

For: Monday, December 12, 2011, City Council Meeting

Advance Packet Information

Dated: December 5, 2011

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

PUBLIC HEARINGS/ORDINANCES

- Ordinance amending Brookings Municipal Code Title 8, Health and Safety, in its entirety. [pg. 2]
 - a. Ordinance 11-O-686. [pg. 3]
 - b. Revisions to Title 8. [pg. 16]
- Public Hearing on File LCD-3-11, revisions to Brookings Municipal Code Chapter 17.88, Signs Regulations, of the Brookings Municipal Code, City initiated. [pg. 30]
 - a. Draft revisions to Chapter 17.88 [pg. 32]
 - b. ODOT email and Oregon Revised Statutes [pg. 37]
- Ordinance amending subsections 17.88.030 (A) and 17.88.040 (B), and deleting subsections 17.88.040 (E) and (H), of Brookings Municipal Code Chapter 17.88, Sign Regulations, Title 17, Land Development Code. [pg. 44]
 - a. Ordinance 11-O-683 [pg. 45]
- Public Hearing on File LDC-2-11, revisions to Brookings Municipal Code Chapter 17.92, Off-Street Parking and Loading Regulations, City initiated. [pg. 47]
 - a. Diagram of current corner vision 17.92.100.E. [pg. 49]
 - b. Diagram of vision area as proposed at Council meeting [pt. 50]
 - c. Diagram of vision area using sight distance standards [pg. 51]
 - d. Current code sections relevant to this revision [pg. 53]
 - e. Suggested options for revised text [pg. 54]

*Obtain Public Comment Forms and view the agenda and packet information on-line at 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.

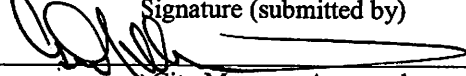
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: December 12, 2011

Originating Dept: Building



Signature (submitted by)


City Manager Approval

Subject: Amendments to Brookings Municipal Code Title 8, Health and Safety.

Recommended Motion:

Adopt Ordinance 11-O-686, amending Brookings Municipal Code Title 8, Health and Safety, in its entirety.

Financial Impact:

May result in cost savings to the City as it streamlines the process for pursuing violations of Title 8.

Background/Discussion:

Title 8 consists of 3 chapters relating to different types of health and safety issues, each chapter had a different process for enforcement and abatement. The proposed changes will make the process the same for each of the chapters. Additionally there are housekeeping measures such as correcting staff titles, referencing hillside development standards for affected properties and removing outdated or unnecessary language.

Policy Considerations:

In keeping with streamlining rules and procedures and creating consistency within departments

Attachment(s):

- a. Ordinance 11-O-686
- b. Revisions to Title 8

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

ORDINANCE 11-O-686

AN ORDINANCE AMENDING BROOKINGS MUNICIPAL CODE TITLE 8, HEALTH AND SAFETY, IN ITS ENTIRETY.

Section 1. Ordinance identified.

Section 2. Amends Title 8 in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Brookings Municipal Code Title 8, Health and Safety, in its entirety.

Section 2. Amends Title 8, in its entirety: Title 8, Health and Safety, is amended as follows:

**Title 8
HEALTH AND SAFETY**

Chapters:

8.05 Fire Hazards

8.10 Watercourses, Drainage Channel Maintenance, Storm Drain Protection

8.15 Nuisances

**Chapter 8.05
FIRE HAZARDS**

Sections:

- 8.05.010 Definitions.
- 8.05.020 Right to enter premises.
- 8.05.030 Duties and responsibilities of citizens
- 8.05.040 Accumulations on roofs.
- 8.05.050 Prohibited materials.
- 8.05.060 Prohibited burns.
- 8.05.070 Permitted burns.
- 8.05.080 Permit standards.
- 8.05.090 Permit fees.
- 8.05.100 Abatement of fire hazards.
- 8.05.110 Appeals.
- 8.05.120 Penalties and violations.

8.05.010 Definitions.

“Class A burn” means the burning of wood products containing paint, glue, preservatives or other chemical treatment, paper, grass, hazardous materials, plastics, asphalt, paint, tires, oil, cardboard, rubber and other refuse and rubbish in an incinerator, burn barrel, or by open burning.

“Class B burn” means the open burning of wood, yard trimmings or leaves in a pile consisting of less than five yards.

“Class C burn” means the open burning of wood, tree trimmings, yard trimmings, or leaves in a pile consisting of more than five yards. Any burn conducted in association with land clearing or commercial tree removal shall be defined as a Class C burn.

“Class D burn” means a campfire conducted on private property or in a designated area of a public park where firewood cut in lengths, not to exceed 18 inches, is used. Such burns are limited to cooking or entertainment use and shall not include the burning of refuse. [Ord. 09-O-643 § 2.]

“Responsible party” or “person responsible” means owner, occupant or other person entitled to possession.

8.05.020 Right to enter premises.

For the purposes of performing their duties, the fire chief or his designee shall have the right to enter upon any premises at all reasonable hours for the purpose of inspection. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 3. Formerly 8.05.010.]

8.05.030 Duties and responsibilities of responsible party.

A. Any shavings, paper, hay, straw, litter or other combustible waste material fragments shall be securely deposited or removed so as to be safe from fire. All receptacles for waste, rags, paper and other substances liable to spontaneous combustion must be made of incombustible material.

B. Fire Hydrant Maintenance.

1. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

2. Clear Space Around Hydrants. A three-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

C. It shall be unlawful to permit grass or other vegetation to grow in a manner that is determined to be a fire hazard by the fire-chief. [Ord. 10-O-671 § 2; Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 5. Formerly 8.05.020.]

D. Prior to removal of vegetation upon properties having slopes of more than 15% or are adjacent to a creek, river or the ocean, the responsible party must contact the Planning Department for regulations regarding hillside development.

8.05.040 Accumulations on roofs.

It shall be unlawful to allow or permit to remain upon roofs any accumulation of paper, hay, moss, or other inflammable or combustible material. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 6. Formerly 8.05.030.]

8.05.050 Prohibited materials.

It shall be unlawful to burn the following materials: rubber, asphalt, paint, oil, tires, kitchen garbage, disposable diapers, plastics, fiberglass or any other item that creates a black smoke or an offensive odor, as determined by the fire chief. [Ord. 09-O-643 § 2.]

8.05.060 Prohibited burns.

It shall be unlawful for any person to conduct a Class A burn within the limits of the city of Brookings. [Ord. 09-O-643 § 2.]

8.05.070 Permitted burns.

A. Class B and Class C Burn Permits. Any person desiring to conduct a Class B or Class C burn must first obtain a written permit from the fire chief. Any person desiring to conduct a Class C burn must also first obtain a written permit from the State of Oregon Department of Environmental Quality (DEQ).

B. Class D Burns Without Permit. There shall be no permit required for Class D burning. The fire chief shall have the authority to require any Class D burn to be immediately extinguished upon making a determination that such burn is creating a hazard or public nuisance. [Ord. 09-O-643 § 2.]

8.05.080 Permit standards.

A. All Class B and Class C burns must be conducted between the hours of sunrise and dusk, with no starting or stoking of fires after 4:00 p.m. Attendance at the site of the burn by the permittee, or by permittee's adult designee, is required at all times. Attendant shall have immediately available a shovel and sufficient water to extinguish the fire or prevent escape of the fire from the burn location.

B. Class B permits shall be valid for a maximum of two consecutive days and shall not be renewed for 48 hours after conclusion of any previous burn.

C. Class C permits shall be valid for a maximum of seven days in a 30-day period.

D. Burning is prohibited on windy days.

E. The fire chief may prescribe additional standards of care and procedures for obtaining burn permits in order to administer this section and provide for the safety of life and property. The fire chief may cancel, modify or suspend permits at any time in the interest of public safety. [Ord. 09-O-643 § 2.]

8.05.090 Permit fees.

Burn permits fees shall be as established by the city's master fee resolution. [Ord. 09-O-643 § 2.]

8.05.100 Abatement of fire hazards.

The fire chief or his designee shall, upon determining that a fire hazard exists as described in this chapter, notify the person responsible for the property upon which said fire hazard exists. Such notice shall be delivered personally in writing or physically posted upon the property or by registered mail to the last known address of such person and shall state specifically the condition which has caused the fire hazard. Such fire hazard shall be removed within 24 hours after delivery of said notice. If removal is not completed within such time, the fire chief or his designee shall cause such fire hazard to be removed and the cost thereof shall become a lien upon the property upon which said fire hazard exists. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 12. Formerly 8.05.070.]

8.05.110 Abatement Costs - Lien.

The procedures contained in BMC 8.15.090(F) shall apply. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 13. Formerly 8.05.080.]

8.05.120 Penalties and violations.

Pursuant to Chapter 1.05 BMC. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 15. Formerly 8.05.100.]

Chapter 8.10
WATERCOURSES, DRAINAGE CHANNEL MAINTENANCE,
STORM DRAIN PROTECTION

Sections:

- 8.10.005 Definitions.
- 8.10.010 Alteration, change, restriction, blockage or contamination of watercourses, drainage channels, storm drains prohibited – Collection or concentration of surface waters prohibited.
- 8.10.020 Permit required.
- 8.10.030 Specification of damages.
- 8.10.040 Indemnification of city.
- 8.10.050 Duties of responsible party
- 8.10.060 Declaration of public nuisance and assessment of costs of abatement.
- 8.10.070 Penalties.
- 8.10.080 Continuing violations.

8.10.005 Definitions.

For the purpose of this chapter, the following definitions apply:

A. “Construction” includes, but is not limited to, constructing any of the following: a building, an addition to a building, landscaping, sidewalks, or driveways, irrespective of size.

B. “Contaminant” means any substance or material such as, but not limited to, oil, gasoline, antifreeze, animal waste, lawn and yard fertilizers, defoliants, paint, or chemicals intended for insect control, that could cause harm, or otherwise have an adverse effect on the city’s storm drain system.

C. “Debris” means any foreign material such as, but not limited to, trackout, sediment from erosion, landscaping supplies, lawn clippings, leaves, brush, tree trimmings, household trash, litter, and concrete.

D. “Landscaping” means the process of arranging soil, trees, shrubs, grass, irrigation systems, or other commonly used landscaping materials on a piece of property. For this chapter, landscaping does not include routine lawn or yard maintenance such as grass mowing.

E. “Responsible party” or “person responsible” means the owner, occupant or other person entitled to possession of the property.

F. “Storm drain system” means the system of pipes, manholes, curbs, gutters, curb inlets, catch basins, canals, ditches, detention basins, ponds and streams intended to convey stormwater runoff.

G. “Trackout” means the tracking of mud, soil, debris, or contaminant onto any street, alley, sidewalk, or public way. [Ord. 07-O-591 § 2.]

8.10.010 Alteration, change, restriction, blockage or contamination of watercourses, drainage channels, storm drains prohibited – Collection or concentration of surface waters prohibited.

A. No watercourse, drainage channel, or storm drain shall be altered, changed, restricted, contaminated or blocked in any manner, nor shall diffused surface waters be collected or concentrated in any manner until or unless a drainage plan prepared by an Oregon-registered professional engineer shall have been submitted to and approved by the city manager or his/her designee.

B. Drainage Channel Obstruction – Nuisance. It is a violation for any person, persons, firm or corporation, or any agent for such person, persons, firm or corporation, or any employee thereof, to cause or allow the growth of vegetation or the presence of a blockage or accumulation of debris within any natural or manmade drainage channel within the city to the point that the natural flow of water within that drainage is substantially impeded, diverted or altered from its most efficient course.

Violations of this section will be abated pursuant to BMC 8.15.090 and shall be punishable as an ordinance violation pursuant to Chapter 1.05 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 1.]

8.10.020 Permit required.

The permit required herein may be terminated by order of the city manager for failure by the property owner to properly maintain the improved waterway and drainage appurtenances in a safe and workmanlike manner. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 2.]

8.10.030 Specification of damages.

The property owner or any person, firm or corporation which shall have altered or changed a watercourse, allowed restriction, contamination or blockage thereof in any manner whatsoever, or increased the drainage runoff flow so as to cause flooding or damage to other properties, shall be liable in damages arising out of such alteration, change, restriction, blockage, flooding or damage for such actions. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 3.]

8.10.040 Indemnification of city.

This chapter shall not be construed to hold the city responsible for any damage to persons or property by reason of the issuance of any permit for drainage improvements or development, the installation of any improvements, the collection or concentration of any diffused surface waters or the alteration, change, restriction, blockage, flooding or damages to watercourses or to other properties resulting therefrom, all of the aforesaid being the responsibility of the private property owners of the properties affected or involved. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 4.]

8.10.050 Duties of Responsible Party.

A. No person shall, intentionally or unintentionally, allow any debris, water contaminant, or potential water contaminant to enter the city's storm drain system.

