

## Ordinance 23-035

### An Ordinance Amending Chapter 22 of the Code of Ordinances of the City of Brookings Pertaining to Moving a Building

Be It Ordained and Enacted by the Council of the City of Brookings, State of South Dakota, as follows:

#### ARTICLE IV. MOVING A BUILDING

##### DIVISION 1. GENERALLY

###### **Sec. 22-201. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings provided in this section, except where the context clearly indicates a different meaning:

*Accessory building:* A detached, subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land, and which is located on the same lot with the main building or use. An "accessory building" does not include dwelling units or living quarters.

*Building:* Any enclosed space for human use or activities, whether stationary or movable.

*Dwelling:* A building, or portion thereof, used exclusively for permanent human habitation.

*Manufactured home:* A building, used exclusively for human habitation, which is constructed in compliance with the National Manufactured Home Construction and Safety Standards Act in a manufacturing facility, and is transportable in one or more sections to a building site.

*Mobile home:* A building, used exclusively for human habitation, constructed in a manufacturing facility prior to June 15, 1976, the effective date of the National Manufactured Home Construction and Safety Standards Act, which is transported on a permanent chassis to a building site.

*Modular home:* A building, used exclusively for human habitation, constructed off-site and in compliance with the applicable local or state building code and which is transported on a temporary chassis to a permanent building site.

*Structure:* Anything that is constructed, built or erected that is located on the ground or is attached or affixed to the ground.

**Sec. 22-202. Protection of trees.**

- (a) *Generally.* No person shall move any building or structure along or upon any street, avenue, public place or alley in such manner as to interfere with or injure any tree in any public area except as provided in this section.
- (b) *Charges; deposit.* Upon receipt of an application for a permit to move any building or structure within the city, the director of parks and recreation or their designated representative shall determine the number of trees along the proposed route for such house moving which will require trimming for clearance. The city may require a deposit as estimated by the director of parks and recreation or their designee which is sufficient to cover the possible cost to the city in trimming trees or repairing damage to trees caused by the mover during such move. The charge for trimming or repair shall be made at the current city hourly labor rates, plus ten percent for both the labor of the city employee and equipment.
- (c) *Supervision of work.* If it is necessary to trim or move any tree along any street, avenue, public place or alley within the city in connection with the moving of any building or structure, all such work shall be done under the supervision and control of the director of parks and recreation or their designee at the expense of the person moving such building or structure. Trimming shall be done in accordance with pruning standards.
- (d) *Replacement.* If a tree is removed or severely damaged or dies as a result of trimming or as a result of the moving of a building or other structure, the permittee shall pay to the department of parks and recreation the cost for each replacement tree which is necessary.
- (e) *Refund.* All sums deposited with the city for the protection of trees along the route to be used to move a building or structure which are not earned by the city will be refunded to the permittee.

**Sec. 22-203. Protection of utilities.**

- (a) *Generally.* No person shall move any building or structure along any street, avenue, public place or alley in such manner as to interfere with or damage any utility line or fixture in any public area except as provided in this section.
- (b) *Charges.* The owner of a building or structure shall pay to the city such charges as shall be determined for each utility line or fixture to be raised, cut, changed, severed or removed. Such charges shall be based upon the actual costs incurred by the Brookings Municipal Utilities (BMU).
- (c) *Costs of labor.* BMU will provide labor and equipment necessary to raise or change all fixtures and lines and a charge shall be determined and collected for such labor and equipment.

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- (d) *Deposit.* A deposit based upon an estimate by the BMU of the cost for labor and equipment in raising, changing, severing and repairing any line or fixture prior to moving a building or structure may be required and all deposits that are not earned will be refunded.

**Sec. 22-204. Limitations on structure to be moved.**

A permit to move a building or structure will not be granted if:

- (1) The building is too large to move without endangering persons or property in the city or the weight of the building or structure would likely cause damage to the roadway; or
- (2) In the opinion of the chief building official, the building or structure is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it cannot be moved without endangering persons or property in the city; or
- (3) The applicant's or house/building mover's equipment is unsafe and persons and property would likely be endangered by its use; or
- (4) The location where the building or structure is to be moved would be in violation of any of the provisions of the Zoning Code relating to location, use and occupancy; or
- (5) The building or structure to be moved would be in violation of any of the provisions of the building code relating to, but not limited to, construction methods and periodic inspections.

