

*For: Monday, February 27, 2012, City Council Meeting*

## **Advance Packet Information**

Dated: February 17, 2012

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

### **PUBLIC HEARINGS/ORDINANCES**

1. Ordinance adding Section 12.25.017, Smoking prohibited in designated park areas, to Brookings Municipal Code (BMC) Chapter 12.25, Public Parks and Recreational Areas. [pg. 2]
  - a. Ordinance 12-O-690 [pg. 3]
  - b. Chapter 1.05 General Penalty [pg. 4]
  - c. Chapter 12.25 Current Version [pg. 5]
2. Public Hearing in the matter of VAC-1-12, vacating Park Spur [pg. 8]
  - a. Planning Commission Staff Report [pg. 9]
3. Final Order and Ordinance vacating Park Spur. [pg. 17]
  - a. Final Order and Findings of Fact on VAC-1-12 [p.g 18]
  - b. Ordinance 12-O-691 [pg. 22]
4. Public Hearing on File LDC-4-11, revising Chapter 17.136 of the BMC. [pg. 26]
  - a. Draft revisions to Chapter 17.136.080 [pg. 27]
5. Ordinance amending Section 17.136.080 of BMC Chapter 17.136, Conditional Use Permit. [pg. 28]
  - a. Ordinance 12-O-693 [pg. 29]
6. Public Hearing on File LDC-5-11, revising Sections 17.172.060.E, 17.172.070.G and 17.172.080, of BMC Chapter 17.172, Land Divisions. [pg. 30]
  - a. Planning Commission Staff Report [pg. 32]
  - b. Draft of 17.172.060.E [pg. 33]
  - c. Draft of 17.172.070.G [pg. 34]
  - d. Draft of 17.172.080 [pg. 35]
7. Ordinance amending Sections 17.172.060.E, 17.172.070.G and 17.172.080 of BMC Chapter 17.172, Land Divisions. [pg. 39]
  - a. Ordinance 12-O-692 [pg. 40]
8. Public Hearing on File LDC-6-11, revising BMC Chapter 17.116, Planned Community. [pg. 43]
  - a. Draft revisions to Chapter 17.116 [pg. 45]
9. Ordinance amending Sections 17.116.060 and 17.166.070.B of BMC Chapter 17.116, Planned Community. [pg. 46]
  - a. Ordinance 12-O-694 [pg. 47]

\*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 advance notification. Please contact 541-469-1102 if you have any questions regarding this notice.

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Public Works

  
Signature (submitted by)  
  
City Manager Approval

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Subject: Smoking Ban in Public Parks

Recommended Motion:

Motion to adopt Ordinance 12-O-690, adding Section 12.25.017, Smoking prohibited in designated park areas, to Brookings Municipal Code Chapter 12.25, Public Parks and Recreational Areas.

Financial Impact:

None

Background/Discussion:

The Parks and Recreation Commission unanimously voted in favor of a smoking ban in select areas of all City Parks at its November 17, 2011 meeting. Specifically, the Commission is proposing to prohibit smoking in park areas including Kidtown, children's playground areas, athletic fields, bleachers, benches and spectator areas adjacent to playgrounds and within 20 feet of restroom and concession facilities.

The Commission is also interested in deterring smoking with a more stringent violation penalty. The goal is to eliminate smoking from Park areas where children and events are concentrated, and to reduce the litter generated by smoking. At its January 26, 2012 meeting, the Commission voted unanimously to apply the General Penalty to the smoking ban as described in Brookings Municipal Code Chapter 1.05 which would impose a fine of up to \$720. A copy of the General Penalty is attached.

Attachment(s):

- a. Ordinance 12-O-690
- b. BMC Chapter 1.05, General Penalty
- c. BMC Chapter 12.25, current version

**IN AND FOR THE CITY OF BROOKINGS**  
**STATE OF OREGON**  
**ORDINANCE 12-O-690**

**IN THE MATTER OF ORDINANCE 12-O-690, AN ORDINANCE ADDING SECTION 12.25.017, SMOKING PROHIBITED IN DESIGNATED PARK AREAS, TO BROOKINGS MUNICIPAL CODE CHAPTER 12.25, PUBLIC PARKS AND RECREATIONAL AREAS.**

Sections:

- Section 1. Ordinance identified.
- Section 2. Adds Section 12.25.017.

The City of Brookings Ordains as follows:

Section 1. Ordinance identified. This ordinance adds Section 12.25.017, Smoking prohibited in designated park areas, to Brookings Municipal Code Chapter 12.25, Public parks and recreational areas.

Section 2. Adds Section 12.25.017: Section 12.25.017, Smoking prohibited in designated park areas, is added as follows:

**12.25.017 Smoking prohibited in designated park areas**

- A. Persons are prohibited from smoking in City parks at all times in the following areas: Kidtown at Azalea Park and all children's playgrounds, athletic fields, bleachers and benches and spectator areas located adjacent to playgrounds, and within 20 feet of all restroom and concession facilities.
- B. Penalties under this section shall be in accordance with BMC Chapter 1.05, General Penalty.

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Passage: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Signed by me in authentication of its passage this \_\_\_\_\_, day of \_\_\_\_\_, 2012

ATTEST:

\_\_\_\_\_  
Mayor Larry Anderson

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

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## Chapter 1.05 GENERAL PENALTY

### Sections:

#### 1.05.010 General penalty.

##### **1.05.010 General penalty.**

A. Violations. Every offense is a violation which may be punished by a fine up to \$720.00; provided, that where Oregon statutes impose a lesser penalty for the same offense, then the lesser penalty shall apply. Each day or part of a day for which a violation is committed or persists is a separate offense.

B. Administrative Enforcement. Where a chapter of this code provides that enforcement shall be through an administrative process, the provisions for administrative procedures shall apply rather than this section.

C. Equitable and Other Remedies Preserved. Nothing in this section prohibits the city seeking equitable relief or damages in addition to judicial or administrative enforcement of its ordinances. [Ord. 09-O-644 § 2; Ord. 07-O-592 § 2; Ord. 06-O-572 § 2.]

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**This page of the Brookings Municipal Code is current through Ordinance 12-O-689, passed January 9, 2012.**

Disclaimer: The City Recorder's Office has the official version of the Brookings Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.brookings.or.us/>  
(<http://www.brookings.or.us/>)

City Telephone: (541) 469-2163

Code Publishing Company

(<http://www.codepublishing.com/>)

eLibrary

(<http://www.codepublishing.com/elibrary.html>)



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**Chapter 12.25  
PUBLIC PARKS AND RECREATIONAL AREAS**

**Sections:**

- 12.25.010** City-owned public parks and city-owned public recreational areas hours.
- 12.25.012** Rules and regulations specific to city-owned parks.
- 12.25.015** Dogs prohibited in Easy Manor Park.
- 12.25.016** Dogs prohibited in Kidtown playground at Azalea Park.
- 12.25.020** Exceptions.
- 12.25.030** Penalties.

**12.25.010 City-owned public parks and city-owned public recreational areas hours.**

Except as provided in BMC 12.25.020, all city-owned public parks and city-owned public recreational areas located within the city of Brookings shall be open for use by the public from one-half hour prior to sunrise to one-half hour past sunset. [Ord. 94-O-505 § 1.]

**12.25.012 Rules and regulations specific to city-owned parks.**

A. The following activities and uses are prohibited in all city parks, except by city park employees, volunteers or contractors in the performance of authorized maintenance or construction:

1. Camping.
2. Parking or use of motorized vehicles, other than wheelchairs, on walkways, landscaped areas, natural vegetation areas, playgrounds and sports fields, except for authorized maintenance or the purpose of set-up or tear-down of an event.
3. Possession or use of fireworks or explosives; unlawful possession or use of firearms.
4. Throwing of rice or seeds, including bird seed.
5. Damage to or removal of any vegetation.
6. Modification or painting of any structure, equipment or furniture.
7. Bicycles, skateboards, skates or roller blades, except in designated areas.
8. Unleashed dogs.
9. Failure to remove animal excrement by the animal owner.
10. Attaching signs to any city sign post, trees or other vegetation.

11. Any use of the park for an organized event without having first obtained an approved park use permit. An organized event includes weddings, memorials, athletic activities, concerts, holiday displays, picnics where the host wishes to reserve a specific area, use of the snack shack, bandshell or Capella, and the conduct of business activities.

