

City of Brookings **WORKSHOP Agenda**

CITY COUNCIL

Monday, October 16 2023, 5:00pm

EOC, 898 Elk Drive, Brookings, OR 97415

A. Call to Order

B. Roll Call

C. Topics

- 1.** Business License [Pg. 2]
 - a. Business License Fee Comparisons [Pg. 3]
 - b. Brookings' History of Business Licenses [Pg. 4]
 - c. Ordinance 51-O-006 Regulating and Licensing Certain Businesses [Pg. 5]
 - d. BMC Section 5.05 Business Licenses [Pg. 13]
- 2.** South Coast Community Aquatics (SCCA) Update [Pg. 25]
 - a. PowerPoint – Summer 2023 Review [Pg. 26]
 - b. SCCA 2023 MOU [Pg. 43]
- 3.** Water Curtailment Code Review [Pg. 51]
 - a. BMC 13.05.250 Water Curtailment [Pg. 52]
- 4.** Promotions Update

D. Council Member Requests for Workshop Topics

E. Adjournment

All public City meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

CITY OF BROOKINGS

COUNCIL WORKSHOP REPORT

Meeting Date: October 16, 2023

Originating Dept: Finance & Admin

Signature (submitted by)


City Manager Approval

Subject:

Business License Fee Comparisons.

Financial Impact:

Potential increased revenue depending on fees.

Background/Discussion:

City Council has previously requested at Council Workshops and Budget Committee Meetings that we review business license fees, and possibly dedicate a portion of an increase to the Tourism/Promotions budget. The Business License fee was created in 1951. It was set at \$50 annually in 1980, and remained the same until 1996 when it was increased to \$60 annually, by Ordinance 96-O-518. This Ordinance first set up a tiered system that changed by number of employees. The first tier \$60 for up to 10 employees, with the highest tier of 200+ employees at \$1,500 annually. In 2011, the Master Fee Schedule began increasing by the cost of living annually, so that \$60 is now \$80.

Finance staff has done comparables with nine other Oregon Coast cities and Curry County. It is difficult to compare Apples to Apples. However, it is reasonable to say that the City of Brookings' business license fees do not vary much from others. Our structure is more complicated; we might want to consider simplifying to a flat rate or fewer levels.

Options to consider:

1. Leave business license fee schedule as is.
2. Increase business license fee by a percentage.
3. Change business license fee to new structure (i.e. flat rate).

Attachment:

- a. Business License Fee Comparisons
- b. Brookings' History of Business Licenses
- c. Ordinance 51-O-006 Regulating and Licensing Certain Businesses
- d. BMC 5.05 Business Licenses

Business License Fee Comparisons
2023

	Brookings	Gold Beach	Curry County	Coos Bay	North Bend	Florence	Reedsport	Newport	Lincoln City	Tillamook	Bandon
One Time Application Fee						\$ 15.00		\$ 37.00	\$ 50.00		
Flat Fee		\$ 88.00	\$ 100.00		\$ 118.47	\$ 93.00		\$ 123.00			\$0.00
1-5 Employees	\$ 80.00			\$ 26.25			\$ 50.00		\$ 100.00	\$ 100.00	
6-10 Employees	\$ 80.00			\$ 52.50			\$ 100.00		\$ 170.00	\$ 100.00	
11-(20 or 25) Employees	\$ 131.00			\$ 105.00			\$ 150.00		\$ 270.00	\$ 175.00	
(21 or 25)-30 Employees				\$ 131.25			\$ 150.00		\$ 370.00	\$ 175.00	
Over 30 Employees				\$ 157.50			\$ 225.00		\$ 270.00	\$ 325.00	
									Add \$10/EE over 30		
26-50 Employees	\$ 195.00										
51-75 Employees	\$ 388.00										
76-100 Employees	\$ 771.00										
101-200 Employees	\$ 1,282.00										
Over 200 Employees	\$ 1,954.00										

City of Brookings
History of Business Licenses

<u>Date</u> <u>Signed/Eff</u>	<u>Ordinance</u> <u>Number</u>	<u>Standard</u> <u>Amount</u>	<u>Notes</u>
10/23/1951	51-O-006	\$15	Varied by business type
12/13/1955	55-O-080	\$20	Varied by business type
12/18/1956	56-O-103	\$25	Flat
12/10/1957	57-O-111	\$25	Clarification
5/10/1960	60-O-145	\$25	Clarification
5/30/1980	80-O-334	\$50	Flat
5/28/1996	96-O-518	\$60	Tiered by # of employees
6/24/2019	19-O-781	Fee by Resolution/removed from Ordinance	
7/1/2019	19-R-1160	\$68	Master Fee schedule annual update
7/1/2023	23-R-1238	\$80	Master Fee schedule annual update

Brookings, Oregon

ORDINANCE NO. 6

AN ORDINANCE REGULATING AND LICENSING CERTAIN BUSINESSES, PROFESSIONS, PURSUITS AND OCCUPATIONS IN THE CITY OF BROOKINGS FOR REGULATORY AND REVENUE PURPOSES, FIXING THE FEES THEREFOR, PROVIDING FOR AN INCREASE OR DECREASE OF THE SAME, FIXING THE PENALTY FOR VIOLATION THEREOF, PROVIDING FOR THE ENFORCEMENT THEREOF, PROVIDING CERTAIN DEFINITIONS, PROVIDING FOR A SAVINGS CLAUSE AND DECLARING AN EMERGENCY.

The City of Brookings does ordain as follows:

Section 1. DEFINITIONS. The term "person" as used in this ordinance shall be deemed to mean and include any person, firm, co-partnership, association, joint-venture, syndicate, society or domestic or foreign corporation. The term "business" as used in this ordinance shall be deemed to mean and include any trade, profession, occupation or pursuit of every kind conducted in the City of Brookings for gain, including but not limited to those businesses hereinafter specifically mentioned and listed. The respective terms "proprietor" and "employer" as used in this ordinance shall be deemed to mean and include any person, as herein defined, who is engaged in any "business" as herein defined. The use of any pronoun in this ordinance shall be construed as meaning and including the singular or plural thereof and the masculine, feminine and neuter gender as the case may be.

Section 2. EMPLOYEE NOT DEEMED IN BUSINESS --- PURPOSES. No person who is an employee and whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary shall, for the purpose of this ordinance, be deemed a person engaged in business in the City of Brookings. It is declared that the purpose of this ordinance is that all license fees levied hereby and hereunder shall be born by the employer for the privilege of doing business in the City of Brookings; and for the regulation of such business; and for providing revenue for municipal purposes generally and to pay the necessary expenses for carrying out the provisions of this ordinance.

Section 3. AGENTS OF NON-RESIDENT PROPRIETORS. The agent or agents of a non-resident proprietor engaged in any business for which a license is required by this ordinance shall be liable for payment of the license fee therefor and shall be subject to the penalties for failure to pay the same or to comply with the provisions of this ordinance to the same extent and with like effect as though such agent or agents were themselves the proprietors of such business.

Section 4. REPRESENTATIONS - ADVERTISEMENTS. Any person representing himself or exhibiting any sign or advertisement to the effect that he is engaged in any of the businesses upon which a license fee is levied by this ordinance shall be deemed to be engaged in such business and shall be liable for the payment of the license fee levied hereby or hereunder and shall be subject to the penalties for failure to pay the same or comply with the provisions of this ordinance.

Section 5. LICENSE REQUIRED --- EXEMPTIONS. No person shall engage in, prosecute or carry on any business within the limits of the City of Brookings unless or until he shall have first obtained a license therefor and shall have paid to the City of Brookings the license fee provided therefor by this ordinance, unless exempted therefrom by this or another ordinance of the City of Brookings or by the Constitution and laws of the United States of America or the Constitution and laws of the State of Oregon.

Section 6. ANNUAL FEES. There are hereby imposed upon all businesses doing business in the City of Brookings, unless exempted as provided by Section 5 hereof, annual license fees in the amounts specified opposite the respective businesses hereinafter listed:

Abstract and title insurance or escrow	\$15.00
Accountants	15.00
Advertising agencies	15.00
Antique and curio shops, art goods and myrtlewood shops	15.00
Apartments, hotels, motels, cottages, rooms, trailer coach space	
For 1 to 5 rental units	10.00
Plus \$1.00 for each rental unit in excess of 5, not to exceed a maximum fee of	50.00
Attorneys-at law	15.00
Automobile dealers	20.00
Automobile accessories	10.00
Automobile storage	10.00
Automobile repair	15.00
Automobile service and gasoline	15.00
Automobile wreckers	10.00
Bakeries	15.00
Barber shops	10.00
Beauty shops	10.00
Bicycle shops	10.00
Bill posters	10.00
Bootblacks	5.00
Bowling alley	35.00
Bus stations	10.00
Canneries	15.00
Cabinet makers	10.00
Card games, per table	150.00
Chiropractors	15.00
Cleaning and dyeing	15.00
Cement and/or building material dealers	15.00
Cigar and tobacco dealers	10.00
Cold storage and/or ice	10.00
Clothing stores	15.00
Confectioners and soft drinks	10.00
Contractors	
General	15.00
Sub-Contractors	10.00
Dairies, milk dealers	15.00
Dairy products manufacturing	15.00

Dance halls	\$25.00
Dentists or dental laboratories	15.00
Dress shops	10.00
Drug stores	15.00
Dry goods	15.00
Cleaning and dyeing solicitors	35.00
Electric shops, appliances	15.00
Electric signs (neon, etc.)	15.00
Engineers	10.00
Farm machinery dealers	15.00
Feed stores	15.00
Fish stores, markets	10.00
Fishing tackle shops	10.00
Florists	10.00
Fruit and vegetable markets	10.00
Fuel dealers	10.00
Funeral directors	15.00
Furniture, new and second hand	15.00
Garages	15.00
Garage, storage	10.00
Garbage collectors	10.00
Grocery stores, business district	15.00
Grocery stores, residential district	10.00
Grocery and meat market combined	20.00
Hardware	15.00
Hospital association and/or rest homes	15.00
Jewelry and/or watch repair	10.00
Junk dealers	10.00
Laundries, self service	10.00
Laundries, delivery service	15.00
Liquified gas and appliances	15.00
Lumber manufacturing	25.00
Machine shops	15.00
Magazine stands	10.00
Meat retailers	15.00
Meat wholesalers	15.00
Moving picture theatre	35.00
Music boxes	10.00
Music stores	10.00
Nurseries	15.00
Oil burners, sales or service	15.00
Optometrists	15.00
Osteopaths	15.00
Painters or paper hangers	15.00
Petroleum products	15.00
Peddlers	25.00
(or in the alternative, the)	
(daily license fee provided)	
(in Section 7 hereof)	
Photographers	10.00
Physicians and/or surgeons	20.00
Planing mills	25.00
Plumbing and heating	15.00
Plywood plants	50.00
Pop corn wagon or store	10.00

Poultry dealers	\$10.00
Publishers, printers	15.00
Radio service store or shop	10.00
Real estate dealers	15.00
Ready mix concrete	15.00
Restaurants	15.00
Refrigeration services	15.00
Rock crushers	15.00
Septic tank and cesspool cleaners	10.00
Second hand stores	10.00
Shoe repair	10.00
Shoe stores	15.00
Shuffle boards	10.00
Shooting galleries	20.00
Solicitors	25.00
(or in the alternative, the)	
(daily license fee provided)	
(in Section 7 hereof)	
Tailor shops	10.00
Taxis, each	10.00
Tire shops	15.00
Tractors for lease	15.00
Truck dealers	15.00
Truckers	15.00
Upholstery	10.00
Variety stores	15.00
Veterinarians	15.00
Wholesale delivery trucks	12.00
Wood yards	5.00
Any trade, profession, calling, business or employment not otherwise classified	15.00

Section 7. DAILY FEES. There are hereby imposed upon all of the following listed businesses in the City of Brookings, unless exempted as provided by Section 5 hereof or an annual license fee has been issued as provided in Section 6 above, daily license fees in the amounts specified opposite the respective businesses listed:

Carnival and circus	\$25.00
Peddlers	5.00
Solicitors, other than cleaning and dyeing	5.00

Section 8. NON-COMPLIANCE UNLAWFUL. It shall be unlawful for any person to carry on or transact any business as in this ordinance specified without first paying to the City of Brookings the license fee imposed by this ordinance.

