

BROOKINGS ORDINANCE

ORDINANCE NO. 08-O-619

AN ORDINANCE ADDING CHAPTER 13.40, STORM WATER FEES, TO TITLE 13, PUBLIC SERVICES, OF THE BROOKINGS MUNICIPAL CODE.

- Section 1: Council Findings
- Section 2: Ordinance Identified - Adds Chapter 13.40, Storm Water Fees
- Section 3: Adds Section 13.40.010, Definitions
- Section 4: Adds Section 13.40.015, Fee Imposed
- Section 5: Adds Section 13.40.020, Rates, Fees and Charges
- Section 6: Adds Section 13.40.025, Disposition of Funds
- Section 7: Adds Section 13.40.030, Review and Appeal

Section 1. Council Findings.

The City of Brookings finds as follows:

A. The City of Brookings has maintained, and continues to maintain, an extensive Storm Water System in a climate with dramatic amounts of rainfall. The system includes open ditches, closed piping, catch basins, manholes and stream channels all of which require regular maintenance and upgrading.

B. Due to age, portions of the system need to be completely replaced.

C. The amount of storm water to be processed through the City's Storm Water System increases with the increasing levels of development in the City. The increased development creates more impervious areas, which put a greater demand on the Storm Water System. This results in the need for the planning, design and maintenance of existing and future storm water systems.

D. It is anticipated within the next two years that the Oregon Department of Environmental Quality will be enacting regulations which will require increased capital expenditures to upgrade the Storm Water System.

E. The City currently does not have the resources from the General Fund and the State Gas Tax Fund to maintain the Storm Water System in an adequate fashion.

F. It is more efficient and equitable to charge the cost of handling storm water to those who contribute to the storm water problem. Determining the impervious areas of the properties contributing to the storm water is an appropriate measure for determining what financial contribution should come from various properties.

G. In order to protect and promote the public health, safety and welfare of the residents of the City of Brookings, it is necessary that the storm water system within the City continue to be operated, maintained and upgraded as necessary and that a Storm Water System User Fee be established to insure adequate funding for this ongoing operation.

Now, therefore, the City of Brookings ordains as follows:

Section 2. This ordinance adds Chapter 13.35, Storm Water Fees, to Title 13, Public Services, of the Brookings Municipal Code.

Section 3. Section 13.40.010, Definitions, is added to Chapter 13.40, Storm Water Fees, to read as follows:

A. “Single-family Dwelling” (SFD) means that part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family and where the units are sold and deeded as individual units and have individual water meters. A SFD is presumed to have 2,500 square feet of impervious surface area for purposes of this Ordinance. The term “SFD” shall be inclusive of those units identified as detached single-family residences, unit ownership and condominiums, etc.

B. “Multiple-family Dwelling” (MFD) means a building or facility consisting of more than one dwelling unit with each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family and having a common water meter.

C. “Commercial or Industrial Unit” means any building or facility used other than as a dwelling unit.

D. “Equivalent Dwelling Unit” (EDU) means an area which is estimated to place approximately equal demand on the City’s storm drainage system as a single-family dwelling unit. One (1) EDU shall be equal to 2,500 square feet of impervious surface.

E. “Manufactured Home” and “Manufactured Home Park” are defined as provided in ORS 446.003.

F. “Open Drainage way” means a natural or man-made path, ditch or channel which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

G. “Impervious surfaces” are those surface areas which either prevent or retard saturation of water into the land surface and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

H. “Improved premises” means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected.

I. “Development” shall mean any man-made change to improved or un-improved real property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

J. “Person responsible” means the owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of a construction project on the property.

K. “Runoff control” is any means approved by the City Engineer by which the peak rate of storm runoff from development land surfaces is reduced.

L. "Storm drainage system" shall mean any natural drainage course or man made culverting system or ditch that conveys storm water.

M. "Runoff control measures" can be but are not limited to bioswales, stormwater recharge systems, pervious surfaces and detention systems.

