

City Council Agenda Memo

From: Bonnie Foster, City Clerk

Council Meeting: May 26, 2020

Subject: Public Hearing on On/Off Malt License Renewals

Person(s) Responsible: Bonnie Foster, City Clerk

Summary:

The public hearing will allow for public and City Council comment on three (3) businesses which failed an alcohol compliance check conducted by the Brookings Police Department. Following the public hearing, the City Council will take action on the annual on/off malt license renewals.

After Council action, applications will be forwarded to the State Department of Revenue for final action and issuance of licenses.

Background:

A public hearing is required by SDCL 35-2-1.2 for any licensee where one or more of the licensee's employees have been subjected to a criminal penalty for violation of the alcoholic beverage control law.

SDCL 35-2-1.2. Applications submitted to local governing body--Fee--Approval or disapproval. Any applicant for a new retail license, except as set forth in § 35-2-1.1, or the transfer of an existing license shall submit an application to the governing body of the municipality in which the applicant intends to operate, or if outside the corporate limits of a municipality, to the governing body of the county in which the applicant intends to operate. The applicant shall submit the required fee with the application. The governing body may approve the application for a new retail license or 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 a new retail license or 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.

Any application for the reissuance of a retail license may be approved by the municipal or county governing body without a hearing unless in the past year the licensee or one or more of the licensee's employees have been subjected to a criminal

penalty for violation of the alcoholic beverage control law or the license has been suspended.

Source: SDC 1939, §§ 5.0206, 5.0305; SL 1945, ch 21, § 1; SL 1951, ch 11; SDC Supp 1960, § 5.0204 (14); SL 1961, ch 14; SL 1964, ch 9; SL 1965, ch 12; SDCL §§ 35-4-32, 35-4-33, 35-6-15; SL 1971, ch 211, § 13; SL 2008, ch 37, § 140; SL 2011, ch 171, § 1; SL 2017, ch 164, § 1; SL 2018, ch 213, § 12.

Item Details:

A Compliance Check was conducted by the Brookings Police Department on May 24, 2019. A total of 15 businesses were checked, with three (3) failing. Of the businesses which failed the compliance check, none of the businesses had failed prior compliance checks.

The following 3 businesses failed:

- Guadalajara, Village Square Mall, Suite F
- Tee'd Off Golf, 2508 Wilbert Court, Suite B
- The Wild Hare, 303 3rd St.

Legal Consideration:

None.

Strategic Plan Consideration:

None.

Financial Consideration:

None.

Options and Recommendation:

The City Council has the following options:

1. Approve as presented
2. Amend
3. Deny
4. Move the item to a study session
5. Do nothing

Staff recommends approval.

Supporting Documentation:

Memo

Hearing Notice

Map of Locations