B. Any person or persons who causes or allows any type of construction to take place on his or her property shall be responsible for the prevention of any debris, contaminant or potential contaminant from entering the city's storm drain system, and shall adhere to and abide by the guidelines for erosion control and sediment prevention, as described in the City of Brookings Standard Specifications and Uniform Standard Details for Public Works.

C. No person or persons shall allow any debris, contaminant, or potential contaminant from accumulating on any city street, alley, sidewalk, or public way adjacent to his/her property to an extent that said debris, contaminant, or potential contaminant, if allowed to enter the city's storm drain system, could cause a disruption to the proper functioning of the city storm drain system, and necessitate cleaning of any portion of the city storm drain.

D. All property owners within the city of Brookings shall, within 10 days after they shall have actual notice that a watercourse, drainage channel, or storm drain, or drainage appurtenance on or adjacent to property owned by them is obstructed or constricted, remove such obstruction or constriction, and in the event such watercourse shall form the boundary between properties, it shall be the duty of each adjacent property owner to remove such obstruction or constriction. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 5.]

8.10.060 General Abatement Procedure.

Nuisances contained in this chapter shall be abated pursuant to 8.15.090 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 6.]

8.10.070 Penalties.

Pursuant to Chapter 1.05 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 7.]

8.10.080 Continuing violations.

In the event of a continuing violation of this chapter, each day during which such violation exists shall be deemed a separate offense hereunder. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 8.]

Chapter 8.15 NUISANCES

Sections:

- 8.15.010 Definitions.
- 8.15.020 Control of domestic animals.
- 8.15.030 Public health.
- 8.15.040 Hazards.
- 8.15.050 Noxious vegetation.
- 8.15.060 Scattering rubbish.
- 8.15.065 Trees and fences.
- 8.15.067 Surface waters and drainage.
- 8.15.070 Earth from abutting property falling into street.
- 8.15.080 Noise prevention.
- 8.15.085 Recodified.
- 8.15.087 Temporary use of a recreational vehicle or travel trailer.
- 8.15.090 General abatement procedure.
- 8.15.100 Summary abatement.
- 8.15.110 Penalties.

8.15.010 Definitions.

A. "Livestock" refers to horses, mules, asses, cattle, llamas, emus, sheep, swine, goats and poultry, including turkeys, of any age or sex.

B. "Person" means a natural person, firm, partnership, association or corporation.

C. "Person in charge of property" means an agent, occupant, lessee, contract purchaser, tenant or other person having possession or control of property.

D. "Person responsible for abatement" means the person responsible for abating a nuisance and liable for any penalties imposed hereunder and shall include, jointly and severally, the following:

1. The owner;
2. The person in charge of property;
3. The person who caused to come into or continue in existence a nuisance as defined in this chapter.

E. "Public place" means a building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

F. Public Nuisance. It is expressly found and determined by the city of Brookings that the conditions and objects specifically enumerated within this chapter do, in one or more particulars, promote blight, deterioration, unsightliness, plundering, fire hazards, hazards to the health and safety of minors, disruption of the public peace, harborage for rodents, insects and vermin, and circumstances generally injurious or detrimental to the health, safety and general welfare of the inhabitants and occupants of the city of Brookings.

G. "Recreational vehicle" or "travel trailer" means a self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

H. "Recreational vehicle park" means a commercially developed lot upon which two or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 2; Ord. 86-O-406 § 1.]

I. "Responsible party or person responsible" means an owner, occupant or other person entitled to possession.

8.15.020 Control of domestic animals.

A. No person shall permit any cow, horse, goat, sheep, or other domestic animal kept in any enclosed or unenclosed lot or tract of land within the corporate limits of the city of Brookings to leave said place where said animal is so kept and wander at large within the corporate limits of the city.

B. The owner or keeper of any dog or other domestic animal shall not allow such animal to be a public nuisance. A dog, cat, or other such animal is deemed herein to be a public nuisance if it bites a person; chases persons or vehicles; damages or destroys property of persons other than the animal's owner; scatters garbage; trespasses on private property of persons other than the animal's owner; disturbs any person or neighborhood by frequent or prolonged barking, yelping, howling or any other such noise making; defecates on the property of another or of the public; or is a female in heat and running at large. Such animal shall not be considered a public nuisance if it bites a person who wrongfully is assaulting the animal or the animal's owner or if it bites a person trespassing upon premises owned or occupied by said animal's owner.

C. No person owning or harboring or having the care or custody of a vicious dog or other animal shall permit such animal to go unconfined beyond the premises of such person unless such an animal is securely leashed and muzzled or otherwise restrained. "Vicious" as herein defined means any dog or other animal or fowl with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals, any animal which attacks a human being or domestic animal without provocation, or any dog or other such animal owned or harbored primarily or in part for the purpose of dog or animal fighting.

D. No person shall own or harbor any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of dog fighting or for the purpose of causing or encouraging said dog to unprovoked or willfully provoked attacks upon human beings or domestic animals.

E. No dog is allowed to run at large within the corporate limits of the city of Brookings. When a dog is found running at large it may be taken up and impounded by the Brookings police department or said office's designee and, if so impounded, said animal shall be held in any reasonable and adequate shelter which can be provided for such purposes. A reasonable effort shall be made to notify the dog's owner before it is removed from impoundment. If no owner appears to redeem his/her dog within five days after impoundment, the dog may be released to a responsible person upon receiving assurance from that person that he or she will properly license and care for the dog and not allow the dog to run at large or become a nuisance, and upon payment of a sum which will cover the cost of keeping the dog during the impoundment. Any owner redeeming his/her dog shall pay, in addition to any fine imposed, a reasonable charge for the expense of keeping the dog during its confinement. If no owner is found for the dog nor any responsible person found within the above-allotted time to whom the dog can be

released, then the Brookings police department shall have total discretion and control of the further disposition of the animal.

F. No person shall own, harbor, take care of, or have in custody any dog without it being licensed with Curry County. Said person is responsible for payment of licensing fees, as well as securing any and all shots, vaccinations, or records which may be needed to license the animal.

G. No person shall permit the carcass of any animal owned or controlled by him to remain upon the public streets or ways to be exposed on private property for a period of time any longer than is necessary to remove the said carcass. It shall be the duty of such owner or occupant forthwith to cause such carcass to be buried or have other disposition made of the same. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 3; Ord. 86-O-406 § 2.]

8.15.030 Public health.

No owner or person in charge of property shall cause or permit to be or remain on public or private property the following objects or conditions:

A. Privies. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the health division regulations.

B. Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.

C. Stagnant Water. An open pit, quarry, cistern, well, cesspool or other excavation in which stagnant water affords a breeding place for mosquitoes and other insect pests.

D. Water Pollution. Pollution of a body of water, well, spring, stream, drainage facilities or drainage ditch by sewage, industrial wastes, construction wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

E. Food. Decayed or unwholesome food which is offered for human consumption, or which causes an offensive odor.

F. Odor. Premises which are in such a state or condition as to cause an offensive odor, or premises which are in an unsanitary condition.

G. Surface Drainage. Drainage of liquid wastes from private premises.

H. Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

I. Garbage Containers. Garbage and noncombustible refuse that is not stored in flytight, watertight, and rodent-proof containers that are kept clean and in good repair.

J. Livestock and Pets. The keeping of livestock and pets or buildings for the purpose of housing such livestock or pets in such a manner as to be a breeding place or likely breeding place for rodents or pests.

K. Sanitation. A business or residence that is kept or maintained in such a condition as to permit rats, rodents, vermin, or other pests to burrow or live therein. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 4; Ord. 86-O-406 § 3.]

8.15.040 Hazards.

No owner or person in charge of property shall permit thereon:

A. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children;

B. Lumber or logs, stored in a manner so as to be attractive, dangerous, and accessible to children;

C. An open pit, quarry, cistern, well, cesspool or other excavation without safeguards or barriers to prevent such places from being used by children. Any such opening or hole having a depth of four feet or more and a top width of 12 inches or more shall be covered or fenced with suitable protective construction;

D. Any junk unless such is completely enclosed within a building or kept in a duly licensed junkyard or automobile wrecking house. The term "junk" as used in this section includes all motor vehicles, machinery, or appliances, and any parts thereof or therefor; discarded or abandoned vehicles or components thereof; and old iron or other metal, glass, paper or discarded materials. "Discarded" shall mean any vehicle which does not have properly affixed thereto an unexpired license plate and is either inoperative, wrecked, dismantled (or partially so), or abandoned. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 4.]

8.15.050 Noxious vegetation.

The Department of Agriculture has declared certain species of vegetation to be a menace to the public welfare (ORS 570.505). A list of the vegetation covered under this declaration may be found in OAR 603-052-1200. It shall be unlawful for the owner, occupant, agent, or other person in possession of any lot, tract, or parcel of land within the corporate limits of the city of Brookings to permit the following:

A. The growth or propagation of gorse. The city may allow an abatement plan to be filed if it is determined that the gorse infestation is severe enough to merit a long-range eradication program. B. The uncontrolled growth of nuisance vegetation. "Nuisance vegetation" is defined as vegetation that:

1. Encroaches onto the property of another; the encroachment must be by the plant itself and not by seed or underground root systems; and
2. Is listed in OAR 603-052-1200. [Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 93-O-406.A §§ 5, 6; Ord. 93-O-134.A § 2; Ord. 86-O-406 § 5; Ord. 59-O-134 § 8.]

Exception: Vegetation growing on slopes of greater than 15% or adjacent to a water course or body of water that is providing erosion control.

8.15.060 Scattering rubbish.

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal or vehicle upon a public way. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 6.]

8.15.065 Trees and fences.

No owner or person in charge of property that abuts upon a street or public sidewalk shall:

A. Permit trees or bushes on his property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 13-1/2 feet above the roadway;

B. Allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property;

C. Allow to stand a tree that has been identified as a high potential blowdown hazard by a professional engineer or forester, as designated by the city;

D. Construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high;

E. Construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person. [Ord. 07-O-589 § 2; Ord. 06-O-572 § 1; Ord. 94-O-406.B § 2; Ord. 86-O-406 § 7.]

8.15.067 Surface waters and drainage.

No owner or person in charges of property shall:

A. Suffer or permit rainwater, ice or snow to fall from any building or structure onto a street or public sidewalk or to flow across the sidewalk;

B. Fail to install and maintain a proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. [Ord. 86-O-406 § 8.]

8.15.070 Earth from abutting property falling into street.

Any earth, debris, or other material which caves or falls into or upon any street or sidewalk from any adjacent or abutting real property is a nuisance, and the owner or occupant of such real property shall remove forthwith said earth, debris, or material. It shall be unlawful for any owner or occupant of any real property to permit such earth, debris, or other material to remain upon any street or sidewalk. [Ord. 07-O-591 § 2; Ord. 51-O-013 § 99.]

8.15.080 Noise prevention.

A. It shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuation of any unreasonably loud, disturbing, or unnecessary noise; and further, no person shall conduct or maintain any condition, activity, operation, vocation or avocation which causes unreasonably offensive noise to either the neighborhood or the public at large. In the case of noise that is generated due to an activity that is permitted within the zone, specifically in the case of industrial or manufacturing zones, such noise shall not be deemed unreasonably offensive.

B. The following acts are declared to be violations of this chapter, but said enumeration shall not be deemed to be exclusive:

1. The use of any automobile or other vehicle, engine, stationary or moving instrument, device or thing so out of repair or used in such manner as to create a loud or unnecessary grating, grinding, rattling or other such noise;
2. The sounding of any horn or signaling device on any automobile or other vehicle on any street or public place, except as a necessary warning of danger to property or person or as so used on emergency equipment;
3. Entertainment devices used in an abusive manner for the creation of prolonged and excessively loud noise;
4. The use of an electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception by radio or television receiver of good engineering design unless said device or apparatus is duly licensed, approved and operated under the rules and regulations of the Federal Communications Commission;
5. Any person who operates powered construction equipment; erects, constructs, demolishes, excavates for; alters or repairs any building, structure, roadway or utility within the city in such a manner as to cause noise to be received beyond the boundaries of the property on which the construction work is occurring shall comply with the following:
 - a. Except for the pouring of concrete and roofing, no construction work shall be performed before 7:00 a.m. or after 7:00 p.m. on weekdays.

b. Except for the pouring of concrete and roofing, no construction work shall be performed before 8:00 a.m. or after 7:00 p.m. on weekends or holidays.

c. Provided, however, that in case of urgent necessity, permission may be granted by the city manager for construction activities to occur during otherwise proscribed hours. [Ord. 10-O-674 § 2; Ord. 07-O-591 § 2; Ord. 86-O-406 § 9.]

8.15.085 Motor vehicles.*

Recodified at BMC 10.30.005. [Ord. 07-O-591 § 2; Ord. 06-O-571 §§ 1 – 5.]

* Code reviser's note: Ords. 06-O-571 §§ 1 – 5 and 07-O-591 § 2 were recodified at the request of the city.

