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ORDINANCE NO. 52-23

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 111: ALCOHOLIC BEVERAGES.

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

WHEREAS, the City Council, as governing body for the City, may approve the application for new retail liquor licenses or the transfer of existing licenses if the governing body considers the applicant suitable to hold the license and the proposed location is suitable (SDCL 35-2-1.2); and

WHEREAS, the governing body may set by ordinance the number of on-sale and off-sale liquor licenses that the City will approve, and the fees charged for various classifications of licenses and, if not by ordinance, annually by resolution (SDCL 35-4-11) subject to Title 35 of the codified laws of the state of South Dakota; and

WHEREAS, by virtue of the governing body having the power to approve the issuance of liquor licenses within the corporate limits of the municipality (SDCL 35-2-1.2), the City establishing the process by which available on-sale and off-sale liquor licenses are allocated to qualified applicants is a valid exercise of the powers of the City Council.

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

Section 1. That Section 111.002 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:

§ 111.002 CLASSIFICATIONS AND FEES.

The following classifications and fees are established for dealers in distilled spirits, wines, and malt beverages:

Classification	Fee
Full-service restaurant on-sale license	
Initial fee	\$192,517
Annual fee	\$1,500
Malt beverage and wine produced by a farm winery license, being both on-sale dealers and package dealers	
Annual fee	\$300
Off-sale dealers	
Initial Fee	An amount not less than \$500 and as otherwise determined by § 111.012.1
Annual fee	\$500
Off-sale delivery	
Annual fee	\$150
On-sale dealers, including convention facility on-sale	
Initial fee	An amount not less than \$240,646 and as otherwise determined by § 111.015.1
Annual fee	\$1,500
On-sale dealers at publicly operated airports	
Annual fee	\$250
Special one-day off-sale package wine dealers	
Per day, not to exceed 15 consecutive days	\$50
Special one-day malt beverage retailers license	
Per day, not to exceed 15 consecutive days	\$25
Special one-day wine retailers license	
Per day, not to exceed 15 consecutive days	\$25
Special one-day on-sale license	
Fee for first day	\$100
Fee for each subsequent day, not to exceed 15 consecutive days	\$50
Wine and cider retailers, being both package dealers and on-sale dealers	
Annual fee	\$500

Section 2. That Section 111.012.1 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:

§ 111.012.1 OFF-SALE DEALER LIQUOR LICENSE SALE AND APPLICATION PROCEDURE.

The following procedure will apply any time one or more off-sale dealer liquor licenses become available to be issued per SDCL 35-4-10.

(a) The city shall cause to be published a notice of public sale at least twice in a legal newspaper with general circulation in the area, with the first publication not less than ten calendar days prior to the date of the sale. The notice shall state the number of off-sale dealer liquor licenses to be sold by sealed bid, the time, date, and place for the opening of bids, and that bids shall be made on a form available from the city. The notice shall also state that the city reserves the right to reject any or all bids and that a bidder must conform to the requirements of state law and city ordinance to qualify as an alcoholic beverage licensee.

(b) Sealed bids shall be made using a form provided by the city, which will require specifying the location where the off-sale dealer liquor license will be used and the amount of the bid. Only one sealed bid will be accepted per location. The sealed bids must be filed with the city prior to the time and date specified in the notice. Each bid shall contain the bid form, along with a nonrefundable application fee in the amount of \$100.

(c) On the date and place for the opening of bids, all sealed bids will be opened, and bidders will be listed in sequential order from highest to lowest bid. The order for tie bids will be determined by the earliest date and time the bid was received by the city.

(d) No bid may be less than the minimum established for off-sale dealer liquor licenses in § 111.002.

(e) The bidder(s) providing the highest bids, based on the number of available off-sale dealer liquor licenses as prescribed in § 111.013, shall be notified in writing of their conditional award. The issuance of the license shall be conditioned upon the eligibility of the bidder to hold the license, suitability of the proposed premises upon which alcoholic beverages will be sold, active use of the license within 90 calendar days of issuance, and compliance with all other state law and city ordinance requirements, including but not limited to applicable zoning, building, and property maintenance codes. The city council reserves the right to stipulate such other and further conditions, based on suitable person and suitable location, for issuance of the license as may be necessary and proper. All conditionally awarded bids, including the name of the bidder and the amount of the bid, shall be published online by the city within five business days of the date of written notice of conditional award to the bidder.

