

Memorandum #08-90

To: City Commission
From: Finance Officer
Date: 4/25/2008
Subject: Memorandum Requesting the Temporary Suspension of Chapter 3, Section 3-6, of the Yankton Code of Ordinances

Attached to this Memorandum is a letter from Jeff Steppat of Minerva's, requesting a temporary suspension of Chapter 3, Section 3-6, of the Yankton Code of Ordinances. I have attached not only the Yankton Code of Ordinance, but the State Code for Sunday sales.

SDCL 35-4-2.1. Local approval of Sunday sales by on-sale licensees--Fee--Property tax paid. Notwithstanding § 35-4-81, the governing body of any municipality or county may, in its discretion, provide in any on-sale license the right to sell, serve, or allow to be consumed alcoholic beverages between the hours of eleven a.m. and twelve midnight on Sunday with the serving of food if the licensee has facilities for the serving of prepared meals from a fixed restaurant with the simultaneous seating capacity of at least:

- (1) Fifty patrons in municipalities of the first class;*
- (2) Thirty-five patrons in municipalities of the second class; and*
- (3) Twenty-five patrons in municipalities of the third class.*

If such establishments are outside the corporate boundaries of a municipality, the population of the nearest municipality shall govern the minimum seating capacity of an establishment so located. The governing body may require such licensee to pay an additional fee of not more than two hundred dollars. The provisions of this section apply only to facilities upon which property taxes, if assessed, are currently paid.

Sec. 3-6. When Sunday sales permitted.

On-sale licensees who operate a bona fide restaurant capable of seating fifty (50) patrons at one and the same time and with kitchen facilities capable of serving fifty (50) patrons at one and the same time may apply for special license provision to permit sale of alcoholic beverages on Sunday. If said special license provision is granted by the board of city commissioners, said licensee shall have the right to serve alcoholic beverages on Sunday only during the hours of 1:00 p.m. until 12:00 midnight with the serving of food. Said Sunday service shall be permitted notwithstanding the provisions of section 3-5 of this Code.

(Ord. No. 381, 7-23-73; Ord. No. 466, 1-9-78)

Mr. Steppat is requesting that the suspension would be for the period between 11:00 AM, Sunday, May 11, 2008, and 12:00 AM, Monday, May 12, 2008. This request is for their Mother's Day brunch wherein they are asking to serve Champagne Mimosas starting at 11:00 AM.

This would allow those on-sale retail liquor license holders who have a special "Sunday liquor license" to serve mixed drinks between those hours on this one day only. South Dakota Codified Law currently allows this but we have restricted it with our local ordinance. Of the 17 local

establishments who currently have on-sale retail liquor licenses, 16 have the special “Sunday liquor license”.

It is recommended that the City Commission discuss this item and decide whether or not to allow a temporary suspension of this ordinance.

Thank you,

Al Viereck
Finance Officer



Minervas Grill & Bar · Best Western Kelly Inn Convention Center
1607 E. Hwy. 50, PO Box 157 · Yankton, SD 57078 · 605/664-2244 · FAX 605/665-4318

Dear Commissioners,

We would like to be able to serve Mimosas on Sunday May 11th (Mothers Day) starting at 11am. There is currently city ordinance stating that no alcohol can be served before 1pm on Sundays. We would greatly appreciate it if you would allow this. Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Jeff Steppat".

Jeff Steppat
Sales & Catering Director for Minervas