Section 9. REGULAR LICENSE TERM --- 1951 TERM. The license provided for in this ordinance shall, except for the year 1951, commence with the 1st day of January and terminate with the 31st day of December of each calendar year for which the license is issued. The term of said license for the balance of the year 1951 shall commence with the 1st day of November and terminate with the 31st day of December, 1951.

Section 10. FEES FOR 1951. The license fees for the privilege of engaging in business in the City of Brookings for the balance of the year 1951, as in this ordinance prescribed, shall be one-sixth of the amount of the annual license fees otherwise prescribed by this ordinance.

Section 11. APPLICATION FOR 1951. On or before the 15th day of November, 1951, every person engaged in business in the City of Brookings shall make application to the City Recorder, upon forms to be furnished by the City, for a license to engage in such business during the balance of the year 1951, and he shall make payment of the license fee provided for in Section 10 of this ordinance.

Section 12. ANNUAL APPLICATION. On or before the 1st day of January of each calendar year following the passage of this ordinance every person engaged in business in the City of Brookings shall make application in writing to the City Recorder, upon forms to be furnished by the City, for a license to engage in such business during the calendar year for which such application is made, and he shall make payment of the annual license fee prescribed by this ordinance.

Section 13. CITY RECORDER TO KEEP RECORD. The City Recorder shall file and keep record of every application for a license made under the provisions of this ordinance.

Section 14. LICENSE CERTIFICATE. When application for a license and payment of the fee therefor have been made as provided by this ordinance, the City Recorder shall issue to the applicant a license certificate which shall evidence the applicant's privilege to engage in the business for which the application was made and the fee paid, during the calendar year for which the license shall be issued. Said license certificate, when issued, shall bear the printed signature of the Mayor and be countersigned by the City Recorder.

Section 15. REQUIRED APPLICATION STATEMENTS. The license application form to be provided by the City shall require a statement by the applicant describing the type of business for which the license is sought, the location of said business and the applicant's signature or that of his duly authorized agent.

Section 16. COUNCIL TO PRESCRIBE FORM OF CERTIFICATE. The form and wording of the license certificate to be issued by the City Recorder shall be prescribed by the City Council and it shall specify the name of the licensee, the type of business licensed, the location of said business and the amount of license fee paid.

Section 17. INVESTIGATION OF BUSINESSES. The Chief of Police and his subordinate police officers are hereby directed and empowered to investigate and examine all places of business in the City of Brookings at any and all reasonable times for the purpose of determining whether or not such business is being conducted in accordance with the terms of this ordinance.

Section 18. NON-TRANSFERABLE --- EXCEPTION. No transfer or assignment of any license issued hereunder shall be valid or permitted, except that whenever any person shall sell or transfer the whole of a business for which such license has been issued, the Vendee thereof shall, unless otherwise provided by ordinance, be allowed to engage in said business under the Vendor's license for the balance of the calendar year for which the Vendor's license was issued.

Section 19. LICENSE FOR FULL YEAR --- NOT PART OF YEAR. No license provided for in this ordinance, except those licenses provided for herein on a daily basis, shall be issued for a period less than the full calendar year for which it is issued and the full annual fee, as herein prescribed, shall be paid therefor even though a portion of said calendar year has expired at the time the application for such license is made.

Section 20. LICENSE NOT VESTED RIGHT. Nothing in this ordinance contained shall be construed as vesting in the licensee any contract right or creating any contract obligation on the part of the City as to the amount of the license fee or as to the character of the license issued hereunder, but on the contrary, it shall be construed as reserving to the City the right to increase or decrease at any time any license fee prescribed herein and to change the character of the license and the term thereof.

Section 21. FEES ARE ADDITIONAL REVENUE. The license fees fixed by and collected or to be collected under this ordinance shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law and also in addition to any and all license fees prescribed by other ordinances pertaining to or regulating specific businesses, occupations, amusements, utilities, trades and other pursuits for gain.

Section 22. PENALTY. Any person or persons, association of persons, firm, corporation or any agent or representative thereof or either of them who shall engage in or carry on a business within the corporate limits of the City of Brookings, without having first applied for a license, paid the fee therefor and obtained a license certificate in accordance with the provisions of this ordinance, shall be deemed guilty of a violation of this ordinance and shall, upon conviction thereof, be punished by a fine in a sum not less than double the amount of the license fee set by this ordinance for such business nor more than \$200.00 or imprisonment in the City jail for a period not to exceed 100 days or by both such fine and imprisonment, and no license shall be issued to any person convicted hereunder until the full amount of any fine imposed hereunder shall have been first paid.

Section 23. CONCURRENT CAUSE OF SUIT. In addition to the penalty provided in Section 22 and as separate and concurrent causes of action or suit, the City of Brookings may, in any court of competent jurisdiction, sue any person, who has or is engaged in business in the City of Brookings without having complied with this ordinance, for the amount of license fee payable hereunder; and also the City may in the same or a separate suit seek an injunction prohibiting such person from engaging in such business in the City of Brookings in violation of this ordinance; and in any such action or suit the City shall, if

it prevails, recover in addition to its costs and disbursements a reasonable attorneys fee to be set by the Court.

Section 24. SAVINGS CLAUSE. If any section, paragraph, sentence, phrase or word of this ordinance shall be held to be unconstitutional or invalid, the unconstitutionality or invalidity of such section, paragraph, sentence, phrase or word shall not affect the validity of any other portion of this ordinance, it being the intent of the Council to enact the remainder of this ordinance notwithstanding such part as may be so declared unconstitutional or invalid.

Section 25. CERTIFICATE TO BE DISPLAYED. Every person who has obtained a license as required by this ordinance for the privilege of doing business in the City of Brookings shall display the license certificate issued to him in a conspicuous place in or upon the premises where said business is conducted, except in the case of contractors, sub-contractors, cleaning and dyeing solicitors, wholesale delivery trucks, peddlers and solicitors. In the case of contractors and sub-contractors, said license certificate shall be conspicuously displayed at their principal places of business in the City of Brookings and in the case of cleaning and dyeing solicitors, wholesale delivery trucks, peddlers and solicitors, said license certificate shall be carried on the person of the licensee or conspicuously displayed in or upon any vehicle used in the conducting of such business.

Section 26. COMBINATION OF CERTAIN BUSINESSES --- MAXIMUM FEE THEREFOR. Where one person as defined by this ordinance is conducting two or more of the businesses listed in Section 6 above in the same building, the City Recorder may issue a single license certificate covering such combination of businesses and the maximum annual fee to be paid therefor by such person shall not exceed the sum of \$35.00; provided, however, that no such combination shall include, and there is hereby excepted from the operation of this section the following listed businesses whether or not the same are conducted in conjunction with any other business:

- Card table
- Moving picture theatre
- Sawmills
- Planing mills
- Plywood plants
- Apartments, hotels, motels, cottages, rooms, trailer coach space

Section 27. EMERGENCY. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the City of Brookings, and an emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect from and after its passage.

Read by title and in full this 23rd day of October, 1951.

Read a second time by title this 23rd day of October, 1951.

Read a third time by title and passed by the Council this 23 day of October, 1951.

Authenticated this 23 day of October, 1951.

Robert O. Dimmick
Robert O. Dimmick, Mayor

Passed by the Council October 23, 1951.

W. A. Gray
Recorder



Chapter 5.05 BUSINESS LICENSES

Sections:

- 5.05.010 Purpose and scope.**
- 5.05.020 Definitions.**
- 5.05.030 Employee not deemed in business – Purposes.**
- 5.05.040 Agents of nonresident proprietors.**
- 5.05.050 Representations – Advertisements.**
- 5.05.060 Ability to conduct business – License required.**
- 5.05.070 Exemptions.**
- 5.05.080 Fees.**
- 5.05.090 Noncompliance unlawful.**
- 5.05.100 Regular and temporary license terms.**
- 5.05.110 License period.**
- 5.05.120 Application.**
- 5.05.130 Finance and administration department to keep record.**
- 5.05.140 Renewal.**
- 5.05.150 Approval, denial, revocation and suspension.**
- 5.05.160 Council to prescribe form of certificate.**
- 5.05.170 Investigation of business.**
- 5.05.180 Nontransferable – Exception.**

5.05.190 License not vested right.**5.05.200 Fees are additional revenue.****5.05.210 Combination of certain businesses.****5.05.220 Certificate to be displayed.****5.05.230 Concurrent cause of suit.****5.05.240 Penalties and violations.****5.05.250 Severability clause.****5.05.260 Savings clause.****5.05.010 Purpose and scope.**

The business license fees imposed by the terms of this chapter are for revenue purposes only. Neither the acceptance of the prescribed fee nor the issuance of the applicable license shall be construed to constitute a regulation of any business activity or a permit to engage in activity otherwise prohibited by law or ordinance, or a waiver of any regulatory licensing requirement imposed by any other ordinance of the city of Brookings (city). [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 1.]

5.05.020 Definitions.

As used in this chapter:

A. "Person" shall be deemed to mean and include any person, firm, partnership, association, joint venture, syndicate, society, or domestic or foreign corporation.

B. "Business" shall mean and include any activity, trade, profession, occupation or pursuit of every kind conducted, operated, engaged or carried on in or with the city of Brookings for gain, profit, livelihood, benefit or any purpose whether or not a profit is actually made, including, but not limited to, those businesses hereinafter identified.

C. "Proprietor" and "employer" shall be deemed to mean and include any person, as herein defined, who is engaged in any "business" as herein defined.

D. The use of any pronoun shall be construed as meaning and including the singular or plural thereof, and the masculine, feminine, and neuter gender, as the case may be. [Ord. 19-O-781 § 2 (Exh. A); Ord. 17-O-769 § 2; Ord. 96-O-518 § 2.]

