

Listed below is specific information related to on-sale alcohol license requests.

City Code:

Chapter 6, Article 2, Section 6-42 pertaining to Application Review Procedure.

The city council shall review all applications submitted to the city for available on-sale alcoholic beverage agreements, including transfers, 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: including 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 References:

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.

SDCL 35-2-3. Hearing required before issuance of retail license.

No license for a retail on-sale or off-sale alcoholic beverage license may be issued to an applicant until a public hearing is conducted pursuant to §§ [35-2-4](#) and [35-2-5](#).

Source: SL 1949, ch 17, § 1; SDC Supp 1960, § 5.0103-1; SL 2008, ch 37, § 142; SL 2018, ch 213, § 15.

SDCL 35-2-5. Time and place of hearing on retail license--Publication of notice.

The governing body of any incorporated municipality or county being presented applications for retail on-sale or off-sale alcoholic beverage licenses shall fix the time and place for hearing upon all applications that come before the body. The finance officer or county auditor shall publish one notice in the official newspaper of the municipality or county. The notice shall be headed "Notice of Hearing Upon Applications for Sale of Alcoholic Beverages," shall state the time and place when and where the applications will be considered, and shall state that any person interested in the approval or rejection of any application may appear and be heard. The notice shall be published at least one week before the hearing. At the hearing, the body shall consider each application and any objection to the application before making a final decision on an application.

Source: SL 1949, ch 17, § 2; SDC Supp 1960, § 5.0103-1; SL 2008, ch 37, § 144; SL 2018, ch 213, § 17.

SDCL 35-2-6.2. Character requirements for licensees.

Any licensee under this title shall be a person of good moral character, never convicted of a felony, and, if a corporation, the managing officers of the corporation shall meet the same qualifications.

Source: SDC 1939, §§ 5.0204 (10) (c), 5.0303 (2); SDCL §§ 35-4-26, 35-6-4; SL 1971, ch 211, § 25; SL 2018, ch 213, § 22.