

*For: Monday, **March 24, 2014**, City Council Meeting*

## **Advance Packet Information**

Dated: March 14, 2014

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

### **PUBLIC HEARINGS/ORDINANCES**

- Legislative public hearing on File LDC-1-14, revisions to Brookings Municipal Code Chapter 17.52, General Commercial, (C-3) and Chapter 17.56 Tourist Commercial (C-4), to add limited light manufacturing. [Planning, pg. 2]
  - a. Zoning map [pg. 4]
  - b. C-3 revisions as recommended by Planning Commission. [pg. 5]
  - c. C-3 revisions – additional option [pg. 7]
  - d. C-4 revisions [pg. 9]
- Ordinance 14-O-730, amending various Sections and Subsections of Brookings Municipal Code Chapter 13.25, System Development Charges. [Building, pg. 10]
  - a. Chapter 13.25 revisions [pg. 11]
  - b. Ordinance 14-O-730 [pg. 17]

\*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.


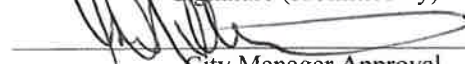
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# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: March 24, 2014

Originating Dept: PWDS-Planning

  
Signature (submitted by)  
  
City Manager Approval

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Subject: A hearing on File LDC-1-14 for consideration of revisions to Chapter 17.52 General Commercial (C-3) and Chapter 17.56 Tourist Commercial (C-4), Brookings Municipal Code (BMC) to add limited light manufacturing.

Recommended Motion:

1. A motion to approve the addition of limited tourism manufacturing in Chapter 17.52 General Commercial and Chapter 17.56 Tourist Commercial (Attachment B), or;
2. A motion to approve the addition of limited light manufacturing and tourism manufacturing in Chapter 17.52 General Commercial and tourism manufacturing in Chapter 17.56 Tourist Commercial (Attachment C).

Financial Impact: Conditional Use Permit fees in some instances would be eliminated.

Background/Discussion: The C-3 zone provides for a variety of commercial uses including retail sales, professional offices, and light service shops. The only provision in this zone for manufacturing is with approval of a Conditional Use Permit (CUP). All properties in the downtown core area between Chetco Avenue and Railroad Street are zoned C-3. There are no provisions for manufacturing in the C-4 zone. C-4 parcels are located adjacent to Chetco Avenue just south of Easy Street. A zoning map is provided as **Attachment A**.

The Planning Commission considered a request for a CUP for the operation of a micro-brewery on Chetco Avenue in 2012. One of the current requirements of the BMC for the CUP is that manufacturing of products can only be permitted when conducted in conjunction with a retail sales establishment occupying the ground floor facing the public street. The Planning Commission expressed concern that the manufacturing conducted by one business be tied to the sales of another business. They questioned the status of the CUP should the retail business selling the product go out of business or something resulted in the product no longer being sold. This situation might limit the success of a business that could be an asset to the community.

To resolve this issue, Staff proposed revisions (**Attachment C**) to allow for limited light manufacturing and tourism manufacturing which were reviewed by the Planning Commission at their January 7, 2014 meeting. These revisions provide as an outright use for light manufacturing in the basement or on a top floor without retail sales being required.

The only use allowed outright on the ground floor facing the public street would be tourism manufacturing such as but not limited to micro-brewery, coffee roasting, or glass blowing. Retail sales of the product would be required on the premises. A CUP would be required for tourism manufacturing without sales and light manufacturing. The CUP process would provide an opportunity for input from the adjacent property owners and concerned citizens regarding the proposal and compatibility with the neighborhood. Diagram included in Attachment A.

Additional comments were received from Staff and incorporated into the revisions (**Attachment B**). This revised version provides outright for tourism manufacturing in conjunction with retail sales on all floors. A CUP would be needed for light manufacturing or tourism manufacturing without retail sales in the basement or on top floors. There are no provisions for these uses on the ground floor. Diagram included in Attachment B. Both versions of the revisions were reviewed by the Planning Commission at their March 4, 2014 meeting. With these two options, the Planning Commission recommended approval of the code revisions in Attachment B as well as inserting "on the premises" to both the C-3 and C-4 requirements to clarify where products are required to be sold.

