

ORDINANCE NO. 94-O-446.V

AN ORDINANCE AMENDING ORDINANCE NO. 89-O-446 (LAND DEVELOPMENT CODE), SECTION 8 (DEFINITIONS) AND SECTION 100 (HAZARDOUS BUILDING SITE PROTECTION) OF THE CITY OF BROOKINGS.

Sections:

- Section 1. Ordinance identified.**
Section 2. Amendment to Section 8.
Section 3. Amendment to Section 100.

The city of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 89-O-446, enacted April 10, 1989, entitled, "An ordinance adopting the Land Development Code and zoning map of the City of Brookings, repealing certain prior ordinances, and declaring an emergency."

Section 2. Amendment to Section 8. Ordinance No. 89-O-446, Section 8.010 is hereby amended by the addition of the following definition:

"Construct" - To build, form, or devise by fitting parts together systematically. For the purposes of this code the word construct shall also include the preparation of a site for building by the clearing of brush and grading of land for roads, driveways, utilities and foundations.

Section 3. Amendment to Section 100. Ordinance No. 89-O-446, Section 100 is hereby amended in its entirety to read as follows:

Section 100

HAZARDOUS BUILDING SITE PROTECTION
HILLSIDE DEVELOPMENT STANDARDS

Sections:

- 100.010 Purpose.**
- 100.020 Review by city manager or planning commission.**
- 100.030 Slope-density standards.**
- 100.040 Site study authorization.**
- 100.050 Site preparation.**
- 100.060 Enforcement.**
- 100.070 Final maps.**

100.010 Purpose.

A. The purpose of this section is to prevent building site hazards and threats to life and property created by flooding, landslides, weak foundation soils and other hazards as may be identified by the city of Brookings or other agencies. This section is intended to advance the above purpose to protect life and property:

- 1. By requiring the study of such areas by a qualified person prior to construction.**
- 2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion or sediment deposition during construction.**
- 3. By controlling building density in the above described areas.**
- 4. By establishing mechanisms for enforcement to insure compliance with this code.**

B. The policies and standards of this section are based upon the data contained in the comprehensive plan document and other technical information.

100.020 Review by city manager or planning commission.

A. The city manager or a qualified designate, shall review all planning permit requests for conformance with the standards and criteria of this section.

B. The city manager or a qualified designate shall review requests for building permits or grading permits, and the planning commission shall review land use applications proposed within areas identified as having average slopes of greater than 15% grade.

C. The city manager or a qualified designate may refer matters to the planning commission which require use of standards, such as slope-density determinations. The planning commission shall consider the advice of the city manager or a qualified designate and/or other technically qualified person(s) in making a determination.

D. The planning commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in Sections 100.030, 100.040 and 100.050. Planning commission decisions may be appealed to the city council as provided in Section 156.

100.030 Slope-density standards.

In the review of applications for partitioning, subdivisions, planned or clustered developments or multiple-family dwellings, the planning commission and the city manager or a qualified designate in reviewing ministerial applications, shall employ the following density standards for the project site, based on the average slope of the site as determined by a contour map prepared by the applicant or his representative. Contour maps should be prepared pursuant to the National Mapping Accuracy Standards with the following interval:

Overall Site Elevation Difference	Contour Interval
0' - 25'	2'
26' -50'	5'
51' +	10'

With average slope indicated.

1. Zero 15% slope: Density is limited only by the underlying zone in which the site is located.

2. Greater than 15% - 30% slope: Site study and report by a certified engineering geologist is required prior to construction or excavation. Density shall generally not exceed two (2) dwelling units per acre.

3. Greater than 30% slope: Site study and report by a certified engineering geologist is required prior to construction or excavation. Density shall generally not exceed one (1) dwelling unit per acre. Construction on slopes of 30% or greater is permitted only with a foundation designed by an Oregon licensed civil engineer.

4. If it can be demonstrated that, by use of National Mapping Accuracy Standards, the average slope across each given lot of a proposed subdivision or minor partition is less than 15% grade that lot may be smaller than the requirements of Subsection 2 and 3 above. In no case shall the size of a lot be less than the minimum allowed by the underlying zoning. Specific density shall be established after deliberation of the planning commission and testimony from the city manager or a qualified designate, certified engineering geologist, and other qualified person. The site study shall determine if a greater or lesser density is suitable for the site. The site study shall also determine the need for mitigation measures such as drainage structures, water retention, rip rap, road placement and revegetation.

100.040 Site study authorization.

A. The city manager or a qualified designate may require a site study by a certified engineering geologist, Oregon licensed civil engineer and/or other qualified person prior to issuance of a building or grading permit in areas containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazard. Site studies may also be required for construction or excavation in areas of steep slope, where, in the opinion of the city manager or a qualified designate, there is a potential hazard to the proposed structure(s) or to any adjacent property.

