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<b>Responsible Executive:</b>	President
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# Sale of Alcoholic Beverages

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## I. REASON FOR THIS POLICY

Pursuant to South Dakota Board of Regents Policy 6:14, this policy operationalizes the sale of alcoholic beverages on University property.

## II. STATEMENT OF POLICY

South Dakota Codified Law (“SDCL”) 35-2-6.1 prohibits the issuance of a license to sell alcoholic beverages on the campus of any state educational institution. However, SDCL 35-2-6.1 contains two exceptions.

1. The first exception allows the issuance of an alcoholic beverage license to engage in the periodic retail sale of malt beverages or wine for consumption on-site at a location and time, authorized by the Board of Regents, that involves the performing arts, intercollegiate athletics, fundraising, a reception, a conference, or an occasional or scheduled event at a facility used for performing arts, intercollegiate athletics, events, or receptions.
2. The second exception allows the issuance of a special events license for a special event authorized by the Board of Regents that involves the performing arts, intercollegiate athletics, fundraising, a reception, a conference, or an occasional or scheduled event.

The two (2) exceptions to the blanket prohibition require authorization by the SDBOR. Therefore, the authority to use an alcoholic beverage license or a special events license for

the sale of alcoholic beverages at an event occurring on any property owned, leased, or operated by the University, or on the campus of the University, is contingent on compliance with all SDBOR policies, including SDBOR Policy 6:14, and is limited by the terms and conditions contained in that policy.

Per SDBOR Policy 6:14, the SDBOR expressly authorizes the University president to determine whether to grant a Permit to procure an alcoholic beverage license or a special events license for the sale of alcoholic beverages. The grant of any such Permit shall be determined by the University president in accordance with the provisions set forth herein and not as a matter of right to any other person or party. Permits shall be conditioned upon the issuance of the appropriate license to sell alcohol by the local authority as required by South Dakota law.

The University president is responsible for ensuring that the decisions to allow the sale of alcoholic beverages on University grounds are consistent with this policy, applicable law, and the proper image and mission of the University.

The delegation of authority to the University president to issue Permits to procure an alcoholic beverage license or a special events license is subject to the following terms and conditions:

A Permit may be granted only for a Permitted Event. Each Permitted Event shall be defined by the activity planned, the area or location in which the activity will take place, and the period of time during which the activity will take place.

1. The area or location in which the activity will take place must be defined with particularity and must encompass a restricted space or area suitable for properly controlling the sale, possession, and consumption of alcoholic beverages.
2. The time period for the activity must be a single contiguous time period for a separate defined occurrence (e.g. a dinner, a conference, a reception, a concert, a sporting competition, etc.). A series of events may only be permitted in conformity with the state and local licensing regulations. An event that lacks a pre-determined end time shall not be a Permitted Event.
3. The area or location of the Permitted Event, the restricted space or area therein for sale, possession, and consumption of alcoholic beverages, and the applicable time periods for the Permitted Event, as well as the time in which alcoholic beverage sales will cease prior to the end of the Permitted Event, must each be set forth in the Permit and in the application for the Permit. A facility reservation or facility use agreement must be included in the application for a Permit; however, a facility reservation or facility use agreement does not constitute approval by the president of a Permit to sell alcohol. A facility use may occur without the sale of alcoholic beverages.
4. The application for a Permit must include a plan that addresses security.

Except as allowed herein, any Permit issued for student athletic events (including, without limitation, NCAA, NIT, NAIA and intramural student athletic events) occurring on University property or in University Facilities is limited to specially designated box seat or loge areas to which access is controlled and limited to such patrons and may not include the sale of alcoholic beverages in any other areas (including, without limitation, general admission areas).

A separate Permit may be issued for a Permitted Event that occurs in conjunction with student athletic events under the following terms and conditions:

1. The area must be for the Permit holder to entertain guests for home sporting events. Attendance is limited to adult patrons and guests who have received a personal written invitation and must not be open to access by the general public.
2. The Permitted Event must be conducted during pre-game only, last no more than three (3) hours, and end no later than the beginning of the sporting event.
3. The Permitted Event must be conducted in a secured area surrounded by a fence or other method to control access to and from the area. There must be no more than two (2) entry points manned by security personnel where identification is checked to verify age and where special colored wrist bands are issued. A color-coded wrist band system must identify attendees and invited guests, as well as those of drinking age. No one under the legal drinking age shall be admitted into the alcohol service and consumption area of a Permitted Event. The area shall be clearly marked and shall be separated in a fashion that entry into the area and exit from the area can be controlled to ensure that only those authorized to enter the area do so and that no alcoholic beverages leave the area. Individuals may not bring in their own alcoholic beverage into a designated sale area.
4. For pre-game Permitted Events held in specially designated box seat or loge areas, adult patrons and guests may be accompanied by youth for whom they are responsible, but only if such youth are, at all times, under the supervision and control of such adult patrons. Only patrons who hold tickets to seats in those areas shall be allowed into the area during the games.

