

ORDINANCE NO. 429

AN ORDINANCE PROHIBITING THE ALTERATION, CHANGE, RESTRICTION, OR BLOCKAGE OF WATER COURSES; THE COLLECTION OR CONCENTRATION OF SURFACE WATERS; REQUIRING A PERMIT; SPECIFYING DAMAGES; INDEMNIFYING THE CITY; DECLARING THE SAME TO BE A PUBLIC NUISANCE; PROVIDING FOR THE ABATEMENT OF SUCH NUISANCES AND FOR THE ASSESSMENT OF SAID COSTS OF ABATEMENT; SETTING A PENALTY; AND DECLARING AN EMERGENCY.

The City of Brookings ordains as follows:

Section 1. No natural drainage course shall be altered, changed, restricted or blocked in any manner, nor shall diffused surface waters be collected or concentrated in any manner until or unless a drainage plan prepared by an Oregon registered professional engineer shall have been submitted to and approved by the City Manager.

Section 2. The permit required herein may be terminated by order of the City Manager for failure by the property owner to properly maintain the improved waterway and drainage appurtenances in a safe and workmanlike manner.

Section 3. Any person, firm or corporation which shall have altered or changed a water course, allowed restriction or blockage thereof in any manner whatsoever, or increased the drainage runoff flow so as to cause flooding or damage to other properties shall be liable in damages arising out of such alteration, change, restriction, blockage, flooding or damage, for such actions.

Section 4. This ordinance shall not be construed to hold the City responsible for any damage to persons or property by reason of the issuance of any permit for drainage improvements or development, the installation of any improvements, the collection or concentration of any diffused surface waters or the alteration, change, restriction, blockage, flooding or damages to water courses or to other properties resulting therefrom, all of the aforesaid being the responsibility of the private property owners of the properties affected or involved.

Section 5. All property owners within the City of Brookings shall, within ten days after they shall have actual notice that a natural water course on or adjacent to property owned by them is obstructed or constricted, remove such obstruction or constriction, and in the event such water course shall form the boundary between properties, it shall be the duty of each adjacent property owner to remove such obstruction or constriction.

Section 6. It is hereby declared that any obstruction, constriction or blockage of a natural water course within the City of Brookings is a public nuisance and the City of Brookings shall have the right to abate such public nuisance, and to enter upon any private property within the City of Brookings for such purpose, and shall assess the cost of such abatement as a lien against the property through which such natural water course flows and upon which the obstruction or constriction occurs, and in the event such water course forms the boundary between two properties, shall assess the cost equally to the adjacent properties. Such assessment shall be levied by the filing of a statement of such costs together with the description of the properties to be assessed, together with the names of the owners thereof with the city recorder, whereupon the city recorder shall forthwith enter such assessment as a lien against such property in the City Lien Docket of the City of Brookings. An administration fee of \$50 or 15% of the cost, whichever is greater, shall be charged and collected by the City.

Section 7. Any violation of the terms of this ordinance shall be punishable, upon conviction thereof, by a fine of not more than \$100.00, which fine shall be in addition to the costs of abatement and the liabilities enumerated herein.

Section 8. In the event of a continuing violation of this ordinance, each day during which such violation exists shall be deemed a separate offense hereunder.

Section 9. It is hereby found and determined that this ordinance is necessary for the immediate preservation of the peace, health and safety of the City of Brookings and the citizens thereof in preserving their lives and property from the threat of flooding, and owing thereto, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage.

FIRST READING: September 12, 1988
SECOND READING: September 12, 1988
PASSAGE: September 12, 1988

Signed by me in authentication of its passage this 12th
day of September, 1988.

Bob Kerr
Bob Kerr
Mayor

ATTEST:

Beverly S. Shields
Beverly S. Shields
City Recorder