8.15.087 Temporary use of a recreational vehicle or travel trailer.

A. All recreational vehicle parks within the city of Brookings shall conform to the electrical, fire, health, building, and plumbing ordinances of the city of Brookings, as amended, except as hereinafter specified.

B. It is a violation to use a recreational vehicle or travel trailer for living purposes within the city of Brookings except when parked within a licensed recreational vehicle park. A recreational vehicle or travel trailer may be used for temporary sleeping purposes within the city of Brookings provided as follows:

1. That the recreational vehicle or travel trailer is located entirely on private property that is residentially zoned and developed with a dwelling unit or there is an active building permit for a dwelling unit;
2. That no connection of any kind may be made to the city's water or sewer system; and
3. That the period of use for the property shall not exceed 14 days out of any calendar year.

C. It shall be a violation for any person, firm, or corporation owning or operating a recreational vehicle park in the city of Brookings to violate any of the provisions of this chapter. It shall be a violation for any person, firm, or corporation owning, maintaining, or in control of any recreational vehicle or travel trailer, or the occupant or tenant of any recreational vehicle or travel trailer in whatever capacity, to violate any provisions of this chapter. [Ord. 09-O-642 § 2; Ord. 07-O-591 § 2.]

8.15.090 General abatement procedure.

A. Upon determination by the city manager or his designee that a nuisance/violation exists, the city shall cause a notice to be posted at the site of the nuisance/violation or mail the notice by certified mail or personally deliver the notice to the responsible party, directing the person responsible to abate the nuisance/violation. The city may record the notice of nuisance in the County Recorder's office.

B. The notice to abate shall contain:

1. A general description, location or address of the real property on which the nuisance/violation exists;
2. A direction to abate the nuisance/violation within 10 days from the date of the notice;
3. A description of the nuisance/violation;
4. A statement that, unless the nuisance/violation is removed, the city may abate the nuisance/violation and charge the person responsible for abatement and administrative costs;
5. A statement that failure to abate a nuisance/violation may warrant imposition of a penalty;

6. A statement that the person responsible may dispute the existence of a nuisance/violation by giving a written statement to the city manager or his designee within 10 days from the date of the notice to abate;

7. An error in the name or address of the person responsible shall not make the notice void.

C. Within the 10-day period after the posting or mailing of such notice, the person responsible shall either remove and abate the nuisance/violation, or develop a plan acceptable to the city manager or his designee to remove or abate the nuisance/violation, or file his written statement setting forth his grounds that no nuisance/violation exists and request an administrative hearing.

D. If a written statement of dispute is filed within the period of time, there shall be a hearing scheduled within 15 days before the city manager. After hearing all relevant evidence and argument, the city manager shall determine whether or not a nuisance/violation in fact exists and provide a written statement of the decision. In BMC Title 17 cases, where the potential violation is a matter of ambiguity, the city manager's decision may be appealed to the planning commission pursuant to Chapter 17.156 BMC.

E. If the city manager determines that a nuisance/violation does in fact exist, the person responsible shall remove or abate the nuisance/violation within 10 days after determination is mailed. If, within such time, no appeal has been filed and the nuisance/violation has not been abated or removed by the person responsible, the city may cite the responsible person into municipal court for a violation of this chapter pursuant to BMC 8.15.110. In addition to the levying of a fine, if the City so requests, the municipal judge may order the nuisance abated by the City, the cost of such abatement to be recovered through a lien against the property.

F. If the city abates the nuisance/violation the following shall apply:

1. The city, its officers and employees so charged with abatement of the nuisance/violation shall have the right at all reasonable times to enter into or upon the property to investigate and cause the removal of the nuisance/violation.

2. The city shall keep an accurate record of the expense incurred in abating the nuisance/violation, and shall additionally include a charge of \$150.00 or 15 percent of the abatement expenses, whichever is greater, for administrative overhead. Any bill unpaid from 30 days of mailing shall carry interest at the statutory rate per annum. The Administrative Services Director, by registered or certified mail, shall forward to the person responsible a notice stating:

a. The total cost of abatement, including the administrative overhead;

b. That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;

c. That the Administrative Services Director will temporarily enter the cost of abatement in the City's lien docket;

d. That if the person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the Administrative Services Director not more than 10 days from the date of the notice.

3. If an objection is received on or before the expiration of 10 days after the notice was served, the City Manager shall consider the objection and make a final determination regarding the cost to be assessed.

4. The lien shall thereupon be entered in the docket of the city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance/violation was removed or abated. The lien shall be enforced and shall bear interest at the statutory rate. The interest shall commence to run from the date of the entry of the lien in the lien docket. An error in the name of

the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. [Ord. 07-O-591 § 2; Ord. 93-O-406.A §§ 7, 8; Ord. 86-O-406 § 10.]

8.15.100 Summary abatement.

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other chapters and the general police powers of the city; and the city manager, the chief of the fire department, the chief of the police department and the building/fire safety officer may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 11.]

8.15.110 Penalties.

Pursuant to Chapter 1.05 BMC. [Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 86-O-406 § 12.]

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

Signed by me in authentication of its passage this _____, day of _____, 2011

ATTEST:

Mayor Larry Anderson

City Recorder Joyce Heffington

Chapter 8.05 FIRE HAZARDS

Sections:

- 8.05.010 Definitions.
- 8.05.020 Right to enter premises.
- 8.05.030 Duties and responsibilities of citizens
- 8.05.040 Accumulations on roofs.
- 8.05.050 Prohibited materials.
- 8.05.060 Prohibited burns.
- 8.05.070 Permitted burns.
- 8.05.080 Permit standards.
- 8.05.090 Permit fees.
- 8.05.100 Abatement of fire hazards.
- 8.05.110 Appeals.
- 8.05.120 Penalties and violations.

8.05.010 Definitions.

"Class A burn" means the burning of wood products containing paint, glue, preservatives or other chemical treatment, paper, grass, hazardous materials, plastics, asphalt, paint, tires, oil, cardboard, rubber and other refuse and rubbish in an incinerator, burn barrel, or by open burning.

"Class B burn" means the open burning of wood, yard trimmings or leaves in a pile consisting of less than five yards.

"Class C burn" means the open burning of wood, tree trimmings, yard trimmings, or leaves in a pile consisting of more than five yards. Any burn conducted in association with land clearing or commercial tree removal shall be defined as a Class C burn.

"Class D burn" means a campfire conducted on private property or in a designated area of a public park where firewood cut in lengths, not to exceed 18 inches, is used. Such burns are limited to cooking or entertainment use and shall not include the burning of refuse. [Ord. 09-O-643 § 2.]

"Responsible party" or "person responsible" means owner, occupant or other person entitled to possession.

8.05.020 Right to enter premises.

For the purposes of performing their duties, the fire ~~marshal or deputy~~ **chief or his designee** shall have the right to enter upon any premises at all reasonable hours for the purpose of inspection. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 3. Formerly 8.05.010.]

8.05.030 Duties and responsibilities of ~~citizens~~ **responsible party**.

~~A. Any person using or having charge or control over~~ Any shavings, paper, hay, straw, litter or other combustible waste material fragments shall ~~cause them to~~ be securely deposited or removed so as to be safe from fire. All receptacles for waste, rags, paper and other substances liable to spontaneous combustion must be made of incombustible material.

B. Fire Hydrant Maintenance.

1. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
2. Clear Space Around Hydrants. A three-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

~~C. It shall be unlawful for the owner, occupant, agent, or other person in possession of any lot, tract, or parcel of land within the corporate limits of the city of Brookings to permit grass or other vegetation to grow in a manner that is determined to be a fire hazard by the fire marshal~~ **chief.** [Ord. 10-O-671 § 2; Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 5. Formerly 8.05.020.]

D. Prior to removal of vegetation upon properties having slopes of more than 15% or are adjacent to a creek, river or the ocean, the responsible party must contact the Planning Department for regulations regarding hillside development.

8.05.040 Accumulations on roofs.

~~It shall be unlawful for any person to allow or permit to remain upon roofs in the city of Brookings any accumulation of paper, hay, moss, or other inflammable or combustible material.~~ [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 6. Formerly 8.05.030.]

8.05.050 Prohibited materials.

It shall be unlawful to burn the following materials: rubber, asphalt, paint, oil, tires, kitchen garbage, disposable diapers, plastics, fiberglass or any other item that creates a black smoke or an offensive odor, as determined by the fire ~~marshal~~ **chief.** [Ord. 09-O-643 § 2.]

8.05.060 Prohibited burns.

It shall be unlawful for any person to conduct a Class A burn within the limits of the city of Brookings. [Ord. 09-O-643 § 2.]

8.05.070 Permitted burns.

A. Class B and Class C Burn Permits. Any person desiring to conduct a Class B or Class C burn must first obtain a written permit from the fire ~~marshal~~ **chief.** Any person desiring to conduct a Class C burn must also first obtain a written permit from the State of Oregon Department of Environmental Quality (DEQ).

B. Class D Burns Without Permit. There shall be no permit required for Class D burning. The fire ~~marshal~~ **chief** shall have the authority to require any Class D burn to be immediately extinguished upon making a determination that such burn is creating a hazard or public nuisance. [Ord. 09-O-643 § 2.]

8.05.080 Permit standards.

A. All Class B and Class C burns must be conducted between the hours of sunrise and dusk, with no starting or stoking of fires after 4:00 p.m. Attendance at the site of the burn by the permittee, or by permittee's adult

designee, is required at all times. Attendant shall have immediately available a shovel and sufficient water to extinguish the fire or prevent escape of the fire from the burn location.

B. Class B permits shall be valid for a maximum of two consecutive days and shall not be renewed for 48 hours after conclusion of any previous burn.

C. Class C permits shall be valid for a maximum of seven days in a 30-day period.

D. Burning is prohibited on windy days.

E. The fire chief may prescribe additional standards of care and procedures for obtaining burn permits in order to administer this section and provide for the safety of life and property. The fire chief may cancel, modify or suspend permits at any time in the interest of public safety. [Ord. 09-O-643 § 2.]

8.05.090 Permit fees.

Burn permits fees shall be as established by the city's master fee resolution. [Ord. 09-O-643 § 2.]

8.05.100 Abatement of fire hazards.

The ~~fire chief or his designee marshal or his deputy, the chief of police, or any other police officer in the city of Brookings~~ shall, upon determining that a fire hazard exists as described in this chapter, notify the owner, occupant, or other person in charge of **person responsible for** the property upon which said fire hazard exists. Such notice shall be delivered personally in writing or **physically posted upon the property or** by registered mail to the last known address of such person and shall state specifically the condition which has caused the fire hazard. Such fire hazard shall be removed within 24 hours after delivery of said notice. If removal is not completed within a reasonable **such** time, the fire chief or his designee ~~marshal, his deputy, the chief of police, or other police officer~~ shall cause such fire hazard to be removed and the cost thereof shall become a lien upon the property upon which said fire hazard exists, ~~or to which it is adjacent. in the same manner as other liens under the laws of the state of Oregon and the Charter of the city of Brookings.~~ [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 12. Formerly 8.05.070.]

8.05.110 Appeals ~~Abatement Costs~~ - Lien.

The procedures contained in BMC 8.15.090(F) shall apply.

~~Any owner or occupant of any tract, piece, or parcel of land against which a lien has been entered under the provisions of this chapter, who shall for any reason desire to dispute the same, may file his protest with the city recorder within 10 days from the date of such docketing, which protest shall set forth the ground thereof. The same shall be heard speedily and summarily, and the lien docketed as aforesaid shall be confirmed, modified, or vacated, as may be warranted by the facts.; or, if confirmed, the same may thereafter be enforced by notice issued by the city recorder to the police chief to sell said premises upon publishing a notice of such proceeding as is otherwise required on sale of real property for the satisfaction of city liens.~~ [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 13. Formerly 8.05.080.]

8.05.120 Penalties and violations.

Pursuant to Chapter 1.05 BMC. [Ord. 09-O-643 § 2; Ord. 07-O-591 § 2; Ord. 59-O-134 § 15. Formerly 8.05.100.]

Chapter 8.10 WATERCOURSES, DRAINAGE CHANNEL MAINTENANCE, STORM DRAIN PROTECTION

Sections:

- 8.10.005 Definitions.
- 8.10.010 Alteration, change, restriction, blockage or contamination of watercourses, drainage channels, storm drains prohibited – Collection or concentration of surface waters prohibited.
- 8.10.020 Permit required.
- 8.10.030 Specification of damages.
- 8.10.040 Indemnification of city.
- 8.10.050 ~~Responsibility of property owners.~~ **Duties of responsible party**
- 8.10.060 Declaration of public nuisance and assessment of costs of abatement.
- 8.10.070 Penalties.
- 8.10.080 Continuing violations.

8.10.005 Definitions.

For the purpose of this chapter, the following definitions apply:

A. "Construction" includes, but is not limited to, constructing any of the following: a building, an addition to a building, landscaping, sidewalks, or driveways, irrespective of size.

