



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/22/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment
DLCD File Number 006-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, July 02, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Dianne Morris, City of Brookings
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative

<paa> YA/email

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person electronic mailed

DEPT OF

JUN 15 2009

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Brookings**

Local file number: **LDC-4-09**

Date of Adoption: **6/8/2009**

Date Mailed: **6/12/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 1/15/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Creation of a new Chapter, 17.94, Landscaping, the purpose of which is water conservation, reducing storm water runoff, and maintaining an attractive, liveable community.

Does the Adoption differ from proposal? Yes, Please explain below:

The section concerning tree preservation or replacement was removed. More incentives in section 17.94.040 were added. There were a few other minor changes.

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location: **N/A**

Acres Involved:

Specify Density: Previous: **N/A**

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Curry County

Local Contact: **Dianne Morris**

Phone: (541) 469-1138 Extension:

Address: **898 Elk Dr.**

Fax Number: **541-469-3650**

City: **Brookings**

Zip: **97415-**

E-mail Address: **dmorris@brookings.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

ORDINANCE NO. 09-O-635

IN THE MATTER OF ORDINANCE 09-O-635, AN ORDINANCE ADDING CHAPTER 17.94, LANDSCAPING, TO TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE.

Sections:

- Section 1. Ordinance Identified.
- Section 2. Adds Chapter 17.94

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance adds Chapter 17.94, Landscaping, to Title 17, Land Development Code, of the Brookings Municipal Code (BMC).

Section 2. Adds Chapter 17.94. Chapter 17.94, Landscaping, is added to read as follows:

**Chapter 17.94
Landscaping**

Sections:

- 17.94.010 Purpose
- 17.94.020 Definitions
- 17.94.030 Open Space Standards
- 17.94.040 Recommendations with Incentives
- 17.94.050 Private Trees

17.94.010 Purpose. The purpose of this Chapter is to encourage water conservation, reduce stormwater runoff, and maintain an attractive, livable community. The provisions in this Chapter also are designed to minimize impacts to storm drainage facilities and serve to recharge the groundwater to better utilize our water resources. The component relating to the preservation or replacement of trees within the City is designed to preserve the beauty of the community and to protect the public health, safety, and welfare of the residents of the City of Brookings. As an important component of landscaping, the City encourages property owners to retain existing, mature trees or plant new trees.

17.94.020 Definitions.

“Drought Resistant Plants”: Plants requiring minimal watering to survive. A suggested list of drought resistant plants, entitled “Water-wise Plants for Brookings” is available at the Planning Department. Other drought resistant plants may be used if documentation of their low water needs is provided.

“Impervious Surface”: mainly artificial structures, such as pavements, rooftops, sidewalks, roads – covered by impenetrable materials such as traditional asphalt and concrete.

“Pervious”: allowing absorption of water.

“Private Trees”: Trees located on private property.

17.94.030 Open Space Standards. These requirements apply to new construction only. An open space plan, prepared by the property owner or their agent, must be submitted with an application for a building permit. The plan will be reviewed by the Site Plan Committee to ensure compliance with the following:

- A. Residential (SR, R-1, R-2, R-MH) Property – install landscaping, or keep free of impervious surfaces, an area equal to at least 25 percent of the property. Easement areas may count as part of the open space plan if left as pervious surfaces. If landscaping is to be used, 40 percent of the plants must be drought resistant. Must also comply with BMC 17.94.050.
- B. Multi-family Residential (R-3) Property - Required to have 15 percent of the lot with usable open space recreation area per 17.28.110, BMC, and 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H). If landscaping is proposed elsewhere on the property, the open space plan must have at least 40 percent drought resistant plants. Must also comply with BMC 17.94.050.
- C. Commercial and Industrial (C-1, C-2, C-3, C-4, IP, M-2) Property - Required to have 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H), BMC. Any required landscaping within setback areas must also be in compliance with 17.92.100 (H), BMC. Must also comply with BMC 17.94.050.

17.94.040 Recommendations with Incentives. These incentives are for new development. A refund equal to 2% of the water component of the System Development Charge will be given when the property owner implements any of the following. If both incentives are implemented the refund will be 4%.

- Increases by 50 percent or more the percentage of drought resistant plants used in landscaping beyond the minimum requirement.
- Installs a drip irrigation system or other water conservation-type irrigation system. This is not applicable to multi-family residential, commercial, and industrial properties.

A refund equal to 2% of the storm drain component of the System Development Charge will be given when the property owner implements any of the following. A 2% refund will be given for each incentive implemented.

- Use of non-vegetation, pervious materials in an area equal to an additional 25% of the subject property beyond any of the percentage requirements in 17.94.030.
- Uses low impact storm drainage techniques such as “rain gardens”, swales, permeable paving, rain barrel, cistern, or other approved method of reducing use of the City’s storm drain system.
- Maintain or plant a minimum of 2 trees on parcels less than ½ acre or 4 trees on a parcel 1 acre or larger.

The refund will be given as a rebate after a certificate of occupancy is issued for the structure and installation of the proposed improvements, as listed, above are in place.

When a new building is a replacement structure and existing landscaping is in place, the applicant will not be required to comply with this Chapter.

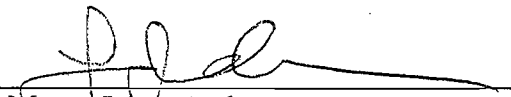
17.94.050 Private Trees.

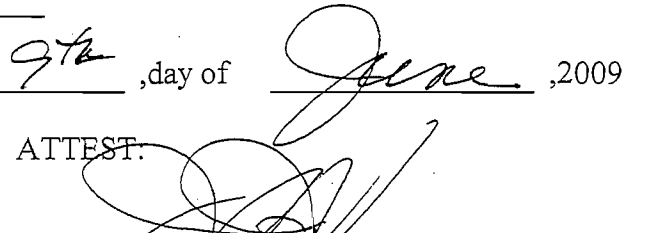
These standards apply to all properties in City limits.

- A. Trees planted on private property that overhang the sidewalk and/or street shall be maintained by the property owner as follows:
 - 1. So as not to obstruct the light from a street lamp.
 - 2. To not obstruct the view of any adjacent street intersection, which means trees shall be pruned so there is a clear space of 13 ½ feet above the street surface and eight (8) feet above a sidewalk surface.
 - 3. All dead, diseased or dangerous trees, broken or decayed limbs, or roots which constitute a hazard to the public shall be removed.
- B. Failure of the property owner to maintain trees as described above shall be subject to penalties pursuant to Chapter 8.15, Nuisances, BMC.
- C. Public Works Director, or designee, will determine when a tree is out of compliance as described in 17.94.050 (A).

First Reading: June 8, 2009
 Second Reading: June 8, 2009
 Passage: June 8, 2009
 Effective Date: July 8, 2009

Signed by me in authentication of its passage this 9th day of June, 2009


Mayor Larry Anderson

ATTEST:

City Recorder Joyce Heffington

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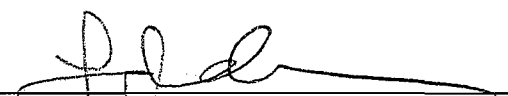
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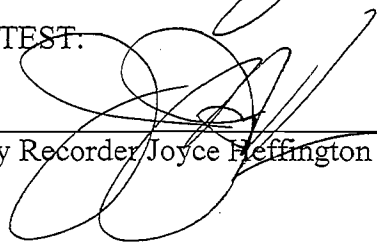
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Mayor Larry Anderson

ATTEST:


City Recorder Joyce Hefington

FINDINGS

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: June 8, 2009

Deanne Morris
Signature (submitted by)

Originating Dept: Planning

Janee Howard
City Manager Approval

Subject: A continued hearing on File LDC-4-09 for consideration and possible adoption of a new Chapter, 17.94, Landscaping, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving creation of a new Chapter, 17.94, Landscaping, BMC.

Financial Impact: Minimal cost for new development taking advantage of the incentives listed in 17.94.040. Provisions in this Chapter will help save the City the expense of increasing the capacity of the water system and the storm drainage system.

Background/Discussion: The City Council conducted hearings on this Chapter at their May 11th and May 26th meetings. The Council expressed concerns about some provisions as follows:

- **Concern:** Requiring an "open space plan" will add another drawing property owners need to provide.

Response: When applying for a building permit property owners already must provide a plot plan showing the proposed development. An "open space plan" can be added to this plot plan. An example is provided as **Attachment A**.

- **Concern:** The new Chapter doesn't provide any protection of pervious areas greater than the current Code provisions.

Response: The current Code limits the square footage of structures on a residential parcel but paving is not a structure. An entire parcel can presently be paved, leaving no pervious area, and be in compliance with setbacks and all other provisions. An example is provided as **Attachment B**.

- **Concern:** This Chapter will hinder rather than promote development.

Response: The provisions requiring consideration of water conservation will help the Community to save water that will then be available for new development in the future. The provisions relating to low impact storm drainage will lessen the need and expense of additional storm drainage infrastructure. Both of these components will help keep the cost of development at a lower level thereby promoting growth.

- **Concern:** The City Council should have control of the suggested drought resistant plant list that Staff will make available to the public.

Response: The plants a property owner uses are not limited to those on the list. A definition of "drought resistant" has been added and a reference is made to the list and a statement that other plants, not found on the list, may be used by providing documentation of their low water needs. As the Council wants to approve this list, a resolution to adopt would be the best vehicle to easily allow possible changes in the future. Language in 17.94.020 has been added stating this. The list is provided as **Attachment C**.

- **Further concerns expressed in conversations with Councilors included:** drawing of the open space plan, subtracting easement areas, irrigation requirements.

APPROVED BY CITY COUNCIL ON

6-8-09
wt change. as indicated

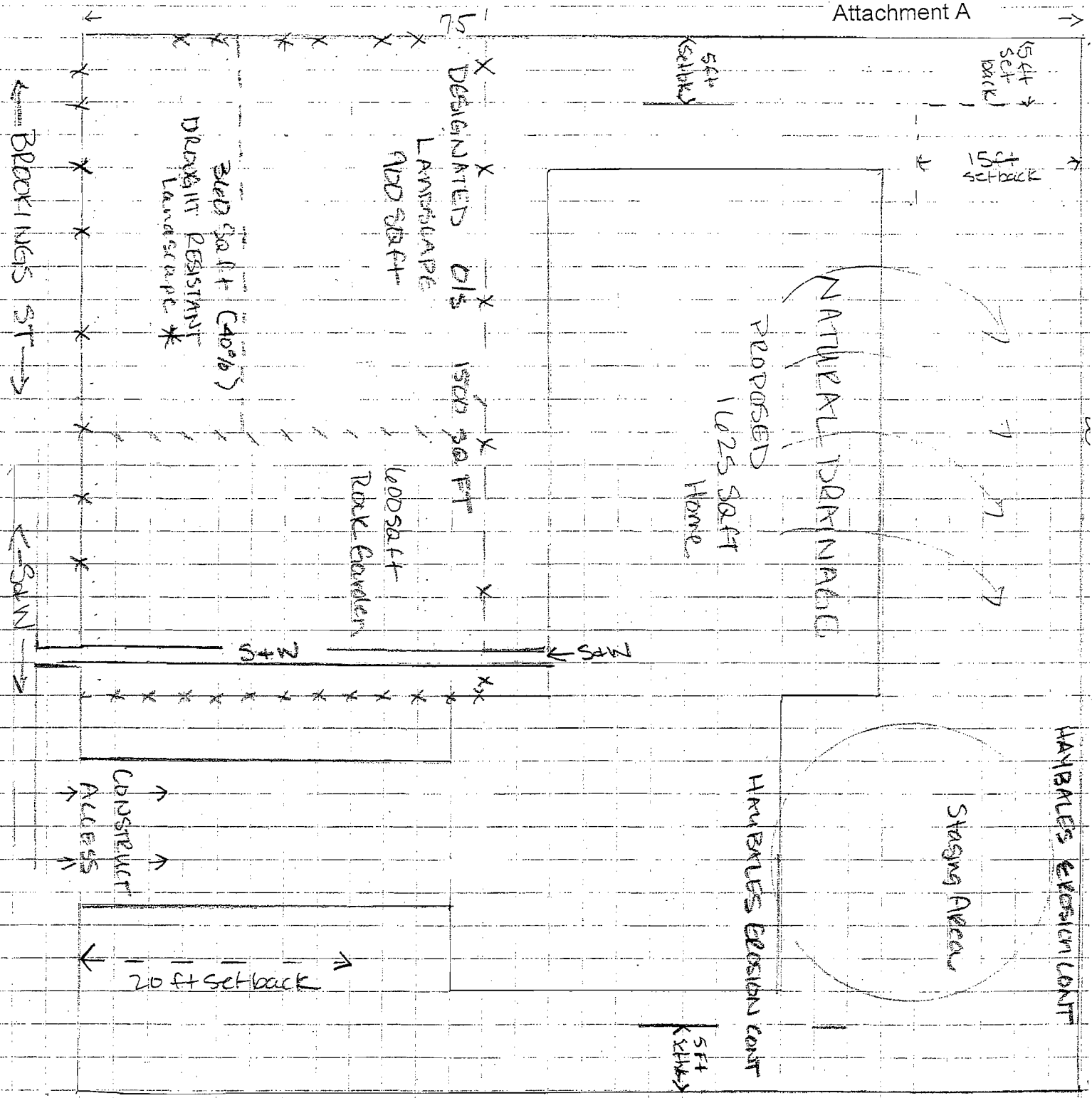
Response: Language has been added clarifying the property owner may draw the open space plan, easement areas may be included in the open space plan, and requiring drip irrigation systems, if one is installed, has been removed. Installation of a drip irrigation system remains in the Chapter only as an incentive.

Looking around the Country, there are many indicators that low impact development is the wave of the future. By introducing these techniques early and gradually, Brookings will be in a good position to continue developing while utilizing our natural resources to the fullest.

Following this report is the draft version of Chapter 17.94, Landscaping, BMC (**Attachment D**).

Policy Considerations: N/A

Attachment(s): Open Space/ Plot Plan – **Attachment A**.
Impervious/ Pervious Area Plot Plan – **Attachment B**.
“Water-wise Plants for Brookings” – **Attachment C**.
Chapter 17.94, Landscaping, (**Attachment D**).



15 ft SET BACK

5 ft SET BACK

NATURAL TERRAIN

PROPOSED 1025 SQ FT HOME

HAWBALES EROSION CONTROL

STAGING AREAS

HAWBALES EROSION CONTROL

5 ft SET BACK

1500 SQ FT LANDSCAPE
DROUGHT RESISTANT LANDSCAPE

1000 SQ FT
ROCK BARRIER

CONSTRUCT ACCESS

20 ft SETBACK

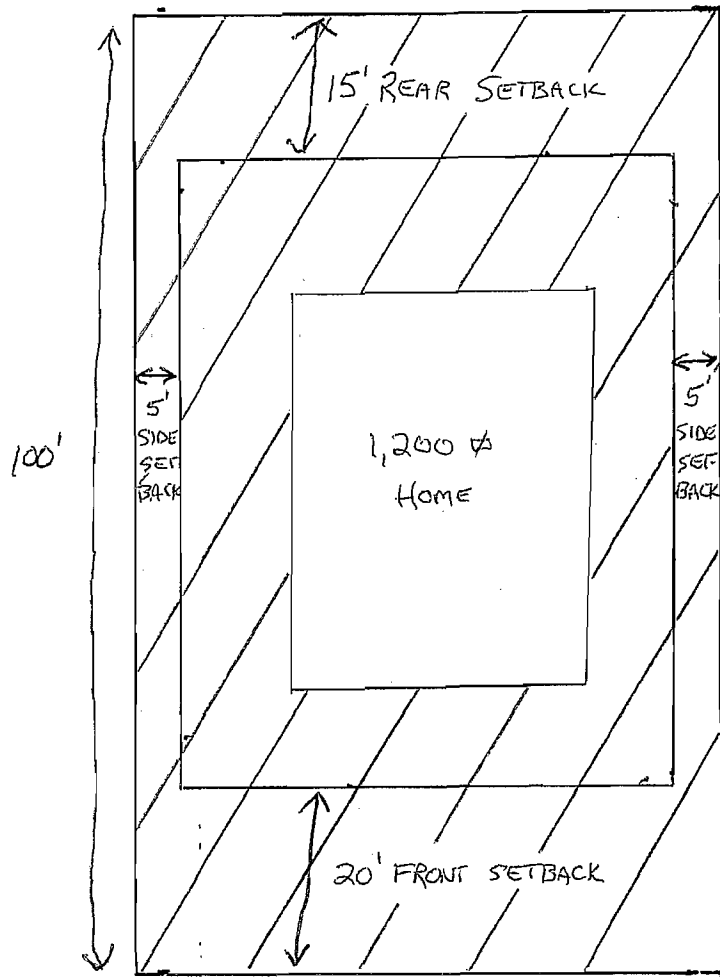
BROOKINGS ST

SUN

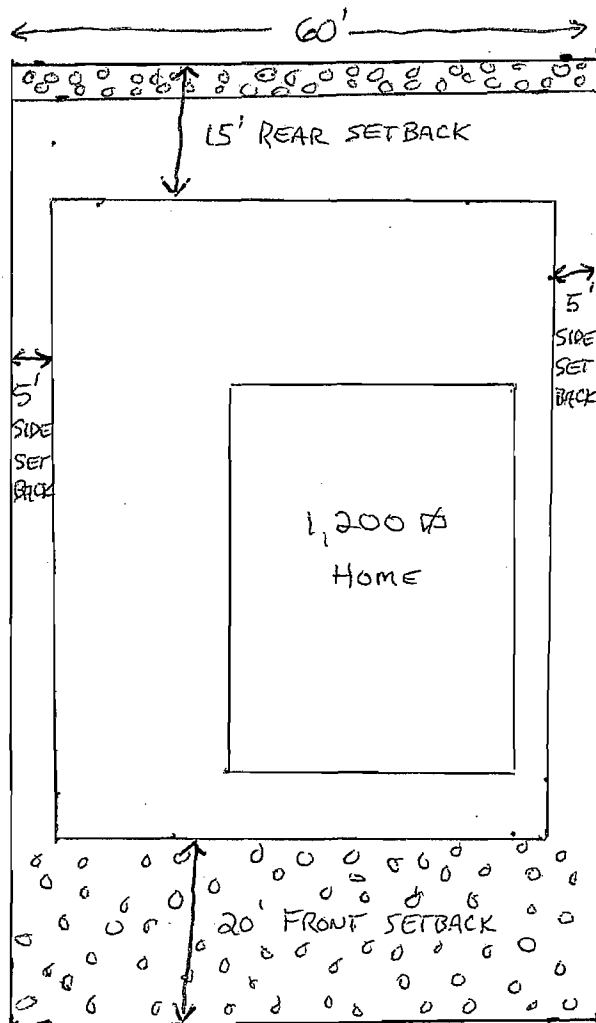
11' x 10' SUGGESTED REMOVED
LOT: 10000 SQ FT
IMPERVIOUS: 1500 SQ FT
(25%)

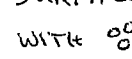
LANDSCAPE NEEDS
40% DROUGHT RESISTANT 500 SQ FT

* DROUGHT RESISTANT PLANTS USED:
 x Thyme, Oregano
 x Rosemary
 x Fountain Grass
 x Beauty Bush
 x Iris
 x Grapevine/Arise



- 6,000 ~~sq~~ PARCEL
- MEETS MINIMUM SETBACKS
- /// - INDICATES PAVING COVERING ENTIRE PARCEL
- THIS MEETS CURRENT CODE PROVISIONS.



- 6,000 ~~sq~~ PARCEL
- MEETS MINIMUM SETBACKS
- 25% OF 6,000 ~~sq~~ EQUALS 1,500 ~~sq~~ OF PERVIOUS SURFACE
- USING THE FRONT SETBACK (1,200 ~~sq~~) AND A 3' STRIP AT THE REAR (300') THE PERVIOUS SURFACE AREA (SHOWN WITH ) WILL BE MET.

Water-wise Plants for Brookings

This is a suggested list of drought resistant plants. Other plants may be used if documentation of their low water needs is provided.

Type	Botanical name	Common name	Water Use
Perennial	Agapanthus		Low to Medium
Shrub	<i>Aloe</i> spp,	Aloe	Low
Perennial	<i>Heuchera</i> spp, and	alum root	Medium - some Native Species
Shrub	<i>Bambusa</i> spp.	bamboo	Low
Shrub/Ground Cover	<i>Berberis</i> spp.	Barberry	Low
Perennial	<i>Helenium biglovii</i>	Bigelow sneezeweed	Low
Perennial	<i>Decent</i> spp,	bleeding hearts	Medium native species
Shrub	<i>Alyogyne huegelii</i>	Blue Hibiscus	Low
Shrub/Ground Cover	<i>Bougainvillea</i> spp.	Bougainvillea	Low
Perennial	<i>Brodiaea</i> spp.	brodiaea	Very Low
Shrub	<i>Carpenteria californica</i>	Bush anemone	Low
Tree	<i>Aesculus californica</i>	California Buckeye	Very Low
Perennial	<i>Eschscholzia</i>	California poppy	Very Low
Shrub/Ground Cover	<i>Chamaemelum nobilis</i>	chomomile	Low
Shrub	<i>Garryia elliptica</i>	Coast Silk tassel	Low
Perennial	<i>Aquilegia</i> spp.	Columbine	Low
Perennial	<i>Blechnum spirant</i>	Deer fern	Low
Tree	<i>Cedrus deodora</i>	Deodar cedar	Low native species
Perennial	<i>Festuca</i> spp.	Fescue- various	Low to Very Low
Shrub	<i>Forsythia x intermedia</i>	forsythia	Low
Perennial	<i>Gladiolus</i> spp	gladiolus	Low
Perennial	<i>Asplenium Scolopendrium</i>	Hart's tongue fern	Low
Shrub/ Perennial	<i>Echeveria</i> spp.	Hens and chicks	Low
Shrub	<i>Aloysia triphylla</i>	Lemon verbena	Low
Tree	<i>Arbutus menziesii</i>	Madrone	Low-native species
Shrub/Ground Cover	<i>Arctostaphylos</i> spp.	Manzinita, Kinnikinnick	Very Low
Tree	<i>Arbutus marina</i>	Marina Arbutus	Low
Perennial	<i>Alyssum montanum</i>	Mountain alyssum	Low
Perennial	<i>Amaryllis belladonna</i>	Naked Lady	Very Low
Tree	<i>Carya illinoensis</i>	Pecan	Low
Perennial	<i>Aubrieta deltoidea</i>	Rock cress	Low
Shrub/Ground Cover	<i>Cistus</i> spp.	rockrose	Low
Tree	<i>Albizia julibrissin</i>	Silk Tree	Low
Tree	<i>Abies pinsapo</i>	Spanish Fir	Low
Tree	<i>Arbutus unedo</i>	strawberry Tree	Low
Perennial	<i>Coreopsis</i> spp	tickseed	Low
Tree	<i>Catalpa speciosa</i>	Western catalpa	Low
Shrub	<i>Corylus cornuta</i>	western hazelnut	Low native species
Tree/Shrub	<i>Cercis occidentalis</i>	Western redbud	Very Low
Shrub/Ground Cover	<i>Ceanothus</i> spp, and cultivars	Wild lilac	Low - Very Low, native species
Ground cover	<i>Fragaria</i> spp.	wild strawberry	Low Native Species
Perennial	<i>Achillea</i> species	Yarrow	Low

Perennial	<i>Helictotrichon</i>	Blue oat grass	Low
Shrub	<i>Hibiscus syriacus</i>	Rose of Sharon	Low
Perennial	<i>Iris spp.</i>	Iris	Low
Perennial	<i>Ixia spp.</i>	African corn lily	Low
Perennial Tree	<i>Juniperus spp.</i>	juniper	Low native species
Shrub	<i>Kolkwitzia amaboils</i>	Beauty bush	Low
Tree/Shrub	<i>Laurus nobilis</i>	Sweet Bay	Low
Shrub	<i>Lavendula spp.</i>	lavender	Low
Shrub	<i>Lavatera spp. And</i>	lavatera	Low
Tree/Shrub	<i>Leptospermum spp</i>	Tea tree	Low
Tree	<i>Litocarpus densiflorus</i>	tanbark oak	Low native species
Shrub	<i>Myrica californica</i>	Pacific wax myrtle	Low
Shrub	<i>Myrtus communis</i>	true myrtle	Low
Shrub	<i>Nandina domestics</i>	heavenly bamboo	Low
Shrub Perennial	<i>Nolina spp.</i>	Bear Grass	Very Low
Ground cover	<i>Osteospermum spp.</i>	African Daisy	Low
Perennial	<i>Papaver pilosum</i>	poppy	Low
Perennial	<i>Pennisetum setaceum</i>	fountain grass	Low
Tree	<i>Pinus spp.</i>	pinus	Low, Medium Native Species
Perennial	<i>Polystichum</i>	sword fern	Low
Tree	<i>Prunus spp.</i>	(edible) prune	Low
Tree	<i>Prunus spp</i>	(ornamental) flowering peach	Low
Tree	<i>Prunus spp.</i>	(ornamental) flowering plum	Low
Perennial	<i>Pyrrosia spp.</i>	felt fern	Low
Tree S	<i>quercus spp.</i>	Selected oak tree	Very Low to Low to Medium-Native Species
Shrub	<i>Ribes sanguineum</i>	Red flowering currant	Low Native Species
Shrub	<i>Rosa rugosa</i>	Japanese rose	Low
Shrub	<i>Rhodendron</i>	Western azalea	Medium - Native Species
Shrub	<i>Gaultheria shalon</i>	Salal	Medium - Native Species
Shrub Perennial	<i>Rosmarinus officinalis</i>	rosemary	Low
Perennial S	<i>Salvia spp.- various</i>	Sage- many varieties	Low to Medium
Shrub Tree	<i>Sambucus spp.</i>	elderberry	Low Native Species
Ground cover Perennial Shrub	<i>Sarcococca</i>	Sweet box	Low
Perennial Ground cover	<i>Sedum spp.</i>	stonecrop	Low
Perennial	<i>Sidelacea spp.</i>	mallow	Medium - Native Species
Tree	<i>Styrax japonicum</i>	Japanese snowbell	Medium
Shrub	<i>Vaccinum ovatum</i>	evergreen huckleberry	Medium - Native Species
Perennial	<i>Vancouveria hexedra</i>	inside out flower	Medium - Native Species

Gardening with Native Plants of the Pacific Northwest, Arthur Kruckeberg, 1982.
 Guide to Estimating Irrigation Water Needs of Landscape Planting in California, UC Cooperative Extension, 2000 Available on line at www.owue.water.ca.gov/docs/wucols00.pdf

Chapter 17.94

Landscaping

DRAFT 05-28-09

Text to be added is *bold and italicized*.

Sections:

17.94.010	Purpose
17.94.020	Definitions
17.94.030	Open Space Standards
17.94.040	Irrigation
17.94.040	Recommendations with Incentives
17.94.050	Private Trees

17.94.010 Purpose. The purpose of this Chapter is to encourage water conservation, reduce stormwater runoff, and maintain an attractive, livable community. The provisions in this Chapter also are designed to minimize impacts to storm drainage facilities and serve to recharge the groundwater to better utilize our water resources. The component relating to the preservation or replacement of trees within the City is designed to preserve the beauty of the community and to protect the public health, safety, and welfare of the residents of the City of Brookings. As an important component of landscaping, the City encourages property owners to retain existing, mature trees or plant new trees.

17.94.020 Definitions.

~~“Drought Resistant Plants”: Plants requiring minimal watering to survive. A suggested list of drought resistant plants, entitled “Water-wise Plants for Brookings”, adopted by resolution of the City Council, is available at the Planning Department. Other drought resistant plants may be used if documentation of their low water needs is provided.~~

“Impervious Surface”: mainly artificial structures, such as pavements, rooftops, sidewalks, roads – covered by impenetrable materials such as traditional asphalt and concrete.

“Pervious”: allowing absorption of water.

“Private Trees”: Trees located on private property.

17.94.030 Open Space Standards. These requirements apply to new construction only. An open space plan, *prepared by the property owner or their agent*, must be submitted

with an application for a building permit. The plan will be reviewed by the Site Plan Committee to ensure compliance with the following:

- A. Residential (SR, R-1, R-2, R-MH) Property – install landscaping, or keep free of impervious surfaces, an area equal to at least 25 percent of the property. ~~Any easement areas will be subtracted prior to calculating the 25 percent of the property as stated above.~~ ***Easement areas may count as part of the open space plan if left as pervious surfaces.*** If landscaping is to be used, 40 percent of the plants must be drought resistant. Must also comply with BMC ~~17.94.040, 17.94.050 and 17.94.070.~~
- B. Multi-family Residential (R-3) Property - Required to have 15 percent of the lot with usable open space recreation area per 17.28.110, BMC, and 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H). If landscaping is proposed elsewhere on the property, the open space plan must have at least 40 percent drought resistant plants. Must also comply with BMC 17.94.050 ~~and 17.94.070.~~
- C. Commercial and Industrial (C-1, C-2, C-3, C-4, IP, M-2) Property - Required to have 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H), BMC. Any required landscaping within setback areas must also be in compliance with 17.92.100 (H), BMC. Must also comply with BMC 17.94.050 ~~and 17.94.070.~~

~~17.94.040 Irrigation. If an irrigation system is to be installed on residentially zoned property, it must be a drip irrigation system or other water conservation type irrigation. Said system must be shown on the submitted open space plan.~~

17.94.040 Recommendations with Incentives. These incentives are for new development. A refund equal to 2% of the water component of the System Development Charge will be given when the property owner implements any of the following. If both incentives are implemented the refund will be 4%.

- Increases by 50 percent or more the percentage of drought resistant plants used in landscaping beyond the minimum requirement.
- Installs a drip irrigation system or other water conservation-type irrigation system. This is not applicable to multi-family residential, commercial, and industrial properties.

A refund equal to 2% of the storm drain component of the System Development Charge will be given when the property owner implements any of the following. A 2% refund will be given for each incentive implemented.

- Use of non-vegetation, pervious materials in an area equal to an additional 25% of the subject property beyond any of the percentage requirements in 17.94.030.
- Uses low impact storm drainage techniques such as “rain gardens”, swales, permeable paving, rain barrel, cistern, or other approved method of reducing use of the City’s storm drain system.
- Maintain or plant a minimum of 2 trees on parcels less than ½ acre or 4 trees on a parcel 1 acre or larger.

The refund will be given as a rebate after a certificate of occupancy is issued for the structure and installation of the proposed improvements, as listed, above are in place.

When a new building is a replacement structure and existing landscaping is in place, the applicant will not be required to comply with this Chapter.

17.94.050 Private Trees.

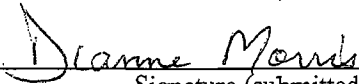
These standards apply to all properties in City limits.

- A. Trees planted on private property that overhang the sidewalk and/or street shall be maintained by the property owner as follows:
 - 1. So as not to obstruct the light from a street lamp.
 - 2. To not obstruct the view of any adjacent street intersection, which means trees shall be pruned so there is a clear space of 13 ½ feet above the street surface and eight (8) feet above a sidewalk surface.
 - 3. All dead, diseased or dangerous trees, broken or decayed limbs, or roots which constitute a hazard to the public shall be removed.
- B. Failure of the property owner to maintain trees as described above shall be subject to penalties pursuant to Chapter 8.15, Nuisances, BMC.
- C. Public Works Director, or designee, will determine when a tree is out of compliance as described in 17.94.060 (A).

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: May 26, 2009


Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: A continued hearing on File LDC-4-09 for consideration and possible adoption of a new Chapter, 17.94, Landscaping, Tree Preservation and Replacement, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving creation of a new Chapter, 17.94, Landscaping, Tree Preservation and Replacement, BMC.

Financial Impact: None

Background/Discussion: The City Council conducted a hearing on this Chapter at their May 11th meeting. The Council expressed concerns about some provisions and directed Staff to prepare revisions to the draft Chapter.

Following are the proposed revisions:

- 17.94.070, Tree Preservation or Replacement. This section has been eliminated. A sentence has been added to 17.94.010, Purpose, stating the City encourages retention or planting of trees. Also in 17.94.040, Recommendations with Incentives, a bullet has been added offering the incentive for maintaining or planting a minimum of 2 trees on parcel less than ½ acre or 4 trees on a parcel 1 acre or larger.
- 17.94.030, Open Space Standards. The statement that a list of drought-resistant plants is available has been moved to the end of this section from its former location in 17.94.070.
- 17.94.050, Recommendations with Incentives. The first sentence clarifies that these incentives are for new development. The incentives have been separated into two categories as some relate to conserving water and some relate to lessening impact of storm drainage. This draft text states the refund will be **equal** to 2% of one of the System Development Charge (SDC) components. The refund would not come out of the SDC funds. The refund would be from the General Fund. Janell Howard, Interim City Manager and Administrative Services Director, agrees this would eliminate any need for analysis and justification by the City Engineer to reduce SDCs. The 2% refund is reduced from the previous draft offering 10%. The new draft also offers an additional 2% for each incentive implemented.
- 17.94.060, Private Trees. Text added to explain this section applies to all property in City limits.

With these revisions this Chapter will still be a step towards promoting water conservation, making better use of water resources, and provide efforts towards maintaining an attractive, livable community.

~~APPROVED BY CITY COUNCIL ON~~

Continued to 6-8

Following this report is the draft version of Chapter 17.94, Landscaping, Tree Preservation and Replacement, BMC (Attachment A).

Policy Considerations: N/A

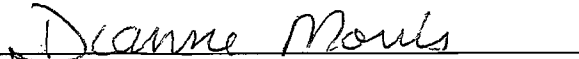
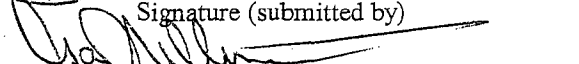
Attachment(s): Chapter 17.94, Landscaping, Tree Preservation and Replacement (Attachment A).

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: May 11, 2009

Originating Dept: Planning


Signature (submitted by)

City Manager Approval

Subject: A hearing on File LDC-4-09 for consideration and possible adoption of a new Chapter, 17.94, Landscaping, Tree Preservation and Replacement, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving creation of a new Chapter, 17.94, Landscaping, Tree Preservation and Replacement, BMC.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee drafted a new chapter dealing with landscaping requirements for new development. The Planning Commission, acting in their role as Committee for Citizen Involvement (CCI), conducted a workshop with the public. Frank Burris, OSU Extension Agent, gave a power point presentation of low impact storm drainage techniques at the workshop. This ties in with one of the goals in the purpose statement for Chapter 17.94 concerning reducing the amount of water going to the City's storm drain system. Other purposes for this Chapter are to promote water conservation, make better use of water resources, and maintain an attractive, livable community. Several citizens attended and expressed support for conserving water and low impact drainage techniques. Mr. Burris also gave the presentation regarding low impact development to the City Council in March, 2009. In April the Planning Commission reviewed the final draft of this Chapter and recommended approval to the City Council.

Following are some of the highlights of the chapter:

- 17.94.030, Open Space Standards. This requires new development to submit an Open Space Plan showing how a minimum area will be kept free of impervious surfaces and utilize drought resistant plants.
- 17.94.050, Incentives. This describes ways the property owner may qualify for a reduction in the water component for System Development Charges.
- 17.94.070, Tree Preservation or Replacement. Property owners would be required to maintain a certain number of trees when developing, or replace them.

Following this report is the draft version of Chapter 17.94, Landscaping, Tree Preservation and Replacement, BMC (Attachment A).

Policy Considerations: N/A

Attachment(s): Chapter 17.94, Landscaping, Tree Preservation and Replacement (Attachment A).

Continued to 5-26-09

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-4-09
HEARING DATE: April 7, 2009

REPORT DATE: March 23, 2009
ITEM NO: 7.4

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Creation of Chapter 17.94, Landscaping, Tree Preservation and Replacement, Brookings Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

At the Planning Commission's March meeting a hearing on this new Chapter was conducted. The Planning Commission and the public had questions and comments. Revisions to the draft were agreed upon and Staff has incorporated these in the attached version. The new text is bold and italicized to assist in locating the changes.

Following this report is the draft version of Chapter 17.94, Landscaping, Tree Preservation and Replacement, BMC (Attachment A).

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-4-09, Chapter 17.94, Landscaping, Tree Preservation and Replacement, BMC, to the City Council.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-4-09
HEARING DATE: March 3, 2009

REPORT DATE: February 23, 2009
ITEM NO: 7.1

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Creation of Chapter 17.94, Landscaping, Tree Preservation and Replacement, Brookings Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

The Land Development Code (LDC) Committee drafted a new chapter dealing with landscaping requirements for new development. The Planning Commission, acting in their role as Committee for Citizen Involvement (CCI), conducted a workshop with the public. Frank Burris, OSU Extension Agent, gave a power point presentation of low impact storm drainage techniques at the workshop. This ties in with one of the goals in the purpose statement for Chapter 17.94 concerning reducing the amount of water going to the City's storm drain system. Other reasons stated in the purpose statement are to promote water conservation, make better use of water resources and maintain an attractive, liveable community. Several citizens attended and expressed support for conserving water and low impact drainage techniques.

Following are some of the highlights of the chapter:

- 17.94.030, Open Space Standards. This requires new development to submit an Open Space Plan showing how a minimum area will be kept free of impervious surfaces and utilize drought resistant plants.
- 17.94.050, Incentives. This describes ways the property owner may qualify for a reduction in the water component for System Development Charges.
- 17.94.070, Tree Preservation or Replacement. Property owners would be required to maintain a certain number of trees when developing, or replace them.

Following this report is the draft version of Chapter 17.94, Landscaping, Tree Preservation and Replacement, BMC (Attachment A).

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-4-09, Chapter 17.94, Landscaping, Tree Preservation and Replacement, BMC, to the City Council.

Chapter 17.94

Landscaping, Tree Preservation and Replacement

DRAFT 02-19-09

Sections:

17.94.010	Purpose
17.94.020	Definitions
17.94.030	Open Space Standards
17.94.040	Irrigation
17.94.050	Recommendations with Incentives
17.94.060	Private Trees
17.94.070	Tree Preservation or Replacement

17.94.010 Purpose. The purpose of this Chapter is to encourage water conservation, reduce stormwater runoff, and maintain an attractive, livable community. The provisions in this Chapter also are designed to minimize impacts to storm drainage facilities and serve to recharge the groundwater to better utilize our water resources. The component relating to the preservation or replacement of trees within the City is designed to preserve the beauty of the community and to protect the public health, safety, and welfare of the residents of the City of Brookings.

17.94.020 Definitions.

“Impervious Surface”: mainly artificial structures, such as pavements, rooftops, sidewalks, roads – covered by impenetrable materials such as traditional asphalt and concrete.

“Pervious”*: allowing absorption of water.

“Private Trees”*: Trees located on private property.

17.94.030 Open Space Standards. These requirements apply to new construction only. An open space plan must be submitted with an application for a building permit. The plan will be reviewed by the Site Plan Committee to ensure compliance with the following:

- A. Residential (SR, R-1, R-2, R-MH) Property – install landscaping, or keep free of impervious surfaces, an area equal to at least 25 percent of the property. If landscaping is to be used, 40 percent of the plants must be drought resistant. Must also comply with BMC 17.94.040, 17.94.060 and 17.94.070.

- B. Multi-family Dwelling (R-3) Property - Required to have 15 percent of the lot with usable open space recreation area per 17.28.110, BMC, and 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H). If landscaping is proposed elsewhere on the property, the open space plan must have at least 40 percent drought resistant plants. Must also comply with BMC 17.94.060 and 17.94.070.
- C. Commercial and Industrial (C-1, C-2, C-3, C-4, IP, M-2) Property - Required to have 7 percent of the required parking lot landscaped in compliance with 17.92.100 (H), BMC. Any required landscaping within setback areas must also be in compliance with 17.92.100 (H), BMC. Must also comply with BMC 17.94.060 and 17.94.070.

17.94.040 Irrigation. If an irrigation system is to be installed on residentially zoned property, it must be a drip irrigation system or other water conservation-type irrigation. Said system must be shown on the submitted open space plan.

17.94.050 Recommendations with Incentives. A reduction of the water component of the System Development Charge will be considered by the Site Plan Committee when the property owner implements any of the following:

- Increases by 50 percent or more the percentage of drought resistant plants used in landscaping beyond the minimum requirement.
- Installs a drip irrigation system or other water conservation-type irrigation system.
- Uses non-vegetation, pervious materials in landscaping.

When a new building is a replacement structure and existing landscaping is in place, the applicant will not be required to comply with this Chapter.

17.94.060 Private Trees.

- A. Trees planted on private property that overhang the sidewalk and/or street shall be maintained by the property owner as follows:
1. So as not to obstruct the light from a street lamp.
 2. To not obstruct the view of any adjacent street intersection, which means trees shall be pruned so there is a clear space of 13 ½ feet above the street surface and eight (8) feet above a sidewalk surface.

3. All dead, diseased or dangerous trees, broken or decayed limbs, or roots which constitute a hazard to the public shall be removed.
 4. Install a root barrier if a tree is planted within 20 ft. of a property line.
- B. Failure of the property owner to maintain trees as described above shall be subject to penalties pursuant to Chapter 8.15, Nuisances, BMC.
- C. Public Works Director, or designee, will determine when a tree is out of compliance as described in 17.94.060 (A).

17.94.070 Tree Preservation or Replacement.

- A. All vacant property shall preserve existing trees in compliance with the following chart. In the event there are insufficient trees on the lot or parcel to meet the requirements listed in the table below, or when preserving the trees is impracticable, drought resistant species can be planted to fulfill the requirement. If new trees are to be planted, they must be a minimum of 4 feet in height. Trees need to be shown on the open space plan. Site Plan Committee will work with the property owner on a case-by-case basis to determine how this requirement will be met.

Lot or Parcel Size	Required Trees
Up to and including 6,000 sq. ft.	2
6,001 to 7,000 sq. ft.	3
7,001 to 8,000 sq. ft.	4
8,001 to 9,000 sq. ft.	5
Above 9,000 sq. ft.	6 with 2 more trees for every additional 6,000 sq. ft. or portion thereof

- B. When preserving existing trees, it is recommended that an area beneath the tree from the drip-line to the tree trunk be left undisturbed to increase the likelihood of the trees survival. In addition, a protective barrier during construction activities will help insure the tree will remain undamaged.
- C. A list of drought resistant plants that grow well in this area is available at the Planning Department.



MEMO

TO: Planning Commission

FROM: Dianne Morris, Planning Director

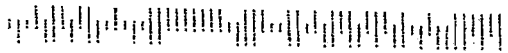
DATE: 12/23/09

SUBJECT: Planning Commission Workshop

- Storm Drainage Low Impact Development Techniques
- Introduction of Chapter 17.94, Landscaping, Tree Preservation and Replacement

Frank Burris, Oregon State University Extension Agent, will give a presentation regarding storm drainage low impact development techniques. There are numerous, and often relatively simple, means of reducing the amount of water dealt with by the City's storm drain system. This can result in better use of water resources by recharging the ground water. Some water conservation techniques will also lessen the amount of water that needs to be dealt with. This is an opportunity for all of us to learn about ways we can make positive impacts on our environment.

Attached is a new Chapter - 17.94, Landscaping, Tree Preservation and Replacement, BMC. The Purpose statement, 17.94.010, explains that water conservation, reducing stormwater runoff, and maintaining an attractive, livable community are the goals of this Chapter. Staff has published a press release and also contacted several groups that are involved in landscaping or gardening. Hopefully there will be some helpful public comments regarding this new Chapter. A hearing will be scheduled in February or March.



CITY OF BROOKINGS

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TO:

Plan Amendment Specialist
DLCD
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540