

CHAPTER 4
ALCOHOLIC BEVERAGES

Amended Chapter 4, Sections 4-100 thru 4-106, Repealed Sections 4-107 thru 4-110, Ordinance #2016-05, Adopted 09/06/16, Amended Sections 4-102.1 and 4-103 12/03/18

4-100 DEFINITIONS AND REGULATIONS

Terms in this Chapter shall have the meanings as set forth by SDCL title 35 unless a different meaning is set forth within this Chapter. SDCL title 35 shall govern any issue not addressed herein Chapter 4 as adopted.

4-101 UNAUTHORIZED TRAFFIC

No person shall produce, transport, store or sell any alcoholic beverages except as authorized under the provisions of SDCL title 35.

4-102 LICENSE REQUIRED

No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct, within the City of Philip or within one (1) mile of its territorial limits, any alcoholic beverages, defined by statute, without having a license therefor, as required by SDCL title 35, or as authorized by such title. It shall be unlawful for any persons within the City of Philip to engage in the business of selling or offering for sale any intoxicating liquors or malt beverages without first having procured a license thereof.

4-102.1 APPLICATION FOR LICENSE

- a) All applications for alcoholic beverage licenses shall be made in accordance with SDCL title 35 and submitted to the Finance Office.
- b) All applications shall be submitted with the fees established through resolution of the City Council and in accordance with SDCL title 35.

4-102.2 APPLICATION REGULATIONS

- a) Public Hearing. The City Council shall hold a public hearing to consider all alcoholic beverage applications. See exception in 4-106.
- b) Any person having been convicted of a felony as defined by SDCL shall not be the holder of a license to sell alcoholic beverages.
- c) Location Restrictions. No application for any on-sale license of alcoholic beverages except malt beverages shall be approved by the city council where the applicant's place of business is within 100 yards, measured by the regular and usual path of travel, of any door or exit of any now existing school or church or within one block from the outer edge of the campus of any educational institution as it now exists within the city.
- d) Special Meeting to Consider Application. If the applicant requests the City of Philip hold a special council meeting to consider the application for a new license or the transfer thereof regulated through this Chapter, the person requesting said meeting shall pay all costs associated with the meeting.

4-102.3 NUMBER OF ALCOHOLIC BEVERAGE LICENSES ALLOWED TO BE ISSUED

- a) The maximum number of Off-Sale Package Liquor Licenses, as defined by SDCL title 35, to be authorized by the City, in any given year shall not exceed the total number of three (3) licenses.
- b) The maximum number of On-Premise Retail Sale Liquor Licenses, as defined by SDCL title 35, to be authorized by the City, in any given year shall not exceed the total number of three (3) licenses.

The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned number of Alcoholic Beverage Licenses established by this Ordinance through resolution of said Council on or before the 1st day of September of every year.

4-103 HOURS OF BUSINESS – SALES RESTRICTED TO PREMISES

- a) On-Sale Licensee. It shall be unlawful for any on-sale licensee to sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. on the same day.
- b) Off-Sale Licensee. It shall be unlawful for any off-sale licensee to sell alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. on the same.
- c) No on-sale licensee may sell or allow to be consumed any alcoholic beverages outside the building of the licensed premises unless the licensee's business operates out of a permanent structure and the consumption of the alcoholic beverage occurs in an outdoor designated area located on the premises of the licensee which is approved by the City Council.

4-104 ALCOHOLIC BEVERAGE LICENSEE REGULATIONS

- a) No on-sale licensee shall serve alcoholic beverages except on the premises authorized by his or her license.
- b) No on-sale dealer of alcoholic beverages except malt beverage retailers shall sell any alcoholic beverages except by the drink and he or she shall not sell any original package, whether such original package is full or partially full.
- c) It is unlawful for any person to consume any alcoholic beverage upon the premises of a licensed on-sale dealer if the alcoholic beverage was not purchased from the on-sale dealer.
- d) No on-sale licensee of alcoholic beverages shall permit any person to become intoxicated on his or her licensed premises.
- e) No off-sale licensee shall permit any intoxicating liquors to be consumed in or about the said licensed premises unless in compliance with the sampling regulations allowed through SDCL title 35; and, shall not make any deliveries outside of the licensed place of business.
- f) It is unlawful to sell or give for use as a beverage, any alcoholic beverages to any person under the age of 21 years or to any person who is obviously intoxicated at the time.
- g) It shall be unlawful for any person under the age of 21 year to purchase, attempt to purchase, possess, consume or to misrepresent his or her age for the purpose of purchasing or attempting to purchase such alcoholic beverages from any licensee as defined by SDCL title 35.

4-105 OPEN PACKAGE IN PUBLIC

It is unlawful for any person to have in his or her possession in any street, highway, public right-of-way or public place, an unsealed container which contains an alcoholic beverage, unless such alcoholic beverage is served and consumed in accordance with a permit granted through section 4-106, 7-111 and/or SDCL title 35.

4-106 SPECIAL ALCOHOLIC BEVERAGE LICENSES

Pursuant to SDCL title 35, the City of Philip regulates and restricts permits for special alcohol beverage licenses issued in conjunction with special events.

- a) Any license issued shall be issued for a period of time established within the sole discretion of the City Council, not to exceed three (03) consecutive days.
- b) No person or organization may be issued a permit more than three times in any one calendar year.

- c) The license must comply with the regulations set forth on the application and all applicable state laws set forth in SDCL title 35 and city ordinances concerning the consumption and sales of alcoholic beverages.
- d) Through this ordinance, the fee for a license issued shall be \$25.00 per day which must accompany the Special Alcoholic Beverage License application. The City Council of the City of Philip reserves the right and authority to review and adjust the aforementioned fee established by this ordinance through resolution of said City Council.