

Advance Packet

Dated: May 19, 2009

TUESDAY, May 26, 2009, Council Meeting

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

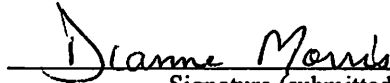
PUBLIC HEARINGS AND ORDINANCES

- A.** Continuation of the May 11th, 2009 public hearing in the matter of File No. LDC-4-09, adding Chapter 17.94, Landscaping, Tree Preservation and Replacement, to Title 17, Land Development Code, of the Brookings Municipal Code, City initiated. pg. 3
- B.** Ordinance 09-O-635 adding Chapter 17.94, Landscaping, Tree Preservation and Replacement, to Title 17, Land Development Code, of the Brookings Municipal Code. pg. 9

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: May 26, 2009


Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: A continued hearing on File LDC-4-09 for consideration and possible adoption of a new Chapter, 17.94, Landscaping, Tree Preservation and Replacement, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving creation of a new Chapter, 17.94, Landscaping, Tree Preservation and Replacement, BMC.

Financial Impact: None

Background/Discussion: The City Council conducted a hearing on this Chapter at their May 11th meeting. The Council expressed concerns about some provisions and directed Staff to prepare revisions to the draft Chapter.

Following are the proposed revisions:

- 17.94.070, Tree Preservation or Replacement. This section has been eliminated. A sentence has been added to 17.94.010, Purpose, stating the City encourages retention or planting of trees. Also in 17.94.040, Recommendations with Incentives, a bullet has been added offering the incentive for maintaining or planting a minimum of 2 trees on parcel less than ½ acre or 4 trees on a parcel 1 acre or larger.
- 17.94.030, Open Space Standards. The statement that a list of drought-resistant plants is available has been moved to the end of this section from its former location in 17.94.070.
- 17.94.050, Recommendations with Incentives. The first sentence clarifies that these incentives are for new development. The incentives have been separated into two categories as some relate to conserving water and some relate to lessening impact of storm drainage. This draft text states the refund will be **equal** to 2% of one of the System Development Charge (SDC) components. The refund would not come out of the SDC funds. The refund would be from the General Fund. Janell Howard, Interim City Manager and Administrative Services Director, agrees this would eliminate any need for analysis and justification by the City Engineer to reduce SDCs. The 2% refund is reduced from the previous draft offering 10%. The new draft also offers an additional 2% for each incentive implemented.
- 17.94.060, Private Trees. Text added to explain this section applies to all property in City limits.

With these revisions this Chapter will still be a step towards promoting water conservation, making better use of water resources, and provide efforts towards maintaining an attractive, livable community.

Following this report is the draft version of Chapter 17.94, Landscaping, Tree Preservation and Replacement, BMC (Attachment A).

Policy Considerations: N/A

Attachment(s): Chapter 17.94, Landscaping, Tree Preservation and Replacement (Attachment A).

Chapter 17.94

Landscaping

DRAFT 05-12-09

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

Sections:

17.94.010	Purpose
17.94.020	Definitions
17.94.030	Open Space Standards
17.94.040	Irrigation
17.94.050	Recommendations with Incentives
17.94.060	Private Trees

17.94.010 Purpose. The purpose of this Chapter is to encourage water conservation, reduce stormwater runoff, and maintain an attractive, livable community. The provisions in this Chapter also are designed to minimize impacts to storm drainage facilities and serve to recharge the groundwater to better utilize our water resources. The component relating to the preservation or replacement of trees within the City is designed to preserve the beauty of the community and to protect the public health, safety, and welfare of the residents of the City of Brookings. ***As an important component of landscaping, the City encourages property owners to retain existing, mature trees or plant new trees.***

17.94.020 Definitions.

“Impervious Surface”: mainly artificial structures, such as pavements, rooftops, sidewalks, roads – covered by impenetrable materials such as traditional asphalt and concrete.

“Pervious”: allowing absorption of water.

“Private Trees”: Trees located on private property.

17.94.030 Open Space Standards. These requirements apply to new construction only. An open space plan must be submitted with an application for a building permit. The plan will be reviewed by the Site Plan Committee to ensure compliance with the following:

- A. Residential (SR, R-1, R-2, R-MH) Property – install landscaping, or keep free of impervious surfaces, an area equal to at least 25 percent of the property. Any easement areas will be subtracted prior to calculating the 25 percent of the

property as stated above. If landscaping is to be used, 40 percent of the plants must be drought resistant. Must also comply with BMC 17.94.040, 17.94.060 and 17.94.070.

B. Multi-family Residential (R-3) Property - Required to have 15 percent of the lot with usable open space recreation area per 17.28.110, BMC, and 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H). If landscaping is proposed elsewhere on the property, the open space plan must have at least 40 percent drought resistant plants. Must also comply with BMC 17.94.060 and 17.94.070.

C. Commercial and Industrial (C-1, C-2, C-3, C-4, IP, M-2) Property - Required to have 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H), BMC. Any required landscaping within setback areas must also be in compliance with 17.92.100 (H), BMC. Must also comply with BMC 17.94.060 and 17.94.070.

A list of drought resistant plants that grow well in this area is available at the Planning Department.

