

## Chapter 5.46

### SPECIAL LICENSES AND PERMITS

#### Sections:

- 5.46.010 Special malt beverage license to organizations.
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- 5.46.060 Penalty for violations.

**5.46.010 Special malt beverage retailers licenses and Retail On-Sale Wine Retailers license to organizations.** (a) The city may issue a special malt beverage retailer's license and/or a special retail on-sale wine retailers license to any civic, charitable, educational or fraternal organization in conjunction with a special event within the municipality. An educational organization does not include any elementary, secondary or higher educational institution in the public school system of this state. A special license issued pursuant to this subsection shall only be issued to the organization for the location and dates specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the city commission, however, such period may not exceed fifteen consecutive days, with each day expiring at twelve midnight.

(b) There shall be a special license fee of fifty dollars for the first day and five dollars per day thereafter.

(c) The license must be issued in the same manner as any other alcoholic beverage license including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval and the entire license fee remains in the municipality. The city commission shall have sole discretion to approve or disapprove the application, depending on whether it deems the applicant to hold such license and whether it considers the proposed location suitable.

(d) If an organization receiving a license pursuant to this section conducts a street dance in conjunction with the special event, the organization shall provide qualified security personnel as deemed necessary by the governing body which issued the license to maintain order during the street dance

(e) The applicant must apply for this license not less than forty-five days prior to the scheduled event. (Ord. 2028 (part), 2007).

**5.46.012 Special malt beverage or on-sale wine license to community playhouse.** (a) The city may issue a special malt beverage retailers license and/or a special retail on-sale wine retailers license to a community playhouse operating as a nonprofit organization for use in conjunction with a theatrical production. Any license issued pursuant to this section may be issued for a period of time established by the municipal governing body up to a period of one

year. However, such use may not exceed sixty days per year. The selling, serving, or dispensing of malt beverages and/or wine may not occur more than one hour before the commencement of a performance or at any time after the performance is concluded. A special license issued pursuant to this subsection shall only be issued to the organization for the location and dates specified on the application.

(b) There shall be a special license fee of fifty dollars for the first day and five dollars per day thereafter.

(c) The license must be issued in the same manner as any other alcoholic beverage license including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval and the entire license fee remains in the municipality. The city commission shall have sole discretion to approve or disapprove the application, depending on whether it deems the applicant to hold such license and whether it considers the proposed location suitable.

(d) The applicant must apply for this license not less than forty-five days prior to the scheduled event.

**5.46.015 Special temporary package off-sale wine license to organizations.**

(a) The city may issue a special off-sale package wine dealers license to any fair board or public, civic, charitable educational or fraternal organization in conjunction with a special event within the municipality. An educational organization does not include any elementary, secondary or higher educational institution in the public school system of this state. No special off-sale package wine dealers license may be issued pursuant to this section, unless the licensee only sells wine manufactured by a SD farm winery that is licensed pursuant to SDCL 35-12. A special license issued pursuant to this subsection shall only be issued to the organization for the location and dates specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the city commission, however, such period may not exceed fifteen consecutive days, with each day expiring at twelve midnight.

(b) There shall be a special license fee of fifty dollars for the first day and five dollars per day thereafter. Each application shall be accompanied by the fee prior to consideration by the governing body.

(c) The license must be issued in the same manner as any other alcoholic beverage license including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval and the entire license fee remains in the municipality. The city commission shall have sole discretion to approve or disapprove the application, depending on whether it deems the applicant to hold such license and whether it considers the proposed location suitable.

(d) The applicant must apply for this license not less than forty-five days prior to the scheduled event.

**5.46.020 Special malt beverage license by current licensee.** (a) The city may issue a special malt beverage license to any holder of an alcoholic beverage

license issued pursuant to SDCL 35-4-2, (6) or (16) in conjunction with a special events temporary malt beverage license in addition to any other licenses held by the special events applicant. A special license issued pursuant to this subsection may only be issued to the person and location specified and for the dates specified on the application.

(b) The fee for the license is two hundred fifty dollars.

