

MEMORANDUM

TO: Mayor & City Council

FROM: Jane Whittington, City Clerk

DATE: November 1, 2023

RE: License for Beer and Wine Retail Sales

Attached is an application for authorization to see beer and wine retail in a convenience store that also sells food and other products. The business 4591 Sugar Hill, Inc., located at 4591 Old Suwanee Rd., Sugar Hill. The applicant, Kevin Doshi, currently has a business license for a convenience store. The hours of sale for malt beverages and wine would be limited to 7:00 a.m. until midnight Monday through Saturday and 12:30 p.m. until 11:30 p.m. on Sunday. The Sugar Hill Code Chapter 6, Sections 42 and Section 43, and Section 137 and 138 sets out the requirements for Council consideration. The referenced code sections are attached.

(b) *Recommendation of city manager.* The city clerk shall forward a copy of any application for a license received under this article to the city manager within 48 hours of the time of receipt of the application. The city manager shall make a recommendation thereon, favorable or otherwise, and shall return such recommendation to the city clerk within 14 days after receiving a copy of the application.

(c) *Referral to city council.* If the applicant is denied the issuance of a license under the provisions of this chapter by the council, the applicant shall not be given consideration for a license at the same location for 180 days from the date of denial by the council.

(d) *Publication of notice.* No application for license for the sale of malt beverages within this city shall be acted upon by the council until after notice shall have been run in a meeting at which such application is to be presented and considered. Such notice shall contain the name of the applicant and the location of the proposed business, and shall be run at the applicant's expense.

(e) *Factors for council consideration.* The council, in passing upon an initial application for a license for the retail sale of malt beverages, at the final meeting thereon, shall be guided by the following factors as to whether to grant or deny such application:

- (1) The proximity of other establishments selling malt beverages to the proposed location.
- (2) The character of the neighborhood immediately adjacent to the proposed location.
- (3) The proximity of churches, schools and playgrounds to the proposed location.
- (4) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
- (5) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
- (6) The feelings and attitudes of the citizens residing in the area adjacent to the proposed location.
- (7) The information set forth in the application.
- (8) Whether any malt beverage license previously issued for such location was ever revoked for cause by the council.
- (9) Whether the applicant has ever sold malt beverages illegally in the city.

(Code 1988, § 3-23; Amd. of 7-2002)

Sec. 6-43. Restrictions on issuance.

(a) No license shall be issued for the retail sale of malt beverages in accordance with this article unless the following conditions are met:

- (1) The sale of malt beverages may not be done as a primary business, but can be done only as an incidental part of another existing ongoing business, so that the sale of

malt beverages, at retail, shall consist of not more than 20 percent of the gross revenue realized from the overall operation of the business conducted from such location.

- (2) Premises from which the business of retail sale of malt beverages is conducted shall contain at least 2,000 square feet of floor space including the operation of the malt beverage business and the other business to which it is incidental, and such premises shall be kept in full compliance, at all times, in a safe and sanitary condition, and in accordance with all laws and ordinances regulating the condition of premises used for the storage or sale of food for human consumption.
- (3) Any premises for which a license is initially issued for retail sales of malt beverages shall be no closer than a distance of 75 feet from the property line of any then-existing church, school, licensed day care facility or college. The distances in the subsection shall be measured in accordance with the definition and method set forth in section 6-178 of this chapter. The distance requirements in this subsection shall not be interpreted to be in conflict with the minimum distances set forth in Georgia Statutes. The distances in this subsection shall never be less than those distances required by Georgia Statutes and in all cases in which the distances in this subsection are greater than those provided by Georgia Statutes then the distances set forth in this subsection shall control.

(b) No license shall be issued to any applicant whose place of business is not in full compliance with all minimum building codes adopted by the city.

(c) It shall be unlawful to sell or dispense any alcoholic beverages, including but not limited to the retail sale of malt beverages, from or at a drive-in, drive-thru, drive-up, or service bay, window or other facility. Further, curb service is expressly prohibited.

(Code 1988, § 3-24; Ord. of 7-9-1990; Amd. of 5-2002; Ord. of 10-9-2006(1); Ord. of 3-14-2011(1))

State law reference—Location restrictions, O.C.G.A. § 3-3-21.

Sec. 6-44. Issuance.

