

ORDINANCE 26-009

AN ORDINANCE AMENDING CHAPTER 6, SECTION 6.8, and CHAPTER 74, SECTION 74-40 OF THE CODE OF ORDINANCES OF THE CITY OF BROOKINGS

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF BROOKINGS, STATE OF SOUTH DAKOTA, as follows:

I.

That Chapter 6, Article I, Section 6-8 shall be amended as follows:

Section 6-8. Alcoholic beverage sales and consumption guidelines within public right-of-way.

(a) *General provisions.*

- 1) Any holder of an operating agreement, on-sale malt beverage license or on-sale wine or farm wine license may apply for a sidewalk café or parklet permit for the sale and consumption of alcoholic beverages which the licensee is authorized to sell on or within the sidewalk, walkway, or parking stalls subject to a public right-of-way immediately adjacent to and abutting a licensed premises.
- 2) The hours of authorized patron use within the sidewalk, walkway, or parking stalls subject to a public right-of-way as provided by this section shall not be outside the hours regulated by SDCL Title 35. Patrons must vacate the dining areas by 10:00 PM.
- 3) The hours of authorized alcoholic beverage sales and consumption are regulated by state law [SDCL] Title 35-4-81.2.
- 4) A violation of any provision of [SDCL] Title 35 by an alcoholic beverage license holder conducting business on a sidewalk or walkway subject to a public right-of-way pursuant to this section constitutes a violation of [SDCL] Title 35 as if the violation had occurred in or on the licensed premises.
- 5) Sidewalk cafes and parklets must be returned to their previous conditions after permitted timeframe at the applicant's expense.

(b) *Definition.*

- *Sidewalk café.* A sidewalk café is an outdoor area located on a public sidewalk or walkway which is immediately adjacent to and/or abutting the licensed premises which is operated and maintained by an establishment, coffeehouse, tea shop, restaurant or bar licensed for the sale of distilled spirits, wine, malt beverages or farm wine.
- *Parklet.* A parklet is a small seating area or green space created as a public amenity on or alongside a sidewalk or walkway, especially in a roadside parking space adjacent to an establishment, coffeehouse, tea shop, restaurant or bar licensed for the sale of distilled spirits, wine, malt beverages or farm wine.

(c) *Applicable procedure for sidewalk cafés.*

- 1) An application for a sidewalk café permit shall be filed with the city clerk. There is an annual application fee of \$100.00. The application shall include a site plan which identifies the location of tables, chairs, umbrellas, trash receptacles, heaters and barricades.
 - 2) a. The location of the sidewalk café must be directly in front of the business operating the café, and may not extend beyond the side property lines. No part of the sidewalk café should impede, endanger or interfere with pedestrian traffic, with a minimum width of four feet of unobstructed passage.
b. Physical barricades are required if alcoholic beverages are sold at the sidewalk café.
 - 3) All services provided to sidewalk café patrons as well as all patron activity must occur within the designated sidewalk café area. No alcoholic beverages may be stored or mixed in the sidewalk café.
 - 4) The permit holder is responsible for proper supervision of the sidewalk café in order to ensure the requirements of this section are met.
 - 5) Every sidewalk café permit holder shall furnish a certificate of insurance proving commercial general liability insurance coverage against claims for injury or damages to persons or property in the amount of at least \$1,000,000.00 single limit and \$1,000,000.00 aggregate. The City of Brookings shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.
 - 6) To the extent applicable, sidewalk cafés must adhere to all regulations of the city pertaining to food and beverage service as set forth in section 74-40.
 - 7) All permit holders are required to abide by all federal, state, and local laws.
 - 8) A sidewalk café permit may be revoked for failure to maintain the standards required for the initial permit. A notice of intent to revoke a sidewalk café permit shall be given in writing ten days prior to actual revocation and shall specify the area or areas of continued failure to maintain application conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the permit, the city may allow the permit to be continued.
- (d) *Applicable procedure for parklets.*
- (1) An application for a parklet permit shall be filed with the city clerk. There is an annual application fee of \$250.00. The application shall include a site plan which identifies the location of tables, chairs, umbrellas, trash receptacles, heaters and barricades.
 - (2) a. The location of the parklet must be directly in front of the business operating the parklet, and may not extend beyond the side property lines. No part of the parklet should impede, endanger or interfere with pedestrian traffic, with a minimum width of four feet of unobstructed passage.
b. Parklets are not permitted on Main Avenue or any streets designated as arterial or collector outside of the central business district.
c. Physical barricades are required if alcoholic beverages are sold at the parklet.