(c) This license must be issued in the same manner as any other alcoholic beverage license, including the requirement that notice of the application be published and a public hearing be held, with the exceptions that the state does not have to grant approval and the entire license fee remains in the municipality. The city commission shall have sole discretion to approve or disapprove the application, depending on whether it deems the applicant suitable to hold such license and whether it considers the proposed location suitable.

(d) Any license issued pursuant to this section may be issued for a period of time established by the city commission, however, such period may not exceed fifteen consecutive days, with each day expiring at twelve midnight.

(e) The applicant must apply for this license not less than forty-five days prior to the scheduled event. (Ord 2028, part), 2007).

**5.46.030 Temporary on-sale malt beverage, wine or liquor license for convention hall and sports facility.** (a) The city may issue a temporary on-sale malt beverage, wine or liquor license for a business to be operated at the convention hall established pursuant to SDCL 9-52 or SDCL 9-53. Such license shall be issued without regard to the population limitations established pursuant to SDCL 35-4-11.

(b) The city may issue a special on-sale malt beverage, wine or liquor license for use at a publicly owned sports arena or facility that seats a minimum of one thousand persons in conjunction with a sporting event. Before a license may be issued in the city pursuant to this provision the municipal finance officer shall estimate the previous year's attendance at the event and provide the estimate to the governing body of the municipality. The license shall not exceed five consecutive days and shall expire at twelve midnight on the date designated by the governing board.

(c) No public hearing is required for the issuance of a license pursuant to this section if the individual applying for the license holds an on-sale alcoholic beverage license in the municipality or holds an operating agreement for a municipal on-sale alcoholic beverage license.

(d) The fee for a temporary on-sale license issued pursuant to this section shall be fifty dollars for the first day and five dollars per day for each day thereafter.

(e) The applicant must apply for this license not less than forty-five days prior to the scheduled event. (Ord 2028, part), 2007).

**5.46.040 Special events temporary on-sale license for certain organizations.** (a) The city may issued a special events temporary on-sale wine or liquor license in addition to any other licenses held by the special events

license applicant, if the licensee is recognized as an exempt (military) organization under Section 501 (c)(19) of the United States Internal Revenue Code, as amended, and in effect on January 1, 2002 and the licensee holds a malt beverage within the municipality pursuant to SDCL 35-4-2(16).

(b) No public hearing is required for the issuance of a license pursuant to this section if the individual applying for the license holds an alcoholic beverage license in the municipality or holds an operating agreement for a municipal alcoholic beverage license.

(c) Any license issued pursuant to this section may be issued for a period of time, not to exceed two consecutive days, established by the municipal governing body.

(d) The fee for a temporary on-sale license issued pursuant to this section shall be fifty dollars for the first day and five dollars per day for each day thereafter.

(e) The applicant must apply for this license not less than forty-five days prior to the scheduled event. (Ord 2028, part), 2007).

**5.46.060 Special permit for alcohol on public property.** (a) The consumption of alcoholic beverages in any public place except at on-sale locations is prohibited. Public place is defined as any place, in or out of a building, commonly and customarily open or used by the general public and any street, highway, alley or public parking area.

(b) The city may issue a permit for the consumption or blending of alcoholic beverages at a public place upon receipt of a written request from the person(s) or organization.

(c) A permit granted pursuant to this provision shall be for a length of time authorized by the city commission which shall not exceed twenty-four hours and shall not be permitted between the hours of two a.m. and seven a.m.

(d) The granting of a permit pursuant to this provision does not authorize person(s) or organization granted a permit to sell alcoholic beverages and the person(s) or organization granted a permit pursuant to this provision is prohibited from selling alcohol beverages.

(e) A special permit issued pursuant to this subsection may only be issued to the person(s) or organization, location and date specified and for on the application.

(f) An application fee of five dollars shall be submitted with the application for the special permit.

(g) The applicant must submit an application permit to the parks and recreation board not less than forty-five days prior to the scheduled event in order to allow sufficient time for the board and city commission to consider the request. (Ord 2028, part), 2007).

**5.46.060 Penalty for violations.** Any dealer or his employee violating any of the provisions of this chapter is guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days or both such fine and imprisonment. (Ord 2028, part), 2007).