B. Site specific studies may be required by the city manager or a qualified designate, or the planning commission for construction or development of property containing weak or unstable foundation soils or other geologic factors as determined by the soils or geology engineering geology report. Site reports shall include bearing capacity of the soil, soil stability, pertinent geological formations, adequacy and method of drainage facilities, and soil compaction and other requirements necessary for stability prior to construction. Location and characteristics of weak foundation soils and geologic formations shall be updated as information becomes available.

100.050 Site preparation

A. No property shall be disturbed, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any erosional or depositional material to be pushed onto, deposited upon or gravitated to the property of another.

B. Prior to any site preparation on an existing lot, or on an approved but unrecorded minor or major partition or subdivision, on slopes greater than 15% grade, the applicant shall submit grading plans prepared by an Oregon licensed civil engineer showing the following information for approval of the City Engineer:

- 1. All cut and fill slopes associated with new or improved roads, driveways and building pads and methods of fill compaction.**

2. All utility grading including the placement of electrical, television and telephone cables.

3. Areas of the site to be denuded of vegetation cover.

4. Mitigation measures including erosion control, permanent planting and an implementation time table. The implementation time table shall be approved by the City Engineer and/or City Manager in regard to the season(s) in which construction will occur.

5. A drainage plan to control water runoff during construction.

C. All vegetation removal and grading on an existing lot, or on an approved but unrecorded minor or major partition or subdivision on slopes greater than 15% grade shall be carried out as per approved grading plans and under the supervision of the project engineer.

D. Erosion and sedimentation caused by storm water runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the city manager or a qualified designate:

1. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access, shall be done. Removal of trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The city shall observe this in the development of streets and building pads.

2. Temporary measures for controlling runoff, such as berms, holding ponds, terraces and ditches shall be used as required, particularly in areas having slopes of 15% or greater.

3. Exposed areas shall be mulched and kept covered during construction to eliminate dust, mud, erosion or sedimentation, and shall be planted in permanent cover within thirty (30) days or as per the approved grading plan of Section 100.050.B.

E. For a structure, driveway, parking area or other impervious surfaces in areas of 15% slope and greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities as specified by the project engineer and approved by the City Engineer or other qualified designate. The storm drain facilities shall be designed for storms having a 25-year recurrence frequency. Storm water shall be directed into drainage with capacity to be calculated in accordance with the City's Comprehensive Plan for Storm Drainage Development, so as not to flood adjacent or downstream property.

F. In all areas of the city, the city manager or a qualified designate may require culverts or other drainage facilities, designed in accordance with the City's Comprehensive Plan for Storm Drainage Development, be installed as a condition of construction.

G. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or boundary will require special impact mitigation measures.

H. Filling of lowlands shall be done only where it is determined that the fill will not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed.

100.060 Enforcement

A. The construction, location, development or use of land or structures, contrary to the provisions of this section, ordinance or permit, or in violation of any conditions or limitations approved pursuant to this ordinance, is an unlawful public nuisance.

B. In addition to other remedies set forth in Section 164, and other remedies provided by ordinance or under state law, the City may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection, construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

C. If the City Manager determines that a violation of this section has occurred, the City shall notify the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who has participated in committing the violation, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the City, the City may seek an injunction to stop further development until the violation has been remedied.

D. If the City Manager determines that a violation has occurred, the City shall give written notice to the owner of the land, and the developer, general agent, architect, builder, contractor, or other person or entity who has participated in committing the violation, that a violation has occurred and that the violation must be remedied within a time specified. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the City will cause the City to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the City to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the City Recorder is authorized to enter the amount of such charges immediately in the docket of City liens.

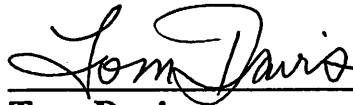
E. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this ordinance, shall be guilty of a violation of this ordinance and shall be subject upon conviction to a fine of not more than \$200. Each day under which a violation exists shall be considered a separate offense.

F. The remedies set forth in this section are cumulative and not exhaustive of all remedies the City may exercise to prevent, correct or abate a violation under this section.

100.070 Final subdivision maps. In the case of a land use activity that requires the recordation of a final map such as a minor partition, major partition or subdivision, recordation of the map will not be allowed until the city is satisfied that the provisions of this section and other applicable provisions of the Land Development Code have been met. Evidence of compliance must be included within the application for final map approval and submitted thirty days prior to the expected hearing date.

First Reading: July 11, 1994
Second Reading: July 11, 1994
Passage: July 11, 1994
Effective Date: August 9, 1994

Signed by me in authentication of its passage this 12th day
of July, 1994.



Tom Davis
Tom Davis
Mayor

ATTEST:


Beverly S. Shields
Beverly S. Shields
Finance Director/Recorder