

**ORDINANCE NO. 91-0-471**

**AN ORDINANCE PROVIDING LIMITATIONS ON SEWER CONNECTIONS TO THE CITY OF BROOKINGS SEWAGE DISPOSAL SYSTEM; REPEALING ORDINANCE NO. 91-0-470; AND DECLARING AN EMERGENCY.**

**SECTIONS:**

	<b>FINDINGS</b>
<b>SECTION 1.</b>	<b>DEFINITIONS</b>
<b>SECTION 2.</b>	<b>LIMITATIONS AND RESTRICTIONS ON SEWER CONNECTIONS</b>
<b>SECTION 3.</b>	<b>CONNECTION WHERE THERE IS REMOVAL OF EXISTING FUNCTIONING SEWER CONNECTION</b>
<b>SECTION 4.</b>	<b>APPROVAL OF SEWER CONNECTION APPLICATION</b>
<b>SECTION 5.</b>	<b>WAIVER OF SEWER CONNECTION RESTRICTIONS</b>
<b>SECTION 6.</b>	<b>WASTEWATER CAPACITY/PLANNING PROCESS</b>
<b>SECTION 7.</b>	<b>ORDINANCE REVIEW.</b>
<b>SECTION 8.</b>	<b>SEVERANCE CLAUSE</b>
<b>SECTION 9.</b>	<b>REPEAL OF ORDINANCE NO. 91-0-470</b>
<b>SECTION 10.</b>	<b>EMERGENCY CLAUSE</b>

**WHEREAS, the Common Council of the City of Brookings makes the following findings in support of its enactment of this Ordinance:**

**I. The City of Brookings wastewater treatment facility is a key facility of the City of Brookings as defined in statewide planning goals, which facility serves both the City of Brookings and the Harbor Sanitary District.**

**2. In accordance with the report of Brown and Caldwell, design engineers for the wastewater treatment plant for the City of Brookings, the "design capacity" for the current wastewater treatment facility under construction has been reached.**

**3. The City of Brookings is in the process of completing stage I of its wastewater treatment plant reconstruction in accordance with the City's facility plan dated April, 1988.**

**4. Based upon the current information available, the City's wastewater treatment facility has an estimated reserve capacity of 300 residential equivalent dwelling units (EDU's) presently available above the design capacity.**

**5. The City of Brookings and the Harbor Sanitary District, whose sewage is received by the City, currently have more lots available for development than can be served by this anticipated reserve capacity.**

**6. For the purposes of allocating remaining reserve capacity of the City's wastewater treatment plant between the City of Brookings and the Harbor Sanitary District, on February 25, 1991, the City of Brookings and the Harbor Sanitary District entered into an Intergovernmental Agreement pursuant to the authority of ORS 190.003 et. seq. allocating that reserve capacity as follows: 186 EDU's to the City of Brookings and 114 EDU's to the Harbor Sanitary District.**

**7. The allocation of remaining capacity by the City of Brookings under the provisions of this Ordinance gives priority to accommodating the housing needs of the City of Brookings.**

**8. The City of Brookings has presently undertaken a \$3.3 million project to provide City services to an area within the City which is known as the Dawson Tract Local Improvement District, including the installation of a sewage disposal system, which project is not completed.**

**9. It is prudent and appropriate not to exceed design and reserve capacity of the wastewater treatment plant of the City of Brookings.**

10. The City of Brookings, with the aid of Brown and Caldwell, engineers, is in the process of completion of its facility's plan for the planned stage II upgrade of the City's wastewater treatment facility and has adopted a time table for a course of action to: (1) bring on line the current improvements to the wastewater treatment facility under the stage I construction plan; (2) seek a new and updated discharge permit through the Oregon Department of Environmental Quality acting for the Environmental Quality Commission; and (3) begin the process of planning the stage II wastewater treatment facility reconstruction which will include plant capacity expansion.

11. The addition of a chemical feed system to the city's wastewater treatment facility is an interim method to maximize plant capacity.