Section 4. Section 13.40.015, Fee Imposed, is added to Chapter 13.40, Storm Water Fees, to read as follows:

The structure of the storm drainage utility is intended to be a fee for service and not a charge against properties which have been improved within the City of Brookings, just and equitable charges for storm water service and any subsequent service, which includes the maintenance, operations and extension of the Storm Water System; and to establish a Storm Water System fund for these same purposes.

A. Except as the fees may be reduced or eliminated under the provision of this ordinance, the City's Storm Water System Fees arises when a person responsible uses storm drainage services. It is presumed that storm drainage services are used whenever there is an improved premises.

B. The City of Brookings Administrative Services Department is hereby authorized and directed to collect all Storm Water System User Fees herein imposed through the utility billing system on a monthly basis. For this purpose, the City of Brookings may include Storm Water System User Fees as a part of their billings for water services.

C. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the City, the person(s) paying the City's water utility charges shall pay the Storm Water System User Fees set by Council Resolution. If there is no water service to the property or if water service is discontinued, the Storm Water System User Fees shall be paid by the person(s) having the right to occupy the property.

D. Storm Water System User Fees imposed under this ordinance shall be a debt due to the City of Brookings, and when such debt should become thirty days delinquent, this charge may be collected in a civil action in the name of the City against the owner or occupant of the improved premises using the Storm Water System. Payment penalties and delinquencies may be imposed in the same manner as is provided for delinquent water service payments.

E. Each owner or occupant of improved premises shall be notified at least annually of the Storm Water System services fee.

F. Property not used for single family dwelling purposes is furnished storm water system service in proportion to the amount of the property's impervious surface. For each 2,500 square feet of impervious surface, the said property is furnished service equivalent to that furnished a single family unit and at the minimum service charge established for a single family unit.

G. The Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary or that the contribution to storm drainage facility use by the class to be insignificant.

Section 5. Section 13.40.020, Rates, Fees and Charges, is added to Chapter 13.40, Storm Water Fees, to read as follows:

The following Storm Water System rates are hereby established for all properties located within the currently developed areas of the City.

TYPE	RATE PER MONTH PER EDU TO NEAREST WHOLE NO. OF EDU'S	NO. OF EDU'S
Single Family Dwelling	\$2.60	1
Multiple Family Dwelling	\$2.60/2,500 sq. ft.	Determine by Measurement
Commercial and Industrial Unit	\$2.60/2,500 sq. ft.	Determine by Measurement
Improved Premises or Lots:	\$2.60/2,500 sq. ft.	Determine by Measurement
Manufactured Home Parks	\$2.60/EDU	6 EDU per acre for total area

The rates established in this section shall be reduced for a property where appropriate runoff control measures have been taken and approved by the City Engineer.

Credit will be allowed for runoff control measures. When approved by the City Engineer, storm drainage utility fees may be reduced for a property where approved runoff control measures have been taken. A fee reduction shall be on a straight line basis with conditions existing on the date of the passage of this ordinance, being considered as starting or initial conditions. If the person responsible establishes, to the satisfaction of the City Engineer, that all runoff from a property is disposed of without utilizing public storm drainage facilities either directly or indirectly, there will be no fees charged under the provisions of this chapter.

Fees shall be reviewed annually and adjusted by resolution to the current year's March Consumer Price Index – Urban (CPI-U), calculated from the past year.

Section 6. Section 13.40.025, Disposition of Funds, is added to Chapter 13.40, Storm Water Fees, to read as follows:

All fees collected under the terms of this ordinance shall be deposited in an account to be known as the Storm Water Replacement Account. The monies in said account shall be used by the City for the payment of principal and interest of any bonds of said City for the repair, maintenance and operation of the Storm Water System. The fees collected under the terms of this ordinance may also be used for the replacement or reconstruction of any part of the Storm Water System and for any upgrades that should become necessary including the construction of new storm water facilities in the future.

Section 7. Section 13.40.030, Review and Appeal, is added to Chapter 13.40, Storm Water Fees, to read as follows:

A. Review by City Engineer. Any Storm Water System user believing the Storm Water System User Fee is unjust and inequitable as applied to his or her particular circumstances or premises may make written application to the