

## **Resolution 20-017**

### **A Resolution Establishing Certain Criteria for Building in the Public Right-of-Way in the City of Brookings, South Dakota**

Whereas, the City of Brookings adopted Ordinance 24-04, amending Chapter 74 of the Code of Ordinances of the City of Brookings to permit, in certain circumstances, building in the public right-of-way; and

Whereas, the City of Brookings has determined the need for criteria if building in the public right-of-way is permitted and that these criteria should be revised as follows:

1. The applicant shall explore other alternatives that might remove the need for the use of public property.
2. Applicant is required to have the property surveyed by a licensed land surveyor to determine actual location of property lines.
3. Applicant shall apply for a permit and include an accurate site plan showing exact location of the proposed structure and the severity of the intended encroachment into the public right-of-way.
4. Applicant shall provide a proof of liability insurance policy with a hold harmless clause for the life of the structure located in the public right-of-way. This requirement shall also apply to succeeding owners, specifically indemnifying the City of Brookings from any liability resulting from the construction and location of the structure in the public right-of-way. Prior to transfer of property which includes a structure in the public right-of-way, the seller shall notify the buyer of the liability policy requirement.
5. The encroachment must not diminish sight lines at any sidewalk and street intersection.
6. An encroachment into the public right-of-way may be allowed on a case by case basis, provided the public sidewalk is otherwise maintained in compliance with the Americans with Disabilities Act.
7. Said encroachment in the public right-of-way shall be removed if the principal building is removed or destroyed.

8. Materials used to build the structure in the public right-of-way, as well as its height, proportion, and scale, shall be architecturally compatible with the principal building and adjacent buildings. The Brookings Historic Preservation Commission shall promptly review of the architectural compatibility of the proposed structure and provide official comment to the City Council (City of Brookings Code of Ordinances Chapter 46, 10-97 (a) (b)).
9. If the structure is not designed to be permanent in nature, it should be durable enough to function properly in its intended service to the principal building.
10. The structure in the public right-of-way shall be attached to principal structure or have its own frost footing.
11. Upon removal of the structure from the public right-of-way, the applicant shall reapply for a new permit before building a new structure in the public right-of-way.

Now, Therefore, Be It Resolved that the criteria for building in the public right-of-way set forth above are hereby approved, as amended. This resolution replaces Resolution No. 68-04 dated November 23, 2004, and amends the criteria for building in the public right-of-way.

Passed and approved on this 25<sup>th</sup> day of February, 2020.

CITY OF BROOKINGS

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Keith W. Corbett, Mayor

ATTEST:

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Bonnie Foster, City Clerk