IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

In the Matter of an Ordinance Amending Ordinance 06-0-572, An Ordinance Creating the City of Brookings Municipal Code, to amend Chapter 17.100, Hazardous Building Site Protection, Hillside Development Standards, in its entirety.	)))))	**Ordinance 07-O-582**

Sections:

Section 1. Ordinance identified.
Section 2. Amendment to Chapter 17.100.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 06-0-572, Brookings Municipal Code.

Section 2. Amendment to Chapter 17.100, Ordinance No. 06-O-572, Chapter 100 is hereby amended to read as follows:

Sections:

100.010 Purpose.
100.020 Definitions
100.030 General Mitigation.
100.040 Decision Authority of City Manager or Planning Commission
100.050 Authority to Require Site Study
100.060 Geologic Report Required
100.070 Engineered Plans Required
100.080 Enforcement

100.010 Purpose.

A. The purpose of this section is to reduce the effects of flooding, erosion, landslides and siltation during all stages of development on all lots or parcels within the city and to reduce the hazards associated with construction on the steeper hillsides, beach fronts and/or wherever hazards are known or may exist. This section applies to all property within the City and the level of protection required is based on the steepness of slopes, relation to coastal bluffs and other known or hazardous conditions that may exist. This section is intended to advance the above purpose:

1. By requiring the study of such areas, by a qualified professional as defined

in 100.020 (D) and 100.070 (C), prior to development, as defined in Section 100.020 (C).

2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion, rock or sediment deposition during construction.

3. By establishing mechanisms for enforcement to ensure compliance with this code.

B. The policies and standards of this section are based upon the data contained in the Comprehensive Plan document and other technical information.

C. This Section is not meant to regulate landscaping/ gardening activities on an existing, developed property unless there will be a disturbance of greater than ½ acre in size, or involve terracing or similar activities. A property owner may apply to the Site Plan Committee for authorization to conduct more intense landscaping/ gardening activities if they exceed ½ acre in size.

100.020 Definitions. For the purposes of this section, the following definitions shall apply.

A. Average Slope – the overall increase/ decrease in elevation over the area proposed for development or the subject property, expressed as a percentage based on the following formula: difference in elevation over horizontal distance.

B. Determination of 15% slopes – The applicant may be required to provide a topographic map prepared by a licensed engineer or surveyor. The topographic map shall contain lines drawn approximately perpendicular to the contours indicating the percent of slope. In some instances the City Engineer may accept a sketch and/ or certificate prepared by a licensed individual indicating the average slope of the property.

1. If the average slopes are less than 15%, but the proposed development is on an area of 15% slopes, standards in Sections 100.030, 100.060 and 100.070 shall apply.

2. If the average slopes are greater than 15%, but the development is proposed on an area of less than 15% slopes, a site specific review of the proposal by the Site Plan Committee shall determine if standards in Section 100.060 and 100.070 apply.

C. Development – The alteration of improved or unimproved land, including but

not limited to a land division, buildings or other structures, grading, filling or removal of vegetation.

D. Geologic Report – A report prepared by a qualified professional geologic consultant – A geologist or certified engineer working under their professional guidelines, and licensed by the State of Oregon. The report would comply with "Guidelines for Preparing Engineering Geologic Reports in Oregon" as adopted by the Oregon State Board of Geologic Examiners and contain the following information:

1. The stability of the property and the suitability for the proposed type of construction in relation to the size of lot, including all existing and proposed new streets.

2. A statement of the need for engineered foundations or for site specific studies to determine if engineered foundations are necessary.

3. A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant licensed in the State of Oregon, has determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

4. For oceanfront sites see additional requirements in 100.060(B) (2).

E. Grading – Movement of earth for whatever reason including removal of the root systems for brush and trees.

F. Hazardous Sites– Areas containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazards as discussed in Section 100.010 (A) Purpose statement.

G. Vegetation Removal – Cutting of brush and trees

100.030 General Mitigation

Prior to development activity on **any** property, certain standards must be met to reduce building site hazards such as flooding, landslides, soil erosion, sediment deposition, etc. The following process is required:

A. When partitioning or subdividing, the requirements of Section 100.070, including a determination of seasonal high water table level impact on development of the property, and groundwater drainage mitigation design,

if necessary, must be submitted with the application.

