

City Council Agenda Item Memo

From: Bonnie Foster, City Clerk

Council Meeting: February 27, 2024

Subject: On-Off Sale Malt License and On-Off Sale Wine License
Transfer: 724 22nd Avenue South

Person(s) Responsible: Bonnie Foster, City Clerk

Summary:

The City of Brookings has received an application to transfer the On-Off Sale Malt License and On-Off Sale Wine License, from New Sake, Inc., to Sake One, Inc., Xue Yen Lin, owner. Location: 724 22nd Avenue South. Staff recommends approval.

Background:

A public hearing and action by the local governing body is required. The On-Off Sale Malt License and On-Off Sale Wine License would be effective upon State Department of Revenue approval and license issuance, and subject to an annual renewal.

Item Details:

This application is to transfer the On-Off Sale Malt License and On-Off Sale Wine License, from New Sake, Inc., to Sake One, Inc., Xue Yen Lin, owner. This restaurant has been in operation since January 2012.

This business is located at 724 22nd Avenue South. Legal description: Restaurant: N 14.5' of S 542.8' and E 54.5' of W 309' incl. N 20' of S 528.3' and E 59' of W 313.5; Patio: N 14.5' of S 542.8' and E 24' of W 333' incl. N 20' of S 528.3' and E 19.5' of W 333', Lot 2, Brookings Mall Addition.

Chapter 6, Article 2, Section 6-42 of the City Code of Ordinances pertains to the Application Review Procedure. The city council shall review all applications submitted to the city for available on-sale alcoholic beverage agreements and for all alcoholic beverage licenses in accordance with SDCL Chapter 35-2 (SDCL 35-2-1 et seq.) and in accordance with the following factors:

- 1) Type of business which applicant proposes to operate;
- 2) The manner in which the business is operated;
- 3) The extent to which minors are employed in such a place of business;
- 4) Adequacy of the police facilities to properly police the proposed location;
- 5) Other factors: The hours that business is conducted.

(Code 1996, § 5-20) State Law reference - Local license approval, SDCL 35-2-1.2.

SDCL 35-2-1.2. Applications submitted to local governing body--Fee--Approval or disapproval. Any applicant the transfer of an existing license shall submit an application to the governing body of the municipality in which the applicant intends to operate, The applicant shall submit the required fee with the application. The governing body may approve the transfer of an existing license if the governing body considers the applicant suitable to hold the license and the proposed location is suitable.

The governing body may disapprove an application for the transfer of an existing license issued under subdivision 35-4-2(4), (6), or (13) if:

- 1) The approval of the application permits a person, corporation, or business entity to possess more than one-third of the licenses available to be issued in the jurisdiction; and
- 2) The governing body determines that possession of more than one-third of licenses available is not in the public interest.

Complete City Code and SDCL References are in the attached document.

Legal Consideration:

City Attorney Steve Britzman has reviewed this alcohol license transfer.

Strategic Plan Consideration:

Economic Growth – existing business transfer.

Financial Consideration:

Malt License Transfer Fee: \$150 (\$75 City of Brookings / \$75 State of South Dakota)

Wine License Transfer Fee: \$150

Options and Recommendation:

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Refer to a Study Session
5. Discuss / take no action / table

Staff recommends approval.

Supporting Documentation:

Legal Notice

City Code and SDCL References

Location Map