B. "Contaminant" means any substance or material such as, but not limited to, oil, gasoline, antifreeze, animal waste, lawn and yard fertilizers, defoliants, paint, or chemicals intended for insect control, that could cause harm, or otherwise have an adverse effect on the city's storm drain system.

C. "Debris" means any foreign material such as, but not limited to, trackout, sediment from erosion, landscaping supplies, lawn clippings, leaves, brush, tree trimmings, household trash, litter, and concrete.

D. "Landscaping" means the process of arranging soil, trees, shrubs, grass, irrigation systems, or other commonly used landscaping materials on a piece of property. For this chapter, landscaping does not include routine lawn or yard maintenance such as grass mowing.

E. "Responsible party" or **"person responsible"** means **the owner, occupant or other person entitled to possession of the property.** ~~means any person who has the ability to contact the property owner or his/her representative. Usually a job superintendent or lead worker.~~

F. "Storm drain system" means the system of pipes, manholes, curbs, gutters, curb inlets, catch basins, canals, ditches, detention basins, ponds and streams intended to convey stormwater runoff.

G. "Trackout" means the tracking of mud, soil, debris, or contaminant onto any street, alley, sidewalk, or public way. [Ord. 07-O-591 § 2.]

8.10.010 Alteration, change, restriction, blockage or contamination of watercourses, drainage channels, storm drains prohibited – Collection or concentration of surface waters prohibited.

A. No watercourse, drainage channel, or storm drain shall be altered, changed, restricted, contaminated or blocked in any manner, nor shall diffused surface waters be collected or concentrated in any manner until or unless a drainage plan prepared by an Oregon-registered professional engineer shall have been submitted to and approved by the city manager or his/her designee.

B. Drainage Channel Obstruction – Nuisance. It is a violation for any person, persons, firm or corporation, or any agent for such person, persons, firm or corporation, or any employee thereof, to cause or allow the growth of vegetation or the presence of a blockage or accumulation of debris within any natural or manmade drainage channel within the city to the point that the natural flow of water within that drainage is substantially impeded, diverted or altered from its most efficient course. Violations of this section will be abated pursuant to BMC 8.15.090 and shall be punishable as an ordinance violation pursuant to Chapter 1.05 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 1.]

8.10.020 Permit required.

The permit required herein may be terminated by order of the city manager for failure by the property owner to properly maintain the improved waterway and drainage appurtenances in a safe and workmanlike manner. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 2.]

8.10.030 Specification of damages.

The property owner or any person, firm or corporation which shall have altered or changed a watercourse, allowed restriction, contamination or blockage thereof in any manner whatsoever, or increased the drainage runoff flow so as to cause flooding or damage to other properties, shall be liable in damages arising out of such alteration, change, restriction, blockage, flooding or damage for such actions. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 3.]

8.10.040 Indemnification of city.

This chapter shall not be construed to hold the city responsible for any damage to persons or property by reason of the issuance of any permit for drainage improvements or development, the installation of any improvements, the collection or concentration of any diffused surface waters or the alteration, change, restriction, blockage, flooding or damages to watercourses or to other properties resulting therefrom, all of the aforesaid being the responsibility of the private property owners of the properties affected or involved. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 4.]

8.10.050 ~~Responsibility of property owners~~ Duties of Responsible Party.

A. No person shall, intentionally or unintentionally, allow any debris, water contaminant, or potential water contaminant to enter the city's storm drain system.

B. Any person or persons who causes or allows any type of construction to take place on his or her property shall be responsible for the prevention of any debris, contaminant or potential contaminant from entering the city's storm drain system, and shall adhere to and abide by the guidelines for erosion control and sediment prevention, as described in the City of Brookings Standard Specifications and Uniform Standard Details for Public Works.

C. No person or persons shall allow any debris, contaminant, or potential contaminant from accumulating on any city street, alley, sidewalk, or public way adjacent to his/her property to an extent that said debris, contaminant,

or potential contaminant, if allowed to enter the city's storm drain system, could cause a disruption to the proper functioning of the city storm drain system, and necessitate cleaning of any portion of the city storm drain.

D. All property owners within the city of Brookings shall, within 10 days after they shall have actual notice that a watercourse, drainage channel, or storm drain, or drainage appurtenance on or adjacent to property owned by them is obstructed or constricted, remove such obstruction or constriction, and in the event such watercourse shall form the boundary between properties, it shall be the duty of each adjacent property owner to remove such obstruction or constriction. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 5.]

8.10.060 Declaration of public nuisance and assessment of costs of abatement. *General Abatement Procedure.*

~~*Nuisances contained in this chapter shall be abated pursuant to 8.15.090 BMC.*~~ It is hereby declared that any obstruction, constriction, blockage or contamination of a watercourse, drainage channel, or storm drain within the city of Brookings is a public nuisance and the city of Brookings shall have the right to abate such public nuisance, and to enter upon any private property within the city of Brookings for such purpose, and shall assess the cost of such abatement as a lien against the property through which such watercourse, drainage channel, or storm drain flows and upon which the obstruction, constriction or contamination occurs, and in the event such watercourse forms the boundary between two properties, shall assess the cost equally to the adjacent properties. Such assessment shall be levied by the filing of a statement of such costs together with the description of the properties to be assessed, together with the names of the owners thereof with the city recorder, whereupon the city recorder shall forthwith enter such assessment as a lien against such property in the city lien docket of the city of Brookings. An administration fee of \$50.00 or 15 percent of the cost, whichever is greater, shall be charged and collected by the city. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 6.]

8.10.070 Penalties.

Pursuant to Chapter 1.05 BMC. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 7.]

8.10.080 Continuing violations.

In the event of a continuing violation of this chapter, each day during which such violation exists shall be deemed a separate offense hereunder. [Ord. 07-O-591 § 2; Ord. 88-O-429 § 8.]

Chapter 8.15 NUISANCES

Sections:

- 8.15.010 Definitions.
- 8.15.020 Control of domestic animals.
- 8.15.030 Public health.
- 8.15.040 Hazards.
- 8.15.050 Noxious vegetation.
- 8.15.060 Scattering rubbish.
- 8.15.065 Trees and fences.
- 8.15.067 Surface waters and drainage.
- 8.15.070 Earth from abutting property falling into street.
- 8.15.080 Noise prevention.
- 8.15.085 *Recodified.*
- 8.15.087 Temporary use of a recreational vehicle or travel trailer.
- 8.15.090 General abatement procedure.
- 8.15.100 Summary abatement.
- 8.15.110 Penalties.

8.15.010 Definitions.

A. "Livestock" refers to horses, mules, asses, cattle, llamas, emus, sheep, swine, goats and poultry, including turkeys, of any age or sex.

B. "Person" means a natural person, firm, partnership, association or corporation.

C. "Person in charge of property" means an agent, occupant, lessee, contract purchaser, tenant or other person having possession or control of property.

D. "Person responsible for abatement" means the person responsible for abating a nuisance and liable for any penalties imposed hereunder and shall include, jointly and severally, the following:

1. The owner;
2. The person in charge of property;
3. The person who caused to come into or continue in existence a nuisance as defined in this chapter.

E. "Public place" means a building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

F. Public Nuisance. It is expressly found and determined by the city of Brookings that the conditions and objects specifically enumerated within this chapter do, in one or more particulars, promote blight, deterioration, unsightliness, plundering, fire hazards, hazards to the health and safety of minors, disruption of the public peace, harborage for rodents, insects and vermin, and circumstances generally injurious or detrimental to the health, safety and general welfare of the inhabitants and occupants of the city of Brookings.

G. "Recreational vehicle" or "travel trailer" means a self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

H. "Recreational vehicle park" means a commercially developed lot upon which two or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 2; Ord. 86-O-406 § 1.]

I. "Responsible party or person responsible" means an owner, occupant or other person entitled to possession.

8.15.020 Control of domestic animals.

A. No person shall permit any cow, horse, goat, sheep, or other domestic animal kept in any enclosed or unenclosed lot or tract of land within the corporate limits of the city of Brookings to leave said place where said animal is so kept and wander at large within the corporate limits of the city.

B. The owner or keeper of any dog or other domestic animal shall not allow such animal to be a public nuisance. A dog, cat, or other such animal is deemed herein to be a public nuisance if it bites a person; chases persons or vehicles; damages or destroys property of persons other than the animal's owner; scatters garbage; trespasses on private property of persons other than the animal's owner; disturbs any person or neighborhood by frequent or prolonged barking, yelping, howling or any other such noise making; defecates on the property of another or of the public; or is a female in heat and running at large. Such animal shall not be considered a public nuisance if it bites a person who wrongfully is assaulting the animal or the animal's owner or if it bites a person trespassing upon premises owned or occupied by said animal's owner.

C. No person owning or harboring or having the care or custody of a vicious dog or other animal shall permit such animal to go unconfined beyond the premises of such person unless such an animal is securely leashed and muzzled or otherwise restrained. "Vicious" as herein defined means any dog or other animal or fowl with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals, any animal which attacks a human being or domestic animal without provocation, or any dog or other such animal owned or harbored primarily or in part for the purpose of dog or animal fighting.

D. No person shall own or harbor any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of dog fighting or for the purpose of causing or encouraging said dog to unprovoked or willfully provoked attacks upon human beings or domestic animals.

E. No dog is allowed to run at large within the corporate limits of the city of Brookings. When a dog is found running at large it may be taken up and impounded by the Brookings police department or said office's designee and, if so impounded, said animal shall be held in any reasonable and adequate shelter which can be provided for such purposes. A reasonable effort shall be made to notify the dog's owner before it is removed from impoundment. If no owner appears to redeem his/her dog within five days after impoundment, the dog may be released to a responsible person upon receiving assurance from that person that he or she will properly license and care for the dog and not allow the dog to run at large or become a nuisance, and upon payment of a sum which will cover the cost of keeping the dog during the impoundment. Any owner redeeming his/her dog shall pay, in addition to any fine imposed, a reasonable charge for the expense of keeping the dog during its confinement. If no owner is found for the dog nor any responsible person found within the above-allotted time to whom the dog can be released, then the Brookings police department shall have total discretion and control of the further disposition of the animal.

F. No person shall own, harbor, take care of, or have in custody any dog without it being licensed with Curry County. Said person is responsible for payment of licensing fees, as well as securing any and all shots, vaccinations, or records which may be needed to license the animal.

G. No person shall permit the carcass of any animal owned or controlled by him to remain upon the public streets or ways to be exposed on private property for a period of time any longer than is necessary to remove the said carcass. It shall be the duty of such owner or occupant forthwith to cause such carcass to be buried or have other disposition made of the same. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 3; Ord. 86-O-406 § 2.]

8.15.030 Public health.

No owner or person in charge of property shall cause or permit to be or remain on public or private property the following objects or conditions:

A. Privies. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the health division regulations.

B. Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.

C. Stagnant Water. An open pit, quarry, cistern, well, cesspool or other excavation in which stagnant water affords a breeding place for mosquitoes and other insect pests.

D. Water Pollution. Pollution of a body of water, well, spring, stream, drainage facilities or drainage ditch by sewage, industrial wastes, construction wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

E. Food. Decayed or unwholesome food which is offered for human consumption, or which causes an offensive odor.

F. Odor. Premises which are in such a state or condition as to cause an offensive odor, or premises which are in an unsanitary condition.

G. Surface Drainage. Drainage of liquid wastes from private premises.

H. Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

I. Garbage Containers. Garbage and noncombustible refuse that is not stored in flytight, watertight, and rodent-proof containers that are kept clean and in good repair.

J. Livestock and Pets. The keeping of livestock and pets or buildings for the purpose of housing such livestock or pets in such a manner as to be a breeding place or likely breeding place for rodents or pests.

K. Sanitation. A business or residence that is kept or maintained in such a condition as to permit rats, rodents, vermin, or other pests to burrow or live therein. [Ord. 07-O-591 § 2; Ord. 93-O-406.A § 4; Ord. 86-O-406 § 3.]

8.15.040 Hazards.

No owner or person in charge of property shall permit thereon:

A. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children;

B. Lumber or logs, stored in a manner so as to be attractive, dangerous, and accessible to children;

C. An open pit, quarry, cistern, well, cesspool or other excavation without safeguards or barriers to prevent such places from being used by children. Any such opening or hole having a depth of four feet or more and a top width of 12 inches or more shall be covered or fenced with suitable protective construction;

D. Any junk unless such is completely enclosed within a building or kept in a duly licensed junkyard or automobile wrecking house. The term "junk" as used in this section includes all motor vehicles, machinery, or appliances, and any parts thereof or therefor; discarded or abandoned vehicles or components thereof; and old iron or other metal, glass, paper or discarded materials. "Discarded" shall mean any vehicle which does not have properly affixed thereto an unexpired license plate and is either inoperative, wrecked, dismantled (or partially so), or abandoned. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 4.]

