

*For: Monday, **September 14, 2015**, City Council Meeting*

## **Advance Packet Information**

Dated: 9/4/15

Included in this packet is documentation to support the following Agenda items:

### **PUBLIC HEARINGS**

- Continuation of the legislative public hearing in the matter of file LDC-2-15 approval to add provisions for amateur communication facilities in Brookings Land Development Code. [Planning, pg. 2]
  - a. Draft language [pg. 6]

\*Obtain Public Comment Forms and view the agenda and packet information on-line at [www.brookings.or.us](http://www.brookings.or.us), or at City Hall. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

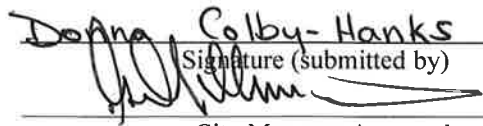
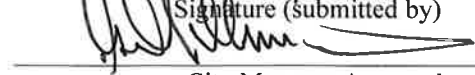
All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least fourteen days advance notification. Please contact 541-469-1102 if you have any questions regarding this notice.

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: September 14, 2015

Originating Dept: PWDS-Planning

  
Signature (submitted by)  
  
City Manager Approval

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Subject: A hearing on File LDC-2-15 for consideration of the addition of Brookings Municipal Code (BMC) Section 17.124.230 Specific Standards Applying to Conditional Uses, Amateur communication facilities and the addition of Amateur communication facilities as a conditional use accessory to an existing dwelling in all zones. City initiated. The criteria used to decide this matter are found in Chapter 17.140 Amendments, of the BMC.

Recommended Motion: A motion to approve revisions proposed by LDC-2-15 to add provisions for additional opportunities for amateur radio facilities as an accessory use to dwellings and direct staff to prepare an ordinance for adoption.

Background/Discussion: City Council considered draft provisions to allow for amateur radio facilities of 70 feet or lower at their June 22, 2015 and August 10, 2015 meetings. The hearing was continued to the September 14, 2015 meeting.

The provisions provide the City the ability to regulate amateur radio facilities of 70 feet or lower that do not meet the exceptions provided in 17.128.020(B) of one and one-half times the height limitation of the applicable zoning district. The proposed criteria are intended to maximize public safety and minimize visual impacts to protect the residential characteristics of residential neighborhoods consistent with federal and state law. As far as can be determined, all cities and counties within Oregon, with the exception of Deschutes County, exempt facilities 70 feet and lower from any special land use approval. They are allowed outright. Deschutes County allows the facilities outright but has developed several criteria that must be met, such as FCC license, building permit, finish color and the prohibition of attached signage.

The proposed provisions require amateur radio facilities to receive approval with a Conditional Use Permit. The neighbors within 1000 feet will be provided notice; notice is 250 feet for other conditional uses. The proposed criteria address height, setbacks, construction, finish, fencing and security, lighting, airport overlay zone, signs, licenses, abandonment, maintenance, unrelated equipment, hazardous building sites, easements and notification to city when the property is sold. The criteria are required to be clear and objective.

In response to Council discussion, several revisions have been developed and included in the draft text. The applicant will be required to submit a needs analysis that provides justification of the need for the requested tower height.

The required setback has been revised to require one foot of setback for each foot of height. With this setback, approximately 136 of the 2453 residential properties within the city would be of a size to accommodate a 70 foot tower; approximately 397 properties could accommodate a 50 foot tower. With a one foot setback for each two feet of height, approximately 896 properties would accommodate a 70 foot tower; with a setback of one foot for each three foot of height, approximately 1947 of the properties would accommodate a 70 foot tower. Limited variables were considered for the calculations so this is a rough estimate. Each property would need to be addressed on an individual basis after considering all factors.

A requirement has been added that the tower must be a monopole and if a directional beam antenna is proposed, it must cover an area of less than 100 square feet. Research indicates that a modest four-element directional beam antenna would cover approximately 100 sq. ft. Provisions have been added for approval of a larger antenna with the submittal of a needs analysis justifying the need for the larger antenna. See Figure 1 for pictures of several different types of antennas.

With input from the City Attorney, a requirement has been included that requires the facilities to be located, designed and installed so as to minimize conflicts with scenic views to the extent possible.

