

# **Advance Packet**

Dated: 7-21-08

*for*

**Monday, July 28, 2008, Common Council Meeting**

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

**Ordinances:**

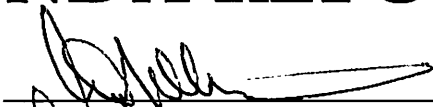
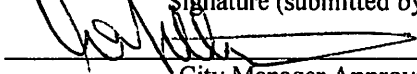
1. Ordinance 08-O-618, adding Chapter 12.40, Alcohol Prohibited on Public Premises, to Title 12, Streets, Sidewalks and Public Places, of the Brookings Municipal Code. [pg. 3]
2. Ordinance 08-O-610, adding Chapter 13.35, Storm Water, to Title 13, Public Services, of the Brookings Municipal Code. [pg. 11]
3. Ordinance 08-O-619, adding Chapter 13.40, Storm Water Fees, to Title 13, Public Services, of the Brookings Municipal Code. [pg. 19]

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: July 28, 2008

Originating Dept: City Manager

  
\_\_\_\_\_  
Signature (submitted by)  
  
\_\_\_\_\_  
City Manager Approval

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Subject: Prohibition of alcohol on public premises.

Recommended Motion:

Adopt Ordinance 08-O-618, an ordinance adding Chapter 12.40, Alcohol Prohibited on Public Premises, to Title 12, Streets, Sidewalks and Public Places, of the Brookings Municipal Code.

Financial Impact:

None.

Background/Discussion:

In October of 2005, the City adopted Ordinance 315.A, an ordinance prohibiting the use of alcoholic beverages on City property, including parks. In 2006, the ordinance was inadvertently repealed as part of the original codification process.

At a Council workshop held on June 2, 2008, Council discussed with staff the possible re-adoption of the ordinance. The attached ordinance is the result of that discussion.

Policy Considerations:

Re-establishes Council policy adopted in 2005.

Attachment(s):

Ordinance 08-O-618

Repealed Ordinance 315.A

Workshop Report dated June 2, 2008

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

**ORDINANCE 08-O-618**

AN ORDINANCE ADDING CHAPTER 12.40, ALCOHOL PROHIBITED ON PUBLIC PREMISES, TO TITLE 12, STREETS, SIDEWALKS AND PUBLIC PLACES, OF THE BROOKINGS MUNICIPAL CODE.

Sections:

- Section 1. Ordinance identified - adds Chapter 12.40
- Section 2. Adds Section 12.40.010
- Section 3. Adds Section 12.40.020
- Section 4. Adds Section 12.40.030
- Section 5. Adds Section 12.40.040

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance adds Chapter 12.40, Alcohol Prohibited on Public Premises, to Title 12, Streets, Sidewalks and Public Places, of the Brookings Municipal Code.

Section 2. Section 12.40.010 is added to Chapter 12.40, Alcohol Prohibited on Public Premises, to read as follows:

Alcohol prohibited on public premises. It shall be unlawful for any person to drink, consume, transport, carry, or possess any alcoholic beverage, except in the original package with the seal unbroken, on any public premises.

Section 3. Section 12.40.020, Alcohol Defined, is added to Chapter 12.40 to read as follows:

The term alcoholic beverage, as used in this ordinance, shall be construed to mean and include any liquid intended for human consumption containing more than one half of one per cent by volume of alcohol.

Section 4. Section 12.40.030, Public Premises Defined, is added to Chapter 12.40 to read as follows:

Public premises defined. For the purpose of this ordinance, public premises shall include city parks, city buildings, city parking lots, and other premises under the control of the city, but shall not include public highways.

Section 5. Section 12.40.040, Penalties and Fines, is added to Chapter 12.40 to read as follows:

Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$500.

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

Signed by me in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Attest:

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

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

IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON

In the Matter of an Ordinance	)	
Amending Ordinance No. 315,	)	ORDINANCE NO. 315.A
An Ordinance Regulating the	)	
Consumption of Alcoholic Beverages	)	
On Public Premises	)	

Sections:

- Section 1. Ordinance identified
- Section 2. Ordinance amended

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 315, enacted June 19, 1979, titled An Ordinance Regulating the Consumption of Alcoholic Beverages on Public Premises.

Section 2. Amendment to Ordinance No. 315.