12. Amplified sound and/or music at a level that is not contained within the immediate area of the activity, subject to BMC 8.15.080.

13. Placement of any sign without first having obtained approval by the city manager or his designee.

14. Failure to remove signs within two hours of the conclusion of an event.

15. Fires, except fires in camp stoves, portable barbeques or fireplaces provided for such purposes.

16. The use of camp stoves or portable barbeques except in designated picnic areas.

17. Unattended fires, camp stoves or portable barbeques.

18. Leaving the location of a fire until the fire is completely extinguished with no hot coals remaining.

19. The use of amplified sound at Bankus Park.

20. The use of Bankus Park for more than single-day events, except as approved by the parks and recreation commission.

#### **B. Penalties and Fines.**

1. The fine for a first offense under subsection (A) of this section is \$50.00, a second violation is \$100.00, and any third or subsequent violation shall be the maximum allowed under Chapter 1.05 BMC, General Penalty.

2. Upon a third violation/conviction, the offending person may be prohibited from using or entering all city-owned parks for a period of one year.

3. If a person is given a citation for violating subsection (A) of this section, he or she must immediately cease the offending conduct. If the person given the citation continues the offending use or activity, he or she will be subject to additional citations and/or immediate trespass under ORS 164.245. [Ord. 10-O-667 § 2.]

#### **12.25.015 Dogs prohibited in Easy Manor Park.**

Dogs are prohibited in Easy Manor Park, except for dog guides as defined in ORS 346.610. [Ord. 10-O-662 § 2.]

#### **12.25.016 Dogs prohibited in Kidtown playground at Azalea Park.**

Dogs are prohibited in Kidtown playground at Azalea Park, except for dog guides as defined in ORS 346.610. [Ord. 10-O-664 § 2.]

#### **12.25.020 Exceptions.**

The city manager may, upon prior application, permit use of a city-owned public park or city-owned public recreational area at times other than the times that the premises are open for use by the public. [Ord. 94-O-505 § 2.]

#### **12.25.030 Penalties.**

Unless otherwise provided in this chapter, any violation of the provisions of this chapter shall, upon conviction thereof, be punished pursuant to Chapter 1.05 BMC, General Penalty. [Ord. 10-O-662 § 2; Ord. 94-O-505 § 3.]

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# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Planning

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

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Subject: Vacation of Park Spur right-of-way.

Recommended Motion: A motion to approve the vacation of Park Spur.

Financial Impact: None.

Background/Discussion: City Council discussed vacating Park Spur at the August 8, 2011 meeting. A motion was made to initiate proceedings pursuant to Oregon Revised Statutes (ORS) 271.130 or other process to be determined after conferring with the City Attorney. The City Attorney recommended this vacation be initiated by petition of the adjacent property owner under ORS 271.080. The adjacent property owner submitted the materials required by Brookings Municipal Code 17.148, Vacations and ORS - 271, Vacation, to request this vacation.

The attached Planning Commission Staff Report reviews the details of Park Spur vacation and analyses the relevant criteria. Additional notice and posting of this action on Park Spur has been conducted in compliance with ORS 271.120. The Planning Commission recommended approval to the City Council at their February 7, 2012 meeting.

Policy Considerations: N/A

Attachment(s): Planning Commission Staff Report

**CITY OF BROOKINGS PLANNING COMMISSION**  
**STAFF AGENDA REPORT**

SUBJECT: Vacation  
FILE NO: VAC- 1 - 12  
HEARING DATE: February 7, 2012

REPORT DATE: January 26, 2012  
ITEM NO: 7.1

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**GENERAL INFORMATION**

APPLICANT: Susan Wimberley

REQUEST: Vacation of Park Spur.

TOTAL LAND AREA: Approximately 4,800 sq. ft.

LOCATION: Park Spur is located adjacent to west side of Parkview Drive approximately 90 feet south of the intersection of Parkview Drive and Hampton Road, adjacent to 1005 Parkview Drive.

ASSESSOR'S MAP NUMBER: Adjacent to Map 40-13-31C; Tax lot 403

**ZONING / COMPREHENSIVE PLAN INFORMATION**

EXISTING: Right-of-ways do not have a zoning designation.

PROPOSED: Not applicable.

SURROUNDING: Park Spur is surrounded by R-1 (single-family residential) zoned parcels.

**LAND USE INFORMATION**

EXISTING: Park Spur contains a circular driveway that provides access to the Applicant's property to the west. The remainder is vegetated.

PROPOSED: Vacate Park Spur right-of-way to enlarge the adjacent property to provide the required setback for a proposed accessory structure.

SURROUNDING: Park Spur is bordered on the east by Parkview Drive which provides access for all parcels in the vicinity. Surrounding parcels are residentially zoned and developed.

PUBLIC NOTICE: Mailed to all property owners within 250 feet of subject property and published in local newspaper.

APPLICABLE CRITERIA: Land Development Code – Ordinance # 06-0-572  
Brookings Municipal Code (BMC)  
17.148 Vacations

Oregon Revised Statutes – 271, Vacation

**BACKGROUND INFORMATION**

Park Spur was created as part of Parkview Drive Subdivision in 1967. The subdivision created five residential lots, Park Spur, and “Lot 6”, which was deeded to the City in 1979. Park Spur is an average of 30 ft in width and 152 ft long. The eastern boundary of this short street is adjacent to and parallels Parkview Drive. The subdivision plat contains no language as to the purpose of Park Spur but it may have been created to provide access to the lot at it’s northern terminus, although that lot takes access directly from Parkview Drive. Park Spur has never been improved to function as part of the City street system.

**PROPOSED VACATION**

The Applicant owns the lot adjacent to Park Spur on the west side. This lot is the only property accessing across this street by way of a circular driveway. Acquisition of this right-of-way would allow the Applicant to construct an accessory structure that could meet the required property line setbacks. The Applicant has provided Findings (**Attachment A**) to address the applicable criteria.

**ANALYSIS**

Chapter 17.148.030, Vacation Criteria, BMC provides that a request to vacate will be considered by the Planning Commission and a recommendation given to the City Council for action based on the following criteria:

17.148.030(A), BMC, requires the proposal to be in compliance with the Comprehensive Plan, circulation elements or other applicable section of the document.

Response: The Comprehensive Plan makes no particular mention of Park Spur. The Plan does require that access to existing lots and future development be considered in the decision making process. The vacation of this right-of-way will not prevent any property from having access to the transportation system. Public Works has provided a statement (**Attachment B**) that water service facilities for the adjacent property are located within the right of way of Park Spur. A 5 foot wide public utility easement (**Figure 2**) adjacent to Parkview Drive, will be required to allow for any needed maintenance and repair. Coos-Curry Electric has provided documentation (**Attachment C**) that this vacation will not impact their facilities. Staff contacted the Utilities Notification Center to verify that no other utilities will be affected. A site visit was conducted and no additional facilities were identified in Park Spur right-of-way. No additional comments were received.

17.148.030(B), BMC, if initiated by petition pursuant to ORS 271.080, the council shall make the determinations pursuant to ORS 271.120 based upon evidence provided by the petitioner(s) in the written findings. ORS 271.120 requires that:

- The Applicant must obtain Consent to Vacate forms completed by 100% of the owners of properties

abutting the right-of-way and 67% of owners within the affected area, as described by State law.

Response: The Applicant has provided signed Consent to Vacation of Street forms from 100% of the abutting properties and from more than 67% of all properties located within the affected area.

- Notice of the hearing on the matter must be published in the local newspaper and posted on the property.

Response: Notice of this matter was published in the local newspaper in compliance with the BMC. Additional notice and posting of the property will occur prior to this matter being heard by City Council as required by State law.

- The public interest will not be negatively impacted from the vacation.

Response: As stated above, the vacation of Park Spur will not prevent any property from having access to the transportation system. Existing and future utilities can be installed, maintained, and repaired utilizing the 5 foot wide public utility easement. There will be no negative impact to the public.

17.148.030(C), BMC, if initiated upon a recommendation of the Planning Commission and/or by the City Council on its own motion pursuant to ORS 271.130.

Response: This criteria is not applicable.