The proposed revisions in the C-4 (**Attachment D**) provide for the same types of tourism manufacturing with retail sales of products as an outright use. These types of businesses are of special interest to tourists as well as local citizens and provide additional opportunities to encourage economic growth while still maintaining the community vision of a walk able downtown.

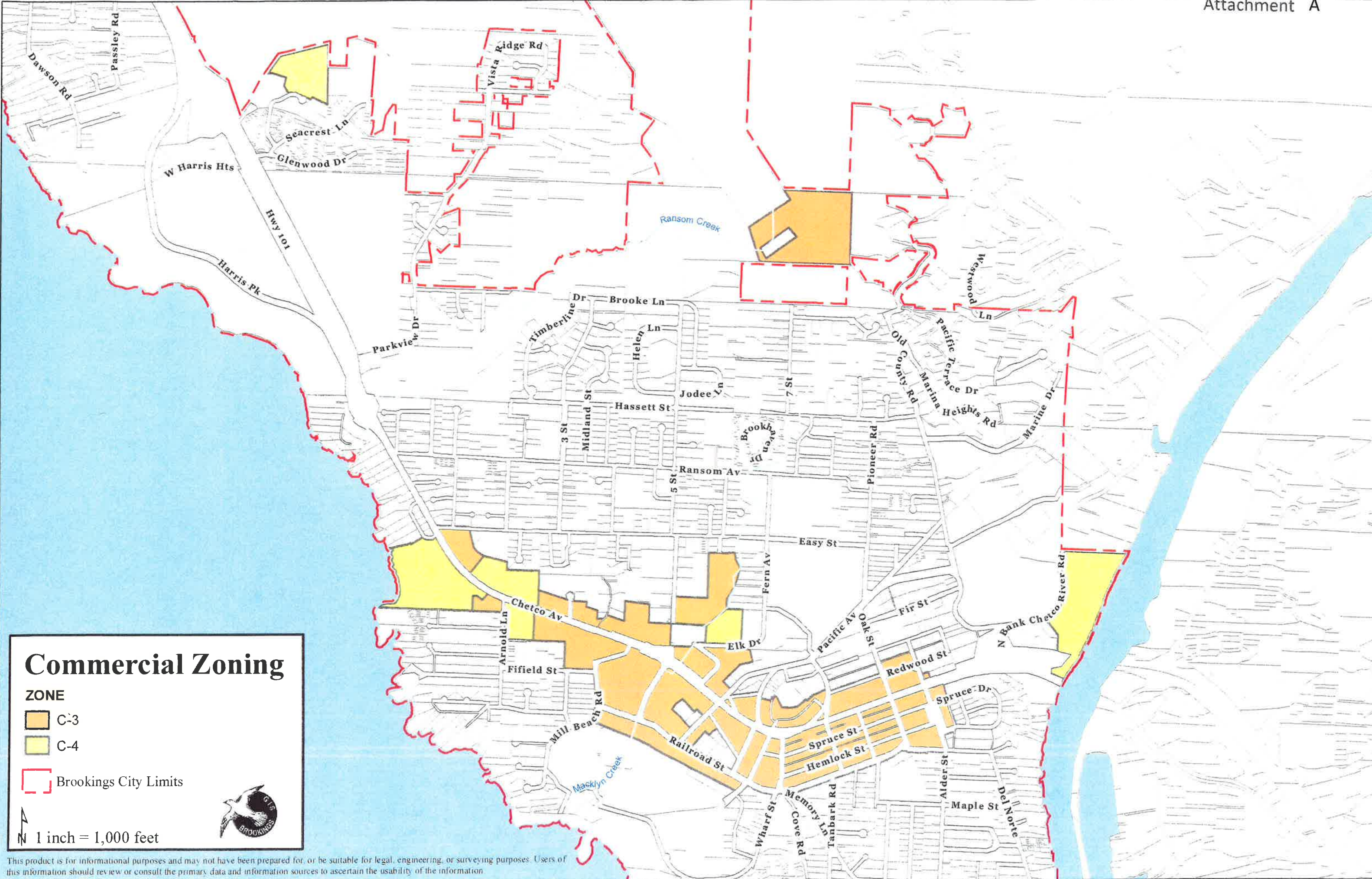
Attracting businesses and tourists were two of the goals identified by City Council in their strategic plan this past year. Both versions of the proposed revisions provide opportunities for limited light manufacturing which have the potential to attract businesses. The provisions for tourism manufacturing have the potential to attract businesses as well as tourists.