Ordinance No. 315 is amended to read:

Section 1. It shall be unlawful for any person to drink, consume, transport, carry, or possess any alcoholic liquor, except in the original package with the seal unbroken, on any public premises.

Section 2. The term alcoholic liquor, as used in this ordinance, shall be construed to mean and include any liquid intended for human consumption containing more than one half of one per cent by volume of alcohol.

Section 3. For the purpose of this ordinance, public premises shall include city parks, city buildings, city parking lots, and other premises under the control of the city, but shall not include public highways.

Section 4. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$500.

First Reading: October 10, 2005  
Second Reading: October 10, 2005  
Passage: October 10, 2005  
Effective Date: October 10, 2005

Signed by me in authentication of its passage this 11th day of October, 2005.

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Mayor Pat Sherman

ATTEST:

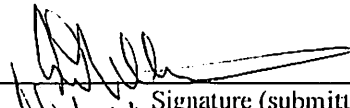
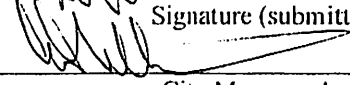
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Paul Hughes  
Finance Director/Records

**CITY OF BROOKINGS**  
**Council WORKSHOP Report**

Workshop Date: June 2, 2008

Originating Dept: City Manager

  
\_\_\_\_\_  
Signature (submitted by)  
  
\_\_\_\_\_  
City Manager Approval

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Subject: Use of Alcoholic Beverages on City Property

Recommendation: Discussion and direction to staff

Background/Discussion:

The City enacted an ordinance prohibiting the use of alcoholic beverages on City property, including parks, several years ago. Staff has learned that, as a part of the codification process that occurred in 2006, the Ordinance/Code section dealing with this matter was inadvertently repealed.

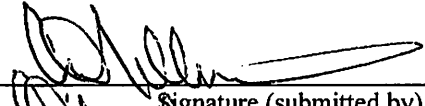
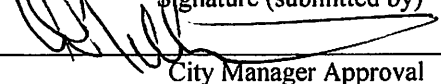
Prior to brining an Ordinance to the Council to re-enact the prohibition, staff would like to have a discussion with the Council concerning the need and enforcement concerns relating to this matter. Chief Wallace will participate in this discussion.

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: July 28, 2008

Originating Dept: Public Works

  
\_\_\_\_\_  
Signature (submitted by)  
  
\_\_\_\_\_  
City Manager Approval

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Subject: Establish a Storm Water System and Storm Water Fee.

Recommended Motion:

1. Motion to adopt Ordinance 08-O-610 adding Chapter 13.35, Storm Water, to Title 13, Public Services of the Brookings Municipal Code.
2. Motion to adopt Ordinance 08-O-619 adding Chapter 13.40, Storm Water Fees, to Title 13, Public Services of the Brookings Municipal Code.

Financial Impact: This would increase the monthly City utility service bill by \$4.00 and would raise approximately \$1.2 million over a period of 10 years to fully fund system improvement recommendations. Debt service information attached.

Background/Discussion: Ordinances 08-O-610 and 619 will add a storm water system and storm water fees to the Brookings Municipal Code. 08-O-619 will add a \$4.00 per month system replacement fee for storm water to the monthly utility bills. At the May 27, 2008 Council meeting, the decision regarding whether to adopt a \$2.50 or \$4.00 fee was deferred pending further review. Staff recommends that the \$4.00 per month fee is reasonable and would allow for a 10-year payback of the 1.2 million dollar loan of Phase I & II priority projects. Also included in the fee ordinance is a yearly review of the fee and a CPI -U adjustment annually in line with the three other systems replacement funds, water, sewer and streets. Ordinance 08-O-610 will add to the Municipal Code authority to regulate the construction and maintenance of storm water systems.

Policy Considerations: These two ordinances will establish a storm drainage policy and financial means to address long neglected drainage issues. The proposal is consistent with ongoing policy discussion by the City Council to establish financing mechanisms to adequately fund maintenance and replacement of City infrastructure.

Attachment(s):

Ordinance 08-O-610

Ordinance 08-O-619

Debt Service Calculations



## Debt Service Calculations

3544 billable accounts as of May 31, 2008

@\$4.00 per account per month = \$14,176 per month or \$170,112 per year.