Attachment(s):            A.    Draft provisions

**Figure 1**

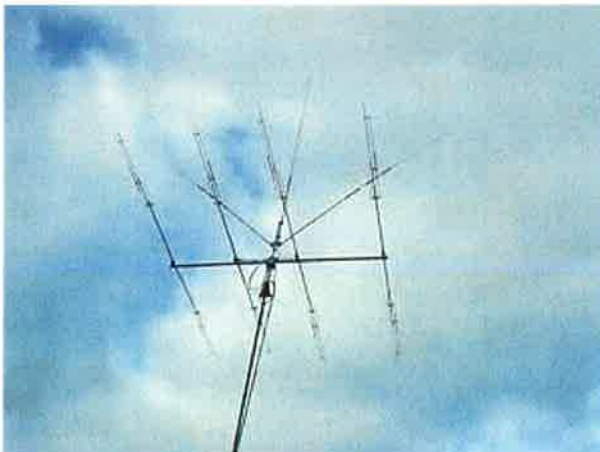
Aerial antenna



Directional beam antenna



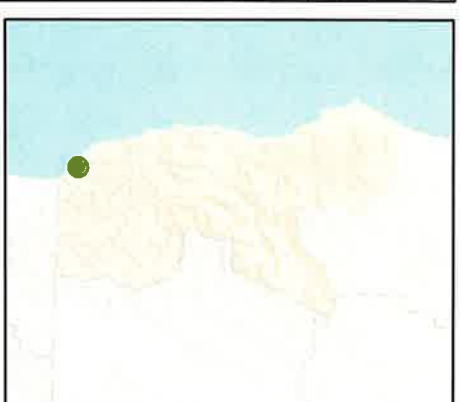
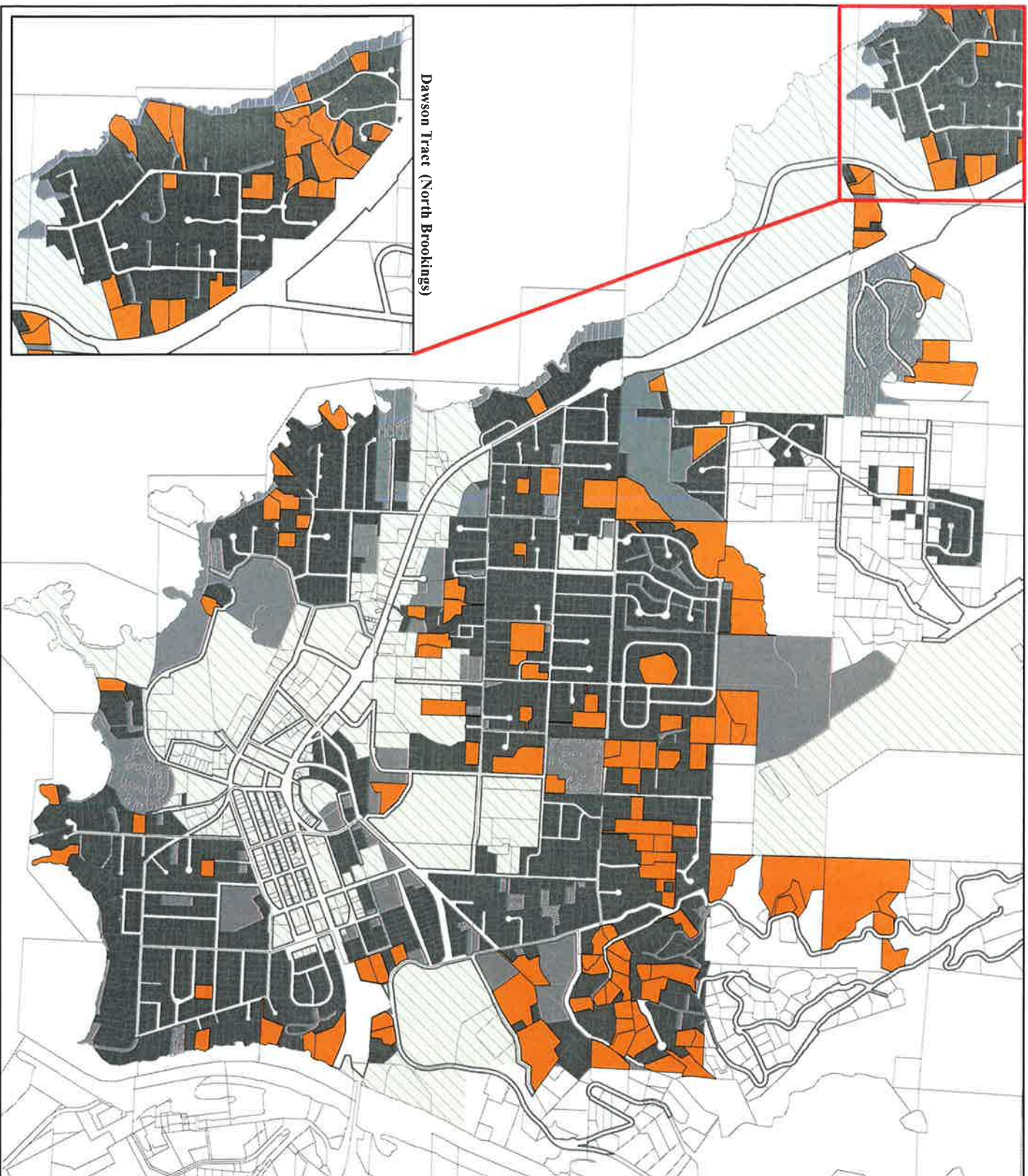
Direction beam antenna  
(4 elements)