## **FINDINGS AND CONCLUSIONS**

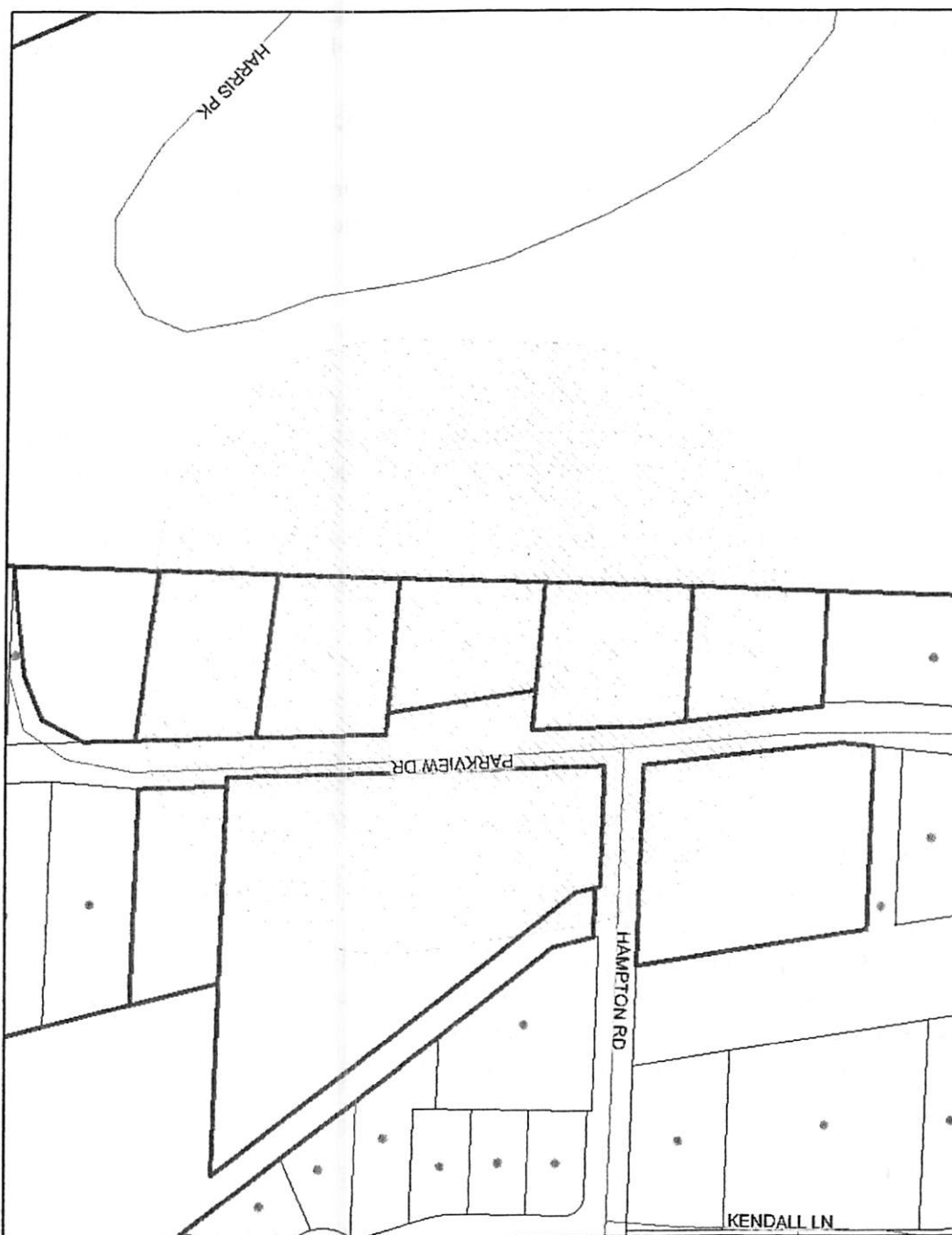
1. Park Spur is a platted right-of-way that serves as access to no property except to the Applicant that has requested this vacation.
2. The Applicant has filed the required application and obtained the necessary Consent to Vacation of Street forms, as specified in State law.
3. Notice has been provided as required by the BMC and by State law.
4. The existing water service facilities can be maintained and repair utilizing the public utility easement that will be required for this vacation.
5. No person has expressed concern about this request.

## **RECOMMENDATION**

Staff supports a Planning Commission recommendation of APPROVAL of VAC-1-12, based on the findings and conclusions stated in the staff report, to the City Council.

VAC-1-12

# Exhibit One



This map is a public resource of general information. Use this information at your own risk. Curry County makes no warranty of any kind, expressed or implied, including any warranty of merchantability, fitness for any particular purpose or any other matter.

Map center: 42° 3' 57.0" N, 124° 18' 1.4" W

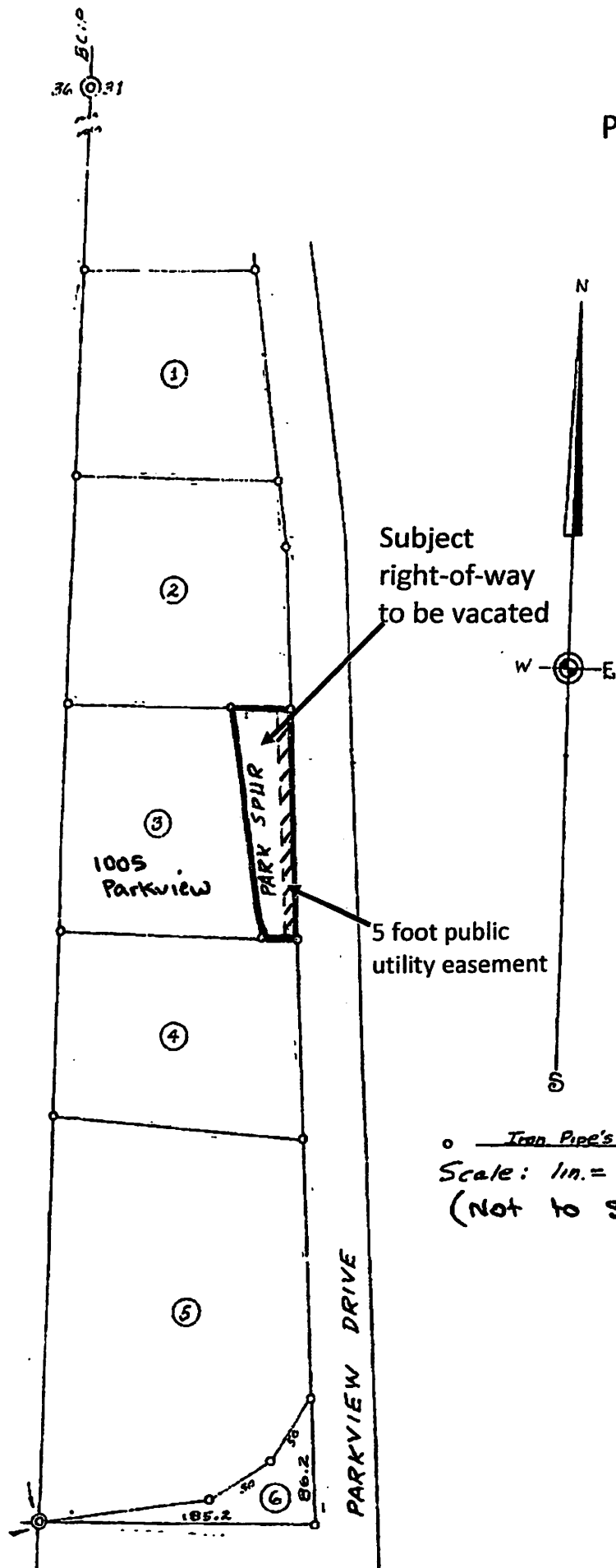


- Legend**
- OWNER
  - ▬ RIVERS
  - ▬ ROADS
  - ▬ PARCELS
  - ▬ URBAN GROWTH BOUNDARY
  - ▬ SPECIAL PROVISIONS
  - ▬ OCEAN



Scale: 1:2,094

# Parkview Drive Subdivision



o Iron Pipe's Set  
 Scale: 1 in. = 100 ft.  
 (Not to Scale)

I, H.J. Newhouse  
 the accompanying  
 633.0 ft. from the  
 659.1 ft., Thence  
 to the point of

Subscribed and

COUNT

This is to certify to  
Russell F. Loh  
 County of Coos  
 the above plat in a  
 LAWS, Chapter 285,  
 it acceptable for to

5 June 67

**Findings:**

**Why Needed:** Applicant seeks to construct a single story accessory building not attached to the residence however current set back requirements and property lines are preventing activity

**Why won't create problem:**

The "park spur" has never been used as part of the roadway to access the "upper adjacent lot" nor will it be in the future as lot 402 has a separate driveway. Additionally there are no public service utilities in the portion of the right of way to be vacated.