- (3) All services provided to parklet patrons as well as all patron activity must occur within the designated parklet area. No alcoholic beverages may be stored or mixed in the parklet.
- (4) The permit holder is responsible for proper supervision of the parklet in order to ensure the requirements of this section are met.
- (5) Every parklet permit holder shall furnish a certificate of insurance proving commercial general liability insurance coverage against claims for injury or damages to persons or property in the amount of at least \$1,000,000.00 single limit and \$1,000,000.00 aggregate. The City of Brookings shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a parklet. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.
- (6) To the extent applicable, parklets must adhere to all regulations of the city pertaining to food and beverage service as set forth in section 74-40.
- (7) All permit holders are required to abide by all federal, state, and local laws.
- (8) A parklet permit may be revoked for failure to maintain the standards required for the initial permit. A notice of intent to revoke a parklet permit shall be given in writing ten days prior to actual revocation and shall specify the area or areas of continued failure to maintain application conditions the city may have imposed. If, during that period, proof of compliance is made by the holder of the permit, the city may allow the permit to be continued.

AND Chapter 74, Section 74-40 be amended as follows:

Section 74-40. Regulations pertaining to outdoor food and beverage service and dining areas.

1) *Definition.*

- *Sidewalk café.* A sidewalk café is an outdoor area located on a public sidewalk or walkway which is immediately adjacent to and/or abutting the licensed premises which is operated and maintained by an establishment, coffeehouse, tea shop, restaurant or bar licensed for the sale of distilled spirits, wine, malt beverages or farm wine.
- *Parklet.* A parklet is a small seating area or green space created as a public amenity on or alongside a sidewalk or walkway, especially in a roadside parking space adjacent to an establishment, coffeehouse, tea shop, restaurant or bar licensed for the sale of distilled spirits, wine, malt beverages or farm wine.

- 2) Outdoor sales and service of food, beverages and outdoor dining upon any public right-of-way in the central business district are subject to the regulations set forth in this subdivision. These services are not permitted on Main Avenue or any streets designated as arterial or collector outside of the central business district.
- 3) An application for a sidewalk café or parklet permit shall be filed with the city clerk. There is an annual application fee of \$100 for a sidewalk café permit and \$250 for a parklet permit. The applications shall include a site plan which identifies the location of tables, chairs, umbrellas, trash receptacles, heaters and barricades.

- 4) No alcoholic beverages may be sold, served or consumed on a sidewalk unless a license for sidewalk café or parklet sales has been issued pursuant to applicable law.
- 5) No part of the outdoor food or beverage sales and/or outdoor dining shall impede, endanger or interfere with pedestrian traffic, with a minimum width of four feet of unobstructed passage.
- 6) No fixtures or devices upon which food or beverages are sold or consumed shall be attached to the sidewalk or other public area. Exemptions may be allowed on a case-by-case basis.
- 7) No part of the outdoor food or beverage sales and/or outdoor dining shall block regulatory signs, crosswalks or intersections and shall be sufficiently lit during times of low light in order to provide for safe pedestrian passage. No part of the outdoor food or beverage sales and/or outdoor dining shall have sharp edges, protrusions or other features which may be hazardous to the public.
- 8) The hours of operation for a temporary vendor are regulated by division 2 of this article.
- 9) All tables, chairs, benches, signs, food and beverage carts and equipment used for food and beverage sales or consumption must be secured so that they may not be dislodged during windy or stormy weather.
- 10) The hours of authorized alcoholic beverage sales and consumption are regulated by state law [SDCL] Title 35-4-81.2.
- 11) A violation of any provision of [SDCL] Title 35 by an alcoholic beverage license holder conducting business on a sidewalk or walkway subject to a public right-of-way pursuant to this section constitutes a violation of [SDCL] Title 35 as if the violation had occurred in or on the licensed premises.

II.

Any or all Ordinances in conflict herewith are hereby repealed.

FIRST READING: February 24, 2026
SECOND READING: March 10, 2026
PUBLISHED: March 13, 2026

CITY OF BROOKINGS, SD

Oepke G. Niemeyer, Mayor

ATTEST:

Bonnie Foster, City Clerk