Site Plan Committee reviewed the proposed revisions and found them to be consistent with City ordinances and policies.

Policy Considerations: N/A

Attachment(s):

- A. Zoning map
- B. C-3 revisions recommended by Planning Commission
- C. C-3 revisions additional option
- D. C-4 revisions



# Commercial Zoning

## ZONE

- C-3
- C-4

Brookings City Limits

1 inch = 1,000 feet



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.

Original text to be deleted is ~~stricken~~.

Proposed new text is **bold**.

Revisions from Planning Commission (03-04-14) is underlined.

## **Chapter 17.52 GENERAL COMMERCIAL (C-3) DISTRICT**

### **17.52.020 Permitted uses.**

The following uses are permitted:

**P. Light manufacturing and fabricating of products that is related to tourism, such as but not limited to micro-brewery, coffee roasting, cheese making/creamery, or glass blowing is permitted on all floors (top floor, street level, and basement) when conducted in conjunction with the retail sales of the product on the premises. All light manufacturing and fabricating of products shall not create noise above 45 db, create excessive odor, and all processing shall be completely contained in a closed system or vented into a filtering system to remove odor.**

### **17.52.040 Conditional uses.**

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

**N. Light manufacturing and fabricating of products ~~without retail sales~~ is permitted ~~when conducted in conjunction with a retail sales establishment occupying~~ on an upper floor or basement but not on the ground floor facing the public street. ~~The activity shall not create noise above 45 db, create excessive odor, and all processing shall be completely contained in a closed system or vented into a filtering system to remove odor.~~**

General Commercial (C-3)

Planning Commission recommended revisions..... Light Manufacturing/tourism manufacturing

Outright use	CUP
Top floor ....tourism manufacturing with sales	light manufacturing
Ground floor-street level... tourism manufacturing with sales	
Basement .....tourism manufacturing with sales	light manufacturing

Original text to be deleted is ~~stricken~~.

Proposed new text is **bold**.

Revisions from Planning Commission (03-04-14) is underlined.

**Chapter 17.52  
GENERAL COMMERCIAL (C-3) DISTRICT**

**17.52.020 Permitted uses.**

The following uses are permitted:

**P. Light manufacturing and fabricating of products without retail sales shall not be conducted on a ground floor facing the public street but may be conducted in a basement or on an upper floor. Light manufacturing and fabricating of products that is related to tourism, such as but not limited to micro-brewery, coffee roasting, cheese making/creamery, or glass blowing is permitted on the ground floor facing the public street when conducted in conjunction with the retail sales of the product on the premises. All light manufacturing and fabricating of products shall not create noise above 45 db, create excessive odor, and all processing shall be completely contained in a closed system or vented into a filtering system to remove odor.**

**17.52.040 Conditional uses.**

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

**N. Light manufacturing and fFabricating of products that is not related to tourism or tourism related products without sales is permitted when conducted in conjunction with a retail sales establishment occupying on the ground floor facing the public street. The activity shall not create noise above 45 db, create excessive odor, and all processing shall be completely contained in a closed system or vented into a filtering system to remove odor.**

General Commercial (C-3)

Additional option.... Light Manufacturing/tourism manufacturing

Outright use	CUP
Top floor ....Light manufacturing	
Ground floor-street level... tourism manufacturing with sales	Light manufacturing/tourism manufacturing without sales
Basement .....Light manufacturing	

Proposed new text is **bold**.

