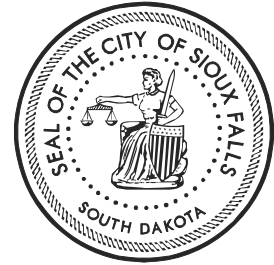


# Minutes

Monday, March 31, 2008



## Land Use Committee

5:35 p.m.  
Carnegie Town Hall  
235 W. 10<sup>th</sup> Street

**Amended**

Members Present: Bob Jamison, Bob Litz and Kermit Staggers

Staff Present: Debra A. Owen, City Clerk; and Denise D. Tucker, Assistant City Clerk

Guests: Mike Cooper, Director of Planning and Building Services; Shawna Goldammer, Urban Planner; Kevin Kavanaugh, City Councilor; J. Pat Costello, City Councilor; Vernon Brown, City Councilor; Vernon Brown, City Councilor; De Knudson, City Councilor; Jody Jamison; Jabez Brunz, City Council candidate; and Jonathan Ellis, Argus Leader.

### 1. Call to Order

A. Committee Chair Bob Jamison called the meeting to order.

### 2. Approval of Minutes

A. A motion was made by Committee member Bob Litz and seconded by Committee member Kermit Staggers to approve the February 25, 2008, minutes. A voice vote was taken and all members said yes.

### 3. Discussion

- A. Full Service Restaurants and on-sale alcohol establishments  
Mike Cooper, Director of Planning and Building Services  
Shawna Goldammer, Zoning Enforcement Manager

Ord. version A



1678\_001.pdf

Analysis



1752\_001.pdf

Ord. version B



1753\_001.pdf

- Shawna Goldammer, Zoning Enforcement Manager, led the discussion on the proposed ordinance. She said the new ordinance was a redraft of the previous version, and was based on concern of enforcement from the revenue streams. She distributed the revised ordinance and a staff report, which would be forwarded to the City Planning Commission.
- Goldammer explained that the ordinance would create a new Land Use definition – Full Service Restaurant. (See analysis)

## MINUTES - Land Use Committee

March 31, 2008 at 5:35 p.m.

### Page 2

- Mike Cooper, Director of Planning and Building Services, said this is based on the new definition of Full Service Restaurant, that if a restaurant includes video lottery, it does not have to follow the 2,000 foot rule. There was some discussion that maybe the rule needs to be added to the criteria. Jamison said it could create a loophole.
- Jamison inquired about the new state law that was passed, regarding Full Service Restaurants. He said the Full Service Restaurant had a criteria based on a percentage of food that was sold versus alcohol. Jamison said they weren't addressing that issue. Both Cooper and Goldammer said no.
- Litz asked when and where we would be looking to implement the new state law. Jamison asked if there would be another ordinance come through that would parallel the state law. Goldammer said yes, on the license side, but this ordinance is a land use issue.
- Costello expressed concern that the new ordinance would restrict a significant number of bars and restaurants because they don't want video lottery in the neighborhoods. Kavanaugh added schools and other places. He said they would be enforcing the rule by putting it with the ordinance as land use criteria.
- There was discussion to have the proposed ordinance amended to add the 2,000 foot rule criteria. Goldammer said she could do that before it was presented to the Planning Commission on Wednesday.
- A motion was made by Litz and seconded by Jamison to move forward with the amended ordinance to the Planning Commission. A voice vote was taken and Stagers voted no. The motion passed.

#### 4. Open Discussion

There was none.

#### 5. Adjournment at 6:10 p.m.

- A. A motion was made by Litz and seconded by Stagers to adjourn. Jamison called for a voice vote. All committee members voted yes.

Denise D. Tucker  
Assistant City Clerk

1st Reading: \_\_\_\_\_  
2nd Reading: \_\_\_\_\_  
Date Adopted: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY DEFINING A FULL SERVICE RESTAURANT AND REVISING CONDITIONAL USE STANDARDS FOR ON-SALE ALCOHOL ESTABLISHMENTS.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

*Section 1. That Subsection 456 of Section 15.03.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:*

(456) On-sale alcoholic beverage establishment: Any use which has obtained a conditional use permit for an on-sale alcoholic beverage establishment as defined in SDCL 35-1-1 and is or will be licensed to sell alcoholic beverages for consumption upon the premises where sold or provided, except for special one-day liquor or special malt beverage licenses and except a full service restaurant and as provided elsewhere in this title.