8.15.050 Noxious vegetation.

The Department of Agriculture has declared certain species of vegetation to be a menace to the public welfare (ORS 570.505). A list of the vegetation covered under this declaration may be found in OAR 603-052-1200. It shall be unlawful for the owner, occupant, agent, or other person in possession of any lot, tract, or parcel of land within the corporate limits of the city of Brookings to permit the following:

A. The growth or propagation of gorse. The city may allow an abatement plan to be filed if it is determined that the gorse infestation is severe enough to merit a long-range eradication program. B. The uncontrolled growth of nuisance vegetation. "Nuisance vegetation" is defined as vegetation that:

1. Encroaches onto the property of another; the encroachment must be by the plant itself and not by seed or underground root systems; and
2. Is listed in OAR 603-052-1200. [Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 93-O-406.A §§ 5, 6; Ord. 93-O-134.A § 2; Ord. 86-O-406 § 5; Ord. 59-O-134 § 8.]

Exception: Vegetation growing on slopes of greater than 15% or adjacent to a water course or body of water that is providing erosion control.

8.15.060 Scattering rubbish.

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal or vehicle upon a public way. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 6.]

8.15.065 Trees and fences.

No owner or person in charge of property that abuts upon a street or public sidewalk shall:

A. Permit trees or bushes on his property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 13-1/2 feet above the roadway;

B. Allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property;

C. Allow to stand a tree that has been identified as a high potential blowdown hazard by a professional engineer or forester, as designated by the city;

D. Construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high;

E. Construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person. [Ord. 07-O-589 § 2; Ord. 06-O-572 § 1; Ord. 94-O-406.B § 2; Ord. 86-O-406 § 7.]

8.15.067 Surface waters and drainage.

No owner or person in charges of property shall:

A. Suffer or permit rainwater, ice or snow to fall from any building or structure onto a street or public sidewalk or to flow across the sidewalk;

B. Fail to install and maintain a proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. [Ord. 86-O-406 § 8.]

8.15.070 Earth from abutting property falling into street.

Any earth, debris, or other material which caves or falls into or upon any street or sidewalk from any adjacent or abutting real property is a nuisance, and the owner or occupant of such real property shall remove forthwith said earth, debris, or material. It shall be unlawful for any owner or occupant of any real property to permit such earth, debris, or other material to remain upon any street or sidewalk. [Ord. 07-O-591 § 2; Ord. 51-O-013 § 99.]

8.15.080 Noise prevention.

A. It shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuation of any unreasonably loud, disturbing, or unnecessary noise; and further, no person shall conduct or maintain any condition, activity, operation, vocation or avocation which causes unreasonably offensive noise to either the neighborhood or the public at large. In the case of noise that is generated due to an activity that is permitted within the zone, specifically in the case of industrial or manufacturing zones, such noise shall not be deemed unreasonably offensive.

B. The following acts are declared to be violations of this chapter, but said enumeration shall not be deemed to be exclusive:

1. The use of any automobile or other vehicle, engine, stationary or moving instrument, device or thing so out of repair or used in such manner as to create a loud or unnecessary grating, grinding, rattling or other such noise;

2. The sounding of any horn or signaling device on any automobile or other vehicle on any street or public place, except as a necessary warning of danger to property or person or as so used on emergency equipment;

3. Entertainment devices used in an abusive manner for the creation of prolonged and excessively loud noise;

4. The use of an electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception by radio or television receiver of good engineering design unless said device or apparatus is duly licensed, approved and operated under the rules and regulations of the Federal Communications Commission;

5. Any person who operates powered construction equipment; erects, constructs, demolishes, excavates for; alters or repairs any building, structure, roadway or utility within the city in such a manner as to cause noise to be received beyond the boundaries of the property on which the construction work is occurring shall comply with the following:

a. Except for the pouring of concrete and roofing, no construction work shall be performed before 7:00 a.m. or after 7:00 p.m. on weekdays.

b. Except for the pouring of concrete and roofing, no construction work shall be performed before 8:00 a.m. or after 7:00 p.m. on weekends or holidays.

c. Provided, however, that in case of urgent necessity, permission may be granted by the city manager for construction activities to occur during otherwise proscribed hours. [Ord. 10-O-674 § 2; Ord. 07-O-591 § 2; Ord. 86-O-406 § 9.]

8.15.085 Motor vehicles.*

Recodified at BMC 10.30.005. [Ord. 07-O-591 § 2; Ord. 06-O-571 §§ 1 – 5.]

* Code reviser's note: Ords. 06-O-571 §§ 1 – 5 and 07-O-591 § 2 were recodified at the request of the city.

8.15.087 Temporary use of a recreational vehicle or travel trailer.

A. All recreational vehicle parks within the city of Brookings shall conform to the electrical, fire, health, building, and plumbing ordinances of the city of Brookings, as amended, except as hereinafter specified.

B. It is a violation to use a recreational vehicle or travel trailer for living purposes within the city of Brookings except when parked within a licensed recreational vehicle park. A recreational vehicle or travel trailer may be used for temporary sleeping purposes within the city of Brookings provided as follows:

1. That the recreational vehicle or travel trailer is located entirely on private property that is residentially zoned and developed with a dwelling unit or there is an active building permit for a dwelling unit;

2. That no connection of any kind may be made to the city's water or sewer system; and

3. That the period of use for the property shall not exceed 14 days out of any calendar year.

C. It shall be a violation for any person, firm, or corporation owning or operating a recreational vehicle park in the city of Brookings to violate any of the provisions of this chapter. It shall be a violation for any person, firm, or corporation owning, maintaining, or in control of any recreational vehicle or travel trailer, or the occupant or tenant of any recreational vehicle or travel trailer in whatever capacity, to violate any provisions of this chapter. [Ord. 09-O-642 § 2; Ord. 07-O-591 § 2.]

8.15.090 General abatement procedure.

A. Upon determination by the city manager or his designee that a nuisance/*violation* exists, the city shall cause a notice to be posted ~~on the premises or~~ at the site of the nuisance/*violation* or **mail the notice by certified mail or personally deliver the notice to the responsible party**, directing the person responsible to abate the

nuisance/**violation**. ~~At the time of posting, the city shall cause a copy of the notice to be forwarded by first class mail and registered or certified mail, or personally delivered to the person responsible, at his last known address.~~
The city may record the notice of nuisance in the County Recorder's office.

B. The notice to abate shall contain:

1. A general description, location or address of the real property on which the nuisance/**violation** exists;
2. A direction to abate the nuisance/**violation** within 10 days from the date of the notice;
3. A description of the nuisance/**violation**;
4. A statement that, unless the nuisance/**violation** is removed, the city may abate the nuisance/**violation** and charge the person responsible for abatement and administrative costs;
5. A statement that failure to abate a nuisance/**violation** may warrant imposition of a penalty;
6. A statement that the person responsible may dispute the existence of a nuisance/**violation** by giving a written statement to the city manager or his designee within 10 days from the date of the notice to abate;
7. An error in the name or address of the person responsible shall not make the notice void, ~~and in such case the posted notice shall be sufficient.~~

C. Within the 10-day period after the posting and mailing of such notice, the person responsible shall either remove and abate the nuisance/**violation**, or develop a plan acceptable to the city manager or his designee to remove or abate the nuisance/**violation**, or file his written statement setting forth his grounds that no nuisance/**violation** exists and request an administrative hearing.

D. If a written statement of dispute is filed within the period of time, there shall be a hearing scheduled within 15 days before the city manager. After hearing all relevant evidence and argument, the city manager shall determine whether or not a nuisance/**violation** in fact exists and provide a written statement of the decision. ~~The owner or agent may appeal the city manager's decision to the city council by filing a written notice to the city manager within 10 days after the determination is mailed. The city manager shall set the matter for a public hearing at the next regular meeting of the city council.~~ In BMC Title 17 cases, where the potential violation is a matter of ambiguity, the city manager's decision may be appealed to the planning commission pursuant to Chapter 17.156 BMC.

E. If the city manager determines that a nuisance/**violation** does in fact exist, the person responsible shall remove or abate the nuisance/**violation** within 10 days after determination is mailed. If, within such time, no appeal has been filed and the nuisance/**violation** has not been abated or removed by the person responsible, the city may cite the responsible person into municipal court for a violation of this chapter pursuant to BMC 8.15.110. ***In addition to the levying of a fine, if the City so requests, the municipal judge may order the nuisance abated by the City, the cost of such abatement to be recovered through a lien against the property and/or cause the nuisance to be abated.***

F. If the city ~~elects to abate~~ the nuisance/**violation** as an additional remedy, the following shall apply:

1. The city, its officers and employees so charged with abatement of the nuisance/**violation** shall have the right at all reasonable times to enter into or upon the property to investigate and cause the removal of the nuisance/**violation**.

2. The city shall keep an accurate record of the expense incurred in abating the nuisance/*violation*, and shall additionally include a charge of \$150.00 or 15 percent of the abatement expenses, whichever is greater, for administrative overhead. Any bill unpaid from 30 days of mailing shall carry interest at the statutory rate per annum, ~~and be added to the bill each 30 days.~~ The **Administrative Services Director**, ~~city recorder~~, by registered or certified mail, shall forward to the person responsible a notice stating:

- a. The total cost of abatement, including the administrative overhead;
- b. That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;

c. That the Administrative Services Director will temporarily enter the cost of abatement in the City's lien docket;

~~e.d.~~ That if the person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the **Administrative Services Director** ~~city recorder~~ not more than 10 days from the date of the notice.

3. If an objection is received on or before the expiration of 10 days after the notice was served, the City Manager shall consider the objection and make a final determination regarding the cost to be assessed.

~~Upon the expiration of 10 days after the date of the assessment notice, the council, in the regular course of business, shall hear and determine the objections, if any, to the costs assessed. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the council, shall be made by resolution and~~

4. The lien shall thereupon be entered in the docket of the city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance/*violation* was removed or abated. The lien shall be enforced and shall bear interest at the statutory rate. The interest shall commence to run from the date of the entry of the lien in the lien docket. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. [Ord. 07-O-591 § 2; Ord. 93-O-406.A §§ 7, 8; Ord. 86-O-406 § 10.]

8.15.100 Summary abatement.

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other chapters and the general police powers of the city; and the city manager, the chief of the fire department, the chief of the police department and the building/fire safety officer may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property. [Ord. 07-O-591 § 2; Ord. 86-O-406 § 11.]

8.15.110 Penalties.

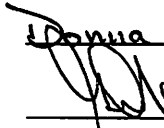

Pursuant to Chapter 1.05 BMC. [Ord. 10-O-671 § 3; Ord. 07-O-591 § 2; Ord. 86-O-406 § 12.]

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: December 12, 2011

Originating Dept: Planning

 Donna Colby-Hanks
Signature (submitted by)

City Manager Approval

Subject: A continued hearing on File LDC-3-11 for consideration of revisions to Chapter 17.88, Sign Regulations, Brookings Municipal Code (BMC).

This matter was heard at the August 22, 2011 City Council meeting and discussed at the November 7, 2011 City Council Workshop. Staff was directed to obtain the Oregon Revised Statutes (Oregon state law) which describes the signs that fall under Oregon Department of Transportation's (ODOT) jurisdiction. The area where these signs are located is described in ORS 377.715 which is included in Attachment B. ODOT provided their definition of "visible" in ORS 377.710(37) along with an email describing their process.

After reviewing ODOT's regulations and taking into consideration the discussions of the City Council, Staff proposes to delete 17.88.030(B)(8) and insert language in 17.88.030(A) to clarify the process to the Applicants and future Staff. This procedure would prevent the expense of an Applicant having to remove an installed sign due to it not complying with ODOT's requirements.

Section 17.88.040(B) has been revised to include the text regarding the time limits on temporary signs displaying non-commercial messages for events as directed by the City Council.

The original staff report remains below for your convenience.

Recommended Motion: A motion approving revisions to BMC Chapter 17.88 Sign Regulations, as contained in File LDC-3-11.

Financial Impact: None.

Background/Discussion: Several years ago, the City was contacted by Oregon Department of Transportation (ODOT). They advised that any proposed new signs adjacent to or visible from Chetco Avenue/Hwy 101 would require their approval. Language describing this requirement is not in the Code. Staff has been working with ODOT and applicants to obtain this approval prior to issuing new sign permits. The addition of Section 17.88.030(B)(8) makes it clear to applicants what is required.

Staff received a newsletter written by a litigation attorney that described several common errors with sign ordinances that can lead to litigation. One of these errors was having different regulations for political signs and other non-commercial temporary signs. To resolve the different regulations, Section 17.88.040(B) has been revised to address all non-commercial

temporary signs, including political signs. Sections 17.88.040(E) and (H) have been deleted as they are no longer needed. Site Plan Committee supports these revisions.