5.05.030 Employee not deemed in business – Purposes.

No person who is an employee, and whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary, shall, for the purposes of this chapter, be deemed a person engaged in business in the city of Brookings. It is declared that the purpose of this chapter is that all license fees levied hereby and hereunder shall be borne by the employer for the privilege of doing business in the city of Brookings; and for providing revenue for municipal purposes generally; and to pay the necessary expenses for carrying out the provisions of this chapter. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 3.]

5.05.040 Agents of nonresident proprietors.

The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this chapter shall be liable for the payment of the license fee therefor and shall be subject to the penalties for failure to pay the same or to comply with the provisions of this chapter to the same extent and with like effect as though such agent or agents were themselves the proprietors of such business. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 4.]

5.05.050 Representations – Advertisements.

Any person representing himself or exhibiting any sign or advertisement to the effect that he is engaged in any of the businesses upon which a license fee is levied by this chapter shall be deemed to be engaged in such business and shall be liable for the payment of the license fee levied hereby or hereunder, and shall be subject to the penalties for failure to pay the same or comply with the provisions of this chapter. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 5.]

5.05.060 Ability to conduct business – License required.

A. No person shall engage in, prosecute, or carry on any business within the corporate boundaries of the city of Brookings unless and until they have first obtained a license therefor and shall have paid to the city the fee required.

B. The issuance of a business license under the provisions of this chapter does not constitute authorization by the city to the licensee to conduct business in any manner in violation of any ordinance or regulation of the city or any rule, regulation, order or law of the state or federal government.

C. A person engaged in business in more than one location, or in more than one business licensed under this chapter, shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter. Only one license under this chapter is required for mobile businesses such as housekeeping services, food trucks, and other related businesses that travel throughout the city.

D. Delivery Services. A person who sends goods to a customer in the city is not considered to be doing business in the city based solely on the sending and delivering of the goods into the city. However, a company in the business of picking up and/or delivering goods is subject to the requirements of obtaining a business license.

E. If more than one business is conducted on the same premises, each business must obtain a separate license.

F. A person representing himself or herself, or exhibiting any sign or advertisement that he or she is engaged in a business within the city of which a license fee is levied by this chapter, shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this chapter.

G. The city may require proof of state registration. An applicant shall possess any county or state license required or shall be awaiting final approval by the county or state, if city approval is a prerequisite, before a city license will be issued.

H. No person shall do business within the city as the employee, agent or representative of another person unless either the principal or the employee, agent or representative has a current, valid city business license for the business, no matter where the principal offices of that business are situated.

I. The issuance of a license does not constitute authorization for the conduct of that business on any public street or right-of-way of the city of Brookings, or other public property, unless specific authority is granted to the business licensee by the governing body or public entity which owns the public property. The city manager shall have authority to grant approval for the conduct of transient business on public property and rights-of-way of the city of Brookings. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 6.]

5.05.070 Exemptions.

A. A business is exempt from the requirements of a business license if exempted by the provisions of any other ordinance of the city, by the constitution and laws of the state or federal government or if exempted by the city manager under the following circumstances.

B. Special Events. An exemption to the business license requirements of this chapter may be granted by the city manager of the city of Brookings to a business which is conducted in the city for a single annual special event only, if the business is not otherwise conducted within the city at any other time. The city manager shall provide notice in advance of the designation of any special event qualifying for this exemption.

C. Garage sales may be conducted without obtaining a business license. However, no household may conduct more than three garage sales in a one-year period, and no sale may last longer than three days.

D. Activities that qualify as hobbies or passive holding of property for investment purposes under the United States Internal Revenue Code.

E. Individuals who work only on the premises of, and as part of, a licensed business that includes the activity of the individual. Examples include barbers, beauticians, medical care providers, attorneys, accountants, realtors and others who perform services as part of the overall licensed business. This exemption does not apply if the overall business operation has not obtained a business license.

F. Service businesses operated by those younger than 18, such as lawn-mowing businesses, newspaper delivery or lemonade stands, are not required to have a business license.

G. Religious institutions and governmental agencies are exempt from the requirement to obtain a business license.

H. The following must obtain a business license but are exempt from payment of the license fee:

1. Any business exempt from paying local business license fees or taxes by federal or state constitution or law.
2. Any business exempt from paying property tax.
3. Any entity registered with the Oregon Secretary of State as a not-for-profit corporation. [Ord. 19-O-781 § 2 (Exh. A).]

5.05.080 Fees.

Business license fees shall be established by master fee schedule as provided under Chapter [1.10](#) BMC, Fees and Charges. Any change in the license fee shall not apply retroactively to a license already in effect. No business license will be issued without the proper license fee (and penalties, if any) being paid in full.

A. Annual Fees. The annual fee for a business license for established businesses shall be determined by the total number of employees reported on State Unemployment Report Form No. 132 by each business. New business licensees who have not yet filed a State Unemployment Report Form No. 132 will estimate the number of employees for the first license year.

B. Temporary 90-Day Business License Fees. Persons doing business within the city of Brookings who are seeking a temporary business license under the guidelines of this chapter shall first file an application with the finance and administration department and pay a fee of one-fourth of the annual business license fee for their type and size of business, or the minimum fee as set forth in the master fee schedule, whichever is greater. Persons holding a temporary business license and who do business within the city beyond the 90-day license period shall be required to pay the full annual regular business license fee.

C. License fees will be nonrefundable. The only exception would be when a new business license application is denied.

D. Nothing contained in this chapter shall vest any right in a license as a contract obligation on the part of the city as to the amount of the fee. The fees provided for in this chapter may be increased or decreased, additional fees may be imposed, and classifications may be changed. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 §§ 7, 8.]

5.05.090 Noncompliance unlawful.

It shall be unlawful for any person to carry on or transact any business as specified in this chapter without first paying to the city of Brookings the license fees herein imposed. Persons operating without a current business license shall be liable to pay a business license fee for their unlicensed work period, plus a \$10.00 late fee for each unlicensed month of the work period, in addition to any penalties imposed under BMC [5.05.240](#). If full payment is not made within 60 days of notice of payment due, the corrective action and possible penalties identified in BMC [5.05.230](#) and [5.05.240](#) may be pursued. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 9.]

5.05.100 Regular and temporary license terms.

Annual business licenses are issued for a fiscal year as described in BMC [5.05.110](#). Temporary licenses, if issued, run for a continuous 90-day period starting the day of the temporary license issuance. There shall be no extension or renewal of a temporary business license during the fiscal year of issuance beyond the 90-day license period. The applicant may apply for another temporary license at least one year after the date of the application for the previous temporary license. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 10.]

5.05.110 License period.

New licenses shall be valid from the date of application to the end of the eleventh month following the date of application and shall be renewable annually in the same month of the following year. The license fee shall not be prorated. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 11.]

5.05.120 Application.

Persons doing business in the city of Brookings shall apply in writing to the finance and administration department, using the forms furnished by the city, for a license to engage in business. When applying for a license, the applicant shall pay the annual license fee as designated and set forth in the annual master fee resolution. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 12.]

5.05.130 Finance and administration department to keep record.

The finance and administration department shall file and keep record of every application for a license made under the provisions of this chapter. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 13.]

5.05.140 Renewal.

A. Before being issued a license renewal, the applicant shall complete a license renewal form provided by the city pursuant to BMC [5.05.120](#).

B. Applicants who fail to pay the license fee in full or who hold a license certificate that is revoked, expired, or ceased for any reason are required to make a new and initial application.

C. So long as a business has been continually operated without interruption through the end of the licensing year, upon premises for which an original license certificate was issued, persons operating said business may renew a license certificate issued to them before the expiration date of their license. If a license certificate is so renewed, the certificate holder need not make a new license application; however, new applications are necessary if there has been any break in the business or its operation upon the premises during the preceding year or if there have been any changes of circumstances necessitating a correction or amendment to the information above required as it may vary at the time of renewal from that so stated in the prior application.

D. Businesses as outlined in subsection (C) of this section must pay their renewal by the expiration date each year. Failure to make full and proper payment will result in a \$10.00 per month late fee. If full and proper payment, including late fees, is not made within 60 days of the license expiration date, the city shall refer the matter of nonpayment to the city attorney for enforcement of remedies under this chapter. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 14.]

5.05.150 Approval, denial, revocation and suspension.

A. Approval of Application. Upon receipt of a completed application and the required fee, the finance and administration department will request review by all city departments for investigation of the application with regard to the requirements of this chapter or with regard to the health, safety and welfare of the customers, business invitees, and citizens of the city of Brookings who may be on or about the business premises. Within 30 days after the receipt of the completed application and

required fee, if the application is in order and the issuance of the license is called for under the terms of this chapter, the application shall be accepted and the finance and administration department shall issue a city of Brookings business license. The license certificate is evidence of the applicant's privilege to conduct business in the city of Brookings in accordance with the terms of this chapter, and the certificate shall bear the printed signature of the mayor and be counter-signed by the city recorder.

If an application is incomplete or when any department review determines that an applicant does not meet the requirements of this chapter for the issuance of a business license in the city of Brookings, the city shall give notice of rejection of the license application to the applicant in writing mailed to the address shown on the application. An incomplete application may be supplemented by additional required information and submitted to the finance and administration department within 10 days of the date of mailing of the notice of application rejection, and such additional information shall be considered as part of the original application. Upon receipt of additional information to supplement an incomplete application, the application shall then be further reviewed by the denying department official and accepted or rejected by the city as provided above within 30 days of receipt of the submittal of additional information.

B. Denial, Suspension, Revocation of Application. The city may deny, suspend or revoke a business license upon finding that:

1. The licensee fails to meet the requirements of, or is doing business in violation of, federal, state or local laws;
2. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license;
3. The applicant's past or present violation of law presents a reasonable doubt about his or her ability to perform the licensed activity without endangering property or the public health or safety;
4. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity; or
5. The licensed activity would endanger property or the public health or safety.

C. Notice. The city shall provide written notice to the applicant or licensee of the denial, suspension or revocation. The notice shall state the reason for the action taken and shall inform the applicant or licensee of the right to appeal under this section. The notice shall be given at least 15 days before the suspension or revocation becomes effective. If the violation ends within the 15 days, the city may discontinue the suspension or revocation proceedings.

D. Reapplication. A person whose application for a business license has been denied, suspended or revoked may, after 90 days from the date of the denial, suspension or revocation, apply for a license or reinstatement upon payment of the application fee and submission of an application form and related documents.

E. Disqualification. A person whose application for any business license has been denied or whose license has been revoked for a total of two times within one year, or who has a total of four denials, suspensions or revocations, shall be disqualified from applying for a license or reinstatement for a period of two years from the date of the denial, suspension or revocation.

F. Summary Suspension. Upon determining that a licensed activity presents an immediate danger to persons or property, the city may summarily suspend the license for the activity. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under this section. Within 15 days of the summary suspension the city council shall review the pertinent facts which resulted in the suspension and shall determine whether said facts deem it necessary to continue the suspension in order to protect the health, safety and welfare of the citizens of the city, or to otherwise ensure that the requirements of this chapter are complied with. The city council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under this section.