12. No funds are available within the current budget to fund anticipated costs of a chemical feed system.

**THE CITY OF BROOKINGS ORDAINS AS FOLLOWS:**

**SECTION I. DEFINITIONS.** For purposes of this Ordinance, the following definitions shall apply:

A. "City" shall mean the City of Brookings, Oregon, an Oregon municipal corporation.

B. "Equivalent Dwelling Units" shall mean the load rate or equivalent for which public utility systems services are provided, calculated under the provisions of Sections 3 and 4 of Ordinance No. 87-O-418 of the City of Brookings (imposing Systems Development Charges), based upon the character of the structure.

C. "Sewer Connection" shall mean the physical connection of a buildings wastewater disposal line to the facilities of the City of Brookings designed for wastewater collection, disposal and treatment.

D. "Parcel" shall mean a unit of land that is created by partitioning or dividing land.

E. "Residential", "commercial" and "industrial" shall mean a use which is approved within a district designated as such under Ordinance No. 89-0-446 of the City of Brookings, Oregon and the City's Comprehensive Plan.

**SECTION 2. LIMITATIONS AND RESTRICTIONS ON SEWER CONNECTIONS.** Sewer connections to the City of Brookings sewage disposal system (hereinafter "system") shall be limited by the following:

A. No approval shall be given to connection to the system except in accordance with the provisions of this Ordinance.

B. No property which is annexed to the City of Brookings and no separate parcel within the City annexed or created after the date of this Ordinance, shall be connected to the system.

C. The City shall continue to process requests for annexation and applications for land use action which will result in creation of new parcels after the date of this ordinance; however, no action by the City, as provided in this subsection, shall constitute or be considered approval of a present or future right to connect to the system. All applications for land use action shall be determined in accordance with applicable provisions of the City's Land Development Code and Comprehensive Plan.

D. Following the effective date of this Ordinance, new sewer connection approvals by the City shall not exceed 186 EDU's until such time as additional wastewater treatment facility capacity in the City is available, and upon the approval of the sewer connection which reaches that maximum reserve capacity available to the City, no additional sewer connections shall be allowed or approved.

**E. Only applications for sewer connections made in conjunction with an application for a building permit and the payment of systems development charges and all other applicable fees shall be approved. In the event of the approval of a sewer connection, construction of the structure to be connected to the City's sewage disposal system shall commence within 120 days following the issuance of the sewer connection approval and the structure shall be completed within one (1) year of the issuance of the sewer connection approval. Building completion shall be acknowledged and demonstrated by the issuance of a permit to occupy.**

**(1) The sewer connection approval granted in accordance with the terms of this Ordinance will be automatically revoked by the City in accordance with the time limitations for actions provided in Section 2E above unless an application for an extension of time is submitted to the City prior to the expiration of the time limits provided in Section 2E above and specifying the reason(s) why the time limits for either the commencement of construction or completion of construction, which ever is applicable, could not be met.**

**(2) All requests for extension of time as provided in Subsection (1) shall be determined by the City's site plan committee. An extension of time may only be granted for reasons which are not within the control of the party to whom the connection approval was given. Any interested party may appeal the decision of the site plan committee on a request for extension of time to the Common Council of the City of Brookings, by written notice of said appeal, stating the reason(s) therefor, filed with the City within 15 days of the decision.**

**(3) Upon the revocation of a sewer connection approval as provided in Section 2.E above, no refunds of fees previously paid shall be allowed.**

**F. The Dawson Tract Local Improvement District shall be allocated 75 EDU's of the presently available reserve capacity to service existing development in the area as part of the present process of installing sewer service to the area which allocation shall only serve present existing development (residential, commercial or industrial). In the event new development is proposed in the area of the Dawson Tract Local Improvement District, sewer connection approval requests for this new development shall be considered under the allocation of EDU's specified in Section 2G below.**

**G. Based upon the percentage of land zoned for residential, commercial and industrial use within the City, the remaining reserve capacity of 111 EDU's shall be available to property based upon its zoning designation as provided in the City's Land Development Code and Comprehensive Plan as follows:**