The Planning Commission reviewed the draft revisions at their August 2, 2011 meeting and recommended approval to the City Council. The Planning Commission requested the Council consider a limitation on the period of time a sign may be displayed prior to the event. Staff researched other jurisdictions handling of these matters. The time allowed for these signs to be displayed prior to the event ranged from unlimited down to 30 days. The Curry County Elections Office explained materials must be submitted not less than 60 days prior to an election to be placed on the ballot.

Policy Considerations: N/A

Attachment(s): Attachment A –Draft revisions to Chapter 17.88 Sign Regulations.
Attachment B – Oregon Department of Transportation email and ORS's

Text to be added is in **bold**.

Text to be omitted has ~~strikethrough~~.

Revisions after August 22, 2011 meeting

Text to be added is in ***bold and in italics***.

Text to be omitted has ~~double-strikethrough~~.

17.88.030 Application.

A. For all areas of the city, a sign permit must be obtained before any sign, except those specifically exempted, is erected, placed, painted, constructed, carved or otherwise given public exposure. Any alteration of an existing sign must also first obtain a permit (see definition of "alter"). The sign permit application may be filed as a part of a larger application or separately. Applications shall be filed with the city manager or their designee, on an appropriate form in a manner prescribed by the city, accompanied by a sign permit application fee in the amount established by general resolution of the city council. A sign permit shall be issued only after a determination by the city manager, or their designee, that the proposed sign is in compliance with all provisions of this chapter. ***All signs visible from Hwy 101/Chetco Avenue are required to be reviewed and approved by Oregon Department of Transportation (ODOT). Staff will submit these applications to ODOT and advise the Applicant of their decision.***

B. The following shall be submitted with each completed application:

1. Filing fee;
2. Plot plan, drawn to scale, of the lot, with dimensions, on which the sign is to be placed showing the location of the sign, the structure, with dimensions, and dimensions and locations of other existing signs on the property. If the sign is to be freestanding the plot plan must also show the distance from property lines and easements;
3. Engineering wind load data for freestanding, roof-mounted, and perpendicularly mounted signs exceeding five square feet in size;
4. A scale drawing of the sign and its support structure, indicating dimensions;

5. If the proposed sign is lighted or uses electricity for any purpose, evidence that the sign is listed as being approved by a licensed testing facility must be submitted with the application;

6. Proof of a current business license unless exempt;

7. The sign(s) authorized under a sign permit shall be installed within 90 days after the date of permit issuance. A 90-day extension can be requested by submitting a written statement explaining the need for additional time. [Ord. 08-O-608 § 2; Ord. 96-O-446.BB § 5; Ord. 95-O-446.AA § 2; Ord. 89-O-446 § 1.]

~~8. Written approval from Oregon Department of Transportation for any proposed signs that are adjacent to or visible from Chetco Avenue/Hwy 101.~~

17.88.040 Exempt signs.

The following signs and devices shall not be subject to the provisions of this chapter:

A. Memorial tablets, cornerstones or similar plaques not exceeding six square feet;

~~B. Temporary political signs, provided the signs are removed within seven days following the election for which they are intended;~~ **Temporary signs displaying non-commercial messages for events, including but not limited to elections, public meetings or events of a general city-wide civic or public benefit, provided the signs are removed within seven days following the conclusion of the event. These signs shall not be displayed for more than 60 days prior to the beginning of the event and must be removed within seven days following the conclusion of the event.**

C. Temporary, nonilluminated real estate or construction signs; provided, that said signs are removed within 15 days from sale, lease or rental of the property, or the completion of the construction project. The following standards shall apply to signs:

1. One unlighted temporary sign not exceeding 16 square feet in area shall be permitted for the lease, rental, or sale of property, or for the construction of a structure thereon in residential districts;

2. One unlighted temporary sign not exceeding 32 square feet in area shall be permitted for the lease, rental, or sale of property, or for

the construction of a structure thereon in commercial and industrial districts;

3. One unlighted temporary sign not exceeding 32 square feet in area shall be permitted advertising a new subdivision on the property;

4. One unlighted temporary sign not exceeding 16 square feet in area advertising the finance company for a structure;

5. One unlighted temporary sign not exceeding 16 square feet in area advertising the finance company for a subdivision;

6. Additional signage may be requested by submitting an application pursuant to BMC 17.88.030(B) accompanied by the sign permit fee and a statement explaining the need for the additional signage to the site plan committee. The site plan committee decision may be appealed pursuant to BMC 17.80.060;

D. Temporary signs for new businesses, for a period not to exceed 30 days;

~~E. Paper signs that serve as a notice of a public meeting, that shall be promptly removed after such meeting is held;~~

F. Small directional signs located on the property to guide traffic;

G. Signs placed by state or federal governments for the purpose of identifying public works projects or publicly funded and/or sponsored projects, designed to fulfill the requirements of state or federal funding agencies;

~~H. Temporary signs for events of a general city wide civic or public benefit;~~

I. Nameplates, provided they do not exceed 72 square inches;

J. Public signs;

K. Businesses which have more than one freestanding sign existing on the effective date of this code. Each sign must meet the size requirements as stated in the code. Signs which advertise a business no longer conducting or a product no longer sold on the premises where such sign is located shall not be exempted under this chapter;

L. Garage sale signs not to exceed four square feet in area and to be displayed only when the sale is open for a period not to exceed three

consecutive days in duration with no more than three sales per calendar year;

M. Decorative banners and flags may be displayed and shall not exceed 100 square feet in area. Decorative banners and flags shall not include the use of text;

N. Local, state, or national flags;

O. Window signs;

P. Wall graphics, except that murals shall be reviewed by the public art committee and conform to general guidelines adopted by city council resolution. In the event the public art committee is unavailable to convene, the site plan committee will perform the needed review;

Q. Any change to the text of an existing sign structure (free standing or applied to the building) does not require a sign permit. This does not apply if the sign structure is altered or the location is changed. [Ord. 08-O-621 § 2; Ord. 08-O-608 § 2; Ord. 01-O-446.KK § 2; Ord. 00-O-446.HH, § 2; Ord. 95-O-446.AA § 2; Ord. 89-O-446 § 1.]

17.88.050 Signs expressly prohibited.

The following signs and devices are expressly prohibited:

A. Signs located on undeveloped property, except as provided in BMC 17.88.040.

B. Vehicle signs, except for standard advertising identification markings which are permanently or magnetically attached to or printed on a business or commercial vehicle.

C. In no case shall any sign:

1. Be erected in a public easement or right-of-way;
2. Be erected so as to prevent free ingress to or egress from any door or window, or any other exit way required by the currently adopted edition of the Oregon State Structural Specialty Code and Fire and Life Safety Regulations;
3. Be attached to any public utility pole, or structure, light pole, lamp, lamp post, tree, fire hydrant, bridge, curb, sidewalk, or other surface located on public property;

4. Be attached to a standpipe, gutter drain, or fire escape, nor shall any sign be erected so as to impair access to the roof;

5. Be erected in any location where, by reason of its location, it will obstruct the view of any authorized traffic sign, signal, or other traffic control device. Nor may any sign, by reason of its shape, position or color, interfere with or be confused with any authorized traffic signal, sign or device. Further, no sign shall be erected in a location where it will obstruct vision of the public right-of-way to the vehicle operator during ingress to, egress from, or while traveling on, said public right-of-way. [Ord. 08-O-608 § 2; Ord. 01-O-446.KK § 2; Ord. 95-O-446.AA § 2; Ord. 89-O-446 § 1.]

From: ELSTUN Wendy S *ODOT [Wendy.S.ELSTUN@odot.state.or.us]
Sent: Tuesday, August 23, 2011 9:29 AM
To: Donna Colby-Hanks
Subject: State sign regulation and local jurisdiction notification
Attachments: 377.710 - definitions.doc; 377.720 - Prohibited signs.doc; 377.740 - Local Jurisdiction.doc; 377.715 - Basics & Not in ROW.doc

Hello Donna,

Thank you for calling this morning and reviewing the state sign regulations and administrative rules.

You asked for clarification regarding the state requirement to have the local jurisdictions get approval of sign applications where the sign would be visible to state highways.

While there is no requirement that local jurisdiction provide us with information on pending applications for signs visible to state highways it is a proactive measure that informs the applicants of state sign regulations BEFORE the install a sign and find that they are in violation of state sign regulations.

As a recap the State regulates ALL signs visible to state highways. ORS 377.710 defines "visible" as: means capable of being seen without visual aid by a person of normal visual acuity, whether or not legible from the main traveled way of any state highway. We do an independent review of any sign in question to determine if the intent is to advertise to a state highway or to a local or feeder road or street. If a sign is inside an incorporated area and more than 660ft from state right of way and the intent is not to advertise to a state highway then we could determine it was not subject to state sign regulations.. Again each case is reviewed independently.

NO signs are allowed to be on or overhang state right of way. All sign must follow the basic safety and prohibited rules (Attached)

In particular US 101 is a Scenic By-Way and no new Outdoor Advertising Signs (OAS) are allowed. To determine if a sign is an OAS we look at two things. The first is site location and the other is compensation. A sign must be located as some type of business or activity that is open to the general public and NO compensation can be exchanged for either land lease or sale of ad copy. Compensating includes barter of goods or services. The business does not have to be what is advertised on the sign but can be anything the general public has access to, this includes government building, churches, schools, parks and public parking lots.

Let me know if you need more clarification on any issues

Thank you

Wendy

Wendy S Elstun
Program Coordinator, ODOT

Outdoor Advertising Sign Program
503-986-3650fx 503-986-3625

377.715 Application of ORS 377.700 to 377.840; prohibition against erection or maintenance of certain signs not in compliance with law. ORS 377.700 to 377.840, and the rules adopted pursuant thereto, apply to signs erected or maintained outside the right of way along state highways and visible to the traveling public from a state highway. A person may not erect or maintain a sign visible to the traveling public from a state highway, except where permitted outside the right of way of a state highway, unless the sign complies with the provisions of ORS 377.505 to 377.540 and 377.700 to 377.840, and the rules adopted pursuant thereto. A person may not erect or maintain a sign on the right of way of a state highway, other than a traffic control sign or device. [1971 c.770 §8; 1973 c.790 §2; 1974 c.33 §2; 1975 c.336 §2; 1983 c.111 §2; 1987 c.336 §3; 1999 c.877 §3; 2007 c.199 §7]

377.710 Definitions for ORS 377.700 to 377.840; rules. As used in ORS 377.700 to 377.840 unless the context otherwise requires:

(1) "Back-to-back sign" means a sign with multiple display surfaces mounted on a single structure with display surfaces visible to traffic from opposite directions of travel.

(2) "Commercial or industrial zone" means an area, adjacent to a state highway, that is zoned for commercial or industrial use by or under state statute or local ordinance.

(3) "Council" means the Travel Information Council created by ORS 377.835.

(4) "Cutout" means every type of display in the form of letters, figures, characters or other representations in cutout or irregular form attached to and superimposed upon a sign.

(5) "Department" means the Department of Transportation.

(6) "Director" means the Director of Transportation.

(7) "Display surface" means the area of a sign available for the purpose of displaying a message.

(8) "Double-faced sign" means a sign with multiple display surfaces with two or more separate and different messages visible to traffic from one direction of travel.

(9) "Erect" means to construct, build, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish.

(10) "Federal-aid primary system" or "primary highway" means the federal-aid primary system in existence on June 1, 1991, and any highway that is on the National Highway System.

(11) "Freeway" means a divided arterial highway with four or more lanes available for through traffic with full control of access and grade separation at intersections.

(12) "Governmental unit" means the federal government, the state, or a city, county or other political subdivision or an agency thereof.

(13) "Interstate highway" or "interstate system" means every state highway that is a part of the National System of Interstate and Defense Highways established pursuant to section 103(c), title 23, United States Code.

(14) "Logo" means a symbol or design used by a business as a means of identification of its products or services.

(15) "Logo sign" means a sign located on highway right of way on which logos for gas, food, lodging and camping are mounted.

(16) "Maintain" includes painting, changing messages on display surfaces, adding or removing a cutout or display surface of the same dimensions, replacing lights or the catwalk, making routine repairs necessary to keep the sign in a neat, clean, attractive and safe condition, and allowing the sign to exist.

(17) "Main traveled way" means the through traffic lanes, exclusive of frontage roads, auxiliary lanes and ramps.

(18) "Motorist informational sign" means a sign erected in a safety rest area, scenic overlook or sign plaza and maintained under the authority of ORS 377.700 to 377.840 to inform the traveling public about public accommodations, services for the traveling public and points of scenic, historic, cultural, scientific, outdoor recreational and educational interest.

(19) "Nonconforming sign" means a sign that complied with ORS 377.700 to 377.840 when erected, but no longer complies with ORS 377.700 to 377.840 because of a later change in the law or in the conditions outside of the owner's control. An unlawfully located or maintained sign is not a nonconforming sign.

(20) "Outdoor advertising sign" means:

(a) A sign that is not at the location of a business or an activity open to the public, as defined by the department by rule; or

(b) A sign for which compensation or anything of value as defined by the department by rule is given or received for the display of the sign or for the right to place the sign on another's property.