@\$2.50 per account per month = \$8,860 per month or \$106,320 per year.

Attached are four amortization schedules @5.0% interest

The 1st is a 10 year term interest + loan total \$1,508,650.60.

The 2<sup>nd</sup> is a 15 year term interest + loan total \$1,685,801.90.

The 3<sup>rd</sup> is a 20 year term interest + loan total \$1,874,012.00.

The 4<sup>th</sup> is a 30 year term interest + loan total \$2,283,230.40.

All are two payments per year. The loan is for 1.2 million. If we "shop" around we may be able to get a lower interest rate.

Staff would recommend the \$4.00 per month fee and the ten-year loan to allow for Phase I & II projects to proceed with the amount over the loan payoff to be placed into the Storm System Replacement Fund, so that unanticipated emergencies can be dealt with without depleting the street fund.

## BROOKINGS ORDINANCE

### ORDINANCE NO. 08-O-610

AN ORDINANCE ADDING CHAPTER 13.35, STORM WATER, TO TITLE 13, PUBLIC SERVICES, OF THE BROOKINGS MUNICIPAL CODE.

- Section 1: Ordinance Identified, adds Chapter 13.35
- Section 2: Adds Section 13.35.010, Establishment of Storm Water System
- Section 3: Adds Section 13.35.015, Definitions
- Section 4: Adds Section 13.35.020, System Improvements
- Section 5: Adds Section 13.35.025, System Maintenance
- Section 6: Adds Section 13.35.030, Prohibition of Nonconforming Storm Drainage System
- Section 7: Adds Section 13.35.035, Prohibition for Constructing Storm Drainage Systems Without Permit
- Section 8: Adds Section 13.35.040, Procedure to Secure Permit
- Section 9: Adds Section 13.35.045, Duty of Public Works Director
- Section 10: Adds Section 13.35.050, Procedure to Require Conformance of Nonconforming Storm Drains
- Section 11: Adds Section 13.35.055, Material Specifications
- Section 12: Adds Section 13.35.060, Reservation of the City's Right to Change Specifications
- Section 13: Adds Section 13.35.065, Violations

**Section 1.** Ordinance Identified . Adds Chapter 13.35, Storm Water, to Title 13, Public Services, of the Brookings Municipal Code.

**Section 2.** Section 13.35.010, Establishment of Storm Water System, is added to Chapter 13.35, Storm Water, to read as follows:

A. The City of Brookings, for the protection of the public welfare, for the safety of the public, and for the best interest of the City, hereby declares that the City of Brookings, Oregon, possesses, claims, maintains, exerts, and reserves unto the City complete and full jurisdiction over and unto all conforming storm drainage systems now, or hereafter, constructed within the corporate limits of the City of Brookings.

B. This chapter provides for the establishment, operation, and maintenance of a Storm Water System within the City of Brookings including maintenance and extension of the present Storm Water System.

**Section 3.** Section 13.35.015, Definitions, is added to Chapter 13.35, Storm Water, to read as follows:

A. "Open drainage way" means a natural or man-made path, ditch or channel which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

B. "Impervious surfaces" are those surface areas which either prevent or retard saturation of water into the land surface and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

C. "Improved premises" means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected.

D. "Development" shall mean any man-made change to improved or unimproved real property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

E. "Runoff control" is any means approved by the City Engineer by which the peak rate of storm runoff from development land surfaces is reduced.

F. "Storm drainage system" shall mean any natural drainage course or man made culverting system or ditch that conveys storm water.

G. "Nonconforming drainage system" shall mean:

1. Any culvert or ditch that is constructed upon any property or public right of way within the corporate limits of the City of Brookings that has been constructed without a written permit issued by the Public Works Department.

2. Any storm drainage component which is not constructed to standards approved by the City, or maintained in such shape or condition or repair as to render the storm drainage component dangerous or unsafe.

**Section 4.** Section 13.35.020, System Improvements, is added to Chapter 13.35, Storm Water, to read as follows:

A. The improvement of both public and private storm water facilities through or adjacent to a new development shall be the responsibility of the developer. The improvement shall comply with all applicable City ordinances, policies and standards.