(f) If no conditional use permit is required, conditionally awarded bidders must submit a completed uniform alcoholic beverage license application along with the off-sale dealer liquor license fee, in the amount of the conditionally awarded bid, to the city within ten business days of the date of written notice of conditional award.

(g) If a conditional use permit is required, conditionally awarded bidders must submit a conditional use permit application within 30 calendar days of the date of written notice of conditional award. The conditional use permit process must be concluded within 60 calendar days of the date of written notice of conditional award unless extended by the planning commission or city council. Upon receiving the conditional use permit, the conditionally awarded bidder must submit the uniform alcoholic beverage license application and the off-sale

dealer liquor license fee, in the amount of the conditionally awarded bid, to the city within ten business days of receiving the conditional use permit.

(h) If one or more of the highest bidders receiving a conditional award do not meet all conditions as prescribed in the ordinance, the next highest bid or bids may be conditionally accepted in the same manner as the prior higher bid(s). If a bidder voluntarily withdraws a conditionally awarded bid prior to submitting the uniform alcoholic beverage license application, that bidder shall be deemed ineligible to provide a bid for future off-sale dealer liquor licenses from the city for a period of three years. In the case where a bidder has provided multiple bids, lower bids must be voluntarily withdrawn prior to higher bids, whether the bids are conditionally awarded or otherwise.

(i) After all new off-sale dealer liquor licenses have been approved by the city council, the time period for executing these procedures shall be closed. Any remaining off-sale dealer liquor license bids shall be deemed ineligible for further consideration. Any additional off-sale dealer liquor licenses that may become available shall require a new sealed bid process as prescribed in § 111.012.1.

(j) Proceeds from the sale of the off-sale dealer liquor licenses, above the minimum Initial Fee for off-sale dealer liquor licenses established in § 111.002, shall be utilized for the purposes of community betterment initiatives which may include, but not limited to, addressing substance abuse, mental health, safety, homelessness and the housing of at-risk populations.

Section 3. That Section 111.012.2 of the Code of Ordinances of Sioux Falls, SD, is hereby repealed:

§ 111.012.2 [REPEALED.]

Section 4. That Section 111.014.1 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:

§ 111.014.1 ON-SALE DEALER LIQUOR LICENSES FOR CITY-OWNED FACILITIES.

In accordance with SDCL 35-4-14.1, notwithstanding § 111.003 and the procedures set for in § 111.015.1, and as allowed by SDCL 35-4-14.1 the city may by resolution, without an election but subject to referendum, issue an on-sale dealer liquor license pursuant to SDCL 35-4-2(4) for use at any city-owned entertainment venue, event venue, event center, arena, performance hall, theater, outdoor amphitheater, convention center, stadium, athletic venue, recreation facility, municipal auditorium operated pursuant to SDCL 9-52, or public convention hall operated pursuant to SDCL 9-53. An on-sale dealer license issued pursuant to this section must be used to support the primary public purpose of the city-owned facility during the hours the city-owned facility is open for its primary purpose, and such primary purpose for the city-owned facility shall not be to exclusively provide food and beverage services. Licenses issued under this section shall not be subject to the fees established in § 111.002. The city may contract with any person or entity to use the licenses issued under this section for purposes of providing food and beverage services at the city-owned facility. Licenses issued pursuant to this section may not be

transferred. No video lottery may be placed at city-owned facilities using a license issued under this section.

Section 5. That Section 111.015.1 of the Code of Ordinances of Sioux Falls, SD, is hereby amended to read:

§ 111.015.1 ON-SALE DEALER LIQUOR LICENSE SALE AND APPLICATION PROCEDURE.

The following procedures will apply any time one or more new on-sale dealer liquor license(s) become available to be issued per SDCL 35-4-11.