Revisions from Planning Commission (03-04-14) is underlined.

**Chapter 17.56  
TOURIST COMMERCIAL (C-4) DISTRICT**

**17.56.020 Permitted uses.**

The following uses are permitted:


**V. Light manufacturing and fabricating of products that is related to tourism, such as but not limited to micro-brewery, coffee roasting, cheese making/creamery, or glass blowing is permitted when conducted in conjunction with the retail sales of the product on the premises. All light manufacturing and fabricating of products shall not create noise above 45 db, create excessive odor, and all processing shall be completely contained in a closed system or vented into a filtering system to remove odor.**

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: March 24, 2014

Originating Dept: PWDS

  
\_\_\_\_\_  
Signature (submitted by)  
  
\_\_\_\_\_  
City Manager Approval

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Subject: Adoption of Ordinance 14-O-730 to implement the approved amendments to Brookings Municipal Code (BMC) Title 13.25, Systems Development Charges.

Recommended Motion:

Motion to adopt Ordinance 14-O-730, amending Chapter 13.25 Systems Development Charges.

Financial Impact: Negligible at this time, may need to be re-evaluated after the next Systems Development Charges (SDC) Study.

Background/Discussion: This matter was discussed at a previous Council workshop, motivated by concerns that the current practice of charging an SDC when a proposed use is considered more intense than a previous use, discouraged businesses from locating downtown. In order to encourage business growth in the downtown district, the Council directed Staff to implement the changes necessary to exempt all existing, previously occupied buildings from SDC's. This is in keeping with the Council Goal to encourage business and development within the City. The exemption will not apply to residential conversions under the cottage industries standards.

**Chapter 13.25**

The only significant change to the chapter is the addition of the approved language to 13.25.120, exemptions.

Attachment(s):

- a. Chapter 13.25 revisions
- b. Ordinance 14-O-730

## **Chapter 13.25**

### **SYSTEMS DEVELOPMENT CHARGES**

#### **Sections:**

<a href="#"><u>13.25.010</u></a>	Purpose.
<a href="#"><u>13.25.020</u></a>	Scope.
<a href="#"><u>13.25.030</u></a>	Definitions.
<a href="#"><u>13.25.040</u></a>	Established.
<a href="#"><u>13.25.050</u></a>	Methodology.
<a href="#"><u>13.25.060</u></a>	Authorized expenditures.
<a href="#"><u>13.25.070</u></a>	Expenditure restrictions.
<a href="#"><u>13.25.080</u></a>	Improvement plan.
<a href="#"><u>13.25.090</u></a>	Collection charge.
<a href="#"><u>13.25.100</u></a>	Delinquent charges – Hearing.
<a href="#"><u>13.25.110</u></a>	Installment payment.
<a href="#"><u>13.25.120</u></a>	Exemptions.
<a href="#"><u>13.25.130</u></a>	Credits.
<a href="#"><u>13.25.140</u></a>	Segregation and use of revenue.
<a href="#"><u>13.25.150</u></a>	Appeal.
<a href="#"><u>13.25.160</u></a>	Prohibited connection.
<a href="#"><u>13.25.170</u></a>	Penalty.
<a href="#"><u>13.25.180</u></a>	Construction.

#### **13.25.010 Purpose.**

The purpose of this chapter is to adopt systems development charges which impose a portion of the cost of capital improvements for water, wastewater drainage and treatment, streets, flood control and parks upon those developments that create a need for or increase the demands on capital improvements. [Ord. 91-O-477 § 1.]

#### **13.25.020 Scope.**

The systems development charge imposed by this chapter is separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development. [Ord. 91-O-477 § 2.]

#### **13.25.030 Definitions.**

For purpose of this chapter:

A. “Capital improvements” means facilities or assets used for:

1. Water supply, treatment and distribution;
2. Wastewater collection, transmission, treatment and disposal;
3. Drainage and flood control;
4. Transportation, including, but not limited to, streets, sidewalks, bike lanes and paths, street lights, traffic signs and signals, street trees, public transportation, vehicle parking and bridges; or
5. Parks and recreation, including but not limited to, neighborhood parks, community parks, public open space and trail systems, buildings, courts, fields and other like facilities.