B. It is the policy of the City of Brookings to participate in the improvements to the storm water facilities when authorized by the City Council. To be considered for approval by the Council, a facility must:

1. Be a public facility.

2. Be a major benefit to the community.

3. If a closed pipe system, be a design equivalent to or larger than a 12" diameter circular pipe of a material to be approved by the City's engineer.

4. Be a replacement or rehabilitation of an existing public facility.

**Section 5.** Section 13.35.025, System Maintenance, is added to Chapter 13.35, Storm Water, to read as follows:

The City shall maintain all public storm drainage facilities located within City owned land, City rights-of-way and City Easements.

A. Public facilities include, but are not limited to:

1. Pipe drainage systems and their related appurtenances which have been designed and constructed expressly for use by the general public and accepted by the City.
2. Roadside drainage ditches along City streets.
3. Flood control facilities that have been designed and constructed expressly for use by the general public and accepted by the City.

B. Facilities which do not qualify as public facilities under this section of the Ordinance include, but are not limited to:

1. Facilities not located on City owned property, City rights-of-way, or within City Easements.
2. Private parking lot storm drains.
3. Roofs, footings and area drains.
4. Drains not designed and constructed for use by the general public.
5. Access drive culverts not within the City right-of-way.

**Section 6.** Section 13.35.030, Prohibition of nonconforming storm drainage system.

A. From and after the date of passage and the effectiveness of the ordinance codified in this chapter, no person, firm, or corporation shall construct a nonconforming storm drainage system upon any property, public easement or right way within the corporate limits of the City of Brookings.

**Section 7.** Section 13.35.035, Prohibition for constructing storm drainage systems without permit.

A. No owner or owners of property located within the corporate limits of the City of Brookings, or person, firm, or corporation shall construct a storm drainage system, or excavate any ground for the purpose of construction of a storm drainage component thereon, without first having applied for and received from the City a development permit for such construction and excavation. A development permit from the City will not be granted without submittal of plans and a copy of permits or letter of non interest from Division of State Lands and Army Corps of Engineers.

**Section 8.** Section 13.35.040, Procedure to secure permit.

A. Any owner of property located within the corporate limits of the City of Brookings, or any person, firm or corporation desiring to construct or excavate for a storm drainage component within the corporate limits, shall comply with the following procedure. An application in writing shall first be made to the Public Works Department setting forth the description of the land upon which a storm drainage component is to be constructed and upon which the excavation, if any, is to be made. This application shall also set forth the material to be used in the construction together with a statement as to how the storm drainage component is to be established. This application may require plans drawn by an Oregon licensed civil engineer and will include a minimum easement width of 15 feet. The City shall consider the application, and if the provisions of this chapter have been met, a permit shall be issued to the applicant to construct and excavate to the extent that such excavation is necessary to accomplish the purpose applied for.

**Section 9.** Section 13.35.045, Duty of Public Works Director.

A. It shall be the duty of the Public Works Director or his designee to periodically inspect the condition of all storm drainage systems in the City. He shall periodically make a report of such inspection to the City Manager. He shall set forth and describe all nonconforming storm drainage components that he has discovered, prior to the date of his report, and submit the same to the City Manager.

**Section 10.** Section 13.35.050, Procedure to require conformance of nonconforming storm drains.

A. If the City Manager finds that a non-conforming storm drainage component exists he may order the storm drainage component to be repaired per The General Engineering Requirements and Standard Specifications of the City of Brookings. The procedure as stated in BMC 8.15.090 "General abatement procedure" will be followed.

**Section 11.** Section 13.35.055, Material specifications.

A. All material used in the construction of any storm drainage system or component must be in compliance with the City of Brookings General Engineering Requirements and Standard Specifications document.

**Section 12.** Section 13.35.060, Reservation of the City's right to change specifications.

A. The City reserves the right to revise, change, or require additions or alterations to any stated specifications, when in their judgment the health, safety, and welfare of the community warrant such actions.

**Section 13.** Section 13.35.0565, Violations.

A. The violation of any section of this chapter shall be punishable as stated in BMC chapter 1.05.010.

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

Adopted by the Council of the City of Brookings on \_\_\_\_\_, 2008, and signed by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

ATTEST:

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

## BROOKINGS ORDINANCE

### ORDINANCE NO. 08-O-619

AN ORDINANCE ADDING CHAPTER 13.40, STORM WATER FEES, TO TITLE 13, PUBLIC SERVICES, OF THE BROOKINGS MUNICIPAL CODE.