Directional beam antenna  
(different configuration)







Area of Interest - City of Brookings, OR

## Legend

Accommodate 70ft mono-pole radio tower with a 1:1 setback.

1:1 setback ratio would result in less than 6% of all residential properties being able to comply when 70ft is the desired tower height. (136 of 2453)

Average lot size of compliant property is approximately 1.75 acres

Residential zoned properties that could not support a 70ft tower with a 1:1 setback.

## Notes:

Draft Analysis. This map is for general reference purposes only. Limited variables considered for calculation. Each lot must be addressed on an individual basis after considering all factors. For more information contact the City of Brookings Planning Department.

# 1:1 Setback - Site Suitability Analysis

Amateur Radio (Calculated w/tower height @ 70')



This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Projections: NAD83 OGRSouth  
Brookings GIS 9/1/2015  
AmRadio 1:1 Ratio Printable.mxd

0 1,000 2,000 Feet

Proposed new text is **bold**.

Text added from June 22, 2015 Council discussion is **bold underlined**.

Text deleted from June 22, 2015 Council discussion is ~~stricken~~.

Text deleted from August 10, 2015 Council discussion is ~~double-stricken~~.

Text added from August 10, 2015 Council discussion is **bold double underlined**.

## Chapter 17.16 Suburban Residential (SR) District

### ~~17.16.030 Accessory uses~~

~~The following accessory uses are permitted:~~

~~E. — Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.~~

### 17.16.040 Conditional Uses

The following uses are permitted:

**V. — Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.20 Single-Family Residential (R-1) District

### ~~17.20.030 Accessory uses.~~

~~The following uses are permitted:~~

~~E. — Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230 in the R-1-12 zone.~~

### 17.20.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**U. — Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230. ~~in the R-1-6, R-1-8, and R-1-10 zones.~~**

## Chapter 17.24 Two-Family Residential (R-2) District

### 17.24.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**V. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.28 Multiple-Family Residential (R-3) District

### 17.28.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**T. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.32 Manufactured Home Residential (R-MH) District

### 17.32.040 Conditional uses.

The following conditional uses may be permitted:

**V. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.36 Professional Office (PO-1) District

### 17.36.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**L. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.40 Public Open Space (P/OS) District

17.40.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**D. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

#### Chapter 17.44 Neighborhood Commercial (C-1) District

17.44.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**D. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

#### Chapter 17.48 Shopping Center Commercial (C-2) District

17.48.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**J. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

#### Chapter 17.52 General Commercial (C-3) District

17.52.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

**O. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**



## Chapter 17.56 Tourist Commercial (C-4) District

### 17.56.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

- J. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.64 Industrial Park (I-P) District

### 17.64.040 Conditional uses.

The following uses may be permitted subject to a conditional use permit:

- I. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.68 General Industrial (M-2) District

### 17.68.040 Conditional uses.

The following uses may be permitted subject to a conditional use permit:

- G. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC 17.124.230.**

## Chapter 17.124 Specific Standards Applying to Conditional Uses

### 17.124.230 Amateur radio facilities.

**Amateur radio facilities are private, non-commercial wireless communication facilities consisting of antennas, towers, and/or support structures. The City recognizes the importance of amateur radio operators and their service to the community especially in the event of emergencies.**