The vacation of this portion will allow the owners of the previously developed property to obtain title unencumbered by the city right of way and to construct an accessory building. As well the vacation would generate additional property tax revenues for the city and county since the city does not pay taxes on this piece.

**Donna Colby-Hanks**

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**Attachment B**

**From:** Richard Christensen  
**Sent:** Thursday, January 12, 2012 10:16 AM  
**To:** Donna Colby-Hanks  
**Cc:** Tim Rettke; Loree Pryce  
**Subject:** Proposed City ROW Vacation at 1005 Parkview Drive Request

Hi Donna,

Staff met on site with Marty Glazebrook and found that the existing City water service line servicing this property is located within the area being vacated. Public Works recommends that we secure a 5' minimum public utility easement across the width of the property fronting Parkview Drive to cover this City water service line and allow for possible future public improvements.

Thank you,

Richard Christensen  
City of Brookings  
Public Works Supervisor  
541-469-1171



## UTILITY CONFIRMATION FORM

This form must be signed by Coos-Curry Electric, the electric utility provider, and then submitted with your application. Bring a copy of your plot plan or plat when discussing your proposal with the utility provider.

**I. Application Information – This section to be filled out by applicant**

Applicant Name: Susan Wimberley Date: January 6, 2012

Assessor Map #: 40-13-31C Tax Lot: 403

Site Address: 1005 Parkview Drive

Proposal: Subdivision/ Partition Variance  
Conditional Use Permit X Other

**II. Utility Provider Confirmation:**

Utility Provider: Coos-Curry Electric

I have reviewed the above referenced proposal and can confirm that there are no facilities that will be impacted by the vacation of Park Spur.

Signature: Ron Manly Title: Staking Engineer  
Date: 1-9-12

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Planning

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

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Subject: Final Order for Park Spur Vacation and Adopting Ordinance.

#1 Recommended Motion: A motion to approve the Final Order for the vacation of Park Spur.

#2 Recommended Motion: A motion to adopt Ordinance 12-O-691.

Financial Impact: None.

Background/Discussion: The decision regarding the vacation of Park Spur was approved by the City Council at their February 27, 2012 meeting.

Policy Considerations: N/A

Attachment(s):  
A. Final Order for Park Spur Vacation.  
B. Adopting Ordinance 12-O-691.

**BEFORE THE COMMON COUNCIL  
CITY OF BROOKINGS, COUNTY OF CURRY  
STATE OF OREGON**

<b>In the matter of VAC-1-12, application for approval of the Vacation of Park Spur right-of-way, Susan Wimberley, applicant.</b>	<b>) ) )</b>	<b>Final ORDER And Findings of Fact</b>
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**ORDER APPROVING** an application for Vacation of Park Spur, located adjacent to Parkview Drive and Assessor's Map 40-13-031C taxlot 403.

**WHEREAS:**

1. The Planning Commission duly accepted the application filed in accordance with the Brookings Municipal Code pursuant to 17.148, Vacations and ORS 271, Vacations;
2. Such application is required to show evidence that all of the following criteria have been met:
  - A. Compliance with the comprehensive Plan, circulation element or other applicable section of the document.
  - B. If initiated by petition pursuant to ORS 271.080, the council shall make the determinations pursuant to ORS 271.120 based upon evidence provided by the petitioner(s) in written findings. ORS 271.120 requires that:
    - The applicant must obtain Consent to Vacate forms completed by 100% of the owners of properties abutting the right-of-way and 67% of owners within the affected area.
    - Notice of the hearing on the matter must be published in the local newspaper and posted on the property.
    - The public interest will not be negatively impacted from the vacation.
3. The Brookings Planning Commission duly considered the above described application at a public hearing on February 7, 2012; and
4. At the public hearing on said Vacation application, recommendations were received from and presented by the Senior Planner in the form of a written Staff Report, dated January 26, 2012, and oral presentation of same; and
5. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented, the Planning Commission, upon a motion duly seconded, accepted the Staff Report and recommended that the City Council approve the Vacation; and
6. The Brookings City Council duly considered the above described application in a public hearing held on February 27, 2012; and
7. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence, the City Council, upon a motion duly seconded, accepted the Planning Commission's recommendation.

**THEREFORE, LET IT BE HEREBY ORDERED** that the application for a vacation of Park Spur is **APPROVED**. This approval is supported by the Applicant's findings (**Attachment A**) and the following findings and conclusions:

17.148.030(A), BMC, requires the proposal to be in compliance with the Comprehensive Plan, circulation elements or other applicable section of the document.

Response: The Comprehensive Plan makes no particular mention of Park Spur. The Plan does require that access to existing lots and future development be considered in the decision making process. The vacation of this right-of-way will not prevent any property from having access to the transportation system. Public Works has provided a statement that water service facilities for the adjacent property are located within the right of way of Park Spur. A 5 foot wide public utility easement adjacent to Parkview Drive, will be required to allow for any needed maintenance and repair. Coos-Curry Electric has provided documentation that this vacation will not impact their facilities. Staff contacted the Utilities Notification Center to verify that no other utilities will be affected. A site visit was conducted and no additional facilities were identified in Park Spur right-of-way. No additional comments were received.

17.148.030(B), BMC, if initiated by petition pursuant to ORS 271.080, the council shall make the determinations pursuant to ORS 271.120 based upon evidence provided by the petitioner(s) in the written findings. ORS 271.120 requires that:

- The Applicant must obtain Consent to Vacate forms completed by 100% of the owners of properties abutting the right-of-way and 67% of owners within the affected area, as described by State law.

Response: The Applicant has provided signed Consent to Vacation of Street forms from 100% of the abutting properties and from more than 67% of all properties located within the affected area.

- Notice of the hearing on the matter must be published in the local newspaper and posted on the property.

Response: Notice of this matter was published in the local newspaper in compliance with the BMC. Additional notice and posting of the property occurred prior to this matter being heard by City Council as required by State law.

- The public interest will not be negatively impacted from the vacation.

Response: As stated above, the vacation of Park Spur will not prevent any property from having access to the transportation system. Existing and future utilities can be installed, maintained, and repaired utilizing the 5 foot wide public utility easement. There will be no negative impact to the public.

17.148.030(C), BMC, if initiated upon a recommendation of the Planning Commission and/or by the City Council on its own motion pursuant to ORS 271.130.

Response: This criteria is not applicable.

Staff believes that with the responses as stated above and the materials referenced, the criteria have been met for the approval of the Vacation of Park Spur.

**LET IT FURTHER BE OF RECORD** that the City Council approved the requested Vacation of Park Spur as described in documents prepared for this matter and attached to Ordinance 12-O-691. The conditions of approval are attached to and hereby made a part of this report.

Dated this **27th** day of February, 2012.

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Larry Anderson, Mayor

ATTEST:

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Joyce Heffington, City Recorder

**Findings:**

**Why Needed:** Applicant seeks to construct a single story accessory building not attached to the residence however current set back requirements and property lines are preventing activity

**Why won't create problem:**

The "park spur" has never been used as part of the roadway to access the "upper adjacent lot" nor will it be in the future as lot 402 has a separate driveway. Additionally there are no public service utilities in the portion of the right of way to be vacated.

The vacation of this portion will allow the owners of the previously developed property to obtain title unencumbered by the city right of way and to construct an accessory building. As well the vacation would generate additional property tax revenues for the city and county since the city does not pay taxes on this piece.

After recording return to:  
City of Brookings  
898 Elk Drive  
Brookings, OR 97415

Mail Tax Statements to:  
Susan Wimberley  
1005 Parkview Drive  
Brookings, OR 97415

**IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON**

**ORDINANCE 12-O-691**

**IN THE MATTER OF ORDINANCE 12-O-691, AN ORDINANCE VACATING PARK SPUR.**

**Sections:**

- Section 1. Findings and Determination.
- Section 2. Vacation.
- Section 3. Certification of Ordinance

The City of Brookings ordains as follows:

Section 1. Findings and Determination. The City Council of the City of Brookings considered vacation of the following described parcel of land:

Park Spur, as described in Exhibit A.

