

## Ordinance 15-018

### An Ordinance Amending Chapter 26 of the Code of Ordinances of the City of Brookings, South Dakota to include Article VIII, and Pertaining to the Regulation of Food Trucks in the City of Brookings.

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

I.

#### Article VIII Food Trucks

Sec. 26-420. – Definitions.

*Downtown Zone.* The Business B-1 Central District, as provided in Ordinance 94-131,

*Food Truck.* A licensed and operable vehicle or concession trailer which is enclosed and self-contained, independent with respect to water, sewer, power utilities, that contains equipment for the preparation and sale or service of food or beverages with or without charge which are designed for immediate consumption.

*Food Truck Permit.* Written authorization by the City to operate a food truck in the City as provided in this Article.

*Operate.* To offer for sale food and beverage items from a food truck to the general public for immediate consumption on the public right-of-way or on private property; it does not mean either loading or unloading food or beverage items in bulk or other materials.

*Operator.* The registered owner of a food truck or the owner's designated agent who holds a food truck permit.

*Permittee.* The person who has been issued a food truck permit by the City.

Sec. 26-421. – Permit Required.

No person may operate a food truck in the City of Brookings without a food truck permit as provided herein.

Sec. 26-422. – False Information.

No person shall give any false or misleading information in connection with his or her application for a food truck permit.

Sec. 26-423. – Application to Obtain a Permit.

1. An application for a food truck permit shall be filed with the City Clerk on a form provided by the City.

2. The permit shall require the permittee to assume all legal liability and pay on behalf of the City all sums which the City shall be obligated to pay by reason of any liability imposed upon the City for claims or damages of any kind resulting from use of public property and the public right-of-way, whether sustained by any person or persons, caused by accident or otherwise and the permittee shall defend at its own expense and on behalf of the City any claim against the City arising out of the use of public property and the public right-of-way.
3. The permit shall require the permittee to obtain insurance in an amount determined by the City.
4. The City Clerk or designee may revoke a food truck permit for violation of this ordinance.
5. The City may limit the number of food truck permits granted by Resolution of the City Council.
6. Permits shall be issued for a period up to one (1) calendar year.
7. The permittee shall not offer tobacco or alcoholic beverages for sale.
8. The sale, transfer, or assignment of a permit is expressly prohibited.

Sec. 26-424. – Food Truck Permit Issuance and Fees.

1. Prior to any food truck permit being issued under the provisions of this ordinance, the Applicant shall have all applicable State permits and licenses and shall pay the required fee.
2. The operator of each food truck is required to obtain a food truck permit for each operating food truck.
3. A permit shall remain in effect until December 31<sup>st</sup> of the year of issuance.

Sec. 26-425. – Permit.

The City Clerk shall note on the permit the time period for which it is effective. Upon the filing of the application, payment of the fee as provided in this article, and compliance with all requirements for a food truck permit, the City Clerk shall issue a permit which shall authorize the permittee to do business for the time period for which it is effective. The permit shall be visibly posted on the food truck.

Sec. 26-426. – Location of Food Truck Operations.

Permitted Locations:

1. The sale of food and beverages from a food truck is permitted on the public rights-of-way inside and adjacent to the exterior boundaries of Downtown Zone, except on Main Avenue, in accordance with the requirements of this ordinance.
2. Food truck operators must be actively engaged in food vending operations at all times while parked on the public right-of-way;
3. The sale of food and beverages from a food truck is also permitted on business and industrial zoned private property inside and adjacent to the Downtown Zone and is also permitted on private property within the City in business and industrial zoned areas, in municipal lots, including lots for ball fields with written permission from the City Clerk, and in parks with written permission from the Parks, Recreation and Forestry Department.



#### Prohibited Locations:

No person shall operate, and no permittee shall allow a food truck to be operated on a public right-of-way in the following locations:

1. A street that is within a residential zone or abuts a residential zone boundary of the City of Brookings; or
2. On any private property in a business or industrial zone without the permission of the owner or agent of the property; or
3. On any private property in a residential zone.
4. Upon a public street, including public parking spaces, where the Police Chief has determined that potential traffic or safety hazards exist.
5. This ordinance does not authorize the operation of a food truck upon South Dakota State University property unless South Dakota State University authorizes such use.

#### Sec. 26-427: – Fees.

The annual fee for a food truck permit shall be set by Resolution of the City Council.

