

ORDINANCE NO. 142

AN ORDINANCE ESTABLISHING FEES AND REQUIREMENTS FOR ISSUANCE OF CERTAIN ALCOHOLIC BEVERAGE LICENSES WITHIN PENNINGTON COUNTY AS AUTHORIZED IN TITLE 35 OF THE SOUTH DAKOTA CODIFIED LAWS.

WHEREAS, the Pennington County Board of Commissioners believe that alcoholic beverage licenses are a privilege and not a right, and the County reserves the right to refuse the approval, renewal or transfer of any license in the event that an applicant refuses or fails to comply with the requirements of this Ordinance or other applicable local, State or Federal laws; and

WHEREAS, the Board of Commissioners believe that retail on-sale liquor licenses available in Pennington County should be equitably distributed within the county for the benefit of all residents; and

WHEREAS, the Board of Commissioners desire to increase the fees payable to the County for retail on-sale liquor licenses;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS THAT PENNINGTON COUNTY ORDINANCE # 142 BE AMENDED AS FOLLOWS:

Section 1. The license application fee for retail on-sale liquor licenses located adjacent to a Class 1 municipality shall be \$250,000.00.

Section 2. The license application fee for retail on-sale liquor licenses located adjacent to a Class 2 municipality shall be \$25,000.00.

Section 3. The license application fee for retail on-sale liquor licenses located adjacent to a Class 3 municipality shall be \$25,000.00.

Section 4. The transfer fee for a retail on-sale liquor license from the holder to another person (s) or from one location to another shall be as proved by state statute.

Section 5. If the legal description of the premises to be licensed appears to be equally near (but not bordering) two or more municipalities of a different class, the applicable fee shall be determined by measuring and comparing the shortest distances between the exterior boundaries of the subject premises and the municipalities. If the subject

premises borders two or more municipalities of a different class, then the municipality that represents the largest class shall be the municipality upon which the applicable fee is based.

Section 6. Any application for an available retail on-sale liquor license shall include with the application a signed agreement stating that the applicant agrees that in the event of a subsequent transfer of the liquor license to a location which is closer to a municipality with a higher license application fee pursuant to Sections 1, 2 and 3 herein, then the applicant for the transfer agrees to pay the difference between what the applicant originally paid and what the applicant would have paid if the license had been located at the new location originally.

Section 7. At the time of application for transfer of a retail on-sale liquor license the transferee, if any, shall submit a signed agreement as provided in Section 6.

Section 8. Applicants for a retail on-sale liquor license shall provide appropriate proof, as required by the Board of Commissioners, that the premises to which the license is being issued or transferred has or shall have (within the time period allowed in Section 9 below) a sufficient structure in which to conduct the operation of an on-sale liquor business. Such proof may include, but not necessarily be limited to, pictures (inside and out) of any existing structures, and plans and specifications of proposed structures along with proof of ownership or a valid lease of the premises. Under no circumstance will an alcoholic beverage license of any kind be approved, renewed or transferred to any premises upon which a zoning ordinance violation has been identified until such time as the premises is brought into full compliance with all applicable provisions of the Pennington County Zoning Ordinance.

Section 9. A retail on-sale liquor license shall not be issued to any premise or parcel of land where there is not an approved structure located. Conditional approval may be given to an applicant and the license will be held by the County for up to one year to allow for the construction of an approved structure. The license will be then issued to the applicant upon the completion of such structure. Conditional approval may also be granted if the applicant needs additional time to rezone the premises for compliance with County zoning requirements. If the license has not been issued within one year due to the applicant failing to comply with this Ordinance, the County may, upon request of the applicant, extend the conditional approval for up to six additional months if it finds that the delay is not the fault of the applicant. Under no circumstance shall a license be held on conditional approval in excess of eighteen (18) months. License application fees will not be refunded once the license is approved by the County Commission and issued by the State.

Section 10. Sunday sales: No off-sale licensee shall sell, or allow to be sold, alcoholic beverages between the hours of 12:00 p.m. and 7:00 a.m. of the following day, or sell or allow to be sold distilled spirits or wine as defined in SDCL 35-1-1 on Memorial Day or Christmas Day.

Approved this 8th day of May, 2007.

PENNINGTON COUNTY COMMISSION

Jim Kjerstad, Chairperson

ATTEST:

Pennington County Auditor/Deputy

First Reading: September 1, 1998
Second Reading: September 15, 1998
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