

City Council Agenda Item Memo

From: Bonnie Foster, City Clerk
Samantha Beckman, Assistant to the City Manager

Council Meeting: April 15, 2025

Subject: Ordinance 25-011: Amendment to Section 6-8 pertaining to Sidewalk Café Alcoholic Beverage Sales and Consumption Guidelines

Presenter: Bonnie Foster, City Clerk
Samantha Beckman, Assistant to the City Manager

Summary and Recommended Action:

Staff recommends approval of this Ordinance to amend Section 6-8 of the City of Brookings code, pertaining to Sidewalk Café Alcoholic Beverage Sales and Consumption Guidelines.

By removing this restriction, the City would allow more establishments to enjoy the expansion of outdoor seating, creating a feeling of community in the downtown corridor.

Item Details:

In 2008, House Bill 1203 allowed a city or a county to permit on-sale licensees to sell and consume alcoholic beverages on sidewalks and walkways, which are adjacent to and abut the building containing the licensed premises. Local ordinance was required to be passed before the City could allow for sidewalk sales and consumption of alcoholic beverages. At that time, the City chose to impose the license holder receive 50% of their gross from the sale of prepared food in order to qualify for a sidewalk alcoholic beverage permit.

City staff has received a request from a Downtown Establishment to remove from existing Code, the following: “provided that the license holder derives more than 50 percent of its gross receipts from the sale of prepared food for consumption on the licensed premises.”

Existing code Section 6-8, reads as follows:

(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 permit for the sale and consumption of alcoholic beverages which the licensee is authorized to sell on a sidewalk or walkway subject to a public right-of-way abutting a licensed premises, provided that the license holder derives more than 50 percent of its gross receipts from the sale of prepared food for consumption on the licensed premises.

State statute provides guidance in SDCL 35-4-77.1, as it states: “Nothing in this section prevents the governing body from imposing conditions or restrictions that the governing

body considers appropriate.” In 2008, the City Council chose to impose certain restrictions.

By removing this restriction in Brookings Ordinance Section 6-8, the City would allow more establishments to enjoy the expansion of outdoor seating onto the public facing side of their establishments, creating a feeling of community in the downtown corridor.

Legal Consideration:

The City Attorney has reviewed the Ordinance.

Strategic Plan Consideration:

- Safe, Inclusive, Connected Community – The City of Brookings will create an environment for inclusive programs, gathering places, and events where the community can safely live, work and come together to participate in opportunities for learning, recreation and enjoyment.
- Service and Innovation Excellence – The City of Brookings will provide an accessible environment committed to ongoing innovation and outstanding service through listening and engagement.

Financial Consideration:

There is a one-time application fee of \$100.00.

Supporting Documentation:

Ordinance – clean

Ordinance – marked