

CHAPTER 2-4

PROVISIONS FOR SELLING, DISTRIBUTING AND CONSUMING ALCOHOL

2-4-1

PERSONS UNDER TWENTY-ONE (21) BARRED FROM ON-SALE PREMISES: EXCEPTIONS TO ORDINANCE

- A. No on-sale licensee may permit any person less than 21 years old to loiter on the licensed premises. The selling, serving and dispensing of alcohol by an on-sale establishment shall be done by a person 21 years or older except that a person 18 to 21 years old may be permitted by the on-sale license to sell, serve, or dispense alcoholic beverage on such premises if fifty percent or more of the gross business transacted by that establishment is from the sale of alcoholic beverages, or the licensee or an employee of the licensee that is at least twenty-one years of age is on the premises when the alcoholic beverage is sold, served or dispensed. For the purposes of this section, the term, "to sell and serve alcoholic beverages", includes tending bar or drawing, pouring or mixing alcoholic beverages. Any person tending bar or drawing, pouring, or mixing alcoholic beverages pursuant to this section must be certified by a nationally recognized alcohol management program.
- B. An on-sale licensee issued a license pursuant to subdivision (17) of SDCL §35-4-2 whose sale of alcoholic beverages constitutes more than fifty percent of the gross business transacted by that establishment may erect a physical barrier to allow for multiple uses of the premises by persons of all ages provided persons under the age of twenty-one are not permitted access to the area reserved for the sale of malt beverages. For the purpose of this section, a physical barrier includes, but is not limited to, a wall, fence, rope, railing or other physical feature erected for the sole purpose of restricting the free flow of foot traffic and access to a certain area of a premises.

Legislative History:

Ordinance No. 205, §3.a, 6/3/91.
Ordinance No. 472, 08-03-10.
Ordinance No. 736, 8/20/2025.

2-4-2

SALE OR GIFT OF ALCOHOLIC BEVERAGE TO MINORS PROHIBITED

It shall be unlawful for any person to sell, give or furnish any alcoholic beverage to any person under the age of twenty-one (21) years.

Legislative History:

Ordinance No. 205, §3.b, 6/3/91.

2-4-3

PURCHASE OF AN ALCOHOLIC BEVERAGE BY A MINOR PROHIBITED

It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase an alcoholic beverage.

Legislative History:

2-4-4

MISREPRESENTATION OF AGE

It shall be unlawful for any person under the age of twenty-one (21) years to misrepresent his age with the use of any document for the purpose of purchasing or attempting to purchase such alcoholic beverage from any licensee.

Legislative History:

Ordinance No. 205, §3.d, 6/3/91.

2-4-5

OFF SALE SELLING, SERVING OR DISPENSING ALCOHOLIC BEVERAGES BY A MINOR IS PROHIBITED: EXCEPTIONS TO ORDINANCE

It shall be unlawful for any off-sale licensee to permit any person less than twenty-one (21) years old to sell, serve or dispense alcoholic beverages on a licensed premises, except any person at least eighteen (18) years old may sell, serve or dispense alcoholic beverages on an off sale licensed premises if less than fifty percent of the gross business transacted by the establishment is from the sale of alcoholic beverages, or the licensee or an employee of the licensee that is at least twenty-one years of age is on the premises when the alcoholic beverage is sold or served. For purposes of this section, the term, to sell or serve alcoholic beverages, includes tending bar or drawing, pouring, or mixing alcoholic beverages. Any person tending bar or drawing, pouring, or mixing alcoholic beverages pursuant to this section must be certified by a nationally recognized alcohol management program.

Legislative History:

Ordinance No. 205, §3.e, 6/3/91.

Ordinance No. 736, 8/20/25

2-4-6

OFF-SALE LICENSEE DELIVERY AND CONSUMPTION ON PROPERTY

A licensee licensed pursuant to subdivision 35-4-2(3) or (5) may apply for an off-sale delivery license as provided by subdivision 35-4-2(23) to deliver alcoholic beverages to a consumer within the boundaries of the municipality that issued the off-sale license. The alcoholic beverage for delivery shall be purchased in person and on-site at the licensee's off-sale premises. The minimum purchase of alcoholic beverages shall be one hundred fifty dollars. The delivery shall be made during hours of operation pursuant to § [35-4-81.2](#) by an employee of the licensee who is at least twenty-one years old. The employee shall obtain the signature of a person twenty-one years old or older before delivery of the shipment. The employee shall request that the person signing for the delivery display a valid age-bearing photo identification document issued by this state, another state, or the federal government verifying that the person is twenty-one years old or older. Documentation verifying the identification of the person signing for the delivery shall be retained by the licensee for one year.