The Recorder of the City of Brookings gave due notice of the public hearing to be held before the Council at 7PM, February 27, 2012 in the Council Chambers, City Hall, City of Brookings. Prior to the hearing, any persons whomsoever having any objection or remonstrance to said right-of-way vacation or any part thereof, must file written objection or remonstrance with the City Recorder. It appears to the satisfaction of the Council that the proposed vacation is in the best interests of the City. The public interest will not be prejudiced by the vacation and that the vacation will not substantially affect the market value of abutting property.

Section 2. Vacation. The City of Brookings does hereby vacate Park Spur right-of-way described in Exhibit A while retaining a five (5) foot Public Utility Easement described in Exhibit B and depicted on Exhibit 2 attached.

Section 3. Certification of Ordinance. The City Recorder is hereby instructed to forthwith record and file certified copies of this Ordinance with the County Clerk, County Assessor and County Surveyor of Curry County, Oregon.

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Passage: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Signed by me in authentication of its passage this \_\_\_\_\_, day of \_\_\_\_\_, 2012

ATTEST:

\_\_\_\_\_  
Mayor Larry Anderson

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

EXHIBIT "A"

Park Spur, Parkview Drive Subdivision in the City of Brookings, Curry County,  
Oregon.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR



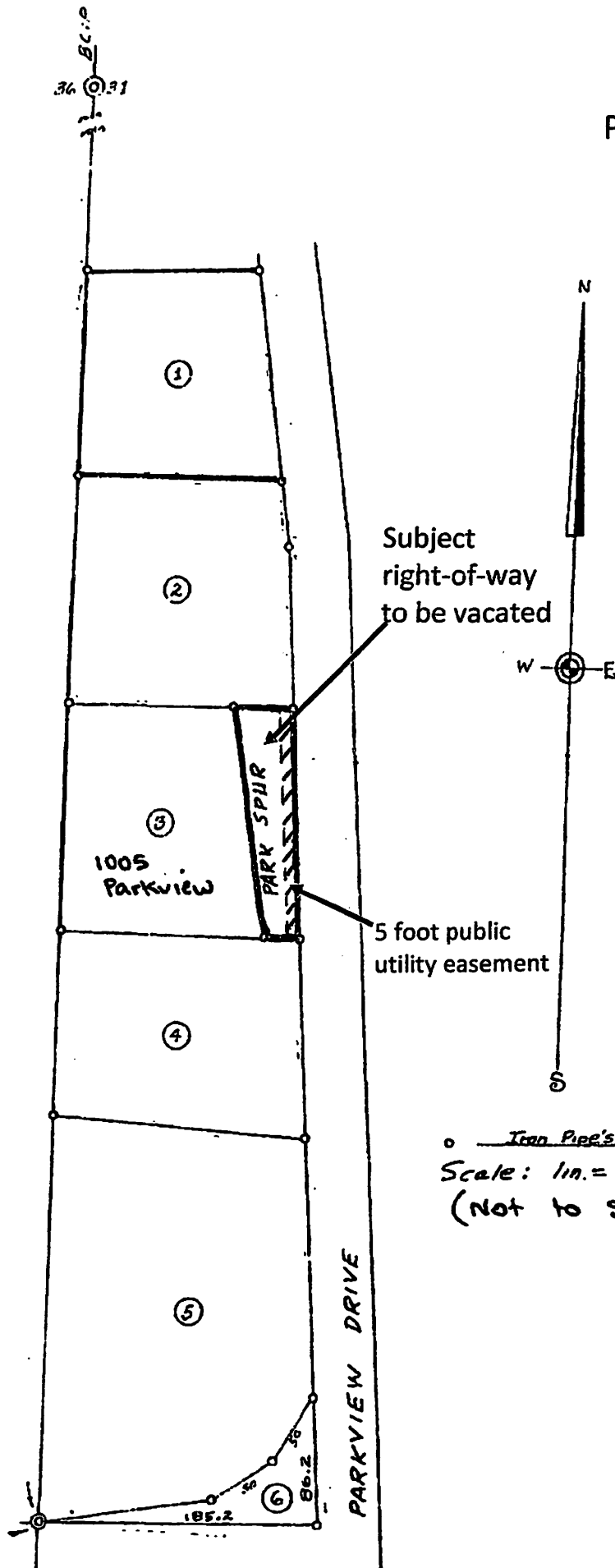
OREGON  
JULY 25, 1995  
RICHARD P. ROBERTS  
2730

EXPIRATION DATE: 12/31/12

**EXHIBIT "B"**

**An easement for public utility purposes over the East 5.00 feet of Park Spur,  
Parkview Drive Subdivision in the City of Brookings, Curry County, Oregon.**

# Parkview Drive Subdivision



# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Planning

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

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**Subject:** A hearing on File LDC-4-11 for consideration and possible adoption of revisions to Chapter 17.136, Conditional Use Permits, Brookings Municipal Code (BMC).

**Recommended Motion:** A motion to approve proposed revisions to Chapter 17.136, Conditional Use Permits, BMC.

**Financial Impact:** This will result in a savings of staff time and application fees charged to the applicant.

**Background/Discussion:** One of the City Council goals included in the 2011 Strategic Plan was to reduce barriers to development. Staff proposes to revise Chapter 17.136.080, Conditional Use Permits, Time Limitation, to allow for extension requests for conditional use permits to be approved by City Staff. Extensions can be granted if there is "good cause". Circumstances that have warranted extensions in the past include weather constraints, delays in obtaining other agency permits, financial difficulties, etc. The request for the extension must be submitted prior to expiration of the approval. These requirements could be reviewed and verified by Staff.

By allowing Staff to review and approve these extensions there would be a savings of Planning Commission, applicant, and Staff time. Site Plan Committee is supportive of these revisions.

The Planning Commission reviewed the draft revisions at their January 3, 2012 meeting and recommended approval to the City Council.

**Policy Considerations:** N/A

**Attachment(s):** Draft revisions to Chapter 17.136.080 Conditional Use Permit, Time limitation, BMC.

## ATTACHMENT A

### Chapter 17.136 CONDITIONAL USE PERMITS

Text to be omitted has ~~strike throughs~~ and text to be added is ***bold and italicized***.

Sections:

17.136.080 Time limitation.

#### **17.136.080 Time limitation.**

A conditional use permit shall become void after two years following approval, or after such greater time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. ~~The City may The planning commission may~~ extend the period of time allowed to establish the conditional use for an additional period of one year, ***for good cause if such extension request is submitted prior to expiration and subject to the requirements of this code.*** [Ord. 09-O-641 § 2; Ord. 89-O-446 § 1.]

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Planning

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

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Subject: Ordinance amending Section 17.136.080, Conditional Use Permit, Time limitation, of Title 17, Land Development Code, of the Brookings Municipal Code.

Recommended Motion: Motion to adopt Ordinance 12-O-693.

Financial Impact: None.

Background/Discussion: Revisions to this section were heard and approved by the City Council at their February 27, 2012 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 12-O-693.

**IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON**

**ORDINANCE 12-O-693**

**IN THE MATTER OF ORDINANCE 11-O-693, AN ORDINANCE AMENDING SECTION 17.136.080 OF CHAPTER 17.136, CONDITIONAL USE PERMIT, OF THE BROOKINGS MUNICIPAL CODE.**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Section 17.136.080.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Section 17.136.080 of Chapter 17.136, Conditional Use Permits, of the Brookings Municipal Code.

Section 2. Amends Section 17.136.080: Section 17.136.080, is amended to read as follows:

**17.136.080 Time limitation.**

A conditional use permit shall become void after two years following approval, or after such greater time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. The City may extend the period of time allowed to establish the conditional use for an additional period of one year, for good cause if such extension request is submitted prior to expiration and subject to the requirements of this code. [Ord. 09-O-641 § 2; Ord. 89-O-446 § 1.]

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Passage: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Signed by me in authentication of its passage this \_\_\_\_\_, day of \_\_\_\_\_, 2012

ATTEST:

\_\_\_\_\_  
Mayor Larry Anderson

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

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2011

Originating Dept: Planning Dept.

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

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**Subject:** A hearing on file LDC-5-11 for consideration and possible adoption of revisions in Sections 17.172.060(E), 17.172.070(G), 17.172.080; Land Divisions, Brookings Municipal Code (BMC).

**Recommended Motion:** Motion approving revisions as proposed for Sections 17.172.060(E), 17.172.070(G), 17.172.080; Land Divisions, Brookings Municipal Code (BMC).