- Section 1: Council Findings
- Section 2: Ordinance Identified - Adds Chapter 13.40, Storm Water Fees
- Section 3: Adds Section 13.40.010, Definitions
- Section 4: Adds Section 13.40.015, Fee Imposed
- Section 5: Adds Section 13.40.020, Rates, Fees and Charges
- Section 6: Adds Section 13.40.025, Disposition of Funds
- Section 7: Adds Section 13.40.030, Review and Appeal

#### **Section 1. Council Findings.**

The City of Brookings finds as follows:

A. The City of Brookings has maintained, and continues to maintain, an extensive Storm Water System in a climate with dramatic amounts of rainfall. The system includes open ditches, closed piping, catch basins, manholes and stream channels all of which require regular maintenance and upgrading.

B. Due to age, portions of the system need to be completely replaced.

C. The amount of storm water to be processed through the City's Storm Water System increases with the increasing levels of development in the City. The increased development creates more impervious areas, which put a greater demand on the Storm Water System. This results in the need for the planning, design and maintenance of existing and future storm water systems.

D. It is anticipated within the next two years that the Oregon Department of Environmental Quality will be enacting regulations which will require increased capital expenditures to upgrade the Storm Water System.

E. The City currently does not have the resources from the General Fund and the State Gas Tax Fund to maintain the Storm Water System in an adequate fashion.

F. It is more efficient and equitable to charge the cost of handling storm water to those who contribute to the storm water problem. Determining the impervious areas of the properties contributing to the storm water is an appropriate measure for determining what financial contribution should come from various properties.

G. In order to protect and promote the public health, safety and welfare of the residents of the City of Brookings, it is necessary that the storm water system within the City continue to be operated, maintained and upgraded as necessary and that a Storm Water System User Fee be established to insure adequate funding for this ongoing operation.

**Now, therefore, the City of Brookings ordains as follows:**

**Section 2.** This ordinance adds Chapter 13.35, Storm Water Fees, to Title 13, Public Services, of the Brookings Municipal Code.

**Section 3.** Section 13.40.010, Definitions, is added to Chapter 13.40, Storm Water Fees, to read as follows:

A. "Single-family Dwelling" (SFD) means that part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family and where the units are sold and deeded as individual units and have individual water meters. A SFD is presumed to have 2,500 square feet of impervious surface area for purposes of this Ordinance. The term "SFD" shall be inclusive of those units identified as detached single-family residences, unit ownership and condominiums, etc.

B. "Multiple-family Dwelling" (MFD) means a building or facility consisting of more than one dwelling unit with each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family and having a common water meter.

C. "Commercial or Industrial Unit" means any building or facility used other than as a dwelling unit.

D. "Equivalent Dwelling Unit" (EDU) means an area which is estimated to place approximately equal demand on the City's storm drainage system as a single-family dwelling unit. One (1) EDU shall be equal to 2,500 square feet of impervious surface.

E. "Manufactured Home" and "Manufactured Home Park" are defined as provided in ORS 446.003.

F. "Open Drainage way" means a natural or man-made path, ditch or channel which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

G. "Impervious surfaces" are those surface areas which either prevent or retard saturation of water into the land surface and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

H. "Improved premises" means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected.

I. "Development" shall mean any man-made change to improved or un-improved real property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

J. "Runoff control" is any means approved by the City Engineer by which the peak rate of storm runoff from development land surfaces is reduced.

K. "Storm drainage system" shall mean any natural drainage course or man made culverting system or ditch that conveys storm water.



**Section 4.** Section 13.40.015, Fee Imposed, is added to Chapter 13.40, Storm Water Fees, to read as follows:

The structure of the storm drainage utility is intended to be a fee for service and not a charge against properties which have been improved within the City of Brookings, just and equitable charges for storm water service and any subsequent service, which includes the maintenance, operations and extension of the Storm Water System; and to establish a Storm Water System fund for these same purposes.

A. The person or persons owning or occupying improved premises which make use of the City's Storm Water System shall be jointly and severally responsible for the payment of storm water system user fees imposed by this ordinance.

B. The City of Brookings Administrative Services Department is hereby authorized and directed to collect all Storm Water System User Fees herein levied and imposed through the utility billing system on a monthly basis. For this purpose, the City of Brookings may include Storm Water System User Fees as a part of their billings for water services.