(a) Upon the express approval of the council, the city clerk shall issue a business license to the applicant for the retail sale of malt beverages, which license shall reflect thereon the nature of the business so authorized, and shall bear the date of issuance and the signature of the mayor and the city clerk.

(b) The granting of a license for the retail sale of malt beverages under the provisions of this article shall be deemed a privilege only, and nothing herein contained shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in such business.

(c) If the applicant is denied the issuance of a license under the provisions of this article by the council, the applicant may not apply for a license at the same location for a period of 90 days from the date of denial by the council. If an applicant is denied the issuance of a

ARTICLE III. RETAIL SALE OF WINE*

DIVISION 1. GENERALLY

Sec. 6-101. On-premises consumption; consumption in public places.

No person may sell wines, at retail or otherwise, for consumption on the premises, including the building lot on which such premises are located, and no person may consume wine in any public place within the city, except as provided in this chapter.
(Code 1988, § 3-41; Ord. of 7-11-1994)

Secs. 6-102—6-135. Reserved.

DIVISION 2. LICENSE†

Sec. 6-136. Required; fee; excise tax.

Each retail dealer of wines, as same is defined in O.C.G.A. § 3-1-2 who does business within this city shall be required to obtain a license from the city clerk and shall pay an annual license fee of \$500.00 for this privilege. In addition, there is hereby set and levied on the sale of wines within this city an excise tax in the amount on the basis of the sums and determinations set forth in O.C.G.A. § 3-6-60, which excise tax is levied against and shall be paid by the wholesale dealer as set forth in said O.C.G.A. § 3-6-60.
(Code 1988, § 3-42)

Sec. 6-137. Application.

(a) *Contents.* Every person required to procure a license under the provisions of this article shall submit an application for such license to the city clerk, which application shall conform to the requirements of chapter 18, article I of this Code.

(b) *Recommendation of city manager.* The city clerk shall forward a copy of any application for a license received under this article to the city manager within 48 hours of the time of receipt of the application. The city manager shall make a recommendation thereon, favorable or otherwise, and shall return such recommendation to the city clerk within 14 days after receiving a copy of the application.

(c) *Referral to city council.* Upon the receipt of the recommendation of the city manager as hereinabove provided, the city clerk shall forward such recommendation and application to the council for consideration and action at its next regularly scheduled meeting.

***State law reference**—Wine, O.C.G.A. § 3-6-1 et seq.

†**State law reference**—Local licensing of sales of alcohol, O.C.G.A. § 3-3-2.

(d) *Publication of notice.* No application for license for the sale of wines within this city shall be acted upon by the council until after notice shall have been run in a meeting at which such application is to be presented and considered. Such notice shall contain the name of the applicant and the location of the proposed business, and shall be run at the applicant's expense.

(e) *Factors for council consideration.* The council, in passing upon an initial application for a license for the retail sale of wines, at the final meeting thereon, shall be guided by the following factors as to whether to grant or deny such application:

- (1) The proximity of other establishments selling wines to the proposed location.
- (2) The character of the neighborhood immediately adjacent to the proposed location.
- (3) The proximity of churches, schools and playgrounds to the proposed location.
- (4) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
- (5) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
- (6) The feelings and attitudes of the citizens residing in the area adjacent to the proposed location.
- (7) The information set forth in the application.
- (8) Whether any wine license previously issued for such location was ever revoked for cause by the council.
- (9) Whether the applicant has ever sold wines illegally in the city.

(Code 1988, § 3-43)

Sec. 6-138. Restrictions on issuance.

(a) No license shall be issued for the retail sale of wines in accordance with this article unless the following conditions are met:

- (1) Premises from which the business of retail sale of wines is conducted shall contain at least 2,000 square feet of floor space including the operation of the wine business and the other business to which it is incidental, and such premises shall be kept in full compliance, at all times, in a safe and sanitary condition, and in accordance with all laws and ordinances regulating the condition of premises used for the storage or sale of food for human consumption.
- (2) Any premises for which a license is initially issued for retail sales of wines shall be no closer than a distance of 75 feet from the property line of any then-existing church, school, licensed day care facility or college. The distances in the subsection shall be measured in accordance with the definition and method set forth in section 6-178 of this chapter. The distance requirements in this subsection shall not be interpreted to be in conflict with the minimum distances set forth in Georgia