<u><b>ZONE</b></u>	<u><b>NO. OF EDU'S</b></u>
<b>Residential</b>	<b>89</b>
<b>Commercial/Industrial</b>	<b>22</b>

**H. Priority for sewer connection approvals in accordance with the allocations provided under Section 2F and 2G above shall be made solely upon the basis of the date upon which a completed application for sewer connection is submitted to the City for processing. In the event it is necessary to determine priority between applications submitted on the same date, priority shall be given to the application submitted earliest in time.**

**SECTION 3. CONNECTION WHERE THERE IS REMOVAL OF EXISTING FUNCTIONING SEWER CONNECTIONS.** Property owners, where functioning sewer connections, as verified by payment of sewer user fees as of February 11, 1990 or after, have been or are removed in the future, will be able to receive sewer connection approval for the same number of EDU's for said verified connection removal separate and apart from and in addition to the allocation set out in Section 2 above, upon application to the site plan committee. This sewer connection approval may be used anywhere within the City's sewer system on land of any zoning designation.

**SECTION 4. APPROVAL OF SEWER CONNECTION APPLICATION.** All applications for sewer connections to the City of Brookings sewerage disposal system shall be approved by the site plan committee of the City of Brookings. Any interested party may appeal the action of the site plan committee upon its action on an application for sewer connection to the Common Council of the City of Brookings, by written notice of said appeal, stating the reason(s) therefor, filed with the City within 15 days of such action.

**SECTION 5. WAIVER OF SEWER CONNECTION RESTRICTIONS.** The Common Council of the City of Brookings shall have the power to waive the restriction provided in Section 2B above (limiting the ability of a new parcel to connect to the system) under the following circumstances only:

A. The parcel proposed to be created and connected to the system is within an area of a local improvement district providing sewerage system improvements established prior to the effective date of this Ordinance; and

B. The sewerage system improvements have been commenced but not completed prior to the enactment of this Ordinance.

No other waiver of the requirements of Section 2 above may be allowed except upon amendment to this Ordinance after public hearing.

**SECTION 6. WASTEWATER CAPACITY/PLANNING PROCESS.** As a plan for corrective action to eliminate the shortage of capacity in the City's wastewater treatment facility, based upon the timetable of the City's engineer, the City shall:

A. Complete Stage 1 of the current improvements to the wastewater treatment facility.

B. Seek budgeted funding during 1991-92 fiscal year for a chemical feed system as an addition to the wastewater treatment facility, and install that process as soon as funding permits.

C. Seek a new and updated effluent discharge permit through the Department of Environmental Quality and the Environmental Quality Commission.

D. Complete the new (1991) Facilities Plan.

E. Begin planning Stage II of the Wastewater Treatment Facility Reconstruction for plant capacity expansion.

F. Seek funding for the Stage II project.

**SECTION 7. ORDINANCE REVIEW.** This ordinance shall be reviewed by the City Council at least every four (4) months to consider changes in development patterns in the City.

**SECTION 8. SEVERANCE CLAUSE.** If any section or provision of this Ordinance is declared invalid, such decision shall apply to that section or provision only and shall not affect the validity of this Ordinance as a whole or any part hereof other than the part declared invalid.

**SECTION 9. REPEAL OF ORDINANCE NO. 91-0-470.** Ordinance No. 91-0-470 is hereby repealed in its entirety.

**SECTION 10.. EMERGENCY CLAUSE.** The matters contained herein substantially affect the peace, health, safety and welfare of the people of the City of Brookings and, therefore, an emergency is hereby declared to exist and this Ordinance shall become effective immediately upon its passage by the Council and approval by the Mayor.

First reading: March 12, 1991

Second reading: March 12, 1991


Passage: March 12, 1991

Effective date: March 12, 1991

Signed by me in authentication of its passage this 12th day of March, 1991.

  
Fred Hummel  
Mayor

Attest:

  
Beverly S. Shields  
City Recorder