A Permitted Event must be one requiring paid admission through purchase of a ticket or through payment of a registration fee, or one where admission is by written, personal invitation. Events generally open to participation by the public without admission charges or without written personal invitation shall not be eligible for an Alcoholic Beverage Permit. Only individuals who have purchased a ticket or paid a registration fee for attendance at a Permitted Event or who have received a written invitation to a Permitted Event, and who are of lawful age to consume alcoholic beverages, will be authorized to possess and consume alcoholic beverages at the Permitted Event.

The serving of alcoholic beverages must be part of a planned food and beverage program for the Permitted Event, rather than a program serving alcoholic beverages only. Food must be available at the Permitted Event, and consumption of alcoholic beverages and food cannot be

the sole purpose of a permitted event. Non-alcoholic beverages must be as readily available as alcoholic beverages at the Permitted Event.

In no event shall the general public or any participants of a Permitted Event be allowed to bring alcoholic beverages into the Permitted Event or leave the defined area where possession and consumption is allowed while in possession of an alcoholic beverage.

Upon receipt of a Permit from the University president, the Permit holder or the Vendor may procure the applicable license to sell alcoholic beverages in accordance with the approved Permit.

The Permit shall set forth the times at which sale, service, possession and consumption of alcoholic beverages will be permitted, which times shall be strictly enforced. Service and sale of alcoholic beverages shall stop at a time in advance of the time of closure of the Permitted Event sufficient to allow an orderly and temperate consumption of the balance of the alcoholic beverages then in possession of the participants of the Permitted Event. prior to closure of the Permitted Event.

The Permit holder and the Vendor shall assume full responsibility to ensure that no one under the legal drinking age is supplied with any alcoholic beverage or allowed to consume any alcoholic beverage at the Permitted Event.

1. The Permit holder must provide proof of insurance coverage including liquor legal liability in the amounts and coverage limits sufficient to meet the needs of the University. The default coverage limit shall be \$1,000,000 minimum coverage per occurrence, but the University may approve a different coverage limit in writing and list such limit in the Permit. The insurance must list the Permit holder, the Vendor, the University, the SDBOR, and the State of South Dakota as additional insureds. Proof of insurance must be provided to the University in the form of a formal endorsement to the policy evidencing the coverage and the required additional insureds.
2. The Permit holder and the Vendor must indemnify the University, the SDBOR, and the State of South Dakota for any and all claims that may arise that are related to the sale or consumption of alcoholic beverages at the Permitted Event.
3. For purposes of this section, when the Permit holder is a University employee acting within the course and scope of employment, such Permit holder will not be required to be listed in the insurance policy and will not be required to indemnify the University, the SDBOR, and the State of South Dakota.
4. For the purposes of this section, when the Vendor has its own insurance coverage, including liquor legal liability in the amounts and coverage limits sufficient to meet the needs of the University, the Permit holder's insurance coverage will not need to (i) include liquor legal liability, or (ii) list the Vendor as an additional insured.

The Permit, any required local catering permit, and applicable state or local licenses to sell alcoholic beverages shall be posted in a conspicuous place at the defined area where alcoholic beverages are authorized to be sold, prior to any sale of alcoholic beverages. Further, the sale, service, and consumption of alcoholic beverages pursuant to the Permit and license shall be confined to the specific event, area, or activity identified on the Permit application. Any alcoholic beverages allowed at the Permitted Event shall be supplied through Vendors to ensure compliance with any food service and pouring rights agreements. In no event shall the University supply or sell alcoholic beverages directly.

These terms and conditions shall apply to both University and non-University groups using University Facilities.

Permission for the sale of alcoholic beverages shall be evidenced by issuance of a written Permit by the University president, which may be issued only in response to a completed written *Alcoholic Beverage Sales Permit Application*. A Permit may only be issued in conformity with this policy.

The University president may deny any *Alcoholic Beverage Sales Permit Application* if the president determines that the *Alcoholic Beverage Sales Permit Application* is, or having alcoholic beverages for sale at the event would be inconsistent with this policy, applicable law, or the proper image and mission of the University.