B. Prior to any site preparation, the applicant must provide a plan demonstrating that no property shall be disturbed, graded, excavated, filled or developed within the City so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another. The plan shall also include the strategy for the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access. This plan shall be submitted to the Site Plan Committee with a Permit Clearance Form, requesting a building permit, or a Land Use Permit Application.

C. If site preparation will disturb an area greater than one acre in size, the property owner is required to contact the Department of Environmental Quality (DEQ) and comply with their erosion control requirements. The property owner must provide proof of meeting DEQ's requirements. This will satisfy the City's erosion control requirements.

D. No grading or filling of more than 50 cubic yards can occur until a grading permit or building permit has been issued. Any amount of grading or filling in a hazardous area, as defined in Chapter 17.100.020(F), or in a floodplain, must have a grading permit. Grading plans must show compliance with State of Oregon Structural Specialty Code.

100.040 Decision Authority of City Manager or Planning Commission.

A. The City Manager, or his or her designee, shall review and approve or deny requests for building permits or grading permits within areas identified as a hazardous site.

B. The Planning Commission shall review and approve or deny land use applications proposed within areas identified as being hazardous sites and for all land divisions.

C. The Planning Commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in Sections 100.050, 100.060, and 100.070. Planning Commission decisions may be appealed to the City Council as provided in Section 156.

100.050 Authority to Require Site Study

A. The City Manager or his or her designee shall require a site study by a qualified professional geologic consultant, licensed in the State of Oregon

prior to any disturbance on property, or the approval of a land use application, in hazardous sites, as defined in Section 100.020 (F).

B. If the report in **A.** above indicates additional information is needed, site specific studies prepared by a qualified professional shall be required by the City Manager or his or her designee, or the Planning Commission.

100.060 **Geologic Report Required.** – **NOTE:** If minimal brush removal is needed to allow surveying and/ or site study **prior to applying for a permit**, a plot plan and request must be submitted by the applicant describing the amount and location of vegetation removal. Brush and trees can only be cut off at ground level and stumps and roots shall not be removed. The City shall review and approve this plan prior to any removal of vegetation.

Except as stated above, prior to any vegetation removal and/or development, as defined in 100.020 (C), a geologic report, as described in 100.020 (B), shall be required as follows:

A. When developing land within the City, the following provisions apply:

1. All lots and parcels with slopes of less than 15% shall provide erosion control measures pursuant to subsection 100.030 above.

2. On all lots and parcels that contain slopes of 15% or greater, or other identified hazards, but where development is proposed on an area away from these hazardous sites, only compliance with Section 100.030 above is required, unless other provisions of this Section are required at the discretion of the Site Plan Committee.

3. All lots and parcels with average slopes of 15% or greater, or other identified hazards, or on lots where the desired development is on a slope of 15% or greater, a geologic report and engineered plans in compliance with the provisions of subsection 100.070, below, is required prior to the removal of any vegetation or development on the property.

4. On lands that contain slopes of greater than 15%, all lots and parcels may be of the minimum lot size allowed by underlying zone, except larger lots may be required if the geologic survey of the property requires a larger lot or parcel to avoid hazardous areas or other conditions.

B. Development on properties adjacent to the ocean bluffs or bluff slopes shall comply with the provisions of this section as follows:

1. A geologic report shall be provided prior to the following:

a) Partitioning or subdividing property.

b) Siting a new structure on a vacant lot.

c) Constructing an addition to an existing structure on the ocean side or the side yard area.

d) Constructing a second floor on an existing structure.

e) Siting an accessory structure (garage, shop etc) on the ocean side or side yard area of an existing dwelling.

2. The geologic report shall contain the following information in addition to the requirements in 100.020 (D):

a) The stability of the bluff and its suitability for the proposed type of construction in relation to the size of lot proposed, including any required setback from the edge of the bluff necessary to accommodate a proposed structure for its projected lifetime. An assessment of the long term response of the bluff toe, including undertaking assessments of the types of failure (e.g. slumps/landslides) that may be characteristic of the lithology that makes up the bluff. Assessments should be consistent with the methodology used by the Oregon Department of Geology and Mineral Industries to assess bluff erosion potential in its published coastal erosion studies of other Oregon coastal regions.

b) The need for engineered foundations or for site specific studies to determine if engineered foundations are necessary.

c) A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant has determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

3. A geologic report (unless Site Plan Committee determines conditions dictate otherwise) is not required when:

a) Remodeling within an existing <u>intact</u> structure or,

b) siting an addition or accessory structure on the upland (furthest from the ocean) side of the existing dwelling.