C. Storm Water System User Fees imposed under this ordinance shall be a debt due to the City of Brookings, and when such debt should become thirty days delinquent, this charge may be collected in a civil action in the name of the City against the owner or occupant of the improved premises using the Storm Water System.

D. Each owner or occupant of improved premises shall be notified at least annually in conjunction with a regular billing of the rate in that portion of the user charges which are attributable to Storm Water System services.

E. Property not used for single family dwelling purposes is furnished storm water system service in proportion to the amount of the property's impervious surface. For each 2,500 square feet of impervious surface, the said property is furnished service equivalent to that furnished a single family unit and at the minimum service charge established for a single family unit.

F. The Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary or that the contribution to storm drainage facility use by the class to be insignificant.

**Section 5.** Section 13.40.020, Rates, Fees and Charges, is added to Chapter 13.40, Storm Water Fees, to read as follows:

The following Storm Water System rates are hereby established for all properties located within the currently developed areas of the City.

TYPE	RATE PER MONTH PER EDU TO NEAREST WHOLE NO. OF EDU'S	NO. OF EDU'S
Single Family Dwelling	\$4.00	1
Multiple Family Dwelling	\$4.00/2,500 sq. ft.	Determine by Measurement
Commercial and Industrial Unit	\$4.00/2,500 sq. ft.	Determine by Measurement
Improved Premises or Lots:	\$4.00/2,500 sq. ft.	Determine by Measurement
Manufactured Home Parks	\$4.00/EDU	6 EDU per acre for total area

The rates established in this section shall be reduced for a property where appropriate runoff control measures have been taken and approved by the City Engineer.

Credit will be allowed for runoff control measures. When approved by the City Engineer, storm drainage utility fees may be reduced for a property where approved runoff control measures have been taken. A fee reduction shall be on a straight line basis with conditions existing on the date of the passage of this ordinance, being considered as starting or initial conditions. If the person responsible establishes, to the satisfaction of the City Engineer, that all runoff from a property is disposed of without utilizing public storm drainage facilities either directly or indirectly, there will be no fees charged under the provisions of this chapter.

Fees shall be reviewed annually and adjusted by resolution to the current year's March Consumer Price Index – Urban (CPI-U), calculated from the past year.

**Section 6.** Section 13.40.025, Disposition of Funds, is added to Chapter 13.40, Storm Water Fees, to read as follows:

All fees collected under the terms of this ordinance shall be deposited in a special fund to be known as the Storm Water System Fund. The monies in said fund shall be used by the City for the payment of principal and interest of any bonds of said City for the repair, maintenance and operation of the Storm Water System. The fees collected under the terms of this ordinance may also be used for the replacement or reconstruction of any part of the Storm Water System and for any upgrades that should become necessary including the construction of new storm water facilities in the future.

**Section 7.** Section 13.40.030, Review and Appeal, is added to Chapter 13.40, Storm Water Fees, to read as follows:

A. Review by City Engineer. Any Storm Water System user believing the Storm Water System User Fee is unjust and inequitable as applied to his or her particular circumstances or premises may make written application to the City Engineer requesting a review of such user fee. The written request shall, where applicable, show the actual estimated average flow of storm water in comparison with the values upon which the charge is based, including the manner and method in which such measurements were made. The review of the request shall be made by the City Engineer who shall determine if it is substantiated or not, and if the request is determined to be substantiated, the user fees for that user shall be recomputed based on the approved and revised flow and the new charges thus recomputed will be applicable beginning with the date that the written request was received by the City Engineer.

B. Appeal. Any person aggrieved by the action of the City Engineer in denying or modifying a request for application for a review of Storm Water System User Fees shall have the right of appeal of such action to the City Council by delivering written notice of such appeal to the City Manager within 15 days after receiving the written notice of the action of the City Engineer, and such Notice of Appeal shall specify therein all facts through reasons to be relied upon in such appeal. The appeal shall be held before the Council at its next regular meeting held not earlier than ten (10) days after the filing of such Notice of Appeal. The decision of the Council upon such appeal shall be final and conclusive.

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

Adopted by the Council of the City of Brookings on \_\_\_\_\_, 2008, and signed by  
the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

ATTEST:

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