The University president, or designee, will prepare an annual report of University Permits approved by the University president during the last fiscal year and transmit the report to the Executive Director by August 1st. The report will contain the following information: (1) the date, (2) a brief description of the event, (3) the Permit holder, (4) the Vendor, (5) the University Facility, and (6) description of any alcohol-related incidents.

Alcoholic sales permits may be granted within defined spaces in the following areas of campus:

1. Warren M. Lee Center for Fine Arts
2. Al Neuharth Media Center
3. Muenster University Center
4. National Music Museum
5. Sanford Coyote Sports Center
6. DakotaDome
7. Football tailgate areas

The University president may authorize additional sites on campus where the lawful alcohol possession and consumption is permitted, subject to the restrictions of this and other University and SDBOR policies and procedures.

Persons who violate this policy will be disciplined.

1. Students will be subject to discipline as set forth in the Student Code. The Student Code sets forth additional policies governing student possession, use or distribution of alcohol, marijuana, or controlled substances.
2. Disciplinary procedures for employees will vary according to the individual's status as a Civil Service employee, as a non-faculty exempt employee, as a faculty member who is excluded from the bargaining unit, or as a faculty member who is within the bargaining unit. Disciplinary measures shall be imposed pursuant to those procedures that are appropriate to the employee's classification.
3. Employees whose unlawful possession, use or distribution of alcohol, marijuana, or controlled substances violates this policy may be subject to those disciplinary measures set out in SDBOR Policy 4:14, SDBOR Policy 4:44, and ARSD 55:10:07:01; except that absent extraordinary circumstances, a second infraction will be deemed just cause for termination.
4. Where the infraction constitutes a felony offense under South Dakota or federal law, the essential facts of the infraction will be referred to law enforcement authorities. Referral of a matter to law enforcement authorities will not require suspension of disciplinary proceedings nor delay the imposition of discipline.

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### III. DEFINITIONS

- a. **ALCOHOLIC BEVERAGE(S)**: for the purposes of this policy, the term "alcoholic beverage(s)" means beer and wine.
- b. **INSTITUTIONAL OR UNIVERSITY FACILITIES**: any property owned, leased, or operated for the University, or on the campus of the University.
- c. **PERMIT**: an authorization from the University president to procure an alcoholic beverage license or a special events license.
- d. **PERMITTED EVENT**: a specifically designated event, a series of specifically designated periodic events, and special events where the sale of alcoholic beverages may be licensed.
- e. **VENDOR**: the contracted entity authorized by the University to procure and obtain an alcoholic beverage license or a special events license that will supply and sell the alcoholic beverages at a Permitted Event.

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### IV. PROCEDURES

- A. Permitting Sale of Alcoholic Beverages on University Property

- a. Groups or individuals wishing to obtain authorization for the sale of alcoholic beverages in accordance with SDBOR Policy 6:14 and this policy must submit a fully completed *Alcoholic Beverage Sales Permit Application* with the reservation or facility use agreement for review and routing through the applicable facility use reservation process to the University president.
- b. A fully completed *Alcoholic Beverage Sales Permit Application* and all required documents, including a facility reservation or facility use agreement, security plans, and any other requested information must be delivered to the Office of the University president through the applicable facility use reservation process at least forty-five (45) business days prior to the proposed event.
- c. The University president will review the application, required documents, internal unit approvals, and have correspondence transmitted approving or disapproving the *Alcoholic Beverage Sales Permit Application* to the applicant. The University president may require additional review of facility use reservations, facility use agreements, security plans, food and alcoholic beverage contracts, and other supporting information and documentation by other University officials to inform the president's decision whether to approve or deny an application.
- d. If the application is not approved, the University president may indicate the reason for the disapproval.
- e. If the application is approved, the University president will approve a Permit for the Permitted Event.
- f. Upon approval of an *Alcoholic Beverage Sales Permit Application* and receipt of a Permit for a Permitted Event, the Permit holder or University approved Vendor may submit a copy of the Permit with their request for an alcoholic beverage license or a special events license through the local licensing authority in accordance with the limitations of the Permit for the Permitted event, SDBOR Policy 6:14, this policy, SDCL 35-2-6.1, and municipal regulations. No sale of alcoholic beverages may occur pursuant to a Permit without such a specified license.

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## V. RELATED DOCUMENTS, FORMS AND TOOLS

N/A