**Amateur radio facilities are considered an accessory use to a residential dwelling. Chapter 17.128.020(B) provides for exceptions to height limitations for masts, aerials and antenna. ~~Masts, aerials and antenna may be one and one-half times the height limitation of the applicable zoning district. However, towers and support structures shall comply with height limitations and setbacks.~~**

The following siting criteria shall apply to amateur radio facilities that do not meet the provisions of Chapter 17.128.020(B) and/or the applicable zoning district. The criteria are intended to maximize public safety and minimize visual impacts to promote and protect the residential characteristics of the residential zoning districts consistent with federal and state law. Public notice shall be provided to all property owners within 1000 feet of a proposed amateur radio facility requesting approval with a conditional use permit (CUP).

**A. Height.** A needs analysis must be submitted with the application providing justification of the need for the requested height. The maximum tower/antenna height shall not exceed 70 feet from the finished grade at the base of the tower.

**B. Front, Side and Rear Yard Setbacks.** The minimum setback from all property lines to the finished grade at the base of the tower shall be One (1) foot for every ~~two (2) feet~~ one foot of height. No towers shall be sited within the front yard setback of the underlying zone. With the exception of guy wires, antennas, and footings that do not project above grade level, no component of the facility may encroach into the required setback. Guy wires and antennas must meet the minimum setback of the underlying zone.

**C. Construction.** A building permit shall be obtained for the construction or erection of the amateur radio facility. Plans and calculations shall be provided and shall comply with the provisions of Section 3108 of the Oregon Structural Specialty Code.

**D. Finish (paint/surface).** The facility shall have a finish, tone or color that reduces its visibility. In most circumstances this condition may be satisfied by painting the facility with a flat light haze gray paint. The owner shall maintain the finish, painted or unpainted. Red and white or orange and white finish is not allowed. If these colors are required by the FAA (Federal Aviation Administration) or ODA (Oregon Department of Aviation), the height shall be reduced to a level that it is not required.

**E. Fencing and Security.** For security purposes, towers and accessory facilities shall be enclosed by a minimum six-foot fence or be equipped with anti-climb devices. If this conflicts with TIA-222 or other agencies, the most restrictive requirements shall prevail.

**F. Lighting.** No lighting shall be permitted on the facility. If required by the FAA or ODA, the facility shall be reduced to a level that does not require lighting.

**G. Airport Overlay Zone.** The facility shall comply with the requirements in BMC Chapter 17.76, Airport Overlay Zone.

**H. Advertising/Signs.** No advertising or signs of any type are to be placed on the tower at any time except those required or necessary for safety and warnings. Safety and warning signs shall be less than two square feet and be placed on the facility at a height of less than six feet.

**I. License.** The owner of the facility shall possess and provide a copy of a current FCC license to the City. After six (6) months with no valid license, the facility shall be considered abandoned and shall be removed by the property owner within 60 days thereafter. The owner shall provide a copy of a valid FCC license every three (3) years.

**J. Abandonment.** The property owner shall provide annual written documentation that the facilities are functioning. Amateur radio facilities that do not have functioning antennas for a period of six months shall be considered abandoned and shall be removed by the owner of the facility within 60 days thereafter. Upon written application, prior to the expiration of the six-month period, the planning commission if approved with a CUP or staff if permitted outright may, in writing, grant a six-month time extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the planning commission subject to any conditions required to bring the project or facility into compliance with current regulation(s).

**K. Maintenance.** Amateur radio facilities shall be maintained in good order and repair at all time so to not constitute any danger or hazard to adjacent properties. The facility must be inspected by an Oregon structural engineer every three (3) years and a report provided to the City for towers more than 25 years of age and at anytime the Building Official observes signs of deterioration or instability. If repairs are needed, they must be completed within six (6) months, reinspected and the report provided to the City.

**L. Unrelated equipment.** Equipment and antenna for other than amateur radio facilities shall comply with height and setback requirements of Chapter 17.128.020(B) and the underlying zone.

**M. Hazardous Building Sites.** Construction or erection of amateur radio facilities shall comply with Chapter 17.100 Hazardous Building Site Protection.

**N. Permanent structures must not be located in any easement.**

**O. The City must be notified if the property is sold. The City will provide the new property owner a copy of the final order with conditions of approval of the Conditional Use Permit granting approval.**

**P. The tower must be a monopole with a aerial or directional beam type antenna. If a directional beam antenna is proposed, it must cover an area less**