#### Sec. 26-428. – Food Truck Parking Requirements.

Notwithstanding any other provision in the code, a food truck operator may:

1. Park in a parallel manner within two (2) parallel or three (3) diagonal parking spaces.
2. Operate a food truck while parked in a municipal parking lot with special permission. This provision does not include any South Dakota State University parking lot.

No food truck exceeding 22 feet may park diagonally in a diagonal parking space. No food truck operator shall operate with the serving window facing street traffic.

#### Sec. 26-429. – Rules of Operation.

1. The food truck permittee shall display their permit at all times in a conspicuous place where it can be read by the general public on the food truck.
2. Permittees shall be responsible for ensuring that the operation of a food truck does not impact the capacity of public trash receptacles by providing private receptacles on site to reduce the use of the public receptacles. Food truck operators shall pick up all garbage left by their customers.
3. Food truck permittees shall be responsible for providing one private trash bin and one private recycling bin for public use with capacity of no less than 30 gallons each, and shall remove all refuse within 25 feet of the food truck. Refuse shall be removed at the food truck operator's expense and shall not be placed in an unauthorized private or City receptacle.
4. Food truck permittees shall not sell directly in front of any main entrance to an adjacent business.
5. No food truck permittee shall sell food or beverages between the hours of 2 a.m. and 6 a.m. Hours of operation are not limited on private property.

6. In the event of parades, food truck operators shall not be permitted to park in any areas along the parade route or obstruct parade viewers.
7. The food truck operator shall provide an accessible counter height to serve persons with disabilities or shall provide equal access to goods and services by modifications in policies, practices, and procedures; provision of auxiliary aids; and removal of barriers.
8. No tables or chairs shall be used in conjunction with the operation of a food truck.
9. All signs shall be located upon the food truck. No electronic signage shall be permitted to be used by a food truck operator.
10. All parking ordinances, including ordinances limiting the duration of parking, shall apply to food trucks except as specifically provided in Sec. 26-429.
11. Food trucks shall not be parked closer than twenty (20') feet of a crosswalk at an intersection.

Sec. 26-430. – Revocation/Supervision.

Any permit issued under the provisions of this ordinance may be revoked for violation of any provision of this Code, State law or City ordinance by the City Clerk or designee. Upon the revocation, the permit shall immediately be surrendered, and failure to do so shall be a violation of this ordinance. In addition, the Police Department is authorized to suspend a permit at any time in the event of prohibited conduct by a food truck operator. The food truck operator shall be provided an opportunity to remove the suspension following a meeting with the City Clerk and Police Chief during regular business hours following the suspension.

Sec. 26-431. – Health and Sanitation Requirements.

Food truck operators shall comply with the minimum public health and safety requirements as made and enforced by the South Dakota Department of Health, pursuant to SDCL Chapter 34-18.

Sec. 26-432. – Fire Safety.

No food truck operator shall operate without proof of an annual third-party inspection of propane fill or gas-related capabilities.

Sec. 26-433. – Prohibited Conduct.

No food truck operator shall:

1. Operate in or abutting a City park without written permission from the Parks, Recreation and Forestry Department; and
2. Place any object that blocks pedestrian traffic.

Sec. 26-434. – Noise.

Food truck operators must adhere to all noise ordinances of the City.

Sec. 26-435. – Liability and Insurance.

1. Before any food truck vendor permit is granted, the Applicant shall sign a statement holding harmless the City and shall indemnify the City, its officers and employees, for any claims for damages to property or injury to persons which may occur in



connection with any activity carried on pursuant to any activities associated with food truck vending.

2. All Applicants shall furnish and maintain a policy of insurance protecting the Applicant and the City from all claims for damage to property or bodily injury, including death, which may arise from activities associated with mobile food vending. The insurance policy shall list or endorse the City as additional insured and carry minimum liability limits of at least \$1,000,000 per occurrence. The endorsement shall provide that the policy shall not be terminated or cancelled prior to the termination of the food truck permit without 30 days written notice to the City.
3. Any permit for food truck vending shall be deemed void in the absence of a current insurance policy meeting the above criteria.

Sec. 26-436. – Penalties.

A violation of this article shall subject the violator to revocation of the permit and a fine of up to \$200.00. Each day a violation occurs may constitute a separate offense.

II.


Any or all ordinances in conflict herewith are hereby repealed.

First Reading: September 8, 2015  
Second Reading: September 22, 2015  
Published: September 25, 2015

CITY OF BROOKINGS, SOUTH DAKOTA

  
\_\_\_\_\_  
Tim Reed, Mayor

ATTEST:

  
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Shari Thornes, City Clerk