(a) The city shall cause to be published a notice of public sale at least twice in a legal newspaper with general circulation in the area, with the first publication not less than ten calendar days prior to the date of the sale. The notice shall state the number of on-sale dealer liquor licenses to be sold by sealed bid, the time, date, and place for the opening of bids, and that bids shall be made on a form available from the city. The notice shall also state that the city reserves the right to reject any or all bids and that a bidder must conform to the requirements of state law and city ordinance to qualify as an alcoholic beverage licensee.

(b) Sealed bids shall be made using a form provided by the city, which will require specifying the location where the on-sale dealer liquor license will be used and the amount of the bid. Only one sealed bid will be accepted per location. The sealed bids must be filed with the city prior to the time and date specified in the notice. Each bid shall contain the bid form, along with a nonrefundable application fee in the amount of \$100.

(c) On the date and place for the opening of bids, all sealed bids will be opened, and bidders will be listed in sequential order from highest to lowest bid. The order for tie bids will be determined by the earliest date and time the bid was received by the city.

(d) No bid may be less than the minimum established for on-sale dealer liquor licenses in § 111.002.

(e) The bidder(s) providing the highest bids, based on the number of available on-sale dealer liquor licenses as prescribed in § 111.013, shall be notified in writing of their conditional award. The issuance of the license shall be conditioned upon the eligibility of the bidder to hold the license, suitability of the proposed premises upon which alcoholic beverages will be sold, active use of the license for a minimum of 60 days within two years of issuance or as otherwise required by SDCL 35-2-5.3, and compliance with all other state law and city ordinance requirements, including but not limited to applicable zoning, building, and property maintenance codes. The city council reserves the right to stipulate such other and further conditions, based on suitable person and suitable location, for issuance of the license as may be necessary and proper. All conditionally awarded bids, including the name of the bidder and the amount of the bid, shall be published online by the city within five business days of the date of written notice of conditional award to the bidder.

(f) If no conditional use permit is required, conditionally awarded bidders must submit a completed uniform alcoholic beverage license application along with the on-sale dealer liquor license fee, in the amount of the conditionally awarded bid, to the city within ten business days of the date of written notice of conditional award.

(g) If a conditional use permit is required, conditionally awarded bidders must submit a conditional use permit application within 30 calendar days of the date of written notice of conditional award. The conditional use permit process must be concluded within 60 calendar days of the date of written notice of conditional award unless extended by the planning commission or city council. Upon receiving the conditional use permit, the conditionally awarded bidder must submit the uniform alcoholic beverage license application and the on-sale dealer liquor license fee, in the amount of the conditionally awarded bid, to the city within ten business days of receiving the conditional use permit.

(h) If one or more of the highest bidders receiving a conditional award do not meet all conditions as prescribed in the ordinance for approving their application, the next highest bid or bids may be conditionally accepted in the same manner as the prior higher bid(s). If a bidder voluntarily withdraws a conditionally awarded bid prior to submitting the uniform alcoholic beverage license application, that bidder shall be deemed ineligible to provide a bid for future on-sale dealer liquor licenses from the city for a period of three years. In the case where a bidder has provided multiple bids, lower bids must be voluntarily withdrawn prior to higher bids, whether the bids are conditionally awarded or otherwise.

(i) After all new on-sale dealer liquor licenses have been approved by the city council, the time period for executing these procedures shall be closed. Any remaining on-sale dealer liquor license bids shall be deemed ineligible for further consideration. Any additional on-sale dealer liquor licenses that may become available shall require a new sealed bid process as prescribed in § 111.015.1.

(j) Proceeds from the sale of the on-sale dealer liquor licenses, above the minimum Initial Fee for on-sale dealer liquor licenses established in § 111.002, shall be utilized for the purposes of community betterment initiatives which may include, but not limited to, addressing substance abuse, mental health, safety, homelessness and the housing of at-risk populations.

Section 6. That Section 111.015.2 of the Code of Ordinances of Sioux Falls, SD, is hereby repealed:

§ 111.015.2 [REPEALED.]

Date adopted: 07/05/23 .

Paul TenHaken, Mayor

ATTEST:
James David, Acting City Clerk