proximity of the business to other establishments licensed for video lottery;
3. The type of business and manner in which the applicant proposes to operate it;
4. The location of the business in relation to other businesses, residential areas, or activities within the same general area;
5. The extent to which minors frequent a business connected to the one proposed; and
6. The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the Department of Revenue for a license granted under subdivisions 35-4-2(12) and (16) whether the business premises is authorized for video lottery machine placement. An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

Source: SL 1994, ch 329, § 1; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. [11-1](#)), § 161, eff. Apr. 12, 2011.

#### **Legal Consideration:**

This location has been approved for 10 Video Lottery machines. Action would allow up to 10 additional Video Lottery machines for each on-sale malt beverage license approved, resulting in up to 20 Video Lottery machines for this location, if approved.

#### **Financial Consideration:**

Video Lottery fees: \$50 per machine per year.

#### **Options and Recommendation:**

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Move to a Study Session
5. Do nothing

Staff recommends approval.

#### **Supporting Documentation:**

City Attorney Memo on Video Lottery – 2018.05.02

City Attorney Opinion on AR 48:02:11:02

Video Lottery: SDCL and Administrative Rule

Legal Notice

Proposed Building Plans  
Location Map  
Current Video Lottery List  
Current Video Lottery Map