B. “Development” means conducting a building or ~~mining~~ mining operation or making a physical change in the use of a structure or land which increases the usage or demand for usage of any

capital improvement or which contributes to the need for additional or enlarged capital improvement(s).

C. “Improvement fee” means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to BMC [13.25.040](#).

D. “Land area” means the area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

E. “Owner” means the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

F. “Parcel of land” means a lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision or other development ordinances.

G. “Qualified public improvements” means a capital improvement that is:

1. Required as a condition of residential development approval;
2. Identified in the plan adopted pursuant to BMC [13.25.080](#); and
3. ~~Not located on or contiguous to a parcel of land that is the subject of the residential development approval.~~ *Provides greater capacity than is necessary for the development and is available for other developers or system users for connection and use.*

H. “Reimbursement fee” means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to BMC [13.25.040](#).

I. “Systems development charge” means a reimbursement fee, an improvement fee, or a combination thereof, assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit for a development as defined by this chapter, or a building permit, or at the time of connection to the capital improvement.

“Systems development charge” includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with water and sewer facilities. “Systems development charge” does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. [Ord. 91-O-477 § 3.]

### **13.25.040 Established.**

A. Systems development charges shall be established and may be revised by resolution of the council.

B. Unless otherwise exempted by the provisions of this chapter or other local or state law, a systems development charge is hereby imposed upon all parcels of land within the city, and upon all lands outside the boundary of the city that connect to or otherwise use the sewer facilities, storm sewers or water facilities of the city. [Ord. 91-O-477 § 4.]

### **13.25.050 Methodology.**

A. The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contribution by then-existing users, the value of unused capacity, rate-making principals employed to finance publicly owned capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future system users shall contribute no more than an equitable share of the cost of then-existing facilities.

B. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related. [Ord. 91-O-477 § 5.]

**13.25.060 Authorized expenditures.**

A. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

B. 1. Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to demands created by development.

2. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to BMC [13.25.080](#).

C. Notwithstanding subsections (A) and (B) of this section, systems development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of systems development charge methodologies and providing an annual accounting of systems development charge expenditures. [Ord. 91-O-477 § 6.]

**13.25.070 Expenditure restrictions.**

A. Systems development charge revenues shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

B. Systems development charge revenues shall not be expended for costs of the operation or routine maintenance of capital improvements. [Ord. 91-O-477 § 7.]

**13.25.080 Improvement plan.**

The council shall adopt a plan that:

A. Lists the capital improvements that may be funded with improvement fee revenues;

B. Lists the estimated cost and time of construction of each improvement; and

C. Describes the process for modifying the plan. [Ord. 91-O-477 § 8.]

**13.25.090 Collection charge.**

A. The systems development charge is payable upon issuance of:

1. A building permit;

2. A development permit for development not requiring issuance of a building permit;

3. A permit to connect to the water system; or

4. A permit to connect to the sewer system.

B. If development is commenced or connection is made to the water or sewer system without an appropriate permit, the systems development charge is immediately payable upon the earliest date that a permit was required.

C. The ~~city recorder~~ **finance and human resource director** or the designee shall collect the applicable systems development charge from the owner of the parcel when a permit that allows

building or development of a parcel is issued or when a connection to the water or sewer system to the city is made.

D. The ~~community development director~~ **building official** or the designee shall not issue a permit or allow such connection until the charge has been paid in full, until provision for installment payments have been made pursuant to BMC [13.25.110](#), or unless an exemption is granted pursuant to BMC [13.25.120](#). [Ord. 91-O-477 § 9.]

### **13.25.100 Delinquent charges – Hearing.**

A. When, for any reason, the systems development charge has not been paid, the ~~city recorder~~ **finance and human resource director** shall report to the city council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due and unpaid, and the name of the owner.

