

TITLE SIX

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CHAPTER 6.01 DEFINITIONS

6.01.00 Alcoholic Beverage – any distilled spirits, wine and malt beverages as defined by Title 35, SDCL.

On-Sale – the sale of any alcoholic beverage for consumption only upon the premises where sold.

Retail License – an on or off-sale license issued under the provisions of this title.

SDCL 35-1-1

CHAPTER 6.02 LICENSE REQUIRED

6.02.00 No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct or transport within Hill City any alcoholic beverage, wine or beer as defined above without first having a current license thereof as required by Tile 35, SDCL.

SDCL 9-29-6 and 7, 35-1-5, 35-3-1

CHAPTER 6.03
Transactions Limited to Designated Premises

6.03.00 All exchanges, barter, or distributions of alcoholic beverages or beer and wine sales as provided in 6.02 shall take place only on the premises designated or described in the license.

SDCL 35-1-9

CHAPTER 6.04
ON-SALE ALCOHOLIC BEVERAGES

6.04.00 There shall be issued within the municipal jurisdiction On-Sale licenses for the sale of alcoholic beverages other than beer only as provided by state law.

HC ORD 178

6.04.01 **ON-SALE RESTAURANT ALCOHOL LICENSE**

DEFINITIONS

Definition of terms pertaining to full-service restaurant on-sale licenses.

(1) "Bar," any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages;

(2) "Full-service restaurant," any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or foodstuffs such as sandwiches, hamburgers, or salads is not a full-service restaurant;

(3) "Restaurant," any area in a building maintained, advertised, and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where at least sixty percent of the gross revenue of the restaurant is derived from the sale of food and nonalcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen, and the number and kinds of employees necessary for the preparing, cooking, and serving of meals.

INITIAL LICENSE APPLICATION REQUIREMENTS

In the initial application, an applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and

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not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential. At least sixty percent of the gross revenue of the restaurant must be derived from the sale of food and nonalcoholic beverages.

Existing and established restaurants seeking a license for the first time shall provide the City the following:

- (1) Prior fiscal year ending information on food and nonalcoholic beverage gross revenues; and
- (2) Prior fiscal year ending information on total gross revenues; and
- (3) A current printed menu of all items being offered for sale; and
- (4) Floorplan of restaurant, noting dining, kitchen and bar areas; and
- (5) Number and kinds of employees scheduled to be working; and
- (6) Oath verifying the validity of all information submitted.

Newly opened or proposed restaurants seeking a license for the first time shall provide the City the following:

- (1) Projected food and nonalcoholic beverage gross revenues for the coming fiscal year; and
 - (2) Projected total gross revenues for the coming fiscal year; and
 - (3) A proposed printed menu of all items to be offered for sale,
- and
- (4) Floorplan of restaurant, noting dining, kitchen and bar areas; and
 - (5) Number and kinds of employees scheduled to be working;
- and
- (6) Oath verifying the validity of all information submitted.

INITIAL LICENSE COST

The Hill City Common Council shall set the fee for the issuance of an on-sale full-service restaurant license by resolution in accordance with SDCL 35-4-111; 35-4-116; 35-4-117 & 35-4-2(4).

LICENSE UTILIZATION

A full-service restaurant on-sale licensee may only serve alcoholic beverages for on premise consumption in the bar and dining room area of the restaurant.

A restaurant that has a full-service restaurant on-sale license may only be advertised or held out to the public as primarily a food eating establishment. No licensee that has a full-service restaurant on-sale license may allow smoking on the licensed premises.

Each full-service restaurant on-sale licensee shall enter into an operating agreement with the City of Hill City. The terms and conditions of that agreement shall be contained within a separate document and agreed upon by all parties.

RENEWAL

The full-service restaurant on-sale licensee shall submit an annual report to the municipality on the revenues from the full-service restaurant that includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross revenues of the licensee for the following two categories:

- (1) Food and nonalcoholic beverage gross revenues; and
- (2) Total gross revenues.

In order to be eligible for renewal, the annual report and supporting documentation submitted must show that at least sixty percent of the gross revenue of the restaurant are derived from the sale of food and nonalcoholic beverages.

The Hill City Common Council shall set the fee for the renewal of an issued on-sale full-service restaurant license by resolution in accordance with SDCL 35-4-111; 35-4-116; 35-4-117 & 35-4-2(4).

LICENSE REGISTRY

The City of Hill City shall maintain a registry of each on-sale license that is being offered for sale at the price established in SDCL 35-4-117 and furnish a copy of the registry to anyone who requests a new full-service restaurant on-sale license.

Existing on-sale license holders are responsible for registering with the City of Hill City that their on-sale license is for sale pursuant to SDCL 35-4-118.

The City of Hill City may only issue a new license pursuant to SDCL 35-4-110 to 35-4-120, inclusive, if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in SDCL 35-4-117 and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as, for sale, with the City of Hill City shall be sold at the current fair market price set by the municipality or county pursuant to SDCL 35-4-117. Nothing in SDCL 35-4-110 to 35-4-120, inclusive, precludes the sale of an on-sale license by a licensee not listed on the registry.

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**CHAPTER 6.05
CLASSIFICATION AND FEES**

6.05.00 The fee for on-sale establishments classified as restaurant – public facility with food service who are required to purchase alcoholic beverages for resale shall be set according to the operation agreement.

HC ORD178

**CHAPTER 6.06.00
SUNDAY AND MEMORIAL DAY SALES**

6.06.00 Any on-sale or off-sale licensee, licensed under South Dakota Codified Laws (SDCL) subdivisions 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of seven a.m. and two a.m. on Sundays and Memorial Day. Any fee for such license shall be as set forth by resolution and adopted by the Common Council.

HC ORD2015-01

6.06.01 **Repealed**

HC ORD2015-01

**CHAPTER 6.07
FEES FOR LICENSES**

6.07.00 Subject to any applicable fee limitations or minimums set forth in SDCL Chapter 35-4 and related provisions, all fees for authorized licenses shall be set by resolution and adopted by the Common Council.

HC ORD2015-01

**CHAPTER 6.08
RESTRICTIONS ON LICENSED PREMISES FOR ON-SALE ESTABLISHMENTS**

6.08.00 A) There shall be no beer or alcoholic beverage license issued to an applicant whose licensed premises is not open for four months or more;

 B) If an applicant has been issued a license but closes before the end of four months, for other than man-made or natural disasters and such

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violation shall be adversely considered against them for their next application and they shall be charged three times the usual fee for the next year's license;

C) The exact description of the licensed premises shall be fully set forth on the application; and

D) Under no circumstances shall beer or alcoholic beverages be sold under any transient merchant license.

CHAPTER 6.09 CERTIFICATION REQUIRED FOR LICENSED OPERATORS

6.09.00 Every lessee in a License Operating Agreement shall be TAM (or other State Recognized Program) certified, and each employee who serves alcoholic beverages shall also be so certified within thirty (30) days of his or her hire, and this requirement shall be made part of every Operation Agreement as same shall be renewed.

CHAPTER 6.10 PENALTY

6.10.00 Violations of this ordinance shall be considered a class 2 misdemeanor unless otherwise provided.