**Financial Impact:** This will result in a savings of staff time and application fees charged to the applicant.

**Background/Discussion:** The Planning Commission reviewed Code revisions concerning extensions of time for previously approved Conditional Use Permits, Partitions, and Subdivisions. They agreed that in an effort to save the applicant both time and money it is appropriate for staff for review and approve these requests. The Planning Commission recommended approval to the City Council.

The Planning Commission also considered a proposed revision to allow staff to review and approve Final Subdivision Plats. The Legislature has changed the law regarding this review process making it no longer a quasi-judicial matter and allowing staff to approve administratively. The review of a Final Subdivision Plat involves making sure all conditions of approval have been met, and that the plat is in "substantial conformance with the approved preliminary plat". "Substantial conformance" is a standard term used statewide that allows for slight changes to the angle of a lot line, for instance, that may result when final survey work is done. Although the Planning Commission expressed confidence in the current staff to make these decisions, they felt future staff may allow significant changes to the plat that the Planning Commission had not approved. They recommended denial of the proposed revision.

The revision would result in saving of time and also the majority of the current \$515 fee. Staff met with the Council in a workshop setting and discussed this matter. In order to alleviate concerns expressed by the Planning Commission, additional language has been drafted as follows:

"Staff shall provide a copy of the final subdivision plat to the Planning Commission at their next meeting. If a majority of the Commission does not believe the plat is in substantial conformance with the preliminary approval, the Commission Chair will notify the City Manager of this determination."

If City staff would approve a final plat that is significantly different that what was preliminarily approved, they may also be signing off on building permits, Conditional Use Permits, etc. that

don't meet requirements. This Final Plat language may provide oversight to bring a potential problem to light.

Attached are copies of the Planning Commission staff report and the draft Code revisions.

Policy Considerations: None.

Attachment(s): A. Planning Commission Staff Report  
B. Draft 17.172.060(E)  
C. Draft 17.172.070(G)  
D. Draft 17.172.080

**CITY OF BROOKINGS PLANNING COMMISSION**  
**STAFF REPORT**

SUBJECT: Land Development Code Amendment  
FILE NO: LDC-5-11  
HEARING DATE: January 3, 2012

REPORT DATE: December 22, 2011  
ITEM NO: 7.2

**GENERAL INFORMATION**

APPLICANT: City Initiated.  
REPRESENTATIVE: City Staff.  
REQUEST: Revisions to Chapter 17.172.060(E), 17.172.070(G), 17.172.080; Land Divisions, Brookings Municipal Code (BMC).  
PUBLIC NOTICE: Published in local newspaper.

**BACKGROUND INFORMATION**

Over the last several years staff has drafted many revisions to the Code in an effort to clarify, eliminate conflicts, expedite processes, and conform to new law. The State Legislature has revised the law regarding final approval of subdivision plats by removing them from the quasi-judicial land use decision process. Oregon Revised Statute 197.015 (10)(b)(G) states approval of a final subdivision plat is not a "land use decision". This means the review to determine if all the Conditions of Approval have been met can be as an administrative decision handled by staff at a great savings of time and materials compared to conducting a hearing on the matter.

Staff has prepared revisions to 17.172.080, Final Subdivision Plat Approval, to eliminate text that describes a Planning Commission process for this matter and inserted text providing for staff to review and give approval to record the plat.

In addition, revisions are proposed to requests for extensions of time for preliminary approval of both partitions, 17.172.060, and subdivisions, 17.172.070(G). Extensions can be granted if there is "good cause". Circumstances that have warranted extensions in the past include weather constraints, delays in obtaining other agency permits, financial difficulties, etc. The request for the extension must be submitted prior to expiration of the approval. These requirements could be reviewed and verified by Staff.

By allowing Staff to review and approve the final subdivision plats and requests for an extension of time, there would be a savings of Planning Commission, applicant, and Staff time. Due to this saving of time, staff will propose a reduction of the related fees to the City Council.

Site Plan Committee is supportive of these revisions. Following this report are the draft versions of these Sections (Attachment A).

**RECOMMENDATION**

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-5-11, to the City Council.

**DRAFT**

**December 6, 2011**

**17.172.060  
Partition**

Text to be omitted has ~~striketroughs~~ and text to be added is ***bold and italicized***.

E. Filing an approved final plat must be completed within one year from the date of preliminary approval. An extension of time may be granted, for good cause, by the ***City planning commission*** if such extension request is submitted prior to the expiration of the initial one-year period and provided such extension does not exceed one additional year. After obtaining all required approvals and signatures, the developer shall:

1. File the plat with the Curry County surveyor within 90 days of receiving approval and signature of the partition plat by the city of Brookings, and failure to file same within said time period shall render the approval null and void.
2. Within 10 days after filing the survey plat with the county surveyor, the owner/developer shall provide the city two copies of the survey plat.

**DRAFT**

**December 6, 2011**

**17.172.070 (G)**

**Text to be omitted has ~~striketroughs~~ and text to be added is *bold and italicized*.**

G. Expiration of Preliminary Plat. The applicant has two years from the date of approval to submit the final plat for ~~the planning commission hearing~~ *approval*. An extension of time may be granted, for good cause, by the ~~planning commission~~ *the City* if such extension is ~~authorized by the commission~~ *submitted* prior to expiration of the two-year period, and provided such extension not exceed two additional years. No further extensions may be authorized without resubmittal of a preliminary plat application to the Planning Commission. [Ord. 07-O-587 § 2; Ord. 99-O-446.FF § 3; Ord. 96-O-446.BB § 9; Ord. 93-O-446.N § 7; Ord. 92-O-446.J § 5; Ord. 89-O-446 § 1. Formerly 17.172.060.]

**DRAFT**

**December 6, 2011**

**17.172.080**

**Text to be omitted has ~~striketroughs~~ and text to be added is *bold and italicized***

**17.172.080 Final subdivision plat approval.**

The form and content of a final plat shall be in accordance with the provisions of ORS Chapter 92.010 et seq., and in addition shall comply with all the provisions of this code. A complete application together with all required materials shall be submitted to the city manager or his/her designee prior to review of the request for final plat approval. Within 30 days of submission, the city manager or his/her designee shall determine whether the final plat substantially conforms to the approved preliminary plat, and conforms with the applicable requirements of this code. If it is found that the plat fails to conform, then the applicant shall be advised and afforded an opportunity to make corrections. ~~When it is found to conform, the application will be scheduled for a planning commission hearing.~~

A. Final Plat Requirements. The plat must comply with ORS Chapter 92.010 et seq. The application shall be accompanied by ~~10~~ **2** copies of the plat not less than 18 inches by 24 inches in size, prepared by a surveyor licensed in the state of Oregon and shall contain, but not be limited to, the following material:

1. North arrow, date of preparation, and scale (appropriate to the area involved and sufficient to show detail of the plan and related data at a standard engineering scale).
2. Names of the owner(s) and surveyor.
3. All monuments found or existing and set pertinent to the subdivision.
4. Existing streets: location, names, pavement widths, alleys, and rights-of-way on, abutting, and/or adjoining the tract.
5. New streets: location, names, rights-of-way, pavement widths, radius of curves, grades, and proposed connectivity. Streets that are proposed to be held for private use shall be distinguished from the public streets on the subdivision plat, and shall indicate reservations and restrictions relating to the private streets.

6. All easements shall be clearly labeled and identified and, if they are already easements of record, the plat must state that. The widths of the easements and the lengths, bearings of the lines, and sufficient titles thereon to definitely locate the easement with respect to the subdivision must be shown. If an easement, other than a right-of-way, is being dedicated by the plat, it shall be referred to in the certificate of dedication and its purpose and scope shall be adequately stated in said certificate.

7. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.

8. Lot size: existing and proposed lot size in square feet and acreage.

9. Identification of land to be dedicated for any public purpose, or designated for any private purpose, to distinguish it from lots. The following phrasing shall be used when identifying open space areas:

a. Common open space shall be used to identify those areas created for the purpose of common ownership, enjoyment, and maintenance by an approved homeowners' association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.

b. Public open space shall be used when identifying those areas dedicated to the city of Brookings for open space purposes.

10. The following certificates which may be combined where appropriate:

a. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat.

b. A certificate signed and acknowledged as above, designating all areas shown on the final plat intended for private use.

c. A certificate conforming to ORS Chapter 92.010 et seq. with the seal and signature of the surveyor responsible for the survey and final plat.

d. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any streets, roads, public open space, bikeways, and pedestrian facilities.

e. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any utility infrastructure.