B. A public hearing shall be scheduled on the matter with notice of the hearing given to each owner together with a copy of the ~~city recorder's~~ **finance and human resource director's** report concerning the unpaid charge. Notice of the hearing shall be given either personally or by certified mail, return receipt requested, or by both mail and personal service, with date of mailing or personal service at least 10 days before the date of the scheduled hearing, and by posting notice on the parcel at least 10 days before the date of the scheduled hearing.

C. At the hearing, the city council may accept, reject or modify the determination set forth in the report. If the city finds that a systems development charge is unpaid and uncollected, it shall, by motion, direct the ~~city recorder~~ **finance and human resource director** to docket the unpaid and uncollected systems development charge in the lien docket. Upon completion of the docketing the city shall have a lien against the described land for the full amount of the unpaid charge, together with interest at the legal rate of ~~10 percent per annum~~ and for the city's actual cost of serving notice of the hearing on the owners. The lien shall be enforceable in the manner provided in Chapter 223 ORS. [Ord. 91-O-477 § 10.]

### **13.25.110 Installment payment.**

A. When a systems development charge is due and collectible, to the extent provided for by resolution of the city council, the owner of the parcel of land subject to the charge may apply for payment in installments, to include interest, in accordance with the provisions of ORS 223.208.

B. The ~~city recorder~~ **finance and human resource director** shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for correction of computational errors.

C. An applicant for installment payments shall have the burden of demonstrating the applicant's authority to grant the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

~~D. The city manager shall report to the city recorder the amount of the system development charge, the name of the owner(s) and a description of the parcel.~~

E.D. The ~~city recorder~~ **finance and human resource director** shall docket the lien in the lien docket. From that time, the city shall have a lien on the property described in the amount of the system development charge, together with interest on the unpaid balance at the highest rate earned by the city on its cash investments at the time of application approval. At the **finance and human resource** director's discretion, the interest portion of all installment payments may be

paid in advance, upon application approval, and recorded as a loan origination fee. [Ord. 06-O-477B; Ord. 91-O-477 § 11.]

### **13.25.120 Exemptions.**

A. Structures ~~and uses established and existing~~ **and occupied** on or before the effective date of the ordinance codified in this chapter are exempt from a systems development charge imposed by this chapter, ~~to the extent of the most intense, previous documented use of the structure and to the extent of the parcel of land as it is constituted on that date.~~ ***Conversions of residential use under the cottage industry standards are not included in this exemption.***

B. Additions or alterations which do not increase the floor space of a structure, the land area occupied by the structure or do not constitute the imposition of an increased use on the city's water or sewer services are exempt from all portions of the systems development charge. [Ord. 08-O-605 § 2; Ord. 91-O-477 § 12.]

### **13.25.130 Credits.**

~~A. A systems development charge shall be imposed when a change of use of a parcel or structure occurs, but credit shall be given for the computed systems development charge in an amount equal to what would otherwise be the charges for the most intense, documented, previous use. The credit so computed shall not exceed the calculated systems development charge. No refund shall be made on account of such credit.~~

~~B.~~ A. A credit shall be given for the cost of a qualified public improvement associated with a residential development. If a qualified public improvement is located partially on and partially off the parcel that is subject to the residential development approval, the credit shall be given only for the cost of the portion of the improvement ~~not located on or wholly contiguous to the property~~ ***that provides greater capacity than necessary and is available for other developers or system users for connection and use.*** The credit provided for by this section shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.

~~C.~~ B Credits shall not be transferable from one type of capital improvement to another. [Ord. 08-O-605 § 3; Ord. 91-O-477 § 13.]

### **13.25.140 Segregation and use of revenue.**

A. All funds derived from a particular type of systems development charge are to be segregated by accounting practices from all other funds of the city. The portion of the systems development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in BMC [13.25.060](#).

B. The ~~city recorder~~ ***finance and human resource director*** shall provide the city council with an annual accounting, based on the city's fiscal year, for systems development charges showing the total amount of systems development charge revenues collected for each type of facility and the projects funded from each account. [Ord. 91-O-477 § 14.]