G. Appeal to City Council. If an application is rejected by city, the applicant may appeal the decision of the city to the city council by filing a written notice of appeal with the city recorder not later than 10 days after the date of mailing of the application rejection notice. The written request for appeal shall recite the facts or circumstances upon which the appeal is based. At its next applicable council meeting, the city council shall hear the appeal of the applicant to the city's rejection of the business license application. Upon hearing the appeal, the council may affirm, modify or reverse the decision and shall enter an order upon the minutes of the meeting in accordance with its decision. If the decision of the city is reversed, the finance and administration department shall issue a license certificate to the applicant within five working days after the date the order is entered on the minutes. In the event the city council affirms the decision of the city, the minute order shall stand as the final decision of the city on the applicant's request for a business license in accordance with the terms of the application received. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 15.]

5.05.160 Council to prescribe form of certificate.

The form and wording of the license certificate to be issued by the city shall be prescribed by the city council; and it shall specify the name of the licensee, the type of business licensed, the location of

said business, and the amount of license fee paid. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 16.]

5.05.170 Investigation of business.

The public safety director and his subordinate police officers are hereby directed and empowered to investigate and examine all places of business in the city of Brookings at any and all reasonable times for the purpose of determining whether or not such business is being conducted in accordance with the terms of this chapter. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 17.]

5.05.180 Nontransferable – Exception.

No transfer or assignment of any license issued hereunder shall be valid or permitted; except that whenever any person shall sell or transfer the whole of a business for which such license has been issued, the vendee thereof shall, unless otherwise provided by ordinance, be allowed to engage in said business under the vendor's license for the balance of the license year for which the vendor's license was issued. The vendee will be required to pay an additional fee if the business entity will employ more persons than the prior business entity did in the same business. The new owner of the business must complete a business license application.

Businesses changing physical location or business name shall notify the city of the change and be allowed to engage in said business for the balance of the license year. The licensee must pay fees for any new permits, such as home occupation permit, required as a result of change of physical location. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 18.]

5.05.190 License not vested right.

Nothing in this chapter contained shall be construed as vesting in the license any contract right, or creating any contract obligation on the part of the city as to the amount of the license fee, or as to the character of the license issued hereunder; but, on the contrary, it shall be construed as reserving to the city the right to increase or decrease at any time any license fee prescribed herein and to change the character of the license and term thereof. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 19.]

5.05.200 Fees are additional revenue.

The license fees fixed by and collected, or to be collected, under this chapter shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law, and also in addition to any and all license fees prescribed by other ordinances pertaining to or regulating specific businesses, occupations, amusements, utilities, trades, and other pursuits for gain. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 20.]

5.05.210 Combination of certain businesses.

The conduct of a business or businesses at two or more separate and distinct locations within the city of Brookings shall, for the purposes of this chapter, be deemed to be a separate business or businesses; and each business shall be subject to the license fee herein provided for. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 21.]

5.05.220 Certificate to be displayed.

Every person who has obtained a license as required by this chapter for the privilege of doing business in the city of Brookings shall display the license certificate issued to him in a conspicuous place in or upon the premises where said business is conducted, except in the case of contractors, subcontractors, cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors. In the case of contractors and subcontractors, said license certificate shall be conspicuously displayed at their principal places of business in the city of Brookings; and in the case of cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors, said license certificate shall be carried on the person of the licensee or conspicuously displayed in or upon any vehicle used in the conducting of such business. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 22.]

5.05.230 Concurrent cause of suit.

In addition to the penalty provided in BMC [5.05.240](#), and as separate and concurrent causes of action or suit, the city of Brookings may, in any court of competent jurisdiction, sue any person who has or is engaged in business in the city of Brookings without having complied with this chapter, for the amount of license fee payable hereunder; and also the city may in the same or a separate suit seek an injunction prohibiting such person from engaging in such business in the city of Brookings in violation of this chapter; and in any such action or suit the city shall, if it prevails, recover in addition to its costs and disbursements a reasonable attorney's fee to be set by the court. [Ord. 19-O-781 § 2 (Exh. A); Ord. 96-O-518 § 23.]

5.05.240 Penalties and violations.

Any person or persons, association of persons, firm, corporation, or any agent or representative thereof who shall engage in or carry on a business within the corporate limits of the city of Brookings, without having first applied for a license, paid the fee therefor, and obtained a license certificate in accordance with the provisions of this chapter, shall be deemed in violation of this chapter and shall, upon conviction thereof, be punishable pursuant to Chapter [1.05](#) BMC, General Penalty, and no license shall be issued to any person convicted hereunder until the full amount of any fine imposed hereunder shall have been first paid. Each business day during which any business activity continues to be conducted in violation of this chapter shall be deemed a separate offense.

A. Violation of any provision of this chapter is punishable pursuant to Chapter [1.05](#) BMC, General Penalty.

B. Inspection and Right of Entry. Whenever they shall have cause to suspect a violation of any provisions of this chapter, or when necessary to investigate an application to, or revocation of, a license under any of the procedures prescribed in this chapter, officials for the enforcement or administration of this chapter, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation providing they do so in a reasonable manner. If an owner or occupant denies access for an inspection, the city will seek a warrant. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.

C. Abatement. Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.

D. Legal Proceedings by City Attorney. In addition to the enforcement provisions of this chapter, upon request by the city council, the city attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this chapter. [Ord. 19-O-781 § 2 (Exh. A); Ord. 16-O-757 § 3; Ord. 96-O-518 § 24.]

5.05.250 Severability clause.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this chapter shall not affect the validity of the remaining parts to this chapter. [Ord. 19-O-781 § 2 (Exh. A).]

5.05.260 Savings clause.

A prosecution that is pending on the effective date of the ordinance codified in this chapter and arose from a violation of an ordinance repealed by the ordinance codified in this chapter, or a prosecution started within one year after the effective date of the ordinance codified in this chapter arising from a violation of an ordinance repealed by the ordinance codified in this chapter, shall be tried and determined exactly as if the ordinance had not been repealed. [Ord. 19-O-781 § 2 (Exh. A).]

The Brookings Municipal Code is current through Ordinance 23-O-808, passed June 12, 2023.

Disclaimer: The City Recorder's office has the official version of the Brookings Municipal Code. Users should contact the City Recorder's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.brookings.or.us/>

City Telephone: (541) 469-2163

Code Publishing Company

CITY OF BROOKINGS

COUNCIL WORKSHOP REPORT

Meeting Date: October 16, 2023

Originating Dept: Finance & Admin

Signature (submitted by)


City Manager Approval

Subject:

South Coast Community Aquatics (SCCA) Pool Update.

Financial Impact:

None.

Background/Discussion:

The City entered into a Memorandum of Understanding (MOU) with South Coast Community Aquatics (SCCA) to mutually operate the Municipal Pool for the 2023 season. The MOU allowed designated representatives of SCCA, operating as city volunteers, to shadow and offer suggestions regarding the management of the pool during the 2023 season. This allowed SCCA to have a better understanding of pool operations in order to draft a long-term agreement that would ultimately benefit the city and the community by providing a management structure that in the future would require fewer city resources in staffing and establish a schedule that could seasonally open the pool earlier and close later.

SCCA completed a review of the 2023 Pool Season, and have included a summary in the attached PowerPoint presentation. Members of the SCCA board will present this at the workshop and be available for questions.

Options to consider:

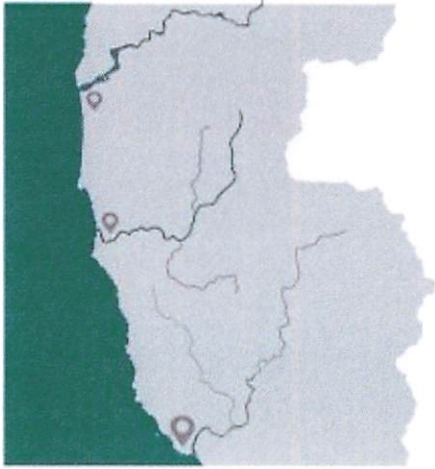
1. Let current MOU lapse, and end March 2024.
2. Renew current MOU for another year.
3. Begin working with SCCA on long-term agreement.

Attachment:

- a. PowerPoint – Summer 2023 Review
- b. SCCA 2023 MOU

South Coast Community Aquatics

Summer 2023 Review

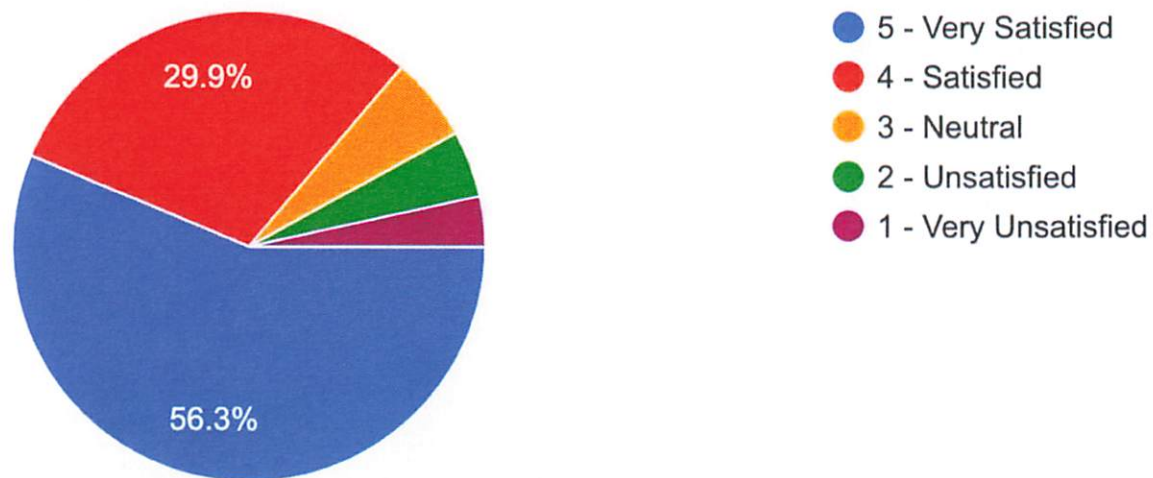


SCCA
SOUTH COAST COMMUNITY AQUATICS
sccabrookings@gmail.com

SURVEY - What Went Well: 86% Satisfied

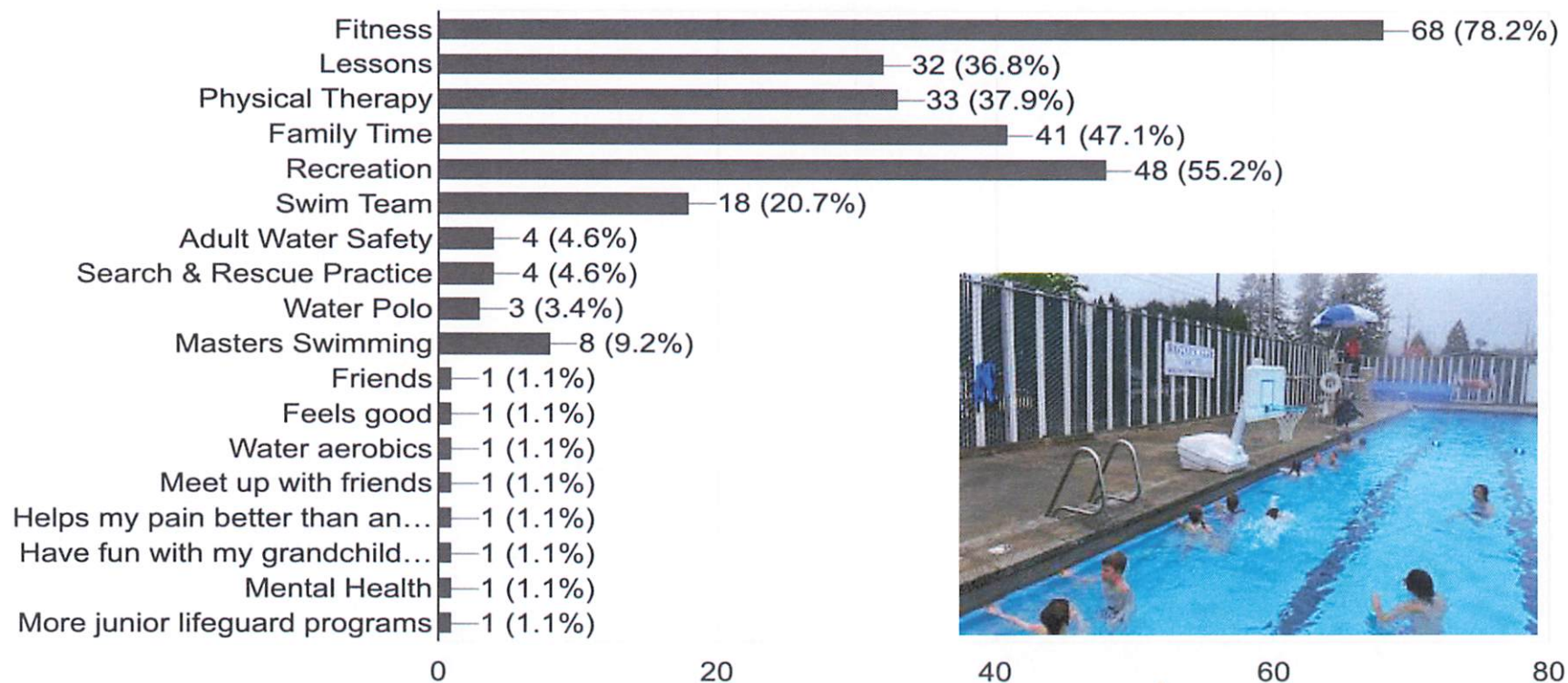
Please rate your overall satisfaction with your pool experience this year, on a scale of 1 to 5, where 1 is "Very Unsatisfied" and 5 is "Very Satisfied."

87 responses



Why do you (or would you) come to the pool? Select all that apply.

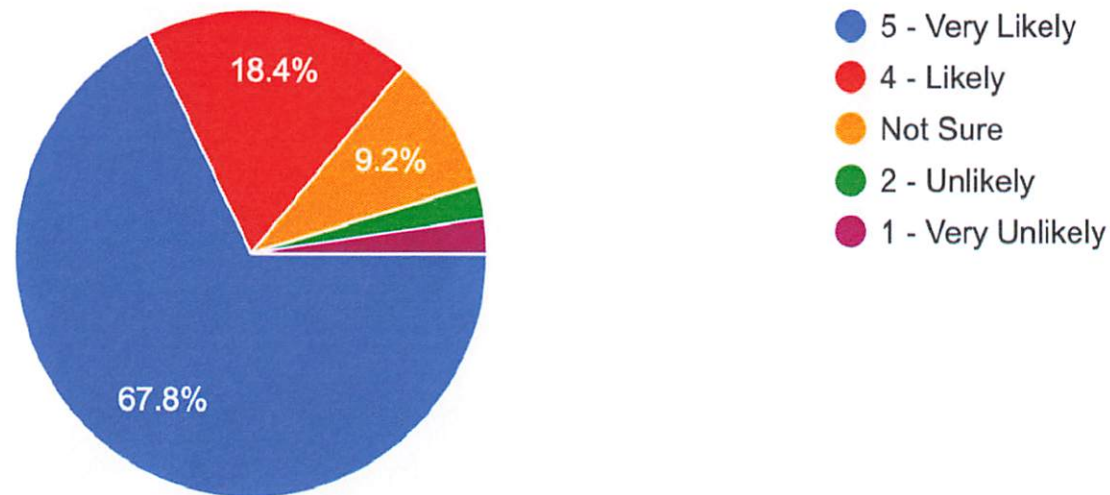
87 responses



What Went Well: 86% Are Likely to Recommend the Pool

How likely are you to recommend the pool to family and friends?

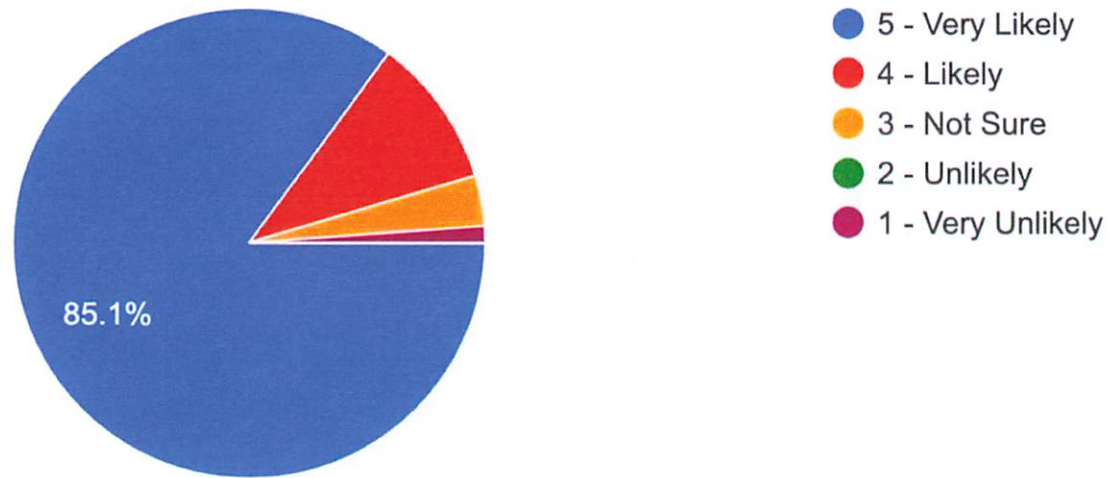
87 responses



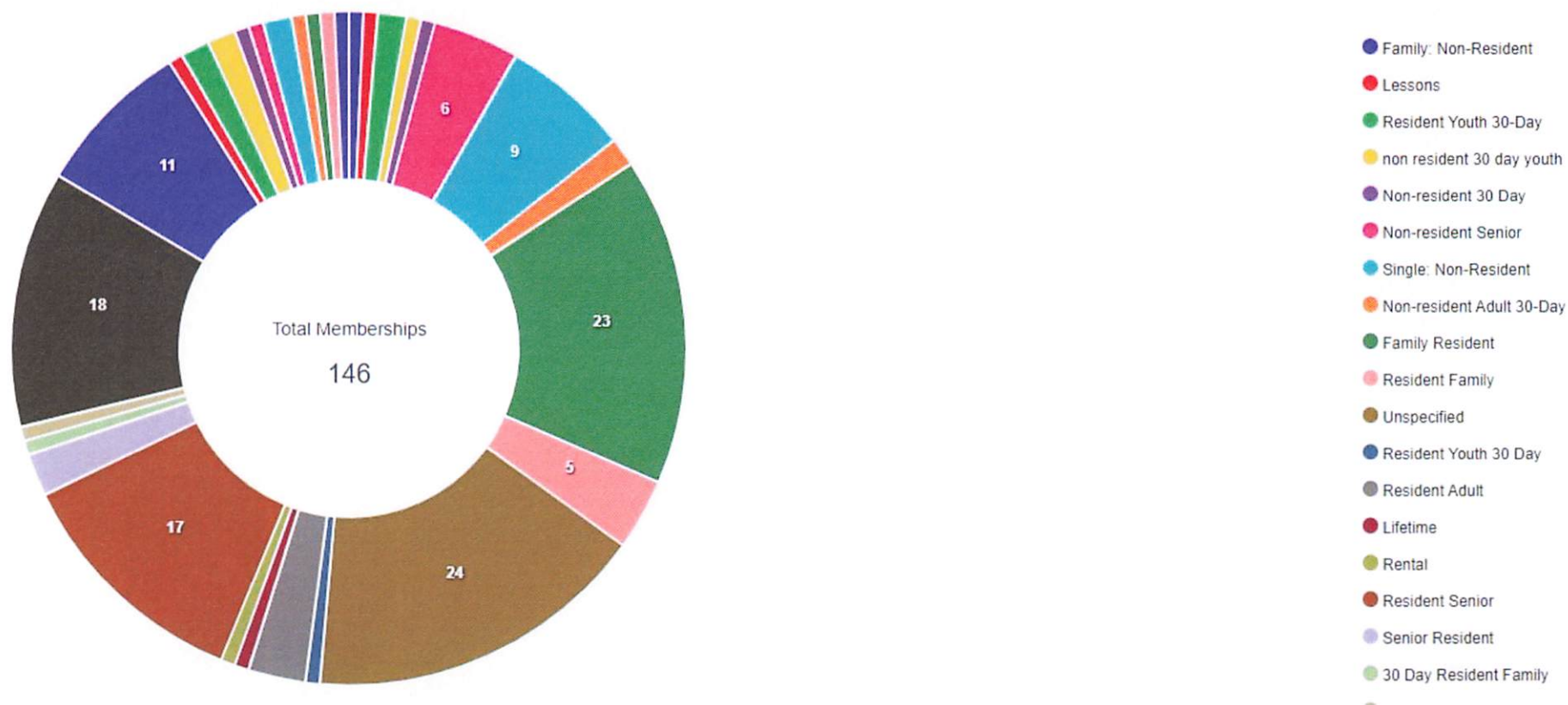
What Went Well: 95% Would Use the Pool Year-Round

How likely would you be to use the pool year-round if it were open and kept heated?

