

City Council Agenda Memo

From: Bonnie Foster, City Clerk

Council Meeting: April 28, 2020

Subject: Operating Agreement for an On-Sale Liquor License for Liquor License for MG Oil Company, dba The Lanes, Marlyn Erickson and Troy Erickson, owners, 722 Western Ave., Brookings, SD, legal description: Lots 1 and 2, Block 1, Snyder's Addition, with video lottery terminals.

Person(s) Presenting: Bonnie Foster, City Clerk

Summary:

The City of Brookings has received an application to transfer the On-Sale Liquor License from Prairie Lanes, Leslie Nelson, Sharon Busick, and Cora Nelson, owners, to MG Oil Company, dba The Lanes, Marlyn Erickson and Troy Erickson, owners, 722 Western Ave., Brookings, South Dakota, legal description: Lots 1 and 2, Block 1, Snyder's Addition, with video lottery terminals. An operating agreement is required for On-Sale Liquor Licenses. This Resolution allows the City Manager to enter into the first five years of the 10-year agreement, effective through 2025.

Background:

A public hearing and action by the local governing body is required for all alcohol licenses. This license would be effective until December 31, 2020 and then subject to an annual renewal. If approved, the application would be forwarded to the State Department of Revenue for final action and issuance of the license.

Listed below is specific information related to on-sale alcohol license requests and procedures associated with an application.

City Ordinances:

Listed below is Chapter 6, Article 2, Section 6-42 of the City Code of Ordinances pertaining to 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 35-2 and in accordance with the following factors:

- 1) Type of business which applicant proposes to operate: on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations, or other stores where groceries or gasoline are sold unless it can be established that minors do not regularly frequent the establishment.

- 2) The manner in which the business is operated: on-sale alcoholic beverage operating agreements and alcoholic beverage licenses may not be issued to establishments which are operated in a manner which results in minors regularly frequenting the establishment.
- 3) The extent to which minors are employed in such a place of business: on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations, or other stores where groceries or gasoline are sold and which regularly employ minors.
- 4) Adequacy of the police facilities to properly police the proposed location: The city council shall inquire of the city manager whether the police department can adequately police the proposed location.
- 5) Other factors: The hours that business is conducted shall be considered by the city council in its review of applications for on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses.

SD Codified Law 42-7A-64. Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments. A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2(12) and (16):

- 1) The number of establishments currently licensed for video lottery;
- 2) The proximity of the business to other establishments licensed for video lottery;
- 3) The type of business and manner in which the applicant proposes to operate it;
- 4) The location of the business in relation to other businesses, residential areas, or activities within the same general area;
- 5) The extent to which minors frequent a business connected to the one proposed; and
- 6) The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the Department of Revenue for a license granted under subdivisions 35-4-2(12) and (16) whether the business premises is authorized for video lottery machine placement. **An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section.** The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

Legal Consideration:

None.

Financial Consideration:

This license would be effective until December 31, 2020 and then subject to an annual renewal.

Options:

The City Council has the following options:

1. Approve the resolution as presented.
2. Approve the resolution with modifications.
3. Reject the resolution.
4. Do nothing.

Recommendation:

Staff recommends approval.

Action Requested:

Recommend approval of the transfer of the On-Sale Liquor License.

Supporting Documentation:

1. Resolution
2. Operating Agreement
3. Hearing Notice
4. Map