*Section 2. That Subsection 538 of Section 15.03.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:*

(539) Restaurant, Full Service: A restaurant which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and which has suitable kitchen facilities connected therewith, which contains customary commercial equipment for cooking an assortment of foods which may be required for such meals. Such establishments may include an incidental bar, cocktail lounge or other area designed primarily for the service of alcoholic beverages which operates as an accessory part of the restaurant and is subservient to the primary function of the establishment. A full-service restaurant receives fifty percent (50%) of gross revenues from the sale of food. For the purpose of verifying compliance with the forgoing sales requirement, the sales receipts, accounting ledgers, and any other business records pertaining to the sales of food and alcohol shall be open for inspection by the Zoning Enforcement Manager upon a 72 hour prior written notice.

*Section 3. That Subsection 217 of Section 15.59 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:*

15.59.216, Fruit and vegetable processing and canning:

Deleted: 7

*Section 4. That Subsection 217 of Section 15.59 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:*

15.59.217. Full Service Restaurant: Areas designed primarily for the service of alcoholic beverages are separated from dining areas. Upon application for a conditional use permit, the following supplemental information shall be provided: 1) A menu depicting food items available 2) Hours of operation 3) a security management plan. Full service restaurants will submit a report to the zoning enforcement manager upon six months of operation. This report will be certified by a Certified Public Accountant, that the fifty percent (50%) of gross revenues are from the sale of food and will not include soft drinks as part of food revenue. If the Zoning Enforcement Manager finds that the food revenues do not meet the definition of a full service restaurant, a report recommending conditional use permit revocation will be forwarded to the Planning Director.

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Section 4. That Subsection 306 of Section 15.59 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

15.59.306. On-sale alcoholic beverage establishment:

An on-sale alcoholic beverage establishment may be permitted provided it is found that the location:

- (1) Will not create an undue concentration of similar uses. No on-sale alcohol establishment will be within XXX feet of any other on-sale alcohol establishment.
- (2) It is not in an area where children could be expected to frequent, patronize, or recreate. No on-sale alcohol establishment will be within XXX feet of a school or a park.
- (3) It is compatible with characteristics of surrounding uses, and not injurious to surrounding properties.

Section 5. That Subsection (n) of Section 15.27.030 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

(n) Full Service Restaurant, subject to:

No residential uses within 100 feet.

Section 6. That Subsection (p) of Section 15.31.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

(p) Full Service Restaurant, subject to:

No residential uses within 100 feet.

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Section 7. That Subsection (m) of Section 15.31.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

(m) Full Service Restaurant, subject to:

No residential uses within 100 feet.

Date adopted: \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD AMENDING THE REVISED ORDINANCE OF THE CITY BY DEFINING A FULL SERVICE RESTAURANT AND REVISING CONDITIONAL USE STANDARDS OF ON-SALE ALCOHOL ESTABLISHMENTS**

**ANALYSIS**

In Sioux Falls the creation of a new establishment where alcohol (beer, wine or higher spirits) can be consumed is a two step process. The first step is for a conditional use permit to be granted by the Planning Commission. An on-sale alcoholic beverage establishment is allowed by conditional use permit in the C-2, General Commercial, C-3, Central Business and C-4, Planned Commercial Districts. The second step is for the license, which vary by type according to state law, and is issued by the City Council.

This ordinance creates a new land use, the full service restaurant. This will help to define separate land use definitions for restaurants and on-sale establishments.

The new definition, a full service restaurant, is included in section three of the ordinance. To be considered a full service restaurant, areas for a kitchen, separate dining and bar or lounge are required. Full service restaurants are allowed in same zoning districts as the on-sale alcohol establishment, but only require a conditional use permit if within 100 feet of a residential use. When a conditional use permit is required, the conditional use plan should include four criteria. These criteria include providing a menu, hours of operation, a security management plan and a floor plan depicting a dining area, kitchen and separate incidental area for alcohol service and consumption.

