

Brookings City Code

Sec. 6-42. - 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. 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. Manner in which the business is operated. On-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to establishments which are operated in a manner which results in minors regularly frequenting the establishment.
3. 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.

(Code 1996, § 5-20)

State Law reference— Local license approval, SDCL 35-2-1.2.

SDCL References

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.

35-2-10. Violation as ground for revocation or suspension of license--Multiple licenses.

The secretary, in compliance with chapter 1-26, may revoke or suspend any license issued under this title upon proof of violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a county or municipal license, of any of the following:

- (1) Any provision of this title;
- (2) Any rule promulgated pursuant to this title; or
- (3) Any ordinance or regulation relevant to alcoholic beverage control adopted by the political subdivision issuing the license.

For any licensee with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license pursuant to this title, the licensee shall cease operation under all alcoholic beverage licenses held by the licensee for the same premises for the same period as the suspension or revocation.

Source: SDC 1939, § 5.0104; SL 1971, ch 211, § 18; revised pursuant to SL 1972, ch 15, § 4; SL 1993, ch 264; SL 2008, ch 37, § 148; SL 2010, ch 180, § 14; SL 2015, ch 196, § 25, eff. Jan. 1, 2016; SL 2018, ch 213, § 30.

35-2-10.1. Conditions under which license may not be revoked or suspended for sale to persons under twenty-one--Penalty.

No retail license may be revoked or suspended because of a violation of any statute, ordinance, rule, or regulation prohibiting the sale or service of any alcoholic beverage to a person under the age of twenty-one years if the violation was committed by an employee or agent of the licensee and the licensee has not had more than two violations of any statute, ordinance, rule, or regulation prohibiting the sale or service of an alcoholic beverage to a person under the age of twenty-one years on the premises where the violation occurred in the previous twenty-four months.

If the licensee meets the requirements of the conditions of this section, the secretary shall impose a civil penalty of five hundred dollars for a first violation and one thousand dollars for a second violation. However, if the employee or agent has not been certified by a nationally recognized training program approved by the department that provides instruction on techniques to prevent persons under the age of twenty-one years from purchasing or consuming alcoholic beverages, the secretary shall impose a civil penalty

of one thousand dollars for a first violation and two thousand dollars for a second violation.

A licensee may request an administrative hearing pursuant to chapter 1-26 to contest the imposition of a civil penalty.

Source: SL 2000, ch 177, § 1; SL 2003, ch 189, § 1; SL 2005, ch 198, § 2; SL 2011, ch 1 (Ex. Ord. 11-1), § 161, eff. Apr. 12, 2011; SL 2018, ch 213, § 31.