(21) "Protected area" means an area located within 660 feet of the edge of the right of way of any portion of an interstate highway constructed upon any part of right of way, the entire width of which was acquired by the State of Oregon subsequent to July 1, 1956, and which portion or segment does not traverse:

(a) A commercial or industrial zone within the boundaries of a city, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate highway is subject to municipal regulation or control; or

(b) Other areas where land use, as of September 21, 1959, is established as industrial or commercial pursuant to state law.

(22) "Reconstruct" means replacing a sign totally or partially destroyed, changing its overall height or performing any work, except maintenance work, that alters or changes a sign that lawfully exists under ORS 377.700 to 377.840.

(23) "Relocate" includes, but is not limited to removing a sign from one site and erecting a new sign upon another site as a substitute therefor.

(24) "Rest area" means an area established and maintained within or adjacent to a state highway right of way by or under public supervision or control for the convenience of the traveling public, and includes safety rest areas, scenic overlooks or similar roadside areas.

(25) "Secondary highway" means any state highway other than an interstate highway or primary highway.

(26)(a) "Sign" means any sign, display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is designed, used or intended for advertising purposes or to inform or attract the attention of the public.

(b) "Sign" includes the sign structure, display surface and all other component parts of a sign.

(c) When dimensions of a sign are specified, "sign" includes panels and frames and both sides of a sign of specified dimensions or area.

(27) "Sign area" means the overall dimensions of all panels capable of displaying messages on a sign structure.

(28) "Sign plaza" means a structure erected and maintained by or for the department or the Travel Information Council, adjacent to or in close proximity to a state highway, for the display of motorist information.

(29) "Sign rules for protected areas" means rules adopted by the department applicable to signs displayed within protected areas.

(30) "Sign structure" or "structure" means the supports, uprights, braces, poles, pylons, foundation elements, framework and display surfaces of a sign.

(31) "State highway," "highway" or "state highway system" means the entire width between the boundary lines of the right of way of every state highway, as defined by ORS 366.005, and the interstate system and the federal-aid primary system.

(32) "Tourist oriented directional sign" means a sign erected on state highway right of way to provide business identification and directional information for services and activities of interest to tourists.

(33) "Traffic control sign or device" means an official route marker, guide sign, warning sign, or sign directing or regulating traffic, which has been erected by or under the order of the department.

(34) "Travel plaza" means any staffed facility erected under the authority of the Travel Information Council to serve motorists by providing brochures, displays, signs and other visitor information and located in close proximity to a highway.

(35) "Tri-vision sign" means a sign that contains display surfaces composed of a series of three-sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process and capable of displaying a total of three separate and distinct messages, one message at a time, provided that the rotation from one message to another message is no more frequent than every eight seconds and the actual rotation process is accomplished in four seconds or less.

(36) "V-type sign" means two signs erected independently of each other with multiple display surfaces having single or multiple messages visible to traffic from opposite directions, with an interior angle between the two signs of not more than 120 degrees and the signs separated by not more than 10 feet at the nearest point.

(37) "Visible" means capable of being seen without visual aid by a person of normal visual acuity, whether or not legible from the main traveled way of any state highway.

ORS 377.720 Prohibited signs; exceptions. A sign may not be erected or maintained if it:

(1) Interferes with, imitates or resembles any traffic control sign or device, or attempts or appears to attempt to direct the movement of traffic.

(2) Prevents the driver of a motor vehicle from having a clear and unobstructed view of traffic control signs or devices or approaching or merging traffic.

(3) Contains, includes or is illuminated by any flashing, intermittent, revolving, rotating or moving light or moves or has any animated or moving parts. This subsection does not apply to:

(a) A traffic control sign or device.

(b) Signs or portions thereof with lights that may be changed at intermittent intervals by electronic process or remote control that are not outdoor advertising signs.

(c) A tri-vision sign, except that a tri-vision sign may not be illuminated by any flashing, intermittent, revolving, rotating or moving lights.

(4) Has any lighting, unless such lighting is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a state highway, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of a motor vehicle or otherwise to interfere with the operation thereof.

(5) Is located upon a tree, or painted or drawn upon a rock or other natural feature.

(6) Advertises activities that are illegal under any state or federal law applicable at the location of the sign or of the activities.

(7) Is not maintained in a neat, clean and attractive condition and in good repair.

(8) Is not able to withstand a wind pressure of 20 pounds per square foot of exposed surface.

(9) Is on a vehicle or trailer that is located on public or private property. This subsection does not apply to a vehicle or trailer used for transportation by the owner or person in control of the property. [1971 c.770 §15; 1973 c.790 §3; 1977 c.256 §2; 1981 c.392 §1; 1999 c.877 §4; 2007 c.199 §8]

ORS 377.740: Local jurisdiction concurrent

377.740 ORS 377.700 to 377.840 not intended to authorize signs prohibited by other governmental units. Nothing in ORS 377.700 to 377.840 and 377.992 is intended to permit a person to erect or maintain any sign that is prohibited by any governmental unit. [1971 c.770 §25]

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: December 12, 2011

Originating Dept: Planning

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

Subject: Ordinance amending subsection A of Section 17.88.030, Application, amending Subsection B of Section 17.88.040, Exempt signs, and deleting subsection E and H of Section 17.88.040, of Title 17, Land Development Code, of the Brookings Municipal Code.

Recommended Motion: Motion to adopt Ordinance 11-O-683.

Financial Impact: None.

Background/Discussion: Revisions to this section were heard by the City Council at their August 22, 2011, November 7, 2011 workshop, and December 12, 2011 meeting. They were approved by the City Council at their December 12, 2011 meeting.

Policy Considerations: N/A

Attachment(s): Attachment A – Adopting Ordinance 11-O-683.

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

ORDINANCE 11-O-683

AN ORDINANCE AMENDING SUBSECTIONS 17.88.030(A) AND 17.88.040(B), AND DELETING SUBSECTIONS 17.88.040(E) AND (H), OF BROOKINGS MUNICIPAL CODE CHAPTER 17.88, SIGN REGULATIONS, TITLE 17, LAND DEVELOPMENT CODE.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Subsection 17.88.030(A).
- Section 3. Amends Subsection 17.88.040(B).
- Section 4. Deletes Subsections 17.88.040(E) and (H).

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends subsections 17.88.030(A), and 17.88.040(B), and deletes subsections 17.88.040(E) and (H) of Brookings Municipal Code Chapter 17.88, Sign Regulations, Title 17, Land Development Code.

Section 2. Amends Subsection 17.88.030(A): Subsection 17.88.030(A) is amended to read as follows:

A. For all areas of the city, a sign permit must be obtained before any sign, except those specifically exempted, is erected, placed, painted, constructed, carved or otherwise given public exposure. Any alteration of an existing sign must also first obtain a permit (see definition of “alter”). The sign permit application may be filed as a part of a larger application or separately. Applications shall be filed with the city manager or their designee, on an appropriate form in a manner prescribed by the city, accompanied by a sign permit application fee in the amount established by general resolution of the city council. A sign permit shall be issued only after a determination by the city manager, or their designee, that the proposed sign is in compliance with all provisions of this chapter. All signs visible from Hwy 101/Chetco Avenue are required to be reviewed and approved by Oregon Department of Transportation (ODOT). Staff will submit these applications to ODOT and advise the Applicant of their decision.

Section 3. Amends Subsection 17.88.040 (B): Subsection 17.88.040(B) is amended to read as follows:

B. Temporary signs displaying non-commercial messages for events, including but not limited to elections, public meetings or events of a general city-wide civic or public benefit. These signs shall not be displayed for more than 60 days prior to the beginning of the event and must be removed within seven days following the conclusion of the event.

Section 4. Deletes Subsections 17.88.040(E) and (H). Subsections 17.88.040(E) and (H) are hereby deleted.

First Reading: _____

Second Reading: _____

Passage: _____

Effective Date: _____

Signed by me in authentication of its passage this _____, day of _____, 2011

ATTEST:

Mayor Larry Anderson

City Recorder Joyce Heffington

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: December 12, 2011

Originating Dept: Planning

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

Subject: A hearing on File LDC-2-11 for consideration of revisions to the corner vision requirements for commercial driveways in Chapter 17.92 Off-Street Parking and Loading Regulations, Brookings Municipal Code (BMC).

Recommended Motion: A motion approving revisions to the corner vision requirements for commercial driveways in Chapter 17.92 Off-Street Parking and Loading Regulations, BMC. Direct Staff to prepare a draft adopting ordinance for your review at the January 9, 2012 meeting.

Financial Impact: None.

Background/Discussion: The Council conducted a hearing on August 22, 2011 to consider revisions to Subsection E, Vision Clearance, of Section 17.92.100, Development and maintenance standards for off-street parking areas, of the Brookings Municipal Code. Staff presented the report, Council had some discussion, and made the decision that the current requirements were sufficient. Several Councilors then approached Staff with questions and concerns on this matter which prompted a revisit at the November 7, 2011 workshop. Staff was directed to determine accidents that have occurred as a result of corner visions restrictions. Staff contacted the Police Department and was advised that statistics are not compiled by cause of accident. As directed by Council, language has been inserted to require that "No Parking Signs" be installed on each side of the commercial driveway. This could only be a requirement when a new driveway is constructed or when a use is expanded to the extent that additional parking or street improvements are required.

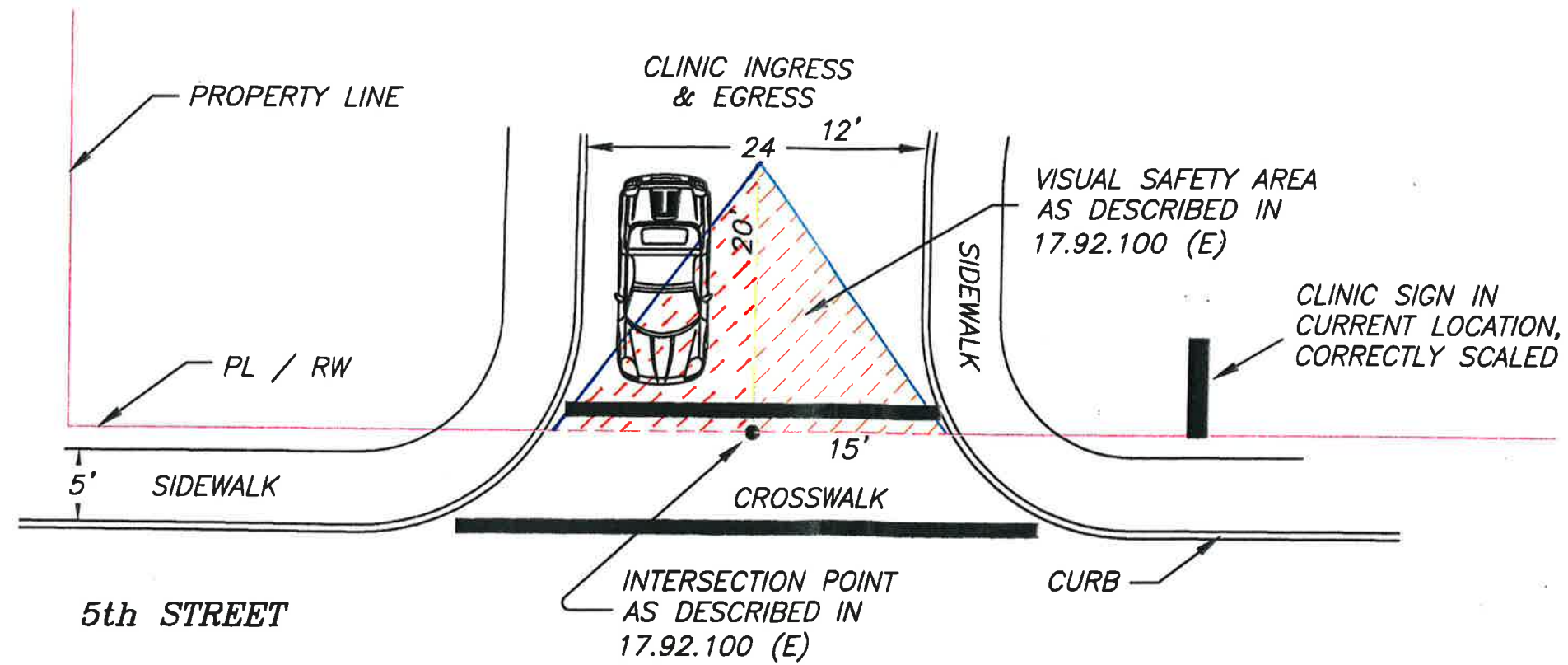
The first diagram (Attachment A) shows the current corner vision area as required in 17.92.100(E). The second diagram (Attachment B) shows the vision area as proposed at the August Council meeting. The third diagram (Attachment C) shows the vision area using the nationally accepted standards by American Association of State Highway and Transportation Officials (AASHTO) for sight distance. These national standards are used by Oregon Department of Transportation.