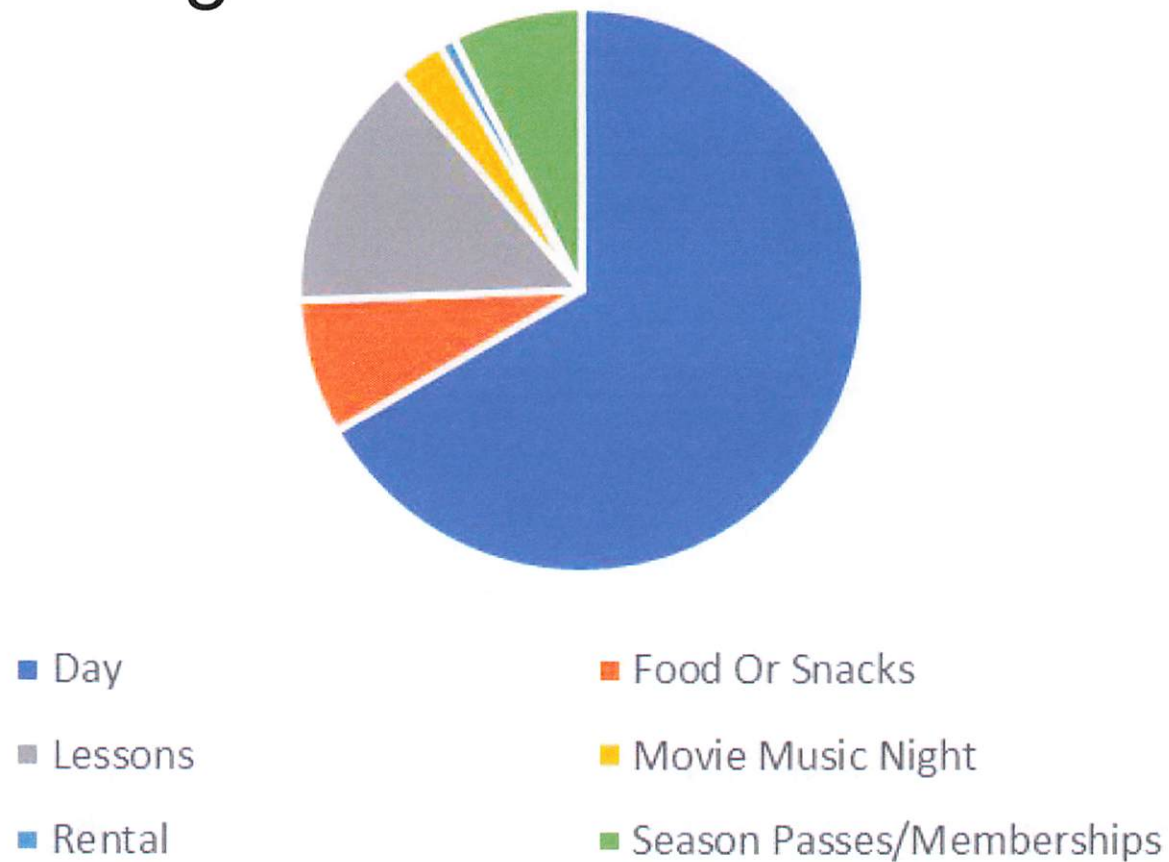
87 responses



PoolPass Membership Categories



Sales Categories





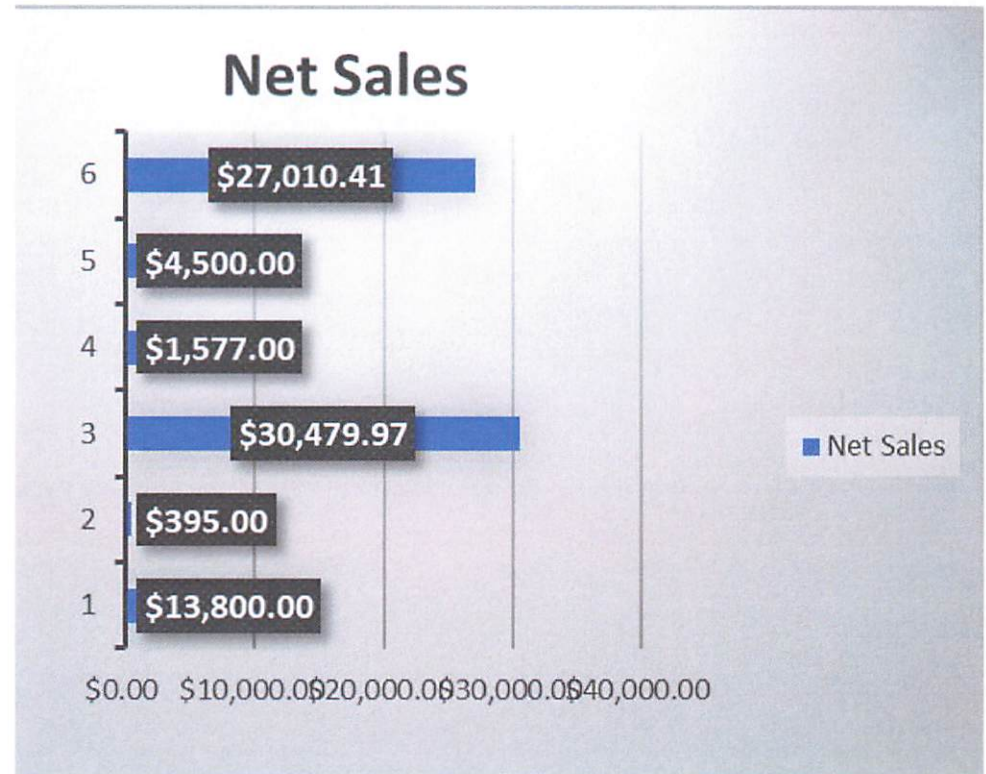
Revenue

- 1 Day use
- 2 Food or snacks
- 3 Lessons
- 4 Movie/Music Night
- 5 Pool Rentals
- 6 Membership/Season Passes

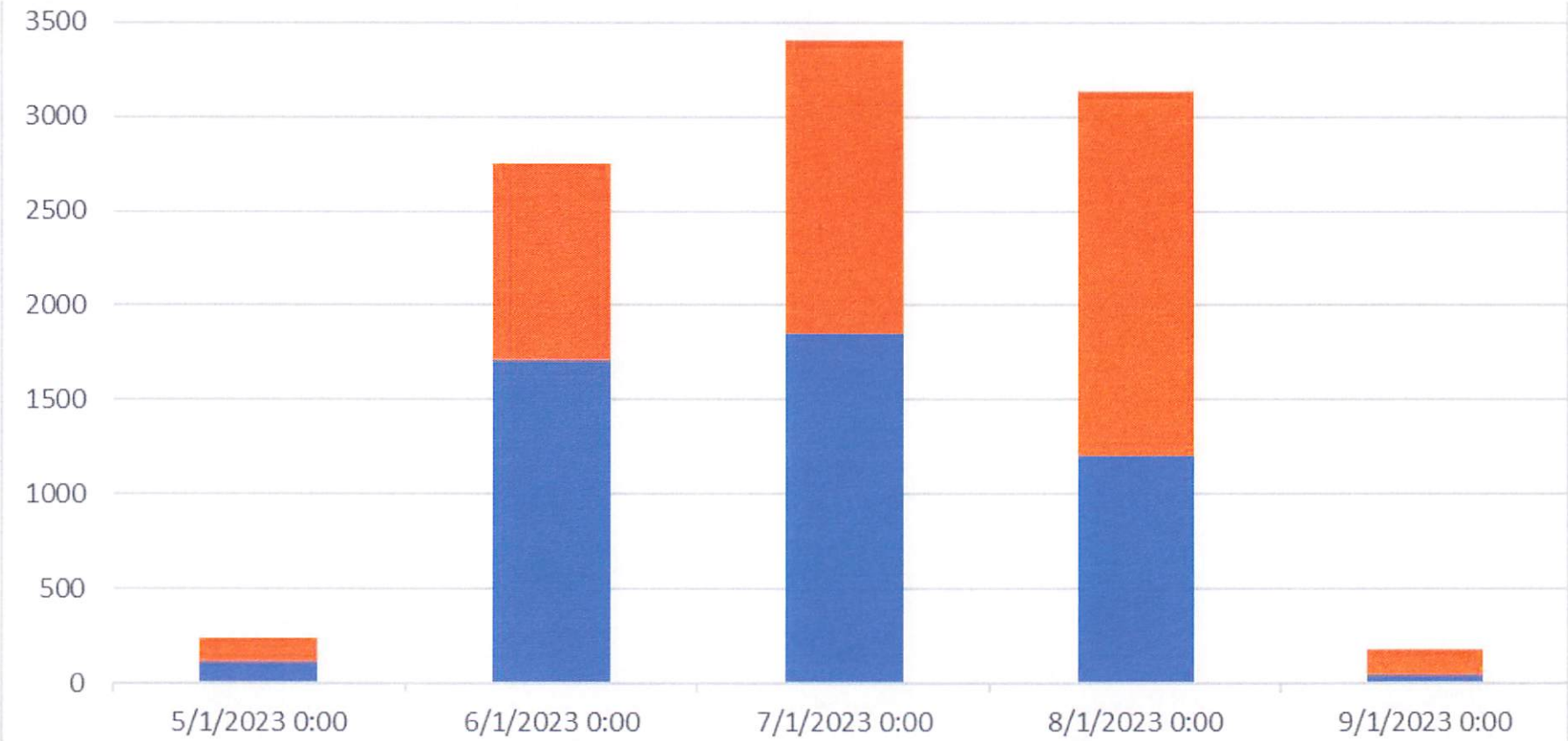
TOTAL REVENUE \$87,259

Grants obtained by SCCA \$20,860*

(*Advanced Health, Curry Health Foundation, Tolowa)



Attendance numbers - Over 10,000 pool uses!





What Went Well - Glows

Management, Staff & Operations



The staff made an incredible difference this year. They were so upbeat and personal. Every effort was made to make the pool comfortable and welcoming. This pool is an important asset in my life.

So much improvement, The showers were clean, the new equipment was great, pool was much cleaner and the lifeguards were friendly. Great job this year!

The pool and facilities were kept clean and the staff was very friendly and diligent. Also, the movie nights and family swims were a welcomed addition. Overall a great season and it seemed to be very well managed and really like the computerized pool pass system

I thought it was well managed. There was a lot of enthusiasm and support from the manager and aerobics instructors. I was really hoping to continue to the end of September. I love our pool and wish it could be opened longer like May through September. I would go every day. Thank you to all who made it happen for us this year.

We did swim Lessons this year for our 2.5 year old and we're so impressed. Our teacher was an absolute doll and the manager of the pool was so hands on and you could tell she really cared about her employees and all the kids at the pool. We can't wait until next year to enjoy more pool time as a family! Thank you for offering the community such a fun clean pool to enjoy.

Room for Growth



Prices

I feel like children of the county, no matter where they live, should be able to pay the “residents” fee. It isn’t the kids fault the parents choose to live outside city limits. :-)

It was overall a great experience, but I felt it was much more expensive.

Temperature

Would like the pool temperature warmer and the same every day.

I will not be told the pool was 83 degrees all summer! If you want to "prove" the temperature is what you claim it to be then put the thermostats back in the pool because that's the only way you'll convince me.



Time Open

The kids love the pool! I love the daily rates but wish the public hours were a bit longer.

What Went Well

- Management
- Staffing
- POS
- Financial coordination with city staff
- Facility cleanliness
- Staff attentiveness
- Pool equipment upgrades
- Staff Training

Glows



What Could Have Gone Better?



- Pool Manager Training
- Timing of Lifeguard hiring/onboarding
- Lifeguard scheduled training
- Event advertisement
- County-wide community partnerships
- Season extension
- Understanding facility needs & consistency
- Hierarchy of management (so pool manager isn't required 24/7)
- COB financial data during season for YOY comparisons



What We Learned



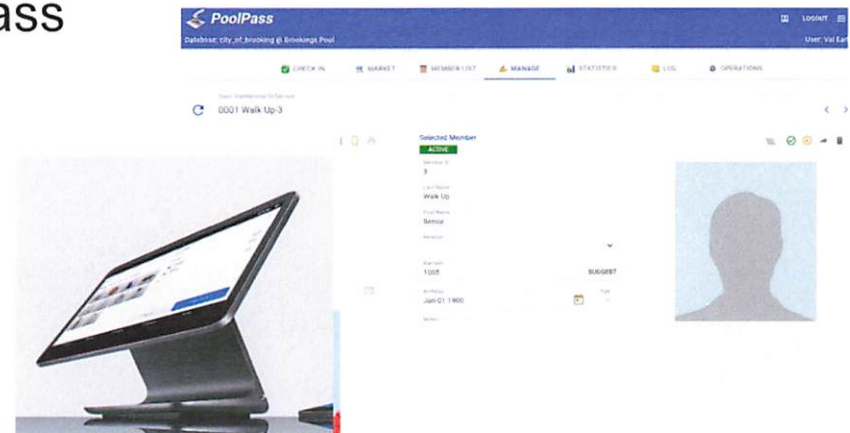
- Price Sensitivity
 - Clear guidelines for sponsorships or scholarships
- Residency confusion
- Lifeguard onboarding timing critical
- Heat/temperature sensitivity
- Programming desires
- Desired sign up opportunities
- Facility needs/upgrades
- Grant opportunities for partnership
- Need for timely public outreach
- Need for “Lead Guards” or Assistant Manager position





What We Accomplished

- Community Support
- Fundraising
 - Grants and donations
- Lifeguard training
- Movie nights
- Improved data collection due to implemented changes
- Ease of transactions - Square & PoolPass
- Electronic check-in system - PoolPass
- Equipment upgrades
 - Pool cover
 - Lanelines
 - Lifeguard Tubes
 - Lifesaving rings
 - Megaphones
 - AED placement in locker rooms





SCCA Contributions - 2023 Pool Season

- **\$11,157** in individual financial contributions/out of pocket
- **1023** Volunteer Hours

Includes:

- Pool Operations
- Training
- Events
- Finance
- Fundraising - \$20,080





What Comes Next - Recommendations

SCCA's involvement - What does this look like?

- SCCA desires for the 2024 season including:
 - Longer season
 - Better pricing clarity
 - Manager training/assistant manager
 - Lifeguard training instructor locally (2-3 possibilities)
- Obtain COB financial data and conduct analysis
- Based on analysis, develop recommendations for 2024 Season
- Thoughts? Recommendations? Timeline?
- Questions?

**MEMORANDUM OF UNDERSTANDING TO
ASSIST
with OPERATIONS and
MANAGEMENT of the
CITY of BROOKINGS MUNICIPAL
SWIMMING POOL**

THIS AGREEMENT is made and entered into this March ____, 2023, ("Effective Date") by and between the City of Brookings, whose address for any formal notice is 898 Elk Drive, Brookings, OR 97415 and South Coast Community Aquatics, whose address for any formal notice is 509 Hemlock Street, Brookings, OR 97415, collectively referred to as the "Parties".

RECITALS

- A. The City of Brookings, Oregon ("Brookings") owns, operates, and manages the Municipal Pool located at 1130 Ransom Ave., Brookings, Oregon ("Pool") for the public benefit; and
- B. South Coast Community Aquatics is an Oregon Nonprofit Corporation ("SCCA"), whose mission is to support Brookings in promoting, operating and managing the Pool. In 2023, this Agreement is intended to allow SCCA the opportunity to gather information, which may allow it to obtain future funding and to take over future Pool operation and management.
- C. At the end of the 2023 Pool Season, Brookings and the SCCA will determine whether the performance of this Agreement has been beneficial to the Parties. If the Parties agree that it has been beneficial, the Parties will consider extending this Agreement with the SCCA assuming greater oversight of the Pool and obtaining private funding for support of the Pool.

NOW THEREFORE, Brookings and SCCA agree as follows:

1. DEFINITIONS

"Pool Manager" is a Brookings employee and a SCCA Board Director, who will manage the Pool and who will be the liaison between Brookings and SCCA in performing this Agreement. Appendix A sets forth the duties and responsibilities of the Pool Manager.

2. TERM

2.1 The Initial Term of this Agreement will be for One (1) year commencing on March ____, 2023 (the "Commencement Date") and ending March ____, 2024. Thereafter, this Agreement will be extended by written agreement only.

2.2 Either party may terminate this Agreement for good cause by providing the other party with formal written notice not less than Sixty (60) calendar days prior to termination.

2.3 Either party may terminate this Agreement for a material breach by the other party if the other party fails to correct the breach within thirty (30) calendar days after receiving written notice of the breach. In the event of a breach by Brookings for nonpayment of SCCA's invoices, SCCA may terminate this Agreement if Brookings fails to make outstanding payments on non-contested amounts within ten (10) calendar days after receiving written notice of the breach.

2.4 Upon notice of termination by Brookings, SCCA shall assist Brookings in assuming operation of the Pool.

3. SCCA RESPONSIBILITIES

3.1 SCCA will execute Brookings' volunteer agreements to establish its relationship as that of volunteers.

3.2 SCCA shall perform the services set forth in Appendix B and communicate with Brookings through the Pool Manager.

- 3.3 SCCA shall perform the services with the degree of skill and diligence as directed by Brookings.

4. BROOKINGS RESPONSIBILITIES

- 4.1 Brookings shall perform the services set forth in Appendix C and communicate with the SCCA through the Pool Manager.
- 4.2 Brookings will pay for all Capital Expenditures to operate the Pool. Any loss, damage or injury resulting from Brookings' failure to provide Capital Expenditures and/or funds when reasonably requested by SCCA shall be the sole responsibility of Brookings.
- 4.3 Brookings shall maintain the Pool, land, buildings, facilities, easements, licenses, structures, rights-of-way, and equipment presently or subsequently acquired by Brookings, all of which will remain the exclusive property of Brookings, unless specifically obtained by SCCA and otherwise agreed upon in writing by the Parties.
- 4.4 Brookings will provide all insurance to maintain and operate the Pool. This includes but is not limited to vehicle, equipment, general liability, and worker's compensation insurance.

5. INDEMNITY AND LIABILITY

- 5.1 In 2023, SCCA is only acquiring information about the operations, administration, and management of the Pool. Accordingly, Brookings will indemnify, hold harmless and defend SCCA from any claim which may arise from or is related to this Agreement.
- 5.2 In no event will SCCA, its subcontractors, officers or employees be liable for Brookings' incidental, special, indirect, or consequential damages, whether such liability arises from breach of contract or warranty, tort-including negligence, strict or statutory liability, or any other cause of action.
- 5.3 SCCA's responsibility is to operate the facility in compliance with current laws and regulations as directed by Brookings. SCCA is not assuming or accepting assignment of any duties or responsibilities that cannot be assumed or assigned by a nongovernmental agency.

6. FINES AND CIVIL PENALTIES

SCCA will not be liable for fines or civil penalties which result from violations that arise from or are related to Brookings operations and management of the Pool.

7. INSURANCE

- 7.1 SCCA shall maintain Errors and Omissions coverage for its Board members. All other insurance to operate and maintain the pool will be provided by Brookings.
- 7.2 SCCA shall not maintain general liability insurance because its relationship with Brookings is that of a volunteer and will therefore be subject to coverage by Brookings.

8. UNFORESEEN CIRCUMSTANCE

- 8.1 Neither party will be liable to the other for damages, delays, or failure to perform its obligations under this Agreement, if such failure is due to any Unforeseen Circumstance beyond its reasonable control. The

party invoking this clause shall notify the other party immediately by verbal communication and then in writing regarding the nature and extent of the Unforeseen Circumstance within ten (10) business days *after* its occurrence, and the Parties shall take reasonable measures to mitigate any impact from an Unforeseen Circumstance.

- 8.2 In the case of an Unforeseen Circumstance, Brookings agrees to pay any costs incurred by SCCA in connection with such Unforeseen Circumstance.

9. ACCESS TO FACILITIES AND PROPERTIES

- 9.1 Brookings will provide SCCA 24-hour per day access to the Pool and its personnel to perform this Agreement.
- 9.2 Brookings will provide SCCA with complete access to purchasing records, Pool systems' data, Pool related financial and accounting records, Pool employee records, policies, instructional manuals, and any other information which relates to the operation, management and administration of the Pool.

10. CHANGES

Brookings and SCCA, from time to time, may make changes to this Agreement or to any of the services performed under this Agreement. The Parties must mutually agree upon all changes. Changes must be in writing in the form of a change order, modification or amendment to the Agreement executed by both Parties.

11. NO THIRD-PARTY BENEFICIARIES

This Agreement gives no right or benefit to anyone other than Brookings and SCCA and has no third-party beneficiaries.

12. JURISDICTION

This Agreement will be governed by and interpreted in accordance with the laws of the State of Oregon.

13. SEVERABILITY AND SURVIVAL

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable, the enforceability of the remaining provisions will not be impaired thereby.

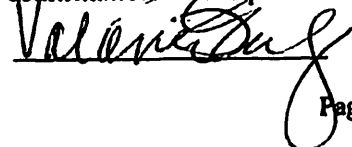
14. AUTHORITY

Both Parties represent and warrant to each other that the execution, delivery, and performance of this Agreement have been duly authorized by the responsible parties thereof.

NOTICE

Whenever either party desires to give notice to the other, the notice must be in writing. Notices may be sent certified mail, return receipt requested to the addresses in the introductory paragraph of this Agreement or via email to the following email addresses with written confirmation of receipt.

SCCA:



Brookings City Manager: James K. Howard

Notice will be deemed given upon receipt by any method of delivery authorized in this provision.

15. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of its termination will survive the termination of this Agreement, will remain in full force and effect unless and until the terms or conditions are completed, and will be fully enforceable by either party.

16. CAPTIONS AND HEADINGS

The captions and headings of the paragraphs and sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

17. ENTIRE AGREEMENT

This Agreement, together with all Appendices attached hereto, contains all representations and the entire understanding between the Parties with respect to the subject matter of this Agreement. This Agreement and its Appendices replace any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda or agreements are in conflict with this Agreement. The Parties mutually declare there are no oral understandings or promises not contained in the Agreement, which contains the complete, integrated, and final agreement between the Parties.

The following Appendices are hereby made a part of this Agreement:

Appendix A Pool Manager

Appendix B SCCA Duties and Responsibilities

Appendix C Brookings Duties and Responsibilities

IN WITNESSETH WHEREOF, the Parties execute below:

South Coast Community Aquatics.

The City of Brookings

Name: Valencia Taylor
Title: President
Date: 4/13/2023

Name: James K. Howard
Title: City Manager
Date: 4/13/2023

APPENDIX A-Pool Manager

- 1) **BROOKINGS will hire a POOL MANAGER, mutually agreed to by Parties, as the full-time seasonal benefited employee.**
 - i) **Term- Pool Manager employment term will be from May through September as a seasonal full-time employee of the BROOKINGS.**
 - ii) **Relationship with SCCA-Pool Manager will operate and manage the Pool, with all daily pool management, public communications, and general Pool administration being reported and administered by the SCCA at the directive of Brookings.**
 - iii) **Job Description: The POOL MANAGER's job duties will follow the BROOKINGS's published Job Description**

to include at a minimum:

 - a. **Identify maintenance needs, and facilitate repairs as needed with BROOKINGS staff or assigned contractors.**
 - b. **Create and enforce schedules for employees, swimming lessons, and pool usage.**
 - c. **Manage the ordering of chemicals and maintenance supplies; and oversee daily cleaning and maintenance of the pool and building.**
 - d. **Manage communication with BROOKINGS for all expenditures.**
 - e. **Manage and be responsible for the collection of all pool revenue to be turned over to the BROOKINGS.**
 - f. **Manage pool employees and ensure BROOKINGS employee policies are followed.**
 - g. **Communicate with the BROOKINGS as needed.**
 - h. **Participate in the hiring and training of the Lifeguards.**
 - i. **Assist SCCA in the marketing and overall public awareness of the pool to increase usage.**
 - j. **Assist SCCA with special pool events (movie nights, private rentals, etc.)**

APPENDIX B-SERVICES PROVIDED BY SCCA

SCCA will provide the following services-

- i) SCCA will establish pool schedules and recommend season fees for BROOKINGS approval. SCCA will determine the season closing date dependent upon available funds.
- ii) SCCA will recruit, interview, make hiring recommendations, and train for pool duties". All HR training, by BROOKINGS, will be attended by appropriate SCCA Board members and PM. All Brookings HR Policies will be enforced by SCCA.
- iii) SCCA & PM will prepare the pool for the 2023 season starting in April and acquire budgeted equipment.
- iv) SCCA will schedule and oversee the Lifeguard training including hiring certified lifeguard trainer, days or hours for training as well as any necessary logistical arrangements for trainer.
- v) SCCA will continuously search and apply for various grants on behalf of the pool facility. For grants requiring BROOKINGS application, SCCA will collaborate with BROOKINGS to complete the application for BROOKINGS to submit. When such money is acquired, it will be directly turned over to BROOKINGS for the purpose(s) established in the grant.
 - a. The primary objectives of the grant applications are to provide health, water safety, rehabilitation services, and enjoyment of community assets to our entire community.
 - b. SCCA will continue to pursue additional agreements with outside entities to increase programming and community participation.
- vi) SCCA will schedule and implement new programs along with expanding existing opportunities to increase attendance and revenue.
- vii) SCCA will research and evaluate a point of sale ("PoS) cash register system that is electronically linked to pool passes allowing less room for error, non-payers, thus bringing in more revenue. Decision for the purchase of the PoS will be made after completion of the 2023 season when it is determined what accounting system will be applicable.
- viii) SCCA will assist BROOKINGS providing input into all financial and operational decisions.
- ix) Prior to the start of this season, SCCA and BROOKINGS will establish the accounting expenditure categories for the financial records. At the end of every month, PM and BROOKINGS accounting will meet to review the records. SCCA may additionally maintain their own records, including revenue, labor and maintenance.
- x) SCCA will maintain a policy of liability, if appropriate, and director's E & O coverage.

APPENDIX C-SERVICES PROVIDED BY BROOKINGS

BROOKINGS will provide the following-


- i) BROOKINGS will employ all of the pool staff and assume all Human Resources (HR) functions.
- ii) BROOKINGS will conduct the employee HR training, on-boarding, and associated documentation with the assistance of PM.
- iii) BROOKINGS will maintain all fiscal responsibility and accounting for the 2023 season. This will include funding for revenue generating events such as movie nights, pool rentals, advertising/ flyers.
- iv) BROOKINGS will provide SCCA with full access to all accounting on a monthly basis (or when requested as needed) including invoices, payroll, revenues, allocations, etc. allocated to the pool..
- v) Brookings shall provide to SCCA all data in Brookings' possession relating to maintaining and operating the Pool, including, but not limited to, operations and maintenance manuals, warranties or any other data necessary to operate, manage and maintain the Pool. SCCA may reasonably rely upon the accuracy and completeness of the information provided by the Brookings.


CITY OF BROOKINGS

COUNCIL WORKSHOP REPORT

Meeting Date: October 16, 2023

Originating Dept: PWDS



Signature (submitted by)


City Manager Approval

Subject:

Water Curtailment Code Review

Financial Impact:

none

Background/Discussion:

At the September 5, 2023 Council Workshop, we discussed The Chetco River US Geological Survey (USGS) gage. At that meeting, Randy Spitzer, Supervisory Hydrologic Technician for USGS explained how the river flow data is collected at the Chetco river gage station and disseminated to the public.

What we learned was the information is “provisional” and may not accurately represent the actual river flow at the time the measurement was taken. Our code as it is written now, doesn’t account for how the data is “provisional” until it is verified by a USGS technician who takes a reading on site on average one time a month.

At that meeting, we also discussed the City’s Water Curtailment Code, Brookings Municipal Code (BMC) 13.05.250, and that it appears outdated. Staff has reached out to Mr. Spitzer to help with ways we can accurately respond, in a timely manner, to the data that is published as “provisional” and then verified on site as it applies to this BMC.

Attachments:

- a. BMC 13.05.250 Water Curtailment

13.05.250 Water curtailment.

It is the policy of the city of Brookings to provide clean, healthful, and plentiful water to its residents. To address the impact of a potential water shortage on the city's residents and the ability of the Chetco River to serve as a viable habitat to important fishery resources, the following rules shall apply.

A. Implementation. In order to limit water withdrawal from the Chetco River to a daily average of 5.1 cfs whenever the three-day average flow of the river is below 80 cfs, the following guideline for levels of curtailment may be implemented. The city may implement levels of curtailment at other times as determined necessary:

Grade 1: River flow is below 100 cfs and water withdrawal is above 4.5 cfs.

Grade 2: River flow is below 80 cfs and water withdrawal is above 4.5 cfs.

Grade 3: River flow is below 80 cfs and water withdrawal is above 4.7 cfs.

Grade 4: River flow is below 80 cfs and water withdrawal is above 5.0 cfs.

1. River flows shall be a three-day average using a USGS approved method of measurement conducted by a trained person and measured at a location approved by Oregon Water Resources.

2. Water withdrawal shall be a 24-hour average. Water withdrawal shall be metered and data shall be available to the public.

B. Levels of Water Curtailment.

1. Grade 1: Voluntary Curtailment.

a. Press release shall be sent to local media encouraging water conservation.

2. Grade 2: Limited Water Restrictions. The following activities or actions are restricted or prohibited under a Grade 2 water restriction:

a. Watering, sprinkling or irrigating lawn, grass or turf during the odd days of the month except:

i. New lawn, grass or turf that has been seeded or sodded 90 days prior to declaration of a water shortage may be watered as necessary until established; and

- ii. High-use athletic fields that are used for organized play;
- b. Watering, sprinkling or irrigating flowers, plants, shrubbery, groundcover, crops, vegetation, or trees except from 6:00 p.m. to 10:00 a.m.;
- c. Washing, wetting down, or sweeping with water, sidewalks, walkways, driveways, parking lots, open ground or other hard surfaced areas except:
 - i. Where there is a demonstrable need in order to meet public health or safety requirements, such as (A) to alleviate immediate fire or sanitation hazards, (B) for dust control to meet air quality requirements mandated by the Oregon Department of Environmental Quality;
 - ii. Power washing of buildings, roofs and homes prior to painting, repair, remodeling or reconstruction, and not solely for aesthetic purposes;
- d. Washing trucks, cars, trailers, tractors or other land vehicles or boats or other water-borne vehicles, except by commercial establishments or fleet washing facilities which recycle or reuse the water in their washing processes, or by bucket and hose with shut-off mechanisms except:
 - i. Where the health, safety and welfare of the public is contingent upon frequent vehicle cleaning, such as (A) clean garbage trucks, (B) vehicles that transport food and other perishables, or (C) otherwise required by law. Owners/operators of these vehicles are encouraged to utilize establishments which recycle or reuse the water in their washing process;
- e. Cleaning, filling or maintaining decorative water features, natural or manmade, including but not limited to: fountains, lakes, ponds and streams, unless the water is recirculated through the decorative water feature. Water features which do not include continuous or constant inflowing water are not included;
- f. Wasting water by leaving unattended hoses running;
- g. Supplying water for above or in-ground swimming pools; and
- h. Other actions deemed necessary by the city manager.

3. Grade 3: Moderate Water Restrictions.

- a. Where not otherwise restricted under a Grade 2 water restriction, all Grade 1 water restrictions apply;
- b. Watering of any lawn, grass or turf, regardless of age or usage;

c. Watering, sprinkling or irrigating flowers, plants, shrubbery, groundcover, crops, vegetation, or trees;

d. Washing of vehicles other than in establishments which recycle their water; and

e. Power washing of buildings, regardless of purpose.

4. Grade 4: Severe Water Restrictions.

a. Where not otherwise restricted under Grade 3 water restrictions, Grade 1 and 2 water restrictions apply;

b. A maximum daily allotment of water per residential water user set by the city manager;

c. Any restriction, which is identified by the fire chief.

C. Variances. Customers not capable of immediate water restrictions shall submit a written request for a variance. The written request will be granted at the discretion of the city manager. The following information must be provided to the city in requesting a variance:

1. Name and address;

2. Purpose of water use;

3. Specific provision from which the petitioner is requesting relief;

4. Description of the relief desired;

5. Period of time for which the variance is sought;

6. Economic value of the water use;

7. Damage or harm to the petitioners or others if petitioner complies with the water restrictions;

8. Restrictions with which the petitioner can comply;

9. Steps petitioner is taking to achieve full compliance; and

10. Any other pertinent information.

D. Notification. Upon declaration of any grade of water restriction, the city manager or designee shall:

1. Mail the appropriate written notice to each service address inside and outside the city limits declaring the grade of water restriction, findings of fact and conclusions supporting the declaration, and the effective dates of the water restriction;
2. Publish the same notice in at least one local newspaper of general circulation;
3. Notify other area newspapers, radio and television stations by a press release;
4. Post the declaration at City Hall, Library, Post Office, Fire Hall and at least one other place in the city where citizens might be expected to congregate;
5. If available, place a notice on the Fire Department Reader Board;
6. Failure of any water user to receive actual notice of the declaration of a water restriction or emergency or the actions deemed necessary by the city manager or city council to address the water shortage shall not relieve the user of obeying the restrictions.

E. Enforcement.

1. Warning. Each violation shall receive a warning. The letter of warning shall be in writing, shall specify the violation, may require compliance measures, and shall be served upon the resident either personally, by office or substitute service, or by certified or registered mail, return receipt requested.
2. Citation. After the resident has received a warning letter, any subsequent violation shall be treated as a civil violation pursuant to BMC 13.05.270. [Ord. 16-O-757 § 7; 02-O-553 § 2.]