

CITY OF GREAT FALLS, MONTANA

AGENDA # 6

A G E N D A R E P O R T

DATE December 7, 2004

ITEM Ord.# 2892, establishing a Moratorium on additional premises selling alcoholic beverages over quota.

INITIATED BY John Lawton, City Manager.

ACTION REQUESTED Hold a Public Hearing and Approve Ord.# 2892.

PRESENTED BY John Lawton, City Manager.

RECOMMENDATION:

It is recommended the City Commission approve Ord.#2892 immediately establishing a Moratorium prohibiting the sale of alcoholic beverages for consumption on additional premises with all-beverage and beer licenses until the state quota permits additional licenses in Great Falls. A four/fifths vote is necessary for passage.

MOTION:

I move the City Commission approve Ord.#2892 establishing a six month Moratorium prohibiting the future establishment of additional premises with all-beverage and beer licenses in Great Falls until the state quota permits additional licenses for such premises in Great Falls.

SYNOPSIS:

The declared purpose of state regulation and control of the manufacture, sale, importation and distribution of alcoholic beverages within Montana is to protect the “welfare, health, peace, morals and safety of the people of the state.” 16-1-101 MCA. The quota on the number of liquor license allowed within a city and within 5 miles of city limits for all-beverage licenses, beer licenses and restaurant beer and wine licenses is set by state statute. For Great Falls including the 5 mile area beyond city limits, the number of premises with all-beverage licenses exceed the state quota by 22; the number of premises with beer licenses exceed the state quota by 1; the number of premises with restaurant beer and wine licenses are within quota by a margin of 10.

Therefore, in the interest of protecting the welfare, health, peace, morals and safety of the residents of the City of Great Falls, it is deemed necessary and urgent to impose a Moratorium within the City of Great Falls prohibiting the sale of alcoholic beverages for consumption on additional premises with all-beverage and/or beer licenses until the permissible quota of all-beverage and/or beer licenses under state statutes for the City of Great Falls exceeds the existing number of such premises licensed and selling such alcoholic beverages. The Moratorium shall not apply to existing premises with all-beverage

and beer licenses or such licenses relocation; and, also excepting existing or future premises with restaurant beer and wine licenses.

BACKGROUND:

The statutory quota for all-beverage licenses is as follows: in incorporated cities over 3,000 inhabitants and within a distance of 5 miles from the corporate limits thereof, 5 retail licenses for the first 3,000 inhabitants and 1 retail license for each additional 1,500 inhabitants, 16-4-201, MCA. The State Department of Revenue has determined that applying the statutory quota to Great Falls and the 5 mile limit, the quota number of all-beverage licenses allowed is 56. However, because of the greater number of licensed premises in existence before the adoption of the statutory quota, there are now 78 all-beverage licensed premises within the subject area. In other words, all-beverage licenses premises exceed the statutory quota for Great Falls and the 5 mile limit by 22.

The statutory quota on beer licenses is as follows: in incorporated cities over 2000 inhabitants and within a distance of 5 miles from the corporate limit of the cities, 4 retail beer licenses for the first 2,000 inhabitants, 2 additional retail beer licenses for the next 2000 inhabitants or major fraction of 2,000 inhabitants, and 1 additional retail beer license for every additional 2000 inhabitants.

16-4-105, MCA. The State Department of Revenue has determined that the quota for the City of Great Falls and the 5 mile limit for beer licenses is 32. There are 33 premises within the City of Great Falls and the 5 miles limit in operation with beer license. In other words, existing premises with beer license exceed the state quota by 1.

The Department of Revenue has determined that premises with restaurant beer and wine licenses have a statutory quota of 16 within the City of Great Falls and the 5 mile limit. There are 6 premises within the City of Great Falls in operation with restaurant beer and wine licenses.

Therefore, the number of premises with all-beverage and beer licenses within the City of Great Falls and the 5 mile limit exceed the statutory quota by 23. Since the purpose of state regulation and control of the manufacture, sale, importation, and distribution of alcoholic beverages within the State of Montana is to protect the welfare, health, peace, morals, and safety of the people of the state and the excess number of premises with all-beverage and beer licenses within the City of Great Falls over the statutory quota is extreme and thereby detrimental to such state regulation and control, it is deemed urgent and prudent to impose a Moratorium within the City of Great Falls and all zoning districts therein prohibiting the establishment of any additional premises until the permissible quota of all-beverage and/or beer licenses for the City of Great Falls exceeds the existing number of such premises licensed and selling such alcoholic beverages in the City of Great Falls.

Said Moratorium shall not apply to existing premises with all-beverage and beer licenses or such licenses relocation; also excepting existing or future premises with restaurant beer and wine licenses.

Moratoriums are effective on passage and for 6 months after passage; thereafter, they may be extended for

1 year following a public hearing – no more than 2 such extensions may be adopted.

76-2-306, MCA. It is assumed that a change in the zoning ordinance to accommodate the provisions of the Moratorium will result in the interim or if the need or urgency ceases, will be abandoned.