The Planning Commission reviewed the draft revisions as shown in Attachment B at their August 2, 2011 meeting and recommended approval.

Policy Considerations: N/A

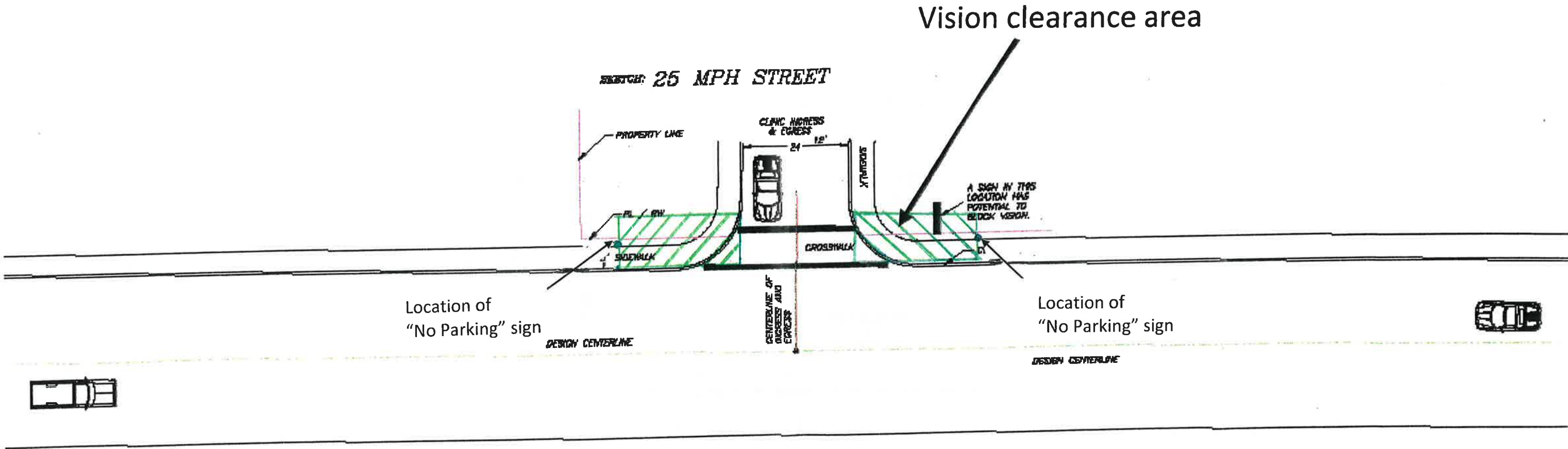
Attachment(s):

- A – Diagram of current corner vision 17.92.100(E)
- B – Diagram of vision area as proposed at City Council meeting
- C – Diagram of vision area using sight distance standards
- D – Current code sections relevant to this revision
- E – Suggested options for revised text

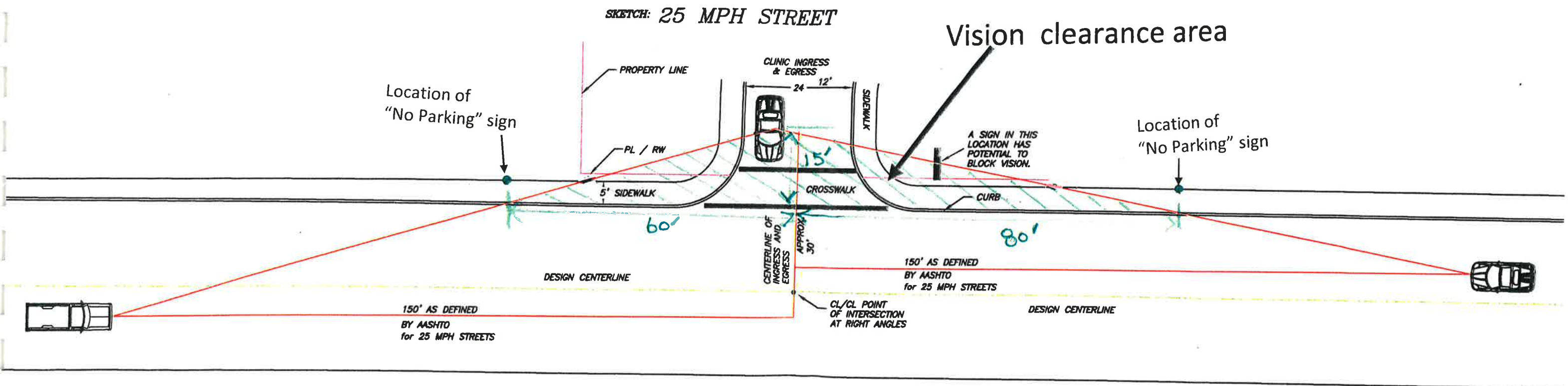


Area proposed for vision clearance at 08-22-11 hearing

Attachment B



Attachment C



Chapter 17.08
BMC 17.08.030 C terms

Definitions

Attachment D

"Commercial service drive" means an accessway for a shopping center containing four or more businesses having common parking areas.

Chapter 17.92
BMC 17.92.100 Development and maintenance standards for off-street parking areas.

Off Street Parking and Loading Regulations

E. Vision Clearance. Commercial service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and straight lines connecting a point on the driveway 20 feet from their intersection and 15 feet in both directions along the property line. Corner vision clearance requirements are found in BMC 17.128.040.

Chapter 17.128
BMC 17.128.040 Vision obstruction and vision clearance area.

Interpretations and Exceptions

A. Nothing in this code shall be deemed to permit a sight obstruction within any required yard area along any street or at a street or alley intersection interfering with the view of operators of motor vehicles or pedestrians on streets or alleys to such an extent as to constitute a traffic hazard. Violations of these requirements will be subject to Chapter 17.160 BMC, Enforcement and Penalties.

B. Vision clearance areas shall be located on the corners of properties abutting the intersections of two or more streets and intersections of streets with alleys. A vision clearance area shall consist of a triangular area measured from the corner of the intersecting property lines for a distance specified in this regulation. The third side of the triangle is a line across the corner of the lot joining the nonintersecting ends of the other two sides. The following are minimum distances establishing the two sides of the triangle:

1. In a residential district the distance shall be 20 feet along each property line from the point of intersection of two or more streets. For the intersection of a street and an alley, measure 10 feet along the property line adjacent to both the street and alley.

2. In all commercial and industrial zones where yards are required, the distance shall be 15 feet along each property line from the point of intersection of two or more streets. At the intersection of a street and an alley, measure 10 feet along the property line adjacent to both the street and alley.

C. A vision clearance area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three feet in height, measured from the top of the curb, or street centerline grade, whichever shall be lower. Trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above grade.

[Ord. 08-O-617 § 2; Ord. 89-O-446 § 1. Formerly 17.128.050.]

Proposed text from 08-22-11 hearing with "No Parking" signs:

E. Vision Clearance. Commercial ~~service drives accesses~~ shall have a **rectangular vision clearance area** measured from the intersection of the **face of the curb or pavement edge of the driveway and the face of the curb or pavement edge of centerline, the street.** ~~This rectangular area shall be calculated by measuring 25 feet along the street frontage and 10 feet along the drive. right-of-way line, and straight lines connecting a point on the driveway 20 feet from their intersection and 15 feet in both directions along the property line.~~ **Two (2) "No Parking" signs, one on each side of the driveway, shall be installed at the point where the corner vision area ends adjacent to the back of the sidewalk or the edge of paving.** Corner vision clearance requirements are found in BMC 17.128.040.

Proposed text using nationally accepted standards for sight distance with "No Parking" signs:

E. Vision Clearance. Commercial ~~service drives accesses~~ shall have a **triangular vision clearance area** measured from the intersection of the **centerline of the driveway and the face of the curb or pavement edge of centerline, the street.** ~~This triangular area to the driver's left of a vehicle exiting the driveway shall be calculated by measuring 80 feet along the street frontage and 15 feet along the centerline of the driveway. The triangular area to the driver's right shall be calculated by measuring 60 feet along the street frontage and 15 feet along the centerline of the driveway. right-of-way line, and straight lines connecting a point on the driveway 20 feet from their intersection and 15 feet in both directions along the property line.~~ **Two (2) "No Parking" signs, one on each side of the driveway, shall be installed at the point where the corner vision area ends adjacent to the back of the sidewalk or the edge of paving.** Corner vision clearance requirements are found in BMC 17.128.040.



MEMORANDUM

Office of the City Manager

GARY MILLIMAN

City Manager

Credentialed City Manager
International City Management Association

TO: Mayor and Council
Cc: Janell Howard, Joyce Heffington

DATE: December 5, 2011

SUBJECT: Coos Curry Electric – Additional Information

The attached “position paper” was delivered today by CCEC General Manager Roger Meader.

While Meader was here, I asked him about the \$457,000 that County Budget Committee Chair John Spicer had reported that CCEC pays to Curry County in the form of a franchise fee. Spicer included “CCEC franchise” revenues in his presentation at the Curry Citizens Committee last week.

Meader said that the subject amount was not a franchise fee, but a “Gross Revenue Tax” that is paid to the State of Oregon and then returned to counties and school districts. Meader said that the amount of Gross Revenue Tax is calculated based upon the following formula:

TOTAL REVENUE minus COST OF POWER times 4.0 PER CENT

The amount of tax paid to the State is then remitted 66 per cent to counties and 33 per cent to school districts.

Meader said that the Gross Revenue Tax is paid in lieu of an income tax; unlike a private utility, CCEC (as a non-profit cooperative) pays no income tax.

December 12, 2011

City council statement – Mayor Anderson & council – staff report #3

- I. SR Suggested motion – that lease payments be suspended until the water situation is solved.
 - a. Also – discussion should start to determine what lease payments should be following that action.
- II. City Staff Suggested motion – to charge TCG \$15K for 2012 lease payment
 - a. The golf course does not have the ability to pay this amount – council has seen the evidence that course has not made a profit since it opened in 2000.
 - b. The course has many challenges going forward
 - i. Water – there still is not permanent water plan. In the letter to Mayor Sherman dated Jan. 5, 2007 we stated: “The need to have a firm plan is paramount to our proceeding with business at the golf course. As you can understand, without water, the golf course cannot exist. Any plans we have for improvements or even sustaining operations is in question without a water plan.” The course has never been “finished” because of this problem.
 - ii. Economy – The course was at a break-even point in 2007, but the slumping economy has eroded our rounds and revenue numbers. Our equipment is getting older, the course needs work, all of these items need added investment.
 - iii. Location – NGF has reported that the number one reason a golfer chooses a course is how far it is from his/her front door. Population is a major factor, and we have started working on the plan to turn Salmon Run into a destination resort. We are still looking into this, but it faces the same hindrance as other major improvements: water.
- III. City Staff suggested use for the \$15K lease payment – hire a consultant
 - a. Salmon Run has had input from many outside sources, including a consultant, OB Sports, in April of this year. The first comment in their report is, “There is no one item that is more important than securing a **PERMANENT WATER SOURCE**. It is almost inconceivable that the golf course could have been built, opened and has been operating under the premise of a temporary water solution. The entire investment hinges on the consistent availability of water and could fail within days with any major interruption. This issue must be solved immediately and needs the cooperation of all parties involved. Salmon Run is a regional asset. It is the only golf experience in the area and serves the southwest coast for all golfing needs. Even for those non-golfers, it is one of the things that makes a community whole.” This statement confirms TCG’s view that no substantial investment should be made until the water is taken care of, and that has been the case for the past 10 years.
 - b. Salmon Run has considered other resources to improve the management of the course. There are many people in the area who are qualified, for example, recently a marketing

consultant in town that has offered services to the course for free, many club pro's and managers in are willing to give their opinions and help, and some of the professional organizations like NGF, the PGA, and USGA are willing to provide information and guidance. They also have consulting arms that may be helpful in the future, at a reasonable cost.

IV. The city's view of the course

- a. In Mr. Milliman's report on other courses he states that' "a number of city managers commented that they are happy to have a golf course that does not require a city general fund subsidy for operations." And , "Few consider a golf course a revenue source." Those that he reported on that did receive funds were in areas with a much larger population base than Brookings.
- b. The city was donated the land by South Coast Lumber company for the purpose of building a golf course. I don't think it was ever intended to be a revenue source.
- c. The city needs to decide what the course is to this community. Is it an "economic development marketing amenity"? is it part of the city's recreation program? Even at the full lease payment amount, it is a poor revenue source.

V. Closing

- a. I believe we have talented people in this room that can work together to come up with a plan that will work for everyone. Charging TCG to do another study to make up the city's mind is not the best solution. It will just cost the city more staff time and we waste time and resources that could be used for improvements and solving the real problems for the course.
- b. The council should make a motion to suspend lease payments until the water situation is solved and discussions should start to determine what lease payments should be in the future.