17.94.040 Irrigation. If an irrigation system is to be installed on residentially zoned property, it must be a drip irrigation system or other water conservation-type irrigation. Said system must be shown on the submitted open space plan.

17.94.050 Recommendations with Incentives. ***These incentives are for new development. A refund equal to 2% of the water component of the System Development Charge will be given when the property owner implements any of the following. If both incentives are implemented the refund will be 4%.***

- Increases by 50 percent or more the percentage of drought resistant plants used in landscaping beyond the minimum requirement.
- Installs a drip irrigation system or other water conservation-type irrigation system. This is not applicable to multi-family residential, commercial, and industrial properties.

A refund equal to 2% of the storm drain component of the System Development Charge will be given when the property owner implements any of the following. A 2% refund will be given for each incentive implemented.

- Use of non-vegetation, pervious materials in an area equal to an additional 25% of the subject property beyond any of the percentage requirements in 17.94.030.
- Uses low impact storm drainage techniques such as "rain gardens", swales, permeable paving, rain barrel, cistern, or other approved method of reducing use of the City's storm drain system.

- *Maintain or plant a minimum of 2 trees on parcels less than ½ acre or 4 trees on a parcel 1 acre or larger.*

The refund will be given as a rebate after a certificate of occupancy is issued for the structure and installation of the proposed improvements, as listed, above are in place.

When a new building is a replacement structure and existing landscaping is in place, the applicant will not be required to comply with this Chapter.

17.94.060 Private Trees.

These standards apply to all properties in City limits.

- A. Trees planted on private property that overhang the sidewalk and/or street shall be maintained by the property owner as follows:
 1. So as not to obstruct the light from a street lamp.
 2. To not obstruct the view of any adjacent street intersection, which means trees shall be pruned so there is a clear space of 13 ½ feet above the street surface and eight (8) feet above a sidewalk surface.
 3. All dead, diseased or dangerous trees, broken or decayed limbs, or roots which constitute a hazard to the public shall be removed.
- B. Failure of the property owner to maintain trees as described above shall be subject to penalties pursuant to Chapter 8.15, Nuisances, BMC.
- C. Public Works Director, or designee, will determine when a tree is out of compliance as described in 17.94.060 (A).

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: May 26, 2009


Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: Adopting ordinance for approval to create Chapter 17.94, Landscaping, Tree Preservation and Replacement, Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 09-O- 635.

Financial Impact: None

Background/Discussion: The creation of this Chapter was approved by the City Council at their May 26, 2009 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 09-O-635.

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

ORDINANCE NO. 09-O-635

IN THE MATTER OF ORDINANCE 09-O-635, AN ORDINANCE ADDING CHAPTER 17.94, LANDSCAPING, TREE PRESERVATION AND REPLACEMENT, TO TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE.

Sections:

- Section 1. Ordinance Identified.
- Section 2. Adds Chapter 17.94

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance adds Chapter 17.94, Landscaping, Tree Preservation and Replacement, to Title 17, Land Development Code, of the Brookings Municipal Code (BMC).

Section 2. Adds Chapter 17.94. Chapter 17.94, Landscaping, Tree Preservation and Replacement, is added to read as follows:

**Chapter 17.94
Landscaping, Tree Preservation and Replacement**

Sections:

- 17.94.010 Purpose
- 17.94.020 Definitions
- 17.94.030 Open Space Standards
- 17.94.040 Irrigation
- 17.94.050 Recommendations with Incentives
- 17.94.060 Private Trees

17.94.010 Purpose.

The purpose of this Chapter is to encourage water conservation, reduce stormwater runoff, and maintain an attractive, livable community. The provisions in this Chapter also are designed to minimize impacts to storm drainage facilities and serve to recharge the groundwater to better utilize our water resources. The component relating to the preservation or replacement of trees within the City is designed to preserve the beauty of the community and to protect the public health, safety, and welfare of the residents of the City of Brookings. As an important component of landscaping, the City encourages property owners to retain existing, mature trees or plant new trees.

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- B. Multi-family Residential (R-3) Property - Required to have 15 percent of the lot with usable open space recreation area per 17.28.110, BMC, and 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H). If landscaping is proposed elsewhere on the property, the open space plan must have at least 40 percent drought resistant plants. Must also comply with BMC 17.94.060 and 17.94.070.
- C. Commercial and Industrial (C-1, C-2, C-3, C-4, IP, M-2) Property - Required to have 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H), BMC. Any required landscaping within setback areas must also be in compliance with 17.92.100 (H), BMC. Must also comply with BMC 17.94.060 and 17.94.070.

A list of drought resistant plants that grow well in this area is available at the Planning Department.

17.94.040 Irrigation. If an irrigation system is to be installed on residentially zoned property, it must be a drip irrigation system or other water conservation-type irrigation. Said system must be shown on the submitted open space plan.

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 - 3. All dead, diseased or dangerous trees, broken or decayed limbs, or roots which constitute a hazard to the public shall be removed.
- B. Failure of the property owner to maintain trees as described above shall be subject to penalties pursuant to Chapter 8.15, Nuisances, BMC.
- C. Public Works Director, or designee, will determine when a tree is out of compliance as described in 17.94.060 (A).

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