11. The Federal Emergency Management Agency (FEMA) 100-year floodplain, as applicable.

B. **Supplementary Materials.** At the time of filing for final plat approval, the applicant shall also file concurrent therewith the following:

1. Written confirmation from the city that all infrastructure has been installed, improved, and accepted by the city or that a satisfactory secured improvement agreement, as described in Chapter 17.80 BMC, has been provided and accepted by the city. The applicant must also provide a copy of the required warranty bond for the project.

2. A title report or subdivision guarantee by a title company doing business in Curry County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to the public use, and their interest therein, certified for the benefit and protection of the city that the persons therein named are all of the persons necessary to dedicate to the streets and other easements thereon. Said title report shall be dated no later than 15 days from the date of submittal.

3. A copy of proposed covenants, conditions, and restrictions (CC&Rs) if the CC&Rs contain a statement required as a condition of approval. This must be recorded simultaneously with the plat and the instrument number shown on the plat.

4. Such streets, offers of dedication, or other instruments as are required by the conditions of approval of the preliminary plat.

5. A statement that all applicable fees required by the city code have been paid.

~~6. One copy eight and one half inches by 11 inches of the final plat to be used for exhibit purposes.~~

6. A plan showing building setback lines, if any are to be made a part of the subdivision's deed restrictions.

C. ~~Planning Commission~~ **City Authority.** The ~~planning commission~~ **City** shall approve or deny the request for final plat approval based upon the following criteria:

1. Substantial conformance with the approved preliminary plat.

2. Compliance with conditions of approval. The applicant must provide written documentation in the form of the final plat and other materials documenting that all required conditions of approval have been met.

D. Final Action. ~~The planning commission shall review the final plat and shall state findings to approve or deny the request.~~ ***The City will provide written confirmation to the applicant concerning the approval or denial of the request.***

E. Appeals. The final action of the ~~planning commission~~ ***City staff*** may be appealed as provided in Chapter ~~17.152~~ **17.156** BMC.

F. Approval Signatures and Recording of Final Plat. Following review and approval of the final plat, the developer/owner shall, within six months of the date of final approval, take the following actions:

1. Obtain the signature of the chair of the planning commission and planning director certifying the final plat is approved by the city.
2. Obtain all other signatures required to be on the final plat as stated in ORS Chapter 92.010 et seq.
3. After all the necessary approvals and signatures have been obtained, the applicant shall forthwith file for record the approved final plat.
4. Within 10 days after recordation of the final plat, the developer/owner shall provide the city with two copies of the recorded plat. [Ord. 07-O-587 § 2; Ord. 94-O-446.W § 3; Ord. 89-O-446 § 1. Formerly 17.172.070.]

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Planning

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

---

Subject: Ordinance revising Sections 17.172.060(E), 17.172.070(G), 17.172.080; Land Divisions, Brookings Municipal Code.

Recommended Motion: Motion to adopt Ordinance 12-O-692

Financial Impact: None

Background/Discussion: Revisions to these Sections were approved by the City Council at their January 27, 2012 meeting.

Policy Considerations: N/A

Attachment(s): A. Adopting Ordinance 12-O-692.

**IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON**

**ORDINANCE NO. 12-O-692**

**IN THE MATTER OF ORDINANCE 12-O-692, AN ORDINANCE AMENDING SECTIONS 17.172.060(E), 17.172.070(G) AND 17.172.080 OF CHAPTER 17.172, LAND DIVISIONS, OF THE BROOKINGS MUNICIPAL CODE.**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Sections 17.172.060(E), 17.172.070(G) and 17.172.080.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Sections 17.172.060(E), 17.172.070(G), and 17.172.080 of Chapter 17.172, Land Divisions, of the Brookings Municipal Code.

Section 2. Amends Sections 17.172.060 (E), 17.172.070 (G) and 17.172.080: Sections 17.172.060(E), 17.172.070 (G) and 17.172.080 are amended to reads as follows:

**17.072.060 (E)** Filing an approved final plat must be completed within one year from the date of preliminary approval. An extension of time may be granted, for good cause, by the City if such extension request is submitted prior to the expiration of the initial one-year period and provided such extension does not exceed one additional year. After obtaining all required approvals and signatures, the developer shall:

1. File the plat with the Curry County surveyor within 90 days of receiving approval and signature of the partition plat by the city of Brookings, and failure to file same within said time period shall render the approval null and void.
2. Within 10 days after filing the survey plat with the county surveyor, the owner/developer shall provide the city two copies of the survey plat."

**17.172.070 (G)** Expiration of Preliminary Plat. The applicant has two years from the date of approval to submit the final plat for approval. An extension of time may be granted, for good cause, by the City if such extension is submitted prior to expiration of the two-year period, and provided such extension not exceed two additional years. No further extensions may be authorized without resubmittal of a preliminary plat application to the Planning Commission. [Ord. 07-O-587 § 2; Ord. 99-O-446.FF § 3; Ord. 96-O-446.BB § 9; Ord. 93-O-446.N § 7; Ord. 92-O-446.J § 5; Ord. 89-O-446 § 1. Formerly 17.172.060.]"

**17.172.080.** Final subdivision plat approval. The form and content of a final plat shall be in accordance with the provisions of ORS Chapter 92.010 et seq., and in addition shall comply with all the provisions of this code. A complete application together with all required materials shall be submitted to the city manager or his/her designee prior to review of the request for final plat approval. Within 30 days of submission, the city manager or his/her designee shall determine whether the final plat substantially conforms to the approved preliminary plat, and conforms with the applicable requirements of this code. If it is found that the plat fails to conform, then the applicant shall be advised and afforded an opportunity to make corrections.

A. Final Plat Requirements. The plat must comply with ORS Chapter 92.010 et seq. The application shall be accompanied by 2 copies of the plat not less than 18 inches by 24 inches in size, prepared by a surveyor licensed in the state of Oregon and shall contain, but not be limited to, the following material:

1. North arrow, date of preparation, and scale (appropriate to the area involved and sufficient to show detail of the plan and related data at a standard engineering scale).
  2. Names of the owner(s) and surveyor.
  3. All monuments found or existing and set pertinent to the subdivision.
  4. Existing streets: location, names, pavement widths, alleys, and rights-of-way on, abutting, and/or adjoining the tract.
  5. New streets: location, names, rights-of-way, pavement widths, radius of curves, grades, and proposed connectivity. Streets that are proposed to be held for private use shall be distinguished from the public streets on the subdivision plat, and shall indicate reservations and restrictions relating to the private streets.
  6. All easements shall be clearly labeled and identified and, if they are already easements of record, the plat must state that. The widths of the easements and the lengths, bearings of the lines, and sufficient titles thereon to definitely locate the easement with respect to the subdivision must be shown. If an easement, other than a right-of-way, is being dedicated by the plat, it shall be referred to in the certificate of dedication and its purpose and scope shall be adequately stated in said certificate.
  7. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision.
  8. Lot size: existing and proposed lot size in square feet and acreage.
  9. Identification of land to be dedicated for any public purpose, or designated for any private purpose, to distinguish it from lots. The following phrasing shall be used when identifying open space areas:
    - a. Common open space shall be used to identify those areas created for the purpose of common ownership, enjoyment, and maintenance by an approved homeowners' association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.
    - b. Public open space shall be used when identifying those areas dedicated to the city of Brookings for open space purposes.
  10. The following certificates which may be combined where appropriate:
    - a. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat.
    - b. A certificate signed and acknowledged as above, designating all areas shown on the final plat intended for private use.
    - c. A certificate conforming to ORS Chapter 92.010 et seq. with the seal and signature of the surveyor responsible for the survey and final plat.
    - d. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any streets, roads, public open space, bikeways, and pedestrian facilities.
    - e. A certificate signed by all parties having any proprietary interest in the land, dedicating to the public any utility infrastructure.
  11. The Federal Emergency Management Agency (FEMA) 100-year floodplain, as applicable.
- B. Supplementary Materials.** At the time of filing for final plat approval, the applicant shall also file concurrent therewith the following:
1. Written confirmation from the city that all infrastructure has been installed, improved, and accepted by the city or that a satisfactory secured improvement agreement, as described in Chapter 17.80 BMC, has been provided and accepted by the city. The applicant must also provide a copy of the required warranty bond for the project.
  2. A title report or subdivision guarantee by a title company doing business in Curry County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to the public use, and their interest therein, certified for the benefit and protection of the

city that the persons therein named are all of the persons necessary to dedicate to the streets and other easements thereon. Said title report shall be dated no later than 15 days from the date of submittal.