### **13.25.150 Appeal.**

A. A person aggrieved by a decision required or permitted to be made under the provisions of this chapter, who has been denied the privilege of constructing or developing or a person challenging the propriety of an expenditure of systems development charge revenues may appeal the decision to the ***city manager*** ~~systems development charge review board~~ by filing a written request with the city recorder within 15 days of the action appealed from describing with particularity the matter which forms the basis for the appeal.

B. Notwithstanding the provisions of subsection (A) of this section, an appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

C. After an appeal has been filed, the systems development charge review board shall, within 15 days, notify the appellant of the time and place for consideration of the appeal and the appellant shall have the right to be present at the appeal hearing. The board shall schedule the appeal hearing within 35 days of the date of filing the written request for appeal. The board shall give full consideration to the evidence presented relative to the action appealed from and shall render its decision within seven days after the date of the final appeal hearing and shall notify the appellant of its decision, in writing.

D. Within 10 days following the decision of the board on the appeal, the appellant or city staff may request a final review of the ~~board's~~ **city manager's** decision by the city council. The city council shall determine whether the decision is in accordance with the provisions of this chapter and the provisions of state law and may modify, affirm or overrule the decision of the board and/or staff. In the event that the final decision determines that there has been an improper expenditure of systems development charge revenues, the city council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

E. Any legal action challenging the methodology adopted by the city council pursuant to BMC [13.25.050](#) shall not be filed later than 60 days after the adoption of the methodology. [Ord. 91-O-477 § 16.]

#### **13.25.160 Prohibited connection.**

No person may connect to the water, sewage or drainage systems of the city unless the appropriate systems development charges have been paid or the lien or installment payment method has been applied for and approved. [Ord. 91-O-477 § 17.]

#### **13.25.170 Penalty.**

Violation of BMC [13.25.160](#) is punishable *pursuant to Chapter 1.05 BMC, General Penalty*. ~~by a fine not to exceed \$1,000. Each separate connection to a city system prohibited under the provisions of BMC [13.25.160](#) shall be a separate offense under the provisions of this chapter.~~ [Ord. 91-O-477 § 18.]

#### **13.25.180 Construction.**

The rules of statutory construction contained in Chapter 174 ORS are adopted and by this reference made a part of this chapter. [Ord. 91-O-477 § 19.]

**IN AND FOR THE CITY OF BROOKINGS**  
**STATE OF OREGON**  
**ORDINANCE 14-O-730**

**IN THE MATTER OF ORDINANCE 14-O-730, AN ORDINANCE AMENDING VARIOUS SECTIONS OF BROOKINGS MUNICIPAL CODE CHAPTER 13.25, SYSTEMS DEVELOPMENT CHARGES, TITLE 13, PUBLIC SERVICES.**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends various sections in Chapter 13.25

The City of Brookings ordains as follows:

**Section 1. Ordinance Identified.** This ordinance amends various sections of Brookings Municipal Code Chapter 13.25, Systems Development Charges, Title 13, Public Services.

**Section 2. Amends Chapter 13.25.** The following sections of Chapter 13.25 are amended to read as follows.

**Chapter 13.25**  
**SYSTEMS DEVELOPMENT CHARGES**

**13.25.030 (B).** “Development” means conducting a building operation or making a physical change in the use of a structure or land which increases the usage or demand for usage of any capital improvement or which contributes to the need for additional or enlarged capital improvement(s).

**13.25.030 (G).** “Qualified public improvements” means a capital improvement that is:

1. Required as a condition of residential development approval;
2. Identified in the plan adopted pursuant to BMC [13.25.080](#); and
3. Provides greater capacity than is necessary for the development and is available for other developers or system users for connection and use.

**13.25.090 (C).** The finance and human resource director or the designee shall collect the applicable systems development charge from the owner of the parcel when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system to the city is made.