100.070 Engineered Plans Required

A. No property shall be disturbed, graded, excavated, filled, storm water drainage redirected or developed within the City so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another.

B. The applicant shall submit plans prepared by an Oregon licensed civil engineer prior to any site preparation, including vegetation removal, except as allowed for survey purposes in subsection 100.060 *Note, on a lot or parcel with hazardous conditions as defined in subsection 100.020(F), and on any proposed partition or subdivision. At the discretion of the Site Plan Committee, this requirement may be waived or modified on lots or parcels greater than one acre in size. The plans must be approved by the City and shall include the following information:

1. An erosion control plan showing the area to be denuded of vegetation, erosion control measures and implementation time table. Erosion and sedimentation caused by storm water runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the City Manager or his or her qualified designee:

a. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access shall be done. Removal of trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The City shall observe this in the development of streets and building pads.

b. Measures for controlling runoff, such as silt fencing, hay bales, berms, holding ponds, terraces, ditches, hydro seeding or permanent cover shall be used as required, particularly in areas having slopes of 15% or greater._The applicant shall contact Oregon Department of Environmental Quality (DEQ) concerning the possible need for a 1200C Storm Water General Permit.

2. Prior to any grading, a grading plan showing all cut and fill slopes associated with new or improved roads, driveways, building pads, and all utility grading including water, sewer, electrical, telephone, and television

cables. The grading plan shall include associated erosion control measures and implementation time table for the grading operation.

3. A drainage plan to control groundwater and storm water runoff.

a. All storm drainage shall be designed by a Civil Engineer and approved by the City. The storm drain facilities shall be designed for storms having a 25-year recurrence frequency. Storm water shall be directed into drainage with capacity to be calculated in accordance with the City's Comprehensive Plan for Storm Drainage Development and Chapter 8.10 of the Brookings Municipal Code, and address on-site and off-site impacts, so as not to flood adjacent or downstream property.

b. In all areas of the city, the City Manager or his or her designee may require culverts or other drainage facilities, designed in accordance with the City's Comprehensive Plan for Storm Drainage Development and Chapter 8.10 of the Brookings Municipal Code, be installed as a condition of construction.

c. Plan must include a determination of seasonal high water table level impact on development of the property, and a groundwater drainage mitigation design if necessary.

C. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or boundary shall require any special impact mitigation measures as recommended in the geologic hazard report.

D. Filling of lowlands shall be done only where it is determined that the fill shall not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed. This provision may be superseded when lowlands contain jurisdictional wetlands, where State wetland removal/fill permits would be required, or areas regulated by the City Flood Damage Prevention Ordinance.

E. No work shall commence until the applicant has received written approval from the City and required permits have been issued.

100.080 Enforcement

A. The removal of vegetation, grading, construction, location, development or use of land or structures, contrary to the provisions of this section, ordinance or permit, or any conditions or limitations approved pursuant to this Code, is a

violation.

B. In addition to other remedies set forth in Section 164, and other remedies provided by ordinance or under state law, the city may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection, construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

C. If the City Manager determines that a violation of this section has occurred, the City shall provide written notice to the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who is known by the City to have participated in committing the violation, through a Stop Work Order, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the City, the City may seek an injunction to stop further development until the violation has been remedied. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the City shall cause the City to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the City to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the City Recorder is authorized to enter the amount of such charges immediately in the docket of city liens.

D. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this ordinance shall be guilty of a violation.

E. The remedies set forth in this section are cumulative and not exhaustive of all remedies the City may exercise to prevent, correct or abate a violation under this section.

First reading: February 26, 2007

Second reading: March 12, 2007

Passage: March 12, 2007

Effective date April 11, 2007

Signed by me in authentication of its passage this 12th day of March, 2007.

Pat Sherman

Pat Sherman, Mayor

ATTEST:

Paul Hughes, Finance Director/Recorder