**Sec. 22-205. Obstructing rights-of-way.**

No building or structure will be permitted to be or remain in, on or across any street or alley, or part thereof, from 30 minutes before sunset to 30 minutes after sunrise unless the licensee moving such building or structure adequately warns all persons using such street or alley of the obstruction by placing an adequate number of red lights in such position as will reasonably serve such purpose.

**Sec. 22-206. Travel route.**

The applicant or house/building mover must furnish a travel route along with the date and time when the move will commence. The public works director may require that the route be changed or altered to protect the public's health, safety or welfare or to minimize potential damage to property, or to minimize potential traffic problems that may occur.

Any travel route that involves any streets within the City of Brookings but does not include locating the moved building in the city limits is subject to the same requirements and applicable fees as otherwise stated in this article.

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**Secs. 22-207—22-220. Reserved.**

DIVISION 2. PERMIT

**Sec. 22-221. Application.**

The following information is required for approval of any moving permit:

- (1) Completion of a moving permit application.
- (2) Completion of a house moving agreement for any dwelling moved within the city or within the non-ag zoning district of the joint jurisdiction area.
- (3) Completion of the addendum to the house moving agreement, if applicable.

**Sec. 22-222. Exceptions.**

The following buildings or structures are exempt from the requirements of section 22-221 but not from any other requirements of the Code of Ordinances:

- (1) A manufactured home or mobile home moved within a manufactured or mobile home park.
- (2) A one-story accessory building that is less than 12 feet in width and has less than 120 square feet of floor area.

**Secs. 22-224—22-250. Reserved.**

DIVISION 3. LICENSE

**Sec. 22-251. License required.**

No person may remove or move any house or building or part of a building from one lot to another lot within the limits of the city or within any area designated as non-ag in the joint jurisdiction area of the city unless the person moving the building is licensed by the city as a house/building mover or is a manufactured home dealer or manufacturer.

Exceptions:

- (1) No license is required to move an accessory building on a residential lot to another lot if it is one story in height and less than or equal to 24 feet wide.
- (2) No license is required to move a building within the confines of a lot, or contiguous lots under single ownership, when it is not necessary to move the building over public property or property belonging to another person.
- (3) No license is required to move a building or structure that is specifically exempted from the requirements of a moving permit under section 22-222.

**Sec. 22-252. Chapter 26 of this Code applicable.**

The provisions of chapter 26 of this Code, insofar as such provisions are applicable and not in conflict, shall apply to the issuance of any license under the provisions of this article.

**Sec. 22-253. Insurance coverage and indemnification.**

The applicant for a house moving license shall file with the city clerk a certificate of insurance which provides that the applicant carries insurance against loss by negligence of the applicant or its agents in the amount of not less than \$1,000,000.00 per occurrence.

The licensee shall conform to all house moving requirements established by the city, and shall promptly repair to the satisfaction of the city all damage to any pavement, sidewalk, crosswalk, hydrant, street, alley or other public property which results from moving any building or in connection with the house moving. The licensed house mover shall indemnify and save harmless the city and any person resulting from the negligence of the licensed house mover, or their employees or agents in connection with the moving of any house or building or the use of any public street or ground for that purpose.

**Sec. 22-254. License issuance.**

A license required under this division shall be issued only upon payment of the applicable fee and submission of a Certificate of Insurance.

**Secs. 22-255—22-290. Reserved.**

II.

Any and all ordinances in conflict herewith are hereby repealed.

First Reading:	October 24, 2023
Second Reading and Adoption:	November 14, 2023
Published:	November 17, 2023

CITY OF BROOKINGS, SD

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Oepke G. Niemeyer, Mayor

ATTEST:

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Bonnie Foster, City Clerk