3. A copy of proposed covenants, conditions, and restrictions (CC&Rs) if the CC&Rs contain a statement required as a condition of approval. This must be recorded simultaneously with the plat and the instrument number shown on the plat.
4. Such streets, offers of dedication, or other instruments as are required by the conditions of approval of the preliminary plat.
5. A statement that all applicable fees required by the city code have been paid.
6. A plan showing building setback lines, if any are to be made a part of the subdivision's deed restrictions.

C. City Authority. The City shall approve or deny the request for final plat approval based upon the following criteria:

1. Substantial conformance with the approved preliminary plat.
2. Compliance with conditions of approval. The applicant must provide written documentation in the form of the final plat and other materials documenting that all required conditions of approval have been met.

D. Final Action. The City will provide written confirmation to the applicant concerning the approval or denial of the request.

E. Appeals. The final action of the City staff may be appealed as provided in Chapter 17.156, BMC.

F. Approval Signatures and Recording of Final Plat. Following review and approval of the final plat, the developer/owner shall, within six months of the date of final approval, take the following actions:

1. Obtain the signature of the chair of the Planning Commission and City staff certifying the final plat is approved by the city.
2. Obtain all other signatures required to be on the final plat as stated in ORS Chapter 92.010 et seq.
3. After all the necessary approvals and signatures have been obtained, the applicant shall forthwith file for record the approved final plat.
4. Within 10 days after recordation of the final plat, the developer/owner shall provide the city with two copies of the recorded plat.

G. Staff shall provide a copy of the final, approved subdivision plat to the Planning Commission at their next meeting. If a majority of the Commission does not believe the plat is in substantial conformance with the preliminary approval, the Commission chair will notify the City Manager of this determination. [Ord. 07-O-587 § 2; Ord. 94-O-446.W § 3; Ord. 89-O-446 § 1. Formerly 17.172.070.]”

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Passage: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Signed by me in authentication of its passage this \_\_\_\_\_, day of \_\_\_\_\_, 2012

ATTEST:

\_\_\_\_\_  
Mayor Larry Anderson

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

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Planning

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

---

**Subject:** A hearing on File LDC-6-11 for consideration and possible adoption of revisions to Chapter 17.116 Planned Community, Brookings Municipal Code (BMC).

**Recommended Motion:** A motion to approve proposed revisions to Chapter 17.116 Planned Community, BMC.

**Financial Impact:** This will result in a savings of staff time and application fees charged to the applicant.

**Background/Discussion:** Staff has prepared revisions to Chapter 17.116.060, Planned Community, Subdivision regulations, to eliminate text that describes a Planning Commission process for this matter. Due to the recent law change that states this approval is not a "land use decision", this could be an administrative decision handled by Staff. City Staff would determine that all conditions have been met for final approval. Text has been added to direct applicants to Chapter 17.172.080 for the criteria for final subdivision plat approval.

Revisions are proposed to Chapter 17.116.070 Planning Commission action, to allow for extension requests to be approved by City Staff. Extensions can be granted if there is "good cause". Circumstances that have warranted extensions in the past include weather constraints, delays in obtaining other agency permits, financial difficulties, etc. The request for the extension must be submitted prior to expiration of the approval. These requirements could be reviewed and verified by Staff.

By allowing Staff to review and approve the final Planned Community subdivision plat and requests for extension of time, there would be a savings of Planning Commission, applicant, and Staff time.

Site Plan Committee is supportive of these revisions. The Planning Commission reviewed the draft revisions at their January 3, 2012 meeting and recommended approval of Chapter 17.116.070, Planning Commission Action relating to extensions of time to the City Council. The Planning Commission recommended denial of Chapter 17.116.060, Subdivision regulations for final Planned Community subdivision approval. Their concerns on final approvals were that future staff may allow significant changes to the plat that the Planning Commission had not approved. This concern was presented to Council at the February 6, 2012 Workshop.

Staff recommends adding language to Chapter 17.172.080 to require Staff to provide a copy of the approved final plat to the Planning Commission for their review. If the Planning Commission did not believe the plat was in substantial conformance with the preliminary approval, the Commission Chair would notify the City Manager of their determination.

Policy Considerations: N/A

Attachment(s): Draft revisions to Chapter 17.116 Planned Community, BMC.

**Chapter 17.116  
PLANNED COMMUNITY**

Text to be omitted has ~~striketroughs~~ and text to be added is ***bold and italicized***.

**17.116.060 Subdivision regulations.**

When a planned community involves approval of a subdivision plat, the planning commission may initially grant preliminary approval of the application. The ~~planning commission~~ ***City*** will grant final approval when the applicant submits the final subdivision plat in the manner prescribed by the land division regulations, ***Chapter 17.172.080***. Building permits will not be issued for the planned community until the subdivision plat has been recorded. [Ord. 09-O-636 § 2; Ord. 89-O-446 § 1. Formerly 17.116.090.]

**17.116.070 Planning commission action.**

**B. Approval Periods.**

1. Planned Community without Subdivision Plat. The applicant has two years from the date of approval to install any needed off-site and on-site infrastructure for the development. The ~~planning commission~~ ***City*** may grant a two-year extension of time. If phases (staging) are proposed, see subsection (B)(3) of this section.
2. Planned Community with Subdivision Plat. The applicant has two years from the date of approval to install the off-site and on-site infrastructure for the development and submit the final plat for approval. The ~~planning commission~~ ***City*** may grant a two-year extension of time. If phases (staging) are proposed, see subsection (B)(3) of this section.
3. Planned Community Proposed in Phases (Stages). The applicant must submit a timeline to the planning commission for their consideration. The applicant must comply with the approved phasing timeline.

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: February 27, 2012

Originating Dept: Planning

Donna Colby-Hanks  
Signature (submitted by)  
[Signature]  
City Manager Approval

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Subject: Ordinance amending Section 17.116.060 and Section 17.116.070(B) Planned Community, Land Development Code, of the Brookings Municipal Code.

Recommended Motion: Motion to adopt Ordinance 12-O-694.

Financial Impact: None.

Background/Discussion: Revisions to these sections were heard discussed at the February 6, 2012 City Council Workshop and heard and approved the City Council meeting on February 27, 2012.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 12-O-694.

**IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON**

**ORDINANCE 12-O-694**

**IN THE MATTER OF ORDINANCE 11-O-694, AN ORDINANCE AMENDING SECTIONS 17.116.060 AND 17.116.070 (B) OF CHAPTER 17.116, PLANNED COMMUNITY, OF THE BROOKINGS MUNICIPAL CODE.**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Sections 17.116.060 and 17.116.070(B).

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Sections 17.116.060 and 17.116.070(B), of Chapter 17.116, Planned Community, of the Brookings Municipal Code.

Section 2. Sections 17.116.060 and 17.116.070(B): Sections 17.116.060 and 17.116.070(B) are amended to read as follows:

**17.116.060 Subdivision regulations.**

When a planned community involves approval of a subdivision plat, the planning commission may initially grant preliminary approval of the application. The City will grant final approval when the applicant submits the final subdivision plat in the manner prescribed by the land division regulations, Chapter 17.172.080. Building permits will not be issued for the planned community until the subdivision plat has been recorded. [Ord. 09-O-636 § 2; Ord. 89-O-446 § 1. Formerly 17.116.090.]

**17.116.070(B) Approval Periods.**

1. Planned Community without Subdivision Plat. The applicant has two years from the date of approval to install any needed off-site and on-site infrastructure for the development. The City may grant a two-year extension of time. If phases (staging) are proposed, see subsection (B)(3) of this section.

2. Planned Community with Subdivision Plat. The applicant has two years from the date of approval to install the off-site and on-site infrastructure for the development and submit the final plat for approval. The City may grant a two-year extension of time. If phases (staging) are proposed, see subsection (B)(3) of this section.

3. Planned Community Proposed in Phases (Stages). The applicant must submit a timeline to the planning commission for their consideration. The applicant must comply with the approved phasing timeline.

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Passage: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

Signed by me in authentication of its passage this \_\_\_\_\_, day of \_\_\_\_\_, 2012

ATTEST:

\_\_\_\_\_  
Mayor Larry Anderson

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