The on-sale alcohol establishment conditional use standard has been also modified. The criteria for video lottery being two thousand feet from any park, school or other video lottery placement has been moved from the license section of Sioux Falls Code to the Zoning Ordinance. The measurement of the 2000 feet is from property line to property line. If a request for an alcoholic beverage establishment and the new placement of video lottery machines does not meet this standard, staff will recommend denial of the conditional use permit.

**RECOMMENDATIONS**

Because the subject application meets the objectives of the 2015 Growth Management Plan, staff recommends approval of the zoning ordinance amendment.

1st Reading: \_\_\_\_\_  
2nd Reading: \_\_\_\_\_  
Date Adopted: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY DEFINING A FULL SERVICE RESTAURANT AND REVISING CONDITIONAL USE STANDARDS FOR ON-SALE ALCOHOL ESTABLISHMENTS.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

*Section 1. That Subsection 456 of Section 15.03.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:*

*(456) On-sale alcoholic beverage establishment: Any use which has obtained a conditional use permit for an on-sale alcoholic beverage establishment as defined in SDCL 35-1-1 and is or will be licensed to sell alcoholic beverages for consumption upon the premises where sold or provided, ~~except for~~ This use does not include special one-day liquor or special malt beverage licenses or a full service restaurant and as provided elsewhere in this title.*

*Section 2. That Subsection (538) of Section 15.03.020 of Appendix B Zoning Ordinance of the City of Sioux Falls, SD, is hereby amended to read as follows:*

*(538) Restaurant: An establishment where food and drink, excluding alcohol, is prepared, served, and consumed primarily within the principle building.*

*Section 3. That Subsection 538 of Section 15.03.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:*

*(539) Restaurant, Full Service: A restaurant which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and which has suitable kitchen facilities connected therewith, which contains customary commercial equipment for cooking an assortment of foods which may be required for such meals. Such establishments have a separate dining area and may include an incidental bar, cocktail lounge or other area designed primarily for the service of alcoholic beverages which operates as an accessory part of the restaurant and is subservient to the primary purpose of a full-service restaurant.*

*Section 4. That Subsection 217 of Section 15.59 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:*

*15.59.2167. Fruit and vegetable processing and canning:*

Section 5. That Subsection 217 of Section 15.59 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

15.59.217. Full Service Restaurant: Areas designed primarily for the service of alcoholic beverages are separated from dining areas. Upon application for a conditional use permit, the following supplemental information shall be provided: 1) a menu depicting food items available 2) hours of operation 3) a security management plan. 4) a floor plan depicting the dining area, kitchen facilities and separate incidental area for alcohol service and consumption.

Section 6. That Subsection 306 of Section 15.59 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

15.59.306. On-sale alcoholic beverage establishment:

An on-sale alcoholic beverage establishment may be permitted provided it is found that the location:

- (1) Will not create an undue concentration of similar uses.
- (2) It is not in an area where unattended children could be expected to frequent, patronize, or recreate.
- (3) It is compatible with characteristics of surrounding uses, and not injurious to surrounding properties.
- (4) Video lottery machine placement is not within 2,000 feet of any city park, video lottery machine placement, or any elementary or secondary school within the city as measured from property line to property line. The provisions of this section shall apply to any new video lottery machine placement authorized after June 1, 2008.

Section 7. That Subsection (n) of Section 15.27.030 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

(n) Full Service Restaurant, subject to:

No residential uses within 100 feet.

Section 8. That Subsection (p) of Section 15.29.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

(p) Full Service Restaurant, subject to:

No residential uses within 100 feet.

Section 9. That Subsection (m) of Section 15.31.020 of Appendix B Zoning Ordinance of the Revised Ordinances of Sioux Falls, SD, is hereby added to read as follows:

(m) Full Service Restaurant, subject to:

No residential uses within 100 feet.

Section 10. That Section 5.19 of the Revised Ordinances of Sioux Falls, SD, is hereby repealed as follows:

**~~Sec. 5-19. Number of video lottery machine placements authorized.~~**

~~No authorization for a video lottery machine placement will be granted within 2,000 feet of any city park, other video lottery machine placement, or any elementary or secondary school within the city as measured from the closest point of the outside wall of either of such buildings or tenant space or the boundary of any park. The provisions of this section shall not apply to any video lottery machine placement authorized prior to June 1, 2003.~~

Date adopted: \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk