

Advance Packet

Dated: 4-17-09

for

Monday, April 27, 2009, Council Meeting

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

PUBLIC HEARINGS AND ORDINANCES

- A. Public hearing: In the matter of File No. **CP-1-09**, a proposed amendment to the City's Comprehensive Plan, and an amendment to Chapter 15.15, Flood Damage Prevention of the Brookings Municipal Code, City initiated. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the City Council will make a decision. *Page 3*
- B. Ordinance: In the matter of Ordinance **09-O-634**, an ordinance adopting revisions to Goal 7 of the City of Brookings Comprehensive Plan, and amending, in its entirety, Chapter 15.15, Flood Damage Prevention, of Title 15, Building and Construction, of the Brookings Municipal Code. *Page 35*
- C. Public hearing: In the matter of File No. **LDC-2-09**, an amendment to Chapter 17.04-Development Permit Procedures, of the Brookings Municipal Code, City initiated. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the City Council will make a decision. *Page 53*
- D. Ordinance: In the matter of Ordinance **09-O-632**, an ordinance amending Chapter 17.04, Development Permit Procedures, of Title 17, Land Development Code, of the Brookings Municipal Code, in its entirety. *Page 59*
- E. Public hearing: In the matter of File No. **LDC-3-09**, an amendment to Chapter 17.140-Amendments, of the Brookings Municipal Code. City initiated. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the City Council will make a decision. *Page 65*
- F. Ordinance: In the matter of Ordinance **09-O-631**, an ordinance amending Chapter 17.140, Amendments, of Title 17, Land Development Code, of the Brookings Municipal Code, in its entirety. *Page 75*
- G. Public hearing: In the matter of File No. **LDC-5-09**, a proposed amendment to Chapter 17.28, Multiple-Family Residential (R-3) District, of the Brookings Municipal Code City, initiated. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the City Council will make a decision. *Page 81*
- H. Ordinance: In the matter of Ordinance **09-O-633**, an ordinance adding Section 17.28.020 (D), Permitted Uses, to Chapter 17.28, Multi-family Residential (R-3), of Title 17, Land Development Code, of the City of Brookings Municipal Code. *Page 85*
- I. Ordinance: In the Matter of Ordinance **09-O-630**, an ordinance amending Chapter 2.65, Traffic Safety Committee, of Title 2, Administration and Personnel, of the Brookings Municipal Code, in its entirety. *Page 89*

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Submitted by:

Laurie May

Originating Dept: Building

City Manager:

[Signature]

Subject:

Revisions to Chapter 15.15, Flood Damage Prevention Brookings Municipal Code (BMC) and revisions to Goal 7 of the Comprehensive Plan.

Recommended Motion:

Motion to approve the revisions to Chapter 15.15, Flood Damage Prevention, BMC and Goal 7 of the Comprehensive Plan.

Financial Impact:

None

Background/Discussion:

Updates in mapping and flood insurance studies by FEMA require that we update our Ordinance and Municipal Code to reflect the newest studies. Additionally, FEMA has changed an elevation requirement relating to Manufactured Dwellings, added restrictions to flood way development and added language to permit stream habitat restoration. These changes need to be incorporated into our Code and Ordinance. The State of Oregon requested that local jurisdictions utilize a Statewide Model Ordinance as we are doing revisions at this time. The original BMC 15.15 used formatting that gave each definition its own section number, the Chapter has been renumbered after including all definitions under one section.

Policy Considerations:

None

Attachment(s):

Attachment A – proposed Chapter 15, Flood Damage Prevention, BMC

Attachment B – current Chapter 15, Flood Damage Prevention, BMC

Attachment C – Change to Goal 7, Comprehensive Plan

Chapter 15.15

FLOOD DAMAGE PREVENTION

Sections:

- 15.15.010 Statutory authorization
- 15.15.020 Findings of fact
- 15.15.030 Statement of purpose
- 15.15.040 Methods of reducing flood losses
- 15.15.050 Definitions
- 15.15.060 Lands to which this ordinance applies
- 15.15.070 Basis for establishing the areas of special flood hazard
- 15.15.080 Penalties for noncompliance
- 15.15.090 Abrogation and greater restrictions
- 15.15.100 Interpretation
- 15.15.110 Warning and disclaimer of liability
- 15.15.120 Severability
- 15.15.130 Development permit required
- 15.15.140 Application for Development permit
- 15.15.150 Designation of the City Manager
- 15.15.160 Duties and responsibilities of the City Manager
- 15.15.170 Use of Other Base Flood Data (In A Zones)
- 15.15.180 Information to be obtained and maintained
- 15.15.190 Alteration of watercourses
- 15.15.200 Interpretation of FIRM Boundaries
- 15.15.210 Appeal Board
- 15.15.220 Conditions for variances
- 15.15.230 Provisions for flood hazard reduction
- 15.15.240 Specific standards
- 15.15.250 Before regulatory floodway
- 15.15.260 Floodways
- 15.15.270 Critical facility

15.15.010 STATUTORY AUTHORIZATION

The State of Oregon has in Article XI, Section 2 of the Oregon Constitution delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Brookings, does ordain as follows:

15.15.020 FINDINGS OF FACT

- (1) The flood hazard areas of the City of Brookings are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

15.15.030 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.15.040 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

15.15.050 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"APPEAL" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

"AREA OF SPECIAL FLOOD HAZARD" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A.

"BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letter A.

"BASEMENT" means any area of the building having its floor subgrade (below ground level) on all sides.

"CRITICAL FACILITY" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

"ELEVATED BUILDING" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FLOOD" OR "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

"FLOOD INSURANCE RATE MAP (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

"FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section **15.15.240 (1B)**.

"MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"NEW MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

"RECREATIONAL VEHICLE" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"START OF CONSTRUCTION" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"STRUCTURE" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"SUBSTANTIAL DAMAGE" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"VARIANCE" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"WATER DEPENDENT" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

15.15.060 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Brookings.

15.15.070 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Curry County and incorporated areas ," dated September 29, 2008, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at 898 Elk Drive. The best available information for flood hazard area identification as outlined in Section **15.15.170** shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section **15.15.170**

15.15.080 PENALTIES FOR NONCOMPLIANCE

As per Brookings Municipal Code Section 1.05.010.

15.15.090 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.15.100 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit or repeal any other powers granted under State statutes.

15.15.110 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance

shall not create liability on the part of the City of Brookings, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

15.15.120 SEVERABILITY

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

15.15.130 DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section **15.15.070**. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

15.15.140 APPLICATION FOR DEVELOPMENT PERMIT

Application for a development permit shall be made on forms furnished by the Building Department and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section **15.15.240 (2)**; and

- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

15.15.150 DESIGNATION OF THE CITY MANAGER

The City Manager, or his designee, is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

15.15.160 DUTIES AND RESPONSIBILITIES OF THE CITY MANAGER

Duties of the City manager or his designee shall include, but not be limited to permit review as follows:

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section **15.15.260 (1)** are met.

15.15.170 USE OF OTHER BASE FLOOD DATA (In A Zones)

When base flood elevation data has not been provided (A Zones) in accordance with Section **15.15.070, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**, the **local administrator** shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections **15.15.240, SPECIFIC STANDARDS**, and **15.15.260 FLOODWAYS**.

15.15.180 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section **15.15.170**, obtain and record the

actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

- (2) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section **15.15.170**:
 - (i) Verify and record the actual elevation (in relation to mean sea level) to **which the structure was floodproofed**, and
 - (ii) Maintain the floodproofing certifications required in Section **15.15.140 (3)**.
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

15.15.190 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

15.15.200 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.15.210

15.15.210 APPEAL BOARD

- (1) The City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City of Brookings in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the City council, or any taxpayer, may appeal such decision to the District Court, as provided in Brookings Municipal Code 15.15.220.

(4) In passing upon such applications, the city Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (i) The danger that materials may be swept onto other lands to the injury of others;
- (ii) The danger to life and property due to flooding or erosion damage;
- (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The necessity to the facility of a waterfront location, where applicable;
- (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) The compatibility of the proposed use with existing and anticipated development;
- (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Upon consideration of the factors of Section **15.15.210 (4)** and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(6) The Building Department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

15.15.220 CONDITIONS FOR VARIANCES

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section **15.15.210 (4)**

have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as **identified in 15.15.210 (4)**, or conflict with existing local laws or ordinances.
- (6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except **15.15.210 (1)**, and otherwise complies with **Section 15.15.230 (1)**.
- (8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

15.15.230 PROVISIONS FOR FLOOD HAZARD REDUCTION

In all areas of special flood hazards, the following standards are required:

1. Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision

proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

5. Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (**Section 15.15.170**), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

15.15.240 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30 and AE) as set forth in **Section 15.15.070**, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or **Section 15.15.170**, Use of Other Base Flood Data (In A Zones), the following provisions are required:

1. Residential Construction

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.

(B) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (A) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (C) Be certified by a registered professional **engineer** or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in **Section 15.15.180 (2)**;
- (D) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in **15.15.240 (B)**;
- (E) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below **the base flood level**).

3. Manufactured Homes

(1) All manufactured homes to be placed or substantially improved on sites:

- (i) Outside of a manufactured home park or subdivision,
- (ii) In a new manufactured home park or subdivision,
- (iii) In an expansion to an existing manufactured home park or subdivision, or
- (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated **to a minimum of 18 inches (46 cm) above** the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30 and AE

on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

- (i) The lowest floor of the manufactured home is **18 inches (46 cm)** above the base flood elevation, or
- (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles

Recreational vehicles placed on sites are required to either:

- (i) Be on the site for fewer than 180 consecutive days,
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (iii) Meet the requirements of **15.15.240 (3)** above and the elevation and anchoring requirements for manufactured homes.

15.15.250 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

15.15.260 FLOODWAYS

Located within areas of special flood hazard established in **Section 15.15.070** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) **Except as provided in paragraph (3)**, prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Section (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section **15.15.230, PROVISIONS FOR FLOOD HAZARD REDUCTION.**

(3) Projects for stream habitat restoration may be permitted in the floodway provided:

(i) The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,

(ii) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,

(iii) No structures would be impacted by a potential rise in flood elevation; and,

(iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(4) New installation of manufactured dwellings are prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:

(i) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or

(ii) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria

(iii) As required by **44 CFR Chapter 1, Subpart 60.3(d)(3)**, it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;

(iv) The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map;

(v) The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;

(vi) The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;

(vii) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and

(viii) Any other requirements deemed necessary by the authority having jurisdiction.

15.15.270 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by

or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Chapter 15.15**FLOOD DAMAGE PREVENTION****Sections:****Article I. Statutory Authorization, Findings of Fact, Purpose, and Objectives**

- 15.15.010 Statutory authorization.
- 15.15.020 Findings of fact.
- 15.15.030 Statement of purpose.
- 15.15.040 Methods of reducing flood losses.

Article II. Definitions

- 15.15.050 Generally.
- 15.15.060 Appeal.
- 15.15.070 Area of shallow flooding.
- 15.15.080 Area of special flood hazard.
- 15.15.090 Base flood.
- 15.15.100 Breakaway wall.
- 15.15.110 Coastal high hazard area.
- 15.15.120 Development.
- 15.15.130 Flood – Flooding.
- 15.15.140 Flood Insurance Rate Map (FIRM).
- 15.15.150 Flood Insurance Study.
- 15.15.160 Floodway.
- 15.15.170 Lowest floor.
- 15.15.180 Manufactured home.
- 15.15.190 Manufactured home park or subdivision.
- 15.15.200 New construction.
- 15.15.210 Start of construction.
- 15.15.220 Structure.
- 15.15.230 Substantial improvement.
- 15.15.240 Variance.

Article III. General Provisions

- 15.15.250 Lands to which this chapter applies.
- 15.15.260 Basis for establishing the areas of special flood hazard.
- 15.15.270 Penalties for noncompliance.
- 15.15.280 Abrogation and greater restrictions.
- 15.15.290 Interpretation.
- 15.15.300 Warning and disclaimer of liability.

Article IV. Administration

- 15.15.310 Development permit required.
- 15.15.320 Application for development permit.
- 15.15.330 City manager – Designation.

- 15.15.340 City manager – Duties and responsibilities.
- 15.15.350 Variances – Appeal board.
- 15.15.360 Variances – Conditions.

Article V. Provisions for Flood Hazard Reduction

- 15.15.370 General standards.
- 15.15.380 Anchoring.
- 15.15.390 Construction materials and methods.
- 15.15.400 Utilities.
- 15.15.410 Subdivision proposals.
- 15.15.420 Review of building permits.
- 15.15.430 Specific standards.
- 15.15.440 Residential construction.
- 15.15.450 Nonresidential construction.
- 15.15.460 Manufactured homes.
- 15.15.470 Floodways.
- 15.15.480 Coastal high hazard areas.
- 15.15.490 Standards for shallow flooding areas (AO zones).

Article I. Statutory Authorization, Findings of Fact, Purpose, and Objectives**15.15.010 Statutory authorization.**

The Legislature of the State of Oregon has in ORS 92.046 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city of Brookings, Oregon ordains as set forth in this chapter. [Ord. 87-O-412 § 1.1.]

15.15.020 Findings of fact.

A. The flood hazard areas of Brookings are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. [Ord. 87-O-412 § 1.2.]

15.15.030 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. [Ord. 87-O-412 § 1.3.]

15.15.040 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas. [Ord. 87-O-412 § 1.4.]

Article II. Definitions**15.15.050 Generally.**

Unless specifically defined in this article, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. [Ord. 87-O-412 § 2.0.]

15.15.060 Appeal.

"Appeal" means a request for a review of the city manager's interpretation of any provision of this chapter or a request for a variance. [Ord. 87-O-412 § 2.0.]

15.15.070 Area of shallow flooding.

"Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. [Ord. 87-O-412 § 2.0.]

15.15.080 Area of special flood hazard.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V. [Ord. 87-O-412 § 2.0.]

15.15.090 Base flood.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V. [Ord. 87-O-412 § 2.0.]

15.15.100 Breakaway wall.

"Breakaway wall" means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. [Ord. 87-O-412 § 2.0.]

15.15.110 Coastal high hazard area.

"Coastal high hazard area" means the area subject to high velocity waters, including but not limited to, storm surge or tsunamis. The area is designated on the FIRM as Zone V1-V30, VE or V. [Ord. 87-O-412 § 2.0.]

15.15.120 Development.

"Development" means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard. [Ord. 87-O-412 § 2.0.]

15.15.130 Flood – Flooding.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal water; and/or
- B. The unusual and rapid accumulation of runoff of surface waters from any source. [Ord. 87-O-412 § 2.0.]

15.15.140 Flood Insurance Rate Map (FIRM).

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. [Ord. 87-O-412 § 2.0.]

15.15.150 Flood Insurance Study.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood. [Ord. 87-O-412 § 2.0.]

15.15.160 Floodway.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [Ord. 87-O-412 § 2.0.]

15.15.170 Lowest floor.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at BMC 15.15.440(B). [Ord. 87-O-412 § 2.0.]

15.15.180 Manufactured home.

"Manufactured home" means a structure, transportable in one or more sections, which is built on

a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. [Ord. 87-O-412 § 2.0.]

15.15.190 Manufactured home park or subdivision.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. [Ord. 87-O-412 § 2.0.]

15.15.200 New construction.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter. [Ord. 87-O-412 § 2.0.]

15.15.210 Start of construction.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on the site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. [Ord. 87-O-412 § 2.0.]

15.15.220 Structure.

"Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground. [Ord. 87-O-412 § 2.0.]

15.15.230 Substantial improvement.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the

cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. [Ord. 87-O-412 § 2.0.]

15.15.240 Variance.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. [Ord. 87-O-412 § 2.0.]

Article III. General Provisions

15.15.250 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Brookings. [Ord. 87-O-412 § 3.1.]

15.15.260 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Brookings" dated September 18, 1985, with accompanying flood insurance maps is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at City Hall. [Ord. 87-O-412 § 3.2.]

15.15.270 Penalties for noncompliance.

Pursuant to Chapter 1.05 BMC. [Ord. 07-O-588 § 5; Ord. 87-O-412 § 3.3.]

15.15.280 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or

deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 87-O-412 § 3.4.]

15.15.290 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. [Ord. 87-O-412 § 3.5.]

15.15.300 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Brookings, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. [Ord. 87-O-412 § 3.6.]

Article IV. Administration

15.15.310 Development permit required.

A development permit shall be obtained before construction or development begins within any

area of special flood hazard established in BMC 15.15.260. The permit shall be for all structures including manufactured homes, as set forth in Article II of this chapter, Definitions, and for all development including fill and other activities, also as set forth in Article II. [Ord. 87-O-412 § 4.1-1.]

15.15.320 Application for development permit.

Application for a development permit shall be made on forms furnished by the city of Brookings and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

B. Elevation in relation to mean sea level to which any structure has been floodproofed;

C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in BMC 15.15.450; and

D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. [Ord. 87-O-412 § 4.1-2.]

15.15.330 City manager – Designation.

The city manager is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. [Ord. 87-O-412 § 4.2.]

15.15.340 City manager – Duties and responsibilities.

Duties of the city manager shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

2. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of BMC 15.15.470(A) are met.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with BMC 15.15.260, Basis for establishing the areas of special flood hazard, the city manager shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer BMC 15.15.430 et seq., Specific standards, and BMC 15.15.470, Floodways.

C. Information to Be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (B) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed structures:

i. Verify and record the actual elevation (in relation to mean sea level); and

ii. Maintain the floodproofing certifications required in BMC 15.15.320(C).

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Corps of Engineers prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in BMC 15.15.350 and 15.15.360. [Ord. 87-O-412 § 4.3.]

15.15.350 Variances – Appeal board.

A. The city council as established by the city of Brookings shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by

the city manager in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the city council may appeal such decision to the district court.

D. In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Upon consideration of the factors of subsection (D) of this section and the purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The city manager shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. [Ord. 87-O-412 § 4.4-1.]

15.15.360 Variances – Conditions.

A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improve-

ments to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in BMC 15.15.350(D)(1) through (11) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; providing, that the hardship was not caused by any act or omission of the applicant;

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in BMC 15.15.350(D), or conflict with existing local laws or ordinances.

F. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to the physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (A) of this section, and otherwise complies with BMC 15.15.380 and 15.15.390.

H. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with

the increased risk resulting from the reduced lowest floor elevation. [Ord. 87-O-412 § 4.4-2.]

Article V. Provisions for Flood Hazard Reduction

15.15.370 General standards.

In all areas of special flood hazards, the standards in BMC 15.15.380 through 15.15.420 are required. [Ord. 87-O-412 § 5.1.]

15.15.380 Anchoring.

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

B. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). [Ord. 87-O-412 § 5.1-1.]

15.15.390 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction and substantial improvements shall be constructed using methods and practices that can be shown to eliminate flood damage.

C. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other utility and service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. [Ord. 87-O-412 § 5.1-2.]

15.15.400 Utilities.

A. All new and replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the system;

B. New and replacement sanitary sewage systems shall be designed to eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. [Ord. 87-O-412 § 5.1-3.]

15.15.410 Subdivision proposals.

A. All subdivision proposals shall be consistent with the need to eliminate flood damage;

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to eliminate flood damage;

C. All subdivision proposals shall have adequate drainage provided to eliminate flood damage; and

D. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less). Such data shall be prepared and certified by a registered professional engineer. [Ord. 87-O-412 § 5.1-4.]

15.15.420 Review of building permits.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (BMC 15.15.340(B)), applications for building permits may be received to assure that proposed construction will be reasonably safe from flooding. [Ord. 87-O-412 § 5.1-5.]

15.15.430 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in BMC 15.15.260, Basis for establishing the areas of special flood hazard or BMC 15.15.340(B), Use of other base flood data, the provisions of BMC 15.15.440 through 15.15.460 are required. [Ord. 87-O-412 § 5.2.]

15.15.440 Residential construction.

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above base flood elevation.

B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters. [Ord. 06-O-575; Ord. 87-O-412 § 5.2-1.]

15.15.450 Nonresidential construction.

New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:

A. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

C. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in BMC 15.15.340(C)(2).

D. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in BMC 15.15.440(B).

E. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level). [Ord. 06-O-575; Ord. 87-O-412 § 5.2-2.]

15.15.460 Manufactured homes.

All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of BMC 15.15.380(B). [Ord. 06-O-575; Ord. 87-O-412 § 5.2-3.]

15.15.470 Floodways.

Located within areas of special flood hazard established in BMC 15.15.260 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article. [Ord. 87-O-412 § 5.3.]

15.15.480 Coastal high hazard areas.

Located within areas of special flood hazard established in BMC 15.15.260 are coastal high hazard areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

A. All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood level; and

2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval).

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (A)(1) and (A)(2) of this section.

B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member

of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

C. All new construction shall be located landward of the reach of mean high tide.

D. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval).

E. If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

F. The use of fill for structural support of buildings is prohibited.

G. Manmade alteration of sand dunes which would increase potential flood damage is prohibited. [Ord. 06-O-575; Ord. 87-O-412 § 5.4.]

15.15.490 Standards for shallow flooding areas (AO zones).

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet

where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified).

B. New construction and substantial improvements of nonresidential structures within AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in BMC 15.15.450(C).

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. [Ord. 87-O-412 § 5.5.]

Text to be added is ***bold and italicized***.

Text to be omitted has ~~strikethrough~~.

GOAL 7 AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

GOAL:

To protect life and property from natural disasters and hazards.

FINDINGS:

1. Because of the steep terrain, sandy soil conditions and number of waterways that flow through the Brookings area, there are various areas that require careful handling if they are to be developed.
2. Many time actions can be taken to prevent damage or injury or to mitigate problems and, therefore, identification and consideration of geologic hazards is an appropriate part of the planning process.

POLICIES:

1. When development is located in areas of known natural hazards, the density or intensity of the development shall be limited by the degree of the natural hazard.
2. When development is planned in areas of identified hazards, the developer will be required to show that property development will not be endangered by the hazard and that appropriate safeguards will be taken.
3. The City will participate in the National Flood Insurance Program as well as consider methods to control streambanks erosion. Additional measures will include utilization of the authority of the building inspector to require a soils report and foundation design to safeguard construction in areas of questionable geologic hazards.

IMPLEMENTATION:

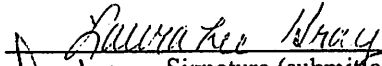

1. The City will utilize the Zoning Ordinance which specifically addresses development planned for known areas of natural hazards.
2. ~~The City will utilize the Flood Hazard Zone Ordinance, No. 347.~~ ***The City will utilize the Flood Damage Prevention Ordinance, No. 09-O-_____, adopted by the Brookings City Council on _____.***

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Originating Dept: Building


Signature (submitted by)

City Manager Approval

Subject: Adopting ordinance for approved revisions to Chapter 15.15, Flood Damage Prevention of the Brookings Municipal Code (BMC) and Goal 7 of the Brookings Comprehensive Plan.

Recommended Motion: Motion to approve Adopting Ordinance 09-O-634, revisions to Chapter 15.15, Flood Damage Prevention, BMC and revision to Goal 7 of the Brookings Comprehensive Plan.

Financial Impact: None

Background/Discussion: The revisions to Chapter 15.15 Flood Damage Prevention and Goal 7 of the Brookings Comprehensive Plan were approved by the City Council at their April 27, 2009 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 09-O-634.

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

ORDINANCE NO. 09-O-634

IN THE MATTER OF ORDINANCE 09-O-634, AN ORDINANCE ADOPTING REVISIONS TO GOAL 7 OF THE CITY OF BROOKINGS COMPREHENSIVE PLAN AND AMENDING, IN ITS ENTIRETY, CHAPTER 15.15, FLOOD DAMAGE PREVENTION, OF TITLE 15, BUILDING AND CONSTRUCTION, OF THE BROOKINGS MUNICIPAL CODE.

- Section 1. Ordinance Identified
- Section 2. Revises Goal 7 of the City of Brookings Comprehensive Plan
- Section 3. Amends Chapter 15.15, of the Brookings Municipal Code, in its entirety

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance adopts revisions to Goal 7 of the City of Brookings Comprehensive Plan, and amends, in its entirety, Chapter 15.15, Flood Damage Prevention, of Title 15, Building and Construction, of the Brookings Municipal Code.

Section 2. Amends Goal 7 of the City of Brookings Comprehensive Plan. Goal 7 of the City of Brookings Comprehensive Plan is hereby amended to read as follows:

GOAL 7 AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

GOAL:

To protect life and property from natural disasters and hazards.

FINDINGS:

1. Because of the steep terrain, sandy soil conditions and number of waterways that flow through the Brookings area, there are various areas that require careful handling if they are to be developed.
2. Many time actions can be taken to prevent damage or injury or to mitigate problems and, therefore, identification and consideration of geologic hazards is an appropriate part of the planning process.

POLICIES:

1. When development is located in areas of known natural hazards, the density or intensity of the development shall be limited by the degree of the natural hazard.
2. When development is planned in areas of identified hazards, the developer will be required to show that property development will not be endangered by the hazard and that appropriate safeguards will be taken.
3. The City will participate in the National Flood Insurance Program as well as consider methods to control stream banks erosion. Additional measures will include utilization of the authority of the building inspector to require a soils report

and foundation design to safeguard construction in areas of questionable geologic hazards.

IMPLEMENTATION:

1. The City will utilize the Zoning Ordinance which specifically addresses development planned for known areas of natural hazards.
 2. The City will utilize the Flood Damage Prevention Ordinance, No. 09-O-634, adopted by the Brookings City Council on April 27, 2009.
-

Section 3. Amends Chapter 15.15, of the Brookings Municipal Code, in its entirety:
Chapter 15.15, Flood Damage Prevention, is hereby amended to read as follows:

**Chapter 15.15
FLOOD DAMAGE PREVENTION**

Sections:

15.15.010 Statutory authorization
15.15.020 Findings of fact
15.15.030 Statement of purpose
15.15.040 Methods of reducing flood losses
15.15.050 Definitions
15.15.060 Lands to which this ordinance applies
15.15.070 Basis for establishing the areas of special flood hazard
15.15.080 Penalties for noncompliance
15.15.090 Abrogation and greater restrictions
15.15.100 Interpretation
15.15.110 Warning and disclaimer of liability
15.15.120 Severability
15.15.130 Development permit required
15.15.140 Application for Development permit
15.15.150 Designation of the City Manager
15.15.160 Duties and responsibilities of the City Manager
15.15.170 Use of Other Base Flood Data (In A Zones)
15.15.180 Information to be obtained and maintained
15.15.190 Alteration of watercourses
15.15.200 Interpretation of FIRM Boundaries
15.15.210 Appeal Board
15.15.220 Conditions for variances
15.15.230 Provisions for flood hazard reduction
15.15.240 Specific standards
15.15.250 Before regulatory floodway
15.15.260 Floodways
15.15.270 Critical facility

15.15.010 STATUTORY AUTHORIZATION.

The State of Oregon has in Article XI, Section 2 of the Oregon Constitution delegated

the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Brookings, does ordain as follows:

15.15.020 FINDING OF FACT.

- (1) The flood hazard areas of the City of Brookings are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

15.15.030 STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.15.040 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

15.15.050 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"APPEAL" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

"AREA OF SPECIAL FLOOD HAZARD" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A.

"BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letter A.

"BASEMENT" means any area of the building having its floor subgrade (below ground level) on all sides.

"CRITICAL FACILITY" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

"ELEVATED BUILDING" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FLOOD" OR "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

"FLOOD INSURANCE RATE MAP (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

"FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section **15.15.240 (1B)**.

"MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"NEW MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

"RECREATIONAL VEHICLE" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"START OF CONSTRUCTION" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"STRUCTURE" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"SUBSTANTIAL DAMAGE" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"VARIANCE" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"WATER DEPENDENT" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

15.15.060 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Brookings.

15.15.070 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Curry County and incorporated areas," dated September 29, 2008, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at 898 Elk Drive. The best available information for flood hazard area identification as outlined in Section **15.15.170** shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section **15.15.170**

15.15.080 PENALTIES FOR NONCOMPLIANCE

As per Brookings Municipal Code Section 1.05.010.

15.15.090 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.15.100 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit or repeal any other powers granted under State statutes.

15.15.110 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Brookings, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

15.15.120 SEVERABILITY

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or

unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

15.15.130 DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section **15.15.070**. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

15.15.140 APPLICATION FOR DEVELOPMENT PERMIT

Application for a development permit shall be made on forms furnished by the Building Department and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section **15.15.240 (2)**; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

15.15.150 DESIGNATION OF THE CITY MANAGER

The City Manager, or his designee, is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

15.15.160 DUTIES AND RESPONSIBILITIES OF THE CITY MANAGER

Duties of the City manager or his designee shall include, but not be limited to permit review as follows:

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section **15.15.260 (1)** are met.

15.15.170 USE OF OTHER BASE FLOOD DATA (In A Zones)

When base flood elevation data has not been provided (A Zones) in accordance with Section **15.15.070**, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the **local administrator** shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections **15.15.240**, SPECIFIC STANDARDS, and **15.15.260** FLOODWAYS.

15.15.180 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section **15.15.170**, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section **15.15.170**:
 - (i) Verify and record the actual elevation (in relation to mean sea level) **to which the structure was floodproofed**, and
 - (ii) Maintain the floodproofing certifications required in Section **15.15.140 (3)**.
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

15.15.190 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

15.15.200 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.15.210

15.15.210 APPEAL BOARD

- (1) The City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City of Brookings in the enforcement or administration of this ordinance.

- (3) Those aggrieved by the decision of the City council, or any taxpayer, may appeal such decision to the District Court, as provided in Brookings Municipal Code 15.15.220.
- (4) In passing upon such applications, the city Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) The importance of the services provided by the proposed facility to the community;
 - (v) The necessity to the facility of a waterfront location, where applicable;
 - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) The compatibility of the proposed use with existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of Section **15.15.210 (4)** and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) The Building Department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

15.15.220 CONDITIONS FOR VARIANCES

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section **15.15.210 (4)** have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as **identified in 15.15.210 (4)**, or conflict with existing local laws or ordinances.
- (6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except **15.15.210 (1)**, and otherwise complies with **Section 15.15.230 (1)**.
- (8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

15.15.230 PROVISIONS FOR FLOOD HAZARD REDUCTION

In all areas of special flood hazards, the following standards are required:

1. Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to

prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

5. Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (**Section 15.15.170**), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

15.15.240 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30 and AE) as set forth in **Section 15.15.070**, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or **Section 15.15.170**, Use of Other Base Flood Data (In A Zones), the following provisions are required:

1. Residential Construction

- (A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.
- (B) Fully enclosed areas below the lowest floor that are subject to flooding are

prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (A) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (C) Be certified by a registered professional **engineer** or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in **Section 15.15.180 (2)**;
- (D) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in **15.15.240 (B)**;
- (E) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below **the base flood level**).

3. Manufactured Homes

(1) All manufactured homes to be placed or substantially improved on sites:

- (i) Outside of a manufactured home park or subdivision,
- (ii) In a new manufactured home park or subdivision,
- (iii) In an expansion to an existing manufactured home park or subdivision, or
- (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated **to a minimum of 18 inches (46 cm) above the**

base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- (2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30 and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

- (i) The lowest floor of the manufactured home is **18 inches (46 cm)** above the base flood elevation, or
- (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles

Recreational vehicles placed on sites are required to either:

- (i) Be on the site for fewer than 180 consecutive days,
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (iii) Meet the requirements of **15.15.240 (3)** above and the elevation and anchoring requirements for manufactured homes.

15.15.250 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

15.15.260 FLOODWAYS

Located within areas of special flood hazard established in **Section 15.15.070** are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) **Except as provided in paragraph (3)**, prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) If Section (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section **15.15.230, PROVISIONS FOR FLOOD HAZARD REDUCTION**.
- (3) Projects for stream habitat restoration may be permitted in the floodway provided:
- (i) The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,
 - (ii) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 - (iii) No structures would be impacted by a potential rise in flood elevation; and,
 - (iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
- (4) New installation of manufactured dwellings are prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:
- (i) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or
 - (ii) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria
 - (iii) As required by **44 CFR Chapter 1, Subpart 60.3(d)(3)**, it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
 - (iv) The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map;
 - (v) The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;
 - (vi) The replacement manufactured dwelling, its foundation supports,

and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;

- (vii) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances;
and
- (viii) Any other requirements deemed necessary by the authority having jurisdiction.

15.15.270 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

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

Signed by me in authentication of its passage this _____, day of _____, 2009

ATTEST:

Mayor Larry Anderson

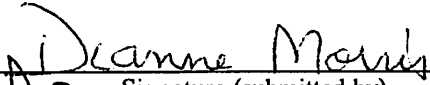
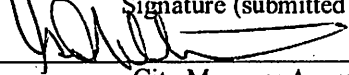
City Recorder Joyce Heffington

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Originating Dept: Planning


Signature (submitted by)

City Manager Approval

Subject: A hearing on File LDC-2-09 for consideration and possible adoption of revisions to Chapter 17.04, Development Permit Procedures, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.04, Development Permit Procedures, BMC.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee drafted revisions to Chapter 17.04, BMC. This Chapter discusses when permits are required, processing of these, resulting decisions etc. This is one of the first chapters in Title 17, Land Development Code, and contains general direction concerning processes.

Following are some of the highlights of the chapter:

- 17.04.030, "Burden of Proof", and 17.04.040, "Limitation on new applications", are stated elsewhere in the Code, but including them here as well, will help applicants to be aware of these important facts.
- 17.04.050, "Permit issuance, appeals of a City decision, and effective date of approval". This new language dealing with the effective date of approval is the result of a court case which states the approval period begins when the local jurisdiction makes its final decision regardless of appeals. If a jurisdiction has language as proposed in this revision, the approval period begins after all appeals are exhausted. Without this language the approval period could lapse while the applicant was in the appeals process.

Following this report is the draft version of Chapter 17.04, Development Permit Procedures, BMC (Attachment A).

Policy Considerations: N/A

Attachment(s): Draft version of Chapter 17.04, Development Permit Procedures

Chapter 17.04

DEVELOPMENT PERMIT PROCEDURES

Draft February 18, 2009

Text to be added is *bold and italicized*.

Sections:

- 17.04.010 Purpose.
- 17.04.020 Development permit required.
- 17.04.030 Burden of proof.*
- 17.04.040 Limitation on new applications.*
- 17.04.050 Permit issuance, *appeals of a City decision, and effective date of approval.*
- 17.04.060 Lands in violation.
- 17.04.070 Exemptions from requirements to do improvements to public infrastructure.
- 17.04.080 Preapplication conference.
- 17.04.090 Process and Decision

17.04.010 Purpose.

Development permits are issued to authorize the use and development of land consistent with the provisions of this code.

17.04.020 Development permit required.

No person shall engage in or cause the development of land for which a development permit has not been issued. Development permits shall be in a form prescribed by the city. Development permits are required for:

- A. Building permits; and/or
- B. Land use decisions; and/or
- C. Development on a hazardous building site as found in Chapter 17.100; and/or
- D. Other development requiring written authorization in this Code.

Making an application for a development permit is described in Chap. 17.80.030, Site Plan Approval, BMC or for hazardous building sites, Chapter 17.100.

17.04.030 Burden of proof.

In any land use decision, the burden of producing substantial evidence to demonstrate compliance with the applicable criteria is upon the applicant. If adequate evidence is not provided the application must be denied.

17.04.040 Limitation on new applications.

If a land use decision application is denied, said application shall not be eligible for resubmittal for one year from the date of said denial. In order to resubmit an application which has been denied within one year of the initial submittal, a new application affecting the same property must be, in the opinion of the Planning Director, substantially different from the application denied, or conditions must have changed to an extent that further consideration is warranted.

17.04.050 Permit issuance, appeals of a City decision, and effective date of approval.

Development permits shall be issued by the city manager or their designee according to the provisions of this code. Neither the city building official nor any other state or local official shall issue a permit for use, development or occupation of a structure which has not been approved according to this code.

An appeal of an Administrative Decision or a Planning Commission Decision may be filed with the Planning Department no later than 15 days following the date of mailing (postmark date) of the Notice of the Final Order.

The effective date of approval in any land use decision under this Code is the date upon which the decision is no longer appealable.

17.04.060 Lands in violation.

The city manager or their designee shall not issue a development permit for the partitioning, subdivision, development, or use of land that has been previously divided in violation of state or local codes then in effect, or divided in violation of this code subsequent to its adoption, or otherwise developed in violation of this code, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the proposed development in a manner provided by this code. (Ord. 89-0-446 1.)

17.04.070 Exemptions from requirement to do improvements to public infrastructure.

The developments and activities listed below are exempt from the requirements to do improvements to public infrastructure, but are nevertheless subject to the provisions of this code:

A. Remodel, addition, alteration, or repair of an existing residence for residential use, or siting of an accessory structure;

B. Remodel, alteration or repair to a commercial structure resulting in no greater impacts or intensity of use.

C. All structures damaged or destroyed by fire or acts of God provided there is no increase in original floor area, unless otherwise required by law, or in density, nor expansion of use of the original structure is involved. [Ord. 92-O-446.K § 2; Ord. 90-O-446.A § 1; Ord. 89-O-446 § 1.]

17.04.080 Preapplication conference.

A. An applicant or the applicant's authorized representative shall request the city manager or their designee to arrange a preapplication conference, unless the applicant and director agree that the conference is not needed. Such preapplication conference will be conducted by the Site Plan Committee, or in the case of a subdivision, utilize the process found in BMC 17.172.070.

B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this code; to provide for an exchange of information regarding applicable elements of the comprehensive plan and development code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

C. Any multiple-family project involving more than four dwelling units, a Planned ~~Community Unit Development~~, dwelling group, or rear lot development requires a rough sketch conceptual plan to be reviewed in the preapplication conference.

D. The applicant shall be provided with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application. [Ord. 89-O-446 § 1.]

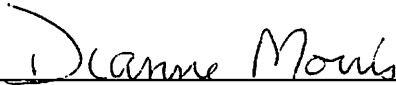
17.04.090 Process and Decision

The review process and determination of completeness of an application for a subdivision is found in BMC 17.172.070. The review process and determination of completeness for other applications is found in BMC 17.80.050 through 17.80.070, or for a hazardous building site, in Chapter 17.100, BMC.

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009


Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: Adopting ordinance for approved revisions to Chapter 17.04, Development Permit Procedures, Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 09-O- 632.

Financial Impact: None

Background/Discussion: The revisions to this Chapter were approved by the City Council at their April 27, 2009 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 09-O-632.

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

ORDINANCE 09-O-632

IN THE MATTER OF ORDINANCE 09-O-632, AN ORDINANCE AMENDING CHAPTER 17.04, DEVELOPMENT PERMIT PROCEDURES, OF TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.04, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.04, Development Permit Procedures, of Title 17, Land Development Code, of the Brookings Municipal Code in its entirety.

Section 2. Amends Chapter 17.04. Chapter 17.04, Development Permit Procedures, is hereby amended to read as follows:

**Chapter 17.04
DEVELOPMENT PERMIT PROCEDURES**

Sections:

- 17.04.010 Purpose.
- 17.04.020 Development permit required.
- 17.04.030 Burden of proof.
- 17.04.040 Limitation on new applications.
- 17.04.050 Permit issuance, appeals of a City decision, and effective date of approval.
- 17.04.060 Lands in violation.
- 17.04.070 Exemptions from requirements to do improvements to public infrastructure.
- 17.04.080 Preapplication conference.
- 17.04.090 Process and Decision.

17.04.010 Purpose.

Development permits are issued to authorize the use and development of land consistent with the provisions of this code.

17.04.020 Development permit required.

No person shall engage in or cause the development of land for which a development permit has not been issued. Development permits shall be in a form prescribed by the city. Development permits are required for:

- A. Building permits; and/or
- B. Land use decisions; and/or

- C. Development on a hazardous building site as found in Chapter 17.100; and/or
- D. Other development requiring written authorization in this Code.

Making an application for a development permit is described in Chap. 17.80.030, Site Plan Approval, BMC or for hazardous building sites, Chapter 17.100.

17.04.030 Burden of proof.

In any land use decision, the burden of producing substantial evidence to demonstrate compliance with the applicable criteria is upon the applicant. If adequate evidence is not provided the application must be denied.

17.04.040 Limitation on new applications.

If a land use decision application is denied, said application shall not be eligible for resubmittal for one year from the date of said denial. In order to resubmit an application which has been denied within one year of the initial submittal, a new application affecting the same property must be, in the opinion of the Planning Director, substantially different from the application denied, or conditions must have changed to an extent that further consideration is warranted.

17.04.050 Permit issuance, appeals of a City decision, and effective date of approval.

Development permits shall be issued by the city manager or their designee according to the provisions of this code. Neither the city building official nor any other state or local official shall issue a permit for use, development or occupation of a structure which has not been approved according to this code.

An appeal of an Administrative Decision or a Planning Commission Decision may be filed with the Planning Department no later than 15 days following the date of mailing (postmark date) of the Notice of the Final Order.

The effective date of approval in any land use decision under this Code is the date upon which the decision is no longer appealable.

17.04.060 Lands in violation.

The city manager or their designee shall not issue a development permit for the partitioning, subdivision, development, or use of land that has been previously divided in violation of state or local codes then in effect, or divided in violation of this code subsequent to its adoption, or otherwise developed in violation of this code, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the proposed development in a manner provided by this code. (Ord. 89-0-446 1.)

17.04.070 Exemptions from requirement to do improvements to public infrastructure.

The developments and activities listed below are exempt from the requirements to do improvements to public infrastructure, but are nevertheless subject to the provisions of this code:

- A. Remodel, addition, alteration, or repair of an existing residence for residential use, or siting of an accessory structure;
- B. Remodel, alteration or repair to a commercial structure resulting in no greater impacts or intensity of use.

C. All structures damaged or destroyed by fire or acts of God provided there is no increase in original floor area, unless otherwise required by law, or in density, nor expansion of use of the original structure is involved. [Ord. 92-O-446.K § 2; Ord. 90-O-446.A § 1; Ord. 89-O-446 § 1.]

17.04.080 Preapplication conference.

A. An applicant or the applicant's authorized representative shall request the city manager or their designee to arrange a preapplication conference, unless the applicant and director agree that the conference is not needed. Such preapplication conference will be conducted by the Site Plan Committee, or in the case of a subdivision, utilize the process found in BMC 17.172.070.

B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this code; to provide for an exchange of information regarding applicable elements of the comprehensive plan and development code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

C. Any multiple-family project involving more than four dwelling units, a Planned Community, dwelling group, or rear lot development requires a rough sketch conceptual plan to be reviewed in the preapplication conference.

D. The applicant shall be provided with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application. [Ord. 89-O-446 § 1.]

17.04.090 Process and Decision

The review process and determination of completeness of an application for a subdivision is found in BMC 17.172.070. The review process and determination of completeness for other applications is found in BMC 17.80.050 through 17.80.070, or for a hazardous building site, in Chapter 17.100, BMC.

First reading: _____

Second reading: _____

Passage: _____

Effective date _____

Signed by me in authentication of its passage this _____ day of _____, 2009.

Mayor Larry Anderson

ATTEST:

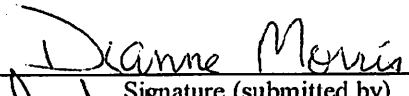
City Recorder Joyce Heffington


CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Originating Dept: Planning



Signature (submitted by)


City Manager Approval

Subject: A hearing on File LDC-3-09 for consideration and possible adoption of revisions to Chapter 17.140, Amendments, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.140, Amendments, BMC.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee reviewed Chapter 17.140. The current Chapter lacks clarity concerning the type of amendment to be considered and then what criteria should be used. Rather than attempt to work within the framework of the current version, a complete rewrite was considered appropriate. There are two types of amendments: legislative, which involve text amendments such as this Code revision, and Quasi-judicial, involving specific properties in a Comprehensive Plan Map and/ or zone change. The process and criteria are necessarily quite different. The draft version makes this distinction and describes the process.

Here is a brief synopsis of the Chapter:

- 17.140.020, Proposed Amendments. Describes the different types of amendments.
- 17.140.030, Citizen Initiated Text Amendment. Describes process to consider whether to process this type of amendment.
- 17.140.040, Application for Comp. Plan/ zone change. Application requirements.
- 17.140.050, Qualified Comp. Plan/ zone change. Possible limitations that may be applied and reasons for these limitations.
- 17.140.060, Action by the Planning Commission. Planning Commission process.
- 17.140.070, Action by the City Council. City Council process.

The Planning Commission reviewed this draft and recommends approval to the City Council. Following this report is the draft version of Chapter 17.140 (Attachment A). The current version of Chapter 17.140 is also attached (Attachment B).

Policy Considerations: N/A

Attachment(s): Draft version of Chapter 17.104, Home Occupations

**Chapter 17.140
AMENDMENTS**

Legislative, Text Amendments

And

Quasi-judicial, Comprehensive Plan Map and/or Zone Changes

DRAFT 2/26/09

Sections:

<u>17.140.010</u>	Procedure.
<u>17.140.020</u>	Proposed amendments.
<u>17.140.030</u>	Application for citizen initiated text amendment.
<u>17.140.040</u>	Application for Comprehensive Plan map and/ or zone change.
<u>17.140.050</u>	Qualified Comprehensive Plan map and/ or zone change
<u>17.140.060</u>	Action by the Planning Commission.
<u>17.140.070</u>	Action by the City Council.

17.140.010 Procedure.

The Brookings Comprehensive Plan and Land Development Code may be amended by adopting revisions to reflect changes in the law, clarify language or procedures, correct mistakes, or to reflect changing community conditions. Amendments to the text follow legislative procedures.

This Chapter also provides standards and procedures for quasi-judicial amendments to consider Comprehensive Plan map and/ or zone changes for specific properties.

17.140.020 Proposed Amendments.

A. An amendment to the text of the Comprehensive Plan or Land Development Code may be proposed as a legislative hearing by the City Council, Planning Commission, Planning Director, or an individual.

B. A Comprehensive Plan map and/ or zone change for specific properties may be initiated as a quasi-judicial hearing by a property owner, or the City.

17.140.030 Application for a Citizen Initiated Text Amendment.

A text amendment proposed by a citizen will first be presented to the Planning Commission in the form of a written request.

- If the Planning Commission believes there is merit to the request, the amendment will be considered City initiated and no fee will be charged.
- The Planning Commission will determine whether a workshop is needed prior to the hearing, depending on complexity of the matter.
- Staff will prepare draft language for the amendment and this will be reviewed by the Land Development Code (LDC) Committee.
- After review by the LDC Committee, a workshop or hearing before the Planning Commission will be scheduled.
- If the Planning Commission decides the City should not undertake the proposed text amendment, the citizen may take the request to the City Council for consideration during the Public Comment portion of the Council agenda.

17.140.040 Application for a Comprehensive Plan map and/ or Zone Change.

The property owner, authorized agent, or the City may make application for a zone change amendment by filing an application with the Planning Department for review by the Site Plan Committee pursuant to BMC 17.80. After Site Plan Committee determines the application is complete, a quasi-judicial hearing before the Planning Commission will be scheduled. Such application shall be accompanied by the following information:

- A. A completed Land Use Permit Application form;
- B. A description of the subject property, the requested zoning designation, and the proposed uses.
- C. Compatibility of the proposed zoning designation with the surrounding land uses.
- D. Impacts on City services and streets serving the area.
- E. Statement and supportive evidence indicating the manner in which the proposed zone change amendment is in conformance with the Comprehensive Plan for the City of Brookings, applicable provisions of this code, and any applicable Statewide Planning Goals.
- F. The application shall be accompanied by a non-refundable filing fee in the amount established by general resolution of the City Council. [Ord. 93-O-446.N § 6; Ord. 89-O-446 § 1.]

17.140.050 Qualified Comprehensive Plan map and/ or Zone Change

When considering a Comprehensive Plan map and/ or Zone Change the Planning Commission and City Council may qualify, or condition, a zone change such that:

- A. The property may not be utilized for all the uses ordinarily permitted in a particular zone; or
- B. The development of the site must conform to certain specified standards; or
- C. Any combination of the above.

A qualified zone change shall be dependent on findings of fact including but not limited to the following:

A. Such limitations are deemed necessary to protect the best interests and insure compatibility with the surrounding property or neighborhood; or

B. Such limitations are deemed necessary to protect public safety and the City's best interests and/ or infrastructure; or

C. Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects.

17.140.060 Action by the Planning Commission.

A. Upon filing of said application for an amendment as described in BMC 17.140.030, or 17.140.040 the matter shall be referred to the Planning Commission and a public hearing shall be held on the matter for which notice shall be given as provided in Chapter 17.84 BMC.

B. In the case of a text amendment the Planning Commission shall review the draft language and make any revisions that are considered necessary. The Planning Commission shall recommend approval, qualified approval, or denial to the City Council.

C. In the case of a Comprehensive Plan/ zone change amendment the Planning Commission shall recommend the approval, approval with conditions, or denial of the application to the City Council.

D. In the case of a simple zone change amendment (changing from one residential zone to another residential zone, or from one commercial zone to another commercial zone) the Planning Commission is the decision-making body and may approve, approve with conditions, or deny the application.

E. If the proposed zone change is for property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The Commission may recommend an alternate zoning designation for the area under consideration. [Ord. 96-O-446.BB § 7; Ord. 89-O-446 § 1.]

17.140.070 Action by the City Council.

A. Following the Planning Commission hearing and recommendation for a Comprehensive Plan/ zone change, a hearing before City Council shall be scheduled. Notice of said public hearing shall be given as provided in Chapter 17.84 BMC.

B. In the case of a text amendment, the Council shall enact an ordinance approving or denying the amendment.

C. In the case of a zone change amendment, the Council shall enact an ordinance to approve, approve with conditions, or deny the application.

D. The Council may opt to remand the proposal to the Planning Commission for further review. A Council remand shall communicate specific concerns and

issues for the Planning Commission's consideration. The Commission shall reconsider the proposal at their next regularly scheduled meeting and report their findings and recommendations at the next regular meeting of the City Council.

E. To adopt an ordinance for a zone change, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the Comprehensive Plan goals, policies, generalized land use map, and any applicable Statewide Planning Goals.

**Chapter 17.140
AMENDMENTS**

CURRENT
VERSION

Sections:

<u>17.140.010</u>	Procedure.
<u>17.140.020</u>	Initiation of amendments.
<u>17.140.030</u>	Application.
<u>17.140.040</u>	Action by the planning commission.
<u>17.140.050</u>	Action by the city council.
<u>17.140.060</u>	Burden of proof.
<u>17.140.070</u>	Limitation on new applications.
<u>17.140.080</u>	Resolution of intent to rezone.

17.140.010 Procedure.

This code or the comprehensive plan map or text may be amended by changing the boundaries of districts or designations or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment, by following the procedure of this code. [Ord. 89-O-446 § 1.]

17.140.020 Initiation of amendments.

An amendment to the text of this code or to the zoning map and/or to the comprehensive plan map or text may be initiated by:

- A. Motion of the planning commission;
- B. Motion of the city council;
- C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map redesignation. [Ord. 89-O-446 § 1.]

17.140.030 Application.

The property owner or his authorized agent may make application for an amendment by filing an application, on a land use application form, with the city manager or his designee for review by the site plan committee pursuant to BMC 17.80.030(B). Upon clearance from the site plan committee, the application will be scheduled for the next available planning commission hearing. Such application shall be accompanied by the following information:

- A. Name and address of the applicant;
- B. Title report and/or other documentation to provide evidence that the applicant is the owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application;
- C. Address, legal description and Curry County assessor's tax lot and map number of the subject property;

D. A map (Curry County assessor's plat) showing the subject property, and surrounding properties and a listing of current property owners within 250 feet of the property subject to this application;

E. Statement and supportive evidence indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan for the city of Brookings and each of the applicable provisions of this code together with any other data pertinent to the findings prerequisite to the granting of an amendment to this code, zoning map or comprehensive plan map and/or text as listed in BMC 17.140.050(D);

F. The application shall be accompanied by a filing fee in the amount established by general resolution of the city council. No part of the filing fee is refundable. [Ord. 93-O-446.N § 6; Ord. 89-O-446 § 1.]

17.140.040 Action by the planning commission.

A. Upon filing of said application for an amendment as described in BMC 17.140.030, or upon motion of the city council or planning commission for the initiation of an amendment, the matter shall automatically be referred to the planning commission and a public hearing shall be held on the matter for which notice shall be given as provided in Chapter 17.84 BMC, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The planning commission shall study the matter to the extent that it considers such study to be necessary, and shall, in open meeting, recommend the approval or disapproval of said amendment. The recommendation shall be made by a majority of those present at the planning commission meeting at which official action is taken on the application. The recommendation shall be reported to the city council by filing said recommendation with the city recorder. No further action of acceptance of the recommendation need be taken by the city council, but the city recorder shall, upon filing the recommendation, report the same to the city council at the next regular city council meeting after the filing of the recommendations.

B. The report and recommendations of the planning commission shall be made within 90 days after the filing of the application; provided, that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the commission to so report within 90 days without the aforesaid agreement shall be deemed to be a recommendation of approval of the proposed amendment of the planning commission. If the commission deems it advisable, it may recommend that the area under consideration for change in classification or designation be enlarged or diminished, or reclassified to a district or category other than the district or category originally initiated. [Ord. 96-O-446.BB § 7; Ord. 89-O-446 § 1.]

17.140.050 Action by the city council.

A. Hearing before City Council. Upon receipt of said report from the planning commission or upon the expiration of such 90 days as aforesaid, a public hearing is automatically set for the next regular city council meeting following the receipt of the report; provided, however, that the council may, by motion, set the date of

such public hearing at such other time or at such other place it desires. Notice of said public hearing shall be given as provided in Chapter 17.84 BMC, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park.

B. At the conclusion of the public hearing, the council may enact an ordinance granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment. The council shall in any event render its decision on any application within 60 days after the receipt of the report and recommendation of the planning commission or after the expiration of such 90 days as aforesaid; provided, however, that nothing shall prohibit the city council from, by motion, postponing disposition of the application to a definite time past the said 60-day period.

C. If the council proposes to adopt an amendment that is substantially altered from the recommendation of the commission, the council may refer said proposed amendment back to the commission for report and recommendation, which may include the holding of a joint meeting, before adoption. The commission shall consider said amendment within 30 days of said referral and report thereon at the next regular meeting of the city council. Failure to so report will be deemed to constitute approval by the planning commission.

D. Except as set forth herein, in order for the city council to adopt an ordinance for an amendment to this code, comprehensive plan document and/or map, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and generalized land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan. For amendments to the land development code that are legislative in nature, findings will not be required. [Ord. 96-O-446.BB § 7; Ord. 94-O-446.W § 2; Ord. 89-O-446 § 1.]

17.140.060 Burden of proof.

If findings are required, the specific findings made by the city council, upon the recommendation of the planning commission, to adopt an ordinance for an amendment to this code, comprehensive plan text and/or map must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the amendment. If no evidence is produced concerning the requisite findings listed in BMC 17.140.050(D), the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings of the ordinance adopting the amendment proposal. [Ord. 94-O-446.W § 2; Ord. 89-O-446 § 1.]

17.140.070 Limitation on new applications.

In a case where an application for an amendment is denied by the city council, said application shall not be eligible for resubmittal for one year from the date of said denial, unless said denial was specifically stated to be without prejudice. A new application affecting the same property must be, in the opinion of the planning commission and the city council, substantially different from the application denied to be eligible for consideration within one year from the said date of denial, unless the first denial was denied without prejudice, or the planning commission finds that conditions have changed to an extent that further consideration is warranted. [Ord. 89-O-446 § 1.]

17.140.080 Resolution of intent to rezone.

If from the facts presented in the findings and the report and recommendations of the planning commission and required by BMC 17.140.040, the city council determines that the public health, safety, welfare, and convenience will be best served by a proposed change of zone, the council may indicate its general approval in principle of the proposed rezoning by the adoption of a "resolution of intent to rezone" the area involved. This resolution shall include any conditions, stipulations or limitations which the council may feel necessary to require in the public interest as a prerequisite to final action, including those provisions which the council may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the city council. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning, or by imposing setback, area or coverage restrictions not specified in the code for the zoning classification, or as a substitute for a variance. Upon completion of compliance action by the applicant, the council shall, by ordinance, effect such rezoning. The failure of the applicant to meet any or all conditions, stipulations or limitations contained in the resolution, including the time limit placed on the resolution, shall render the resolution of intent to rezone null and void, unless an extension is granted by the council upon recommendation of the planning commission. [Ord. 89-O-446 § 1.]

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27 , 2009

Dianne Morris
Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: Adopting ordinance for approved revisions to Chapter 17.140, Amendments, Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 09-O- 631.

Financial Impact: None

Background/Discussion: The revisions to this Chapter were approved by the City Council at their April 27, 2009 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 09-O-631.

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

ORDINANCE NO. 09-O-631

IN THE MATTER OF ORDINANCE 09-O-631, AND ORDINANCE AMENDING CHAPTER 17.140, AMENDMENTS, OF TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
Section 2. Amends to Chapter 17.140, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.140, Amendments, of Title 17, Land Development Code, of the Brookings Municipal Code in its entirety.

Section 2. Amends to Chapter 17.140. Chapter 17.140, Amendments, is hereby amended to read as follows:

**Chapter 17.140
AMENDMENTS**

Legislative, Text Amendments

And

Quasi-judicial, Comprehensive Plan Map and/or Zone Changes

Sections:

- 17.140.010 Procedure.
17.140.020 Proposed amendments.
17.140.030 Application for citizen initiated text amendment.
17.140.040 Application for Comprehensive Plan map and/ or zone change.
17.140.050 Qualified Comprehensive Plan map and/ or zone change
17.140.060 Action by the Planning Commission.
17.140.070 Action by the City Council.

17.140.010 Procedure.

The Brookings Comprehensive Plan and Land Development Code may be amended by adopting revisions to reflect changes in the law, clarify language or procedures, correct mistakes, or to reflect changing community conditions. Amendments to the text follow legislative procedures.

This Chapter also provides standards and procedures for quasi-judicial amendments to consider Comprehensive Plan map and/ or zone changes for specific properties.

17.140.020 Proposed Amendments.

A. An amendment to the text of the Comprehensive Plan or Land Development Code may be proposed as a legislative hearing by the City Council, Planning Commission, Planning Director, or an individual.

B. A Comprehensive Plan map and/ or zone change for specific properties may be initiated as a quasi-judicial hearing by a property owner, or the City.

17.140.030 Application for a Citizen Initiated Text Amendment.

A text amendment proposed by a citizen will first be presented to the Planning Commission in the form of a written request.

- If the Planning Commission believes there is merit to the request, the amendment will be considered City initiated and no fee will be charged.
- The Planning Commission will determine whether a workshop is needed prior to the hearing, depending on complexity of the matter.
- Staff will prepare draft language for the amendment and this will be reviewed by the Land Development Code (LDC) Committee.
- After review by the LDC Committee, a workshop or hearing before the Planning Commission will be scheduled.
- If the Planning Commission decides the City should not undertake the proposed text amendment, the citizen may take the request to the City Council for consideration during the Public Comment portion of the Council agenda.

17.140.040 Application for a Comprehensive Plan map and/ or Zone Change.

The property owner, authorized agent, or the City may make application for a zone change amendment by filing an application with the Planning Department for review by the Site Plan Committee pursuant to BMC 17.80. After Site Plan Committee determines the application is complete, a quasi-judicial hearing before the Planning Commission will be scheduled. Such application shall be accompanied by the following information:

- A. A completed Land Use Permit Application form;
- B. A description of the subject property, the requested zoning designation, and the proposed uses.
- C. Compatibility of the proposed zoning designation with the surrounding land uses.
- D. Impacts on City services and streets serving the area.
- E. Statement and supportive evidence indicating the manner in which the proposed zone change amendment is in conformance with the Comprehensive Plan for the City of Brookings, applicable provisions of this code, and any applicable Statewide Planning Goals.
- F. The application shall be accompanied by a non-refundable filing fee in the amount established by general resolution of the City Council. [Ord. 93-O-446.N § 6; Ord. 89-O-446 § 1.]

17.140.050 Qualified Comprehensive Plan map and/ or Zone Change

When considering a Comprehensive Plan map and/ or Zone Change the Planning Commission and City Council may qualify, or condition, a zone change such that:

- A. The property may not be utilized for all the uses ordinarily permitted in a particular zone;
or
- B. The development of the site must conform to certain specified standards; or
- C. Any combination of the above.

A qualified zone change shall be dependent on findings of fact including but not limited to the following:

- A. Such limitations are deemed necessary to protect the best interests and insure compatibility with the surrounding property or neighborhood; or
- B. Such limitations are deemed necessary to protect public safety and the City's best interests and/ or infrastructure; or
- C. Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects.

17.140.060 Action by the Planning Commission.

A. Upon filing of said application for an amendment as described in BMC 17.140.030, or 17.140.040 the matter shall be referred to the Planning Commission and a public hearing shall be held on the matter for which notice shall be given as provided in Chapter 17.84 BMC.

B. In the case of a text amendment the Planning Commission shall review the draft language and make any revisions that are considered necessary. The Planning Commission shall recommend approval, qualified approval, or denial to the City Council.

C. In the case of a Comprehensive Plan/ zone change amendment the Planning Commission shall recommend the approval, approval with conditions, or denial of the application to the City Council.

D. In the case of a simple zone change amendment (changing from one residential zone to another residential zone, or from one commercial zone to another commercial zone) the Planning Commission is the decision-making body and may approve, approve with conditions, or deny the application.

E. If the proposed zone change is for property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The Commission may recommend an alternate zoning designation for the area under consideration. [Ord. 96-O-446.BB § 7; Ord. 89-O-446 § 1.]

17.140.070 Action by the City Council.

A. Following the Planning Commission hearing and recommendation for a Comprehensive Plan/ zone change, a hearing before City Council shall be scheduled. Notice of said public hearing shall be given as provided in Chapter 17.84 BMC.

B. In the case of a text amendment, the Council shall enact an ordinance approving or denying the amendment.

C. In the case of a zone change amendment, the Council shall enact an ordinance to approve, approve with conditions, or deny the application.

D. The Council may opt to remand the proposal to the Planning Commission for further review. A Council remand shall communicate specific concerns and issues for the Planning Commission's consideration. The Commission shall reconsider the proposal at their next regularly scheduled meeting and report their findings and recommendations at the next regular meeting of the City Council.

E. To adopt an ordinance for a zone change, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings

must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the Comprehensive Plan goals, policies, generalized land use map, and any applicable Statewide Planning Goals.

First reading: _____

Second reading: _____

Passage: _____

Effective date _____

Signed by me in authentication of its passage this _____ day of _____, 2009.

Mayor Larry Anderson

ATTEST:

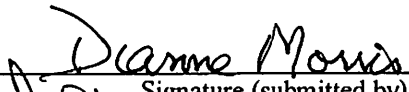
City Recorder Joyce Heffington

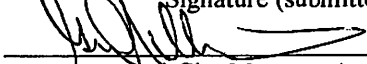
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Originating Dept: Planning



Signature (submitted by)


City Manager Approval

Subject: A hearing on File LDC-5-09 for consideration and possible adoption of revisions to Chapter 17.28, Multi-Family Residential (R-3), Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.28, Multi-Family Residential (R-3), BMC.

Financial Impact: None

Background/Discussion: The City's Land Development Code (LDC) Committee, the Planning Commission and finally City Council has reviewed and adopted revisions to the commercial zones to allow existing single family dwellings as an outright permitted use. With this change property owners with these dwellings are able to construct additions, site garages, and site other accessory structures. This revision was inadvertently left out of the revisions to the Multiple-Family 17.28, (R-3) District, BMC. With this revision, regulations for existing single family dwellings will be consistent in the commercial and the R-3 zone.

The Planning Commission reviewed and recommended approval of the revision. Following this report is the one page affected by this revision to Chapter 17.28, BMC (Attachment A).

Policy Considerations: N/A

Attachment(s): One page affected by this revision to Chapter 17.28, Multi-Family Residential (R-3), BMC.

Chapter 17.28 MULTIPLE-FAMILY RESIDENTIAL (R-3) DISTRICT

Draft February 26, 2009

New text is *bolded and italicized*.

Sections:

<u>17.28.010</u>	Purpose.
<u>17.28.020</u>	Permitted uses.
<u>17.28.030</u>	Accessory uses.
<u>17.28.040</u>	Conditional uses.
<u>17.28.050</u>	Minimum lot area and dwelling density.
<u>17.28.060</u>	Lot width, lot coverage and yard requirements.
<u>17.28.070</u>	Maximum building height.
<u>17.28.080</u>	Signs.
<u>17.28.090</u>	Parking.
<u>17.28.100</u>	Manufactured housing siting requirements.
<u>17.28.110</u>	Other required conditions.

17.28.010 Purpose.

This district is designed to provide an environment suitable for higher density urban residential uses. The R-3 district is intended for residential uses, community services and appropriate professional business and service offices. [Ord. 08-O-614 § 2; Ord. 08-O-613 § 2; Ord. 89-O-446 § 1.]

17.28.020 Permitted uses.

The following uses are permitted:

A. Two-family dwellings or duplexes. Dwelling must have a garage or carport for each dwelling unit constructed of like materials;

B. Multiple-family dwellings and apartment houses;

C. Single-family dwellings, provided the building permit applicant or the applicant's spouse, parent, child or sibling purchased the property prior to August 13, 1998. Dwelling must have a garage or carport constructed of like materials. A single-family dwelling may include

a manufactured home as defined by ORS 446.003, and subject to BMC 17.28.100. [Ord. 08-O-614 § 2; Ord. 98-O-446.CC § 2; Ord. 94-O-446.T § 5; Ord. 89-O-446 § 1.]

D. Existing single family dwellings.

17.28.030 Accessory uses.

The following accessory uses are permitted:

A. Home occupations, subject to the provisions of Chapter 17.104 BMC;

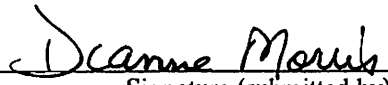
B. Other accessory uses and accessory buildings and structures, such as noncommercial greenhouses, customarily appurtenant to a permitted use;

C. Boats, trailers, pick-up campers, motor homes and similar equipment may be stored, but not occupied, except as provided for temporary sleeping purposes in BMC 8.15.087, on a lot in an "R" district; provided, that:

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009


Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: Adopting ordinance for approved revisions to Chapter 17.28, Multi-Family Residential (R-3), Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 09-O- 633.

Financial Impact: None

Background/Discussion: The revisions to this Chapter were approved by the City Council at their April 27, 2009 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 09-O-633.

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

ORDINANCE NO. 09-O-633

IN THE MATTER OF ORDINANCE NO. 09-O-633, AN ORDINANCE ADDING SECTION 17.28.020 (D), PERMITTED USES, TO CHAPTER 17.28, MULTI-FAMILY RESIDENTIAL (R-3), OF TITLE 17, LAND DEVELOPMENT CODE, OF THE CITY OF BROOKINGS MUNICIPAL CODE.

Sections:

- Section 1. Ordinance Identified.
Section 2. Adds Section 17.28.020 (D).

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance adds Section 17.28.020 (D), Permitted Uses to Chapter 17.28, Multi-Family Residential (R-3), of Title 17, Land Development Code, of the Brookings Municipal Code.

Section 2. Adds Section 17.28.020 (D). Section 17.28.020 (D), Permitted Uses, is added to read as follows:

Chapter 17.28
MULTI-FAMILY RESIDENTIAL (R-3)

Sections:

17.28.020 Permitted Uses.

The following uses are permitted:

- D. Existing single family dwellings.

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

Signed by me in authentication of its passage this _____, day of _____, 2009

ATTEST:

Mayor Larry Anderson

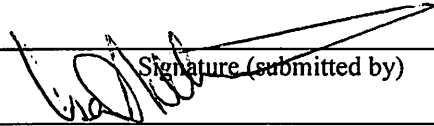
City Recorder Joyce Heffington

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Originating Dept: City Manager


Signature (submitted by)

City Manager Approval

Subject: Traffic Safety Committee language revisions and adopting ordinance.

Recommended Motion:

1. Approve language revisions to Brookings Municipal Code, Chapter 2.65, Traffic Safety Committee.
2. Adopt Ordinance 09-O-630, amending Chapter 2.65, Traffic Safety Committee, of the Brookings Municipal Code, in its entirety.

Financial Impact:

None

Background/Discussion:

The City Council created the Traffic Safety Committee in 2002. The main impetus for the formation of the Committee was to assist in applying for traffic safety grant funds. The Committee consists of five members: one nominated by the Brookings Harbor High School Superintendent, one nominated by the Brookings Harbor Chamber of Commerce, and three members at large.

Historically, the Committee has met every 4-6 weeks as needed to address traffic safety concerns raised by citizens. In the past 18 months, the Committee has met 13 times, but has only had a quorum for the conduct of business at five of those meetings. There has been no school district participation since April, 2008. Three of the five Committee seats are currently vacant. Staff members from the Public Works, Police and Fire Departments commonly attend. Agenda items over the past 18 months have included:

- Crosswalk installation and removal.
- Speed signs.
- Vision obstruction.
- Parking on portions of Oak Street.
- Center line locations.

The Committee makes recommendations to the City Council. In the past 18 months, only one recommendation has come forward for Council action.

Staff believes that many of the items being dealt with by the Committee require some level of training and experience in traffic safety policies and techniques. It is also important to maintain some level of citizen/lay person involvement. Staff is recommending that the Traffic Safety Committee be retained, but that the membership be changed to include two public members at

large and three staff members, namely: Chief of Police (who would serve as chair), Fire Chief and Public Works Director. Ordinance 09-O-630 would make this change.

Attachment(s):

- Language revisions to Chapter 2.65, Traffic Safety Committee
- Adopting Ordinance 09-O-630

Bold/italic = additional or revised language.

Strikeouts = language to be deleted.

Chapter 2.65 TRAFFIC SAFETY COMMITTEE

Sections:

- 2.65.010 Name.
- 2.65.020 Powers and duties.
- 2.65.030 Organization.

2.65.010 Name.

The Brookings City Council hereby creates a traffic safety committee for the City of Brookings. [Ord. 02-O-552 § 1.]

2.65.020 Powers and duties.

A. Generally.

1. The committee is an advisory body to the City Council. It has no authority to spend or approve the expenditure of any City funds. Its recommendations are made to the City Council through ~~its minutes and such recommendations for the action by the city council shall be made in the form "The traffic safety committee recommends to the city council..."~~ **a staff report on the Council agenda.**

2. **Appointed** members shall serve at the pleasure of the City Council.

3. **Appointed** membership on the committee is honorary and without compensation.

4. All meetings of the committee shall be open to the public, shall be properly noticed and shall be held in a place that is open to the public and ~~handicapped~~ **held in an accessible location.**

5. Any matters pertaining to traffic safety shall only be acted upon by the City Council following review by the committee and upon recommendation by the committee.

6. This committee may be assigned other duties by adoption of other legislation of the City.

B. Specifically. The Brookings Traffic Safety Committee shall be responsible for the following:

1. To promote traffic safety practices in the community, including, but not limited to, pedestrian safety, bicycle safety, and motor vehicle safety.

2. To develop educational programs to encourage traffic safety.

3. To consider, research, evaluate and recommend changes in the traffic control signs, signals, roadway markings, crosswalks, parking requirements, traffic lanes, safety corridors, safety zones, and other related matters.

4. To hear concerns of citizens about traffic issues.

5. To interact with other boards, committees and commissions of the City that may have related or overlapping duties and authorities (e.g., Planning Commission).
[Ord. 02-O-552 § 2.]

2.65.030 Organization.

A. Membership. The committee shall consist of five members ~~selected as to be~~ **comprised** as follows:

~~One member shall be nominated by the superintendent of the Brookings school district to represent school district concerns on the committee and who shall serve a two-year term of office. The mayor shall appoint this nominee.~~

~~One member shall be nominated by the president of the Brookings chamber of commerce. This nominee shall represent the business community's interests and concerns related to traffic and parking issues. This nominee will be appointed by the mayor and serve a two-year term.~~

~~Three members shall be at large members and shall serve initial terms of office of varying lengths for the initial appointments. The mayor shall specifically appoint the first members to specific terms of office, one shall be appointed for a one-year term; one for a two-year term; and one for a three-year term. Thereafter, all terms shall be for three years.~~

~~The chief of police, or designee, shall be the secretary of the committee and shall take minutes, give notice of meetings and support the efforts of this committee in all manners. The police chief shall be an ex-officio member of the committee and shall be entitled to discuss all matters with the committee, but shall have no vote. As committee staff, the chief will accurately report the determinations of the city council on previous committee recommendations back to the committee.~~

- 1. Three members shall be from staff and consist of the Chief of Police, Fire Chief and Public Works Director, or their respective designees.**
- 2. Two members, residing within the City limits, shall be appointed by the Mayor and City Council from the community at large, and serve two year terms, said terms to be staggered.**
- 3. The Chief of Police, or his/her designee, shall serve as Committee Chair. The chair shall preside over the committee's deliberations, preserve order, and determine the order of business. The chair shall report to the City Council all committee recommendations at the next regular City Council meeting and accurately report the Council's decisions regarding those recommendations back to the committee.**

B. Officers.

- 1. The committee shall elect from its full membership a chair and a vice chair at the first meeting and thereafter, at their first meeting in every even-numbered year. In the event of the resignation or other vacating of the office, the committee shall elect a new *vice* chair to serve the balance of the unexpired term. The chair shall preside over the committee's deliberations, preserve order, and determine the order of business. The vice chair shall carry out these the duties of *chair* in the *chair's* absence of the chair.**
- 2. One of the three staff members shall be elected to serve as Committee Secretary at the first meeting, and thereafter, at the first meeting of every even-numbered year. The secretary, or the secretary's designee, shall take minutes, give meeting notice, and support the efforts of the committee in all areas.**
- 3. Officers may make motions, second motions and vote on all matter before the committee.**

C. Quorum. A quorum of the committee shall be three members.

D. Meetings. The committee shall meet ~~not less than four times per year and otherwise as it determines~~ ***as needed, as determined by the Committee Chair.*** All regular and special meetings must be properly noticed including timely notice to all members of the press. The chair may call special meetings for any purpose subject to the provisions of the open meeting law and notice requirements.

E. Rules of Procedure. ~~Robert's Rules of Order shall govern the committee.~~ The committee shall be governed under the same rules of order prescribed for the City Council.

F. Minutes. The committee's minutes shall be prepared by staff and approved, with or without amendments, additions or corrections, by affirmative action of the committee at its next meeting. Committee minutes as prepared by staff shall be transmitted to the city council on its next agenda as either an "action item" (if recommendations are made in those minutes) or as an "information item" (if no recommendations). ***an item under the Consent Calendar, for acceptance.*** [Ord. 02-O-552 § 3.]

IN AND FOR THE STATE OF OREGON
CITY OF BROOKINGS

ORDINANCE NO. 09-O-630

**IN THE MATTER OF ORDINANCE 09-O-630, AN ORDINANCE AMENDING
CHAPTER 2.65 TRAFFIC SAFETY COMMITTEE, OF TITLE 2, ADMINISTRATION
AND PERSONNEL, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.**

Sections:

Section 1. Ordinance Identified

Section 2. Amends Chapter 2.65 in its entirety

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 2.65, Traffic Safety Committee, of Title 2, Administration and Personnel, of the Brookings Municipal Code in its entirety.

Section 2. Amends Chapter 2.65 in its entirety. Chapter 2.65, Traffic Safety Committee, is amended to read as follows:

**Chapter 2.65
TRAFFIC SAFETY COMMITTEE**

Sections:

2.65.010 Name.

2.65.020 Powers and duties.

2.65.030 Organization.

2.65.010 Name.

The Brookings City Council hereby creates a traffic safety committee for the City of Brookings.
[Ord. 02-O-552 § 1.]

2.65.020 Powers and duties.

A. Generally.

1. The committee is an advisory body to the City Council. It has no authority to spend or approve the expenditure of any City funds. Its recommendations are made to the City Council through a staff report on the Council agenda.
2. Appointed members shall serve at the pleasure of the City Council.
3. Appointed membership on the committee is honorary and without compensation.
4. All meetings of the committee shall be open to the public, shall be properly noticed and shall be held in a place that is open to the public and held in an accessible location.
5. Any matters pertaining to traffic safety shall only be acted upon by the City Council following review by the committee and upon recommendation by the committee.
6. This committee may be assigned other duties by adoption of other legislation of the City.

B. Specifically. The Brookings Traffic Safety Committee shall be responsible for the following:

1. To promote traffic safety practices in the community, including, but not limited to, pedestrian safety, bicycle safety, and motor vehicle safety.
2. To develop educational programs to encourage traffic safety.
3. To consider, research, evaluate and recommend changes in the traffic control signs, signals, roadway markings, crosswalks, parking requirements, traffic lanes, safety corridors, safety zones, and other related matters.
4. To hear concerns of citizens about traffic issues.
5. To interact with other boards, committees and commissions of the City that may have related or overlapping duties and authorities (e.g., Planning Commission). [Ord. 02-O-552 § 2.]

2.65.030 Organization.

A. Membership. The committee shall consist of five members to be comprised as follows:

1. Three members shall be from staff and consist of the Chief of Police, Fire Chief and Public Works Director, or their respective designees.
2. Two members, residing within the City limits, shall be appointed by the Mayor and City Council from the community at large, and serve two year terms, said terms to be staggered.
3. The Chief of Police, or his/her designee, shall serve as Committee Chair. The chair shall preside over the committee's deliberations, preserve order, and determine the order of business. The chair shall report to the City Council all committee recommendations at the next regular City Council meeting and accurately report the Council's decisions regarding those recommendations back to the committee.

B. Officers.

1. The committee shall elect from its full membership a vice chair at the first meeting and thereafter, at their first meeting in every even-numbered year. In the event of the resignation or other vacating of the office, the committee shall elect a new vice chair to serve the balance of the unexpired term. The vice chair shall carry out the duties of chair in the chair's absence.
2. One of the three staff members shall be elected to serve as Committee Secretary at the first meeting, and thereafter, at the first meeting of every even-numbered year. The secretary, or the secretary's designee, shall take minutes, give meeting notice, and support the efforts of the committee in all areas.
3. Officers may make motions, second motions and vote on all matter before the committee.

C. Quorum. A quorum of the committee shall be three members.

D. Meetings. The committee shall meet *as needed, as determined by the Committee Chair*. All meetings must be properly noticed subject to the provisions of the open meeting law and notice requirements.

E. Rules of Procedure. The committee shall be governed under the same rules of order prescribed for the City Council.

F. Minutes. The committee's minutes shall be prepared by staff and approved, with or without amendments, additions or corrections, by affirmative action of the committee at its next

meeting. Committee minutes as prepared by staff shall be transmitted to the city council on its next agenda as an item under the Consent Calendar, for acceptance. [Ord. 02-O-552 § 3.]

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

Signed by me in authentication of its passage this _____, day of _____, 2009.

ATTEST:

Mayor Larry Anderson

City Recorder Joyce Heffington