**13.25.090 (D).** The building official or the designee shall not issue a permit or allow such connection until the charge has been paid in full, until provision for installment payments have been made pursuant to BMC [13.25.110](#), or unless an exemption is granted pursuant to BMC [13.25.120](#). [Ord. 91-O-477 § 9.]

**13.25.100 (A).** When, for any reason, the systems development charge has not been paid, the finance and human resource director shall report to the city council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due and unpaid, and the name of the owner.

**13.25.100 (B).** A public hearing shall be scheduled on the matter with notice of the hearing given to each owner together with a copy of the finance and human resource director's report concerning the unpaid charge. Notice of the hearing shall be given either personally or by certified mail, return receipt requested, or by both mail and personal service, with date of mailing or personal service at least 10 days before the date of the scheduled hearing, and by posting notice on the parcel at least 10 days before the date of the scheduled hearing.

**13.25.100 (C).** At the hearing, the city council may accept, reject or modify the determination set forth in the report. If the city finds that a systems development charge is unpaid and uncollected, it shall, by motion, direct the finance and human resource director to docket the unpaid and uncollected systems development charge in the lien docket. Upon completion of the docketing the city shall have a lien against the described land for the full amount of the unpaid charge, together with interest at the legal rate and for the city's actual cost of serving notice of the hearing on the owners. The lien shall be enforceable in the manner provided in Chapter 223 ORS. [Ord. 91-O-477 § 10.]

**13.25.110 (B).** The finance and human resource director shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for correction of computational errors.

**13.25.110 (D).** The finance and human resource director shall docket the lien in the lien docket. From that time, the city shall have a lien on the property described in the amount of the system development charge, together with interest on the unpaid balance at the highest rate earned by the city on its cash investments at the time of application approval. At the finance and human resource director's discretion, the interest portion of all installment payments may be paid in advance, upon application approval, and recorded as a loan origination fee. [Ord. 06-O-477B; Ord. 91-O-477 § 11.]

**13.25.120 (A).** Structures existing and occupied on or before the effective date of the ordinance codified in this chapter are exempt from a systems development charge imposed by this chapter, Conversions of residential use under the cottage industry standards are not included in this exemption.

**13.25.130 (A).** A credit shall be given for the cost of a qualified public improvement associated with a residential development. If a qualified public improvement is located partially on and partially off the parcel that is subject to the residential development approval, the credit shall be given only for the cost of the portion of the improvement that provides greater capacity than necessary and is available for other developers or system users for connection and use. The credit provided for by this section shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee.

**13.25.140 (B).** The finance and human resource director shall provide the city council with an annual accounting, based on the city's fiscal year, for systems development charges showing the total amount of systems development charge revenues collected for each type of facility and the projects funded from each account. [Ord. 91-O-477 § 14.]

**13.25.150 (A).** A person aggrieved by a decision required or permitted to be made under the provisions of this chapter, who has been denied the privilege of constructing or developing or a person challenging

the propriety of an expenditure of systems development charge revenues may appeal the decision to the city manager by filing a written request with the city recorder within 15 days of the action appealed from describing with particularity the matter which forms the basis for the appeal.

**13.25.150 (D).** Within 10 days following the decision of the board on the appeal, the appellant or city staff may request a final review of the city manager's decision by the city council. The city council shall determine whether the decision is in accordance with the provisions of this chapter and the provisions of state law and may modify, affirm or overrule the decision of the board and/or staff. In the event that the final decision determines that there has been an improper expenditure of systems development charge revenues, the city council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

**13.25.170 Penalty.**

Violation of BMC [13.25.160](#) is punishable by a fine not to exceed \$720 .Each separate connection to a city system prohibited under the provisions of BMC [13.25.160](#) shall be a separate offense under the provisions of this chapter. [Ord. 91-O-477 § 18.]

First Reading:	_____	Passage:	_____
Second Reading:	_____	Effective Date:	_____

Signed by me in authentication of its passage this \_\_\_\_\_, day of \_\_\_\_\_, 2014

ATTEST:

\_\_\_\_\_  
Mayor Ron Hedenskog

\_\_\_\_\_  
City Recorder Joyce Heffington