Any licensee who delivers alcoholic beverages to a person under twenty-one years old is subject to a civil penalty of one thousand dollars for a first offense and two thousand dollars for a second or subsequent offense. Any money collected pursuant to this section shall be deposited in the general fund.

It shall also be unlawful for any alcoholic beverage to be consumed in or about the said licensed premises, except as permitted by SDCL 35-4-10.2.

Legislative History:

Ordinance No. 205, §3.f, 6/3/91.
Ordinance No. 316, § 3/18/02.
Ordinance No. 736, 8/20/25

Cross Reference:

SDCL 35-4-10.2.

2-4-7

SALE OF BEER IN KEGS: RECORDS AND MARKINGS REQUIRED

No keg or malt beverages may be sold at retail in the City of Brandon unless the licensee who sold such keg records the name and address of the person to whom the keg is sold and has provided for the identification of the keg. Each licensee shall maintain such sales records for one year and shall make such records available to any law enforcement agency upon request.

Legislative History:

Ordinance No. 205, §3.G, 6/3/91.

2-4-8

EXCEPTIONS TO AGE RESTRICTION

Passing, consuming or furnishing alcoholic beverage by or to a person under the age of twenty-one (21) years of age may be permitted when:

- A. The alcoholic beverage is prescribed by or under the direction of a duly licensed practitioner or nurse of the healing art for medical purposes; or,
- B. The alcoholic beverage is consumed in a religious ceremony and given to said person under the age of twenty-one (21) by an authorized person.

Legislative History:

Ordinance No. 205, §4, 6/3/91.

2-4-9

HOURS/DAYS FOR ON-SALE/OFF-SALE SERVICE: CLOSING OF PREMISES OF ON-SALE DEALER

Every on-sale dealer shall flash the lights of his place of business at 1:45 a.m. each day as a warning that within fifteen (15) minutes the licensed premises will be closed. At 2:00 a.m. every such on-sale dealer shall have cleared his premises of all persons except employees and shall lock all doors to said premises, and shall turn out all lights thereon except a nightlight approved by the City. Such nightlight shall burn from 2:00 a.m. until daylight of the following day. Each such on-sale dealer and his employees shall leave the place of business or premises by 2:30 a.m. and shall keep the same closed and locked until 7:00 a.m. on the following morning, provided, however, that the said dealer may, upon first advising the police and informing who will be present, enter said premises at any time for the purpose of reasonable maintenance of said premises. For the purpose of this section, "reasonable maintenance" shall be construed to mean only such maintenance as is necessary to prevent the deterioration or destruction of said premises or any fixtures thereof and cannot be delayed until the hour of 7:00 a.m. the following morning. The purpose of this section is that said premises shall be wholly vacant during said closed period, except as hereinbefore provided.

Legislative History:

Ordinance No. 205, §5.a, 6/3/91.

2-4-10

PERMIT FOR FOOD SERVICE LICENSEES TO HAVE EMPLOYEES ON PREMISES AFTER CLOSING

Section §2-4-9 shall not apply to any on-sale dealer which has applied for and received a special permit to allow employees to remain inside the licensed premises for the preparation of food served on the premises during hours it is open for business. This permit will be issued by the City, but only to a dealer whose sales of food constitute fifty percent or more of its gross sales, and then only upon the showing of necessity for the preparation of food after 2:00 a.m. If this permit is granted, all alcoholic beverages shall be locked or otherwise made inaccessible to the employees on the premises after 2:00 a.m. The fee for this permit will be determined at the discretion of the City.

Legislative History:

Ordinance No. 205, §5.b, 6/3/91.

2-4-11

Deleted by Ordinance 235, July 5, 1995

Days to legally sell alcoholic beverages will be determined by State law.

Legislative History:

Ordinance No. 205, §5.c, 6/3/91.

Ordinance No. 235, 7/6/95.

2-4-12

Deleted by Ordinance 235, July 5, 1995

Days to legally sell alcoholic beverages will be determined by State law.

Legislative History:

Ordinance No. 205, §5.d, 6/3/91.

Ordinance No. 235, 7/6/95.

2-4-13

MALT BEVERAGE SALES BY PACKAGE LIQUOR LICENSE HOLDERS

Holders of a Packaged Off/Sale Liquor license may sell malt beverages on Sundays without applying for a separate license.

Legislative History:

Ordinance No. 293, 8/17/00.

2-4-14

SUNDAY HOURS OF SALE

Any licensed off-sale dealer of alcoholic beverages may sell or allow to be sold alcoholic beverages on Sunday between the hours of 7:00 a.m. and 12:00 a.m.

Legislative History:

Ordinance No. 251, 7/16/96

Ordinance No. 430, 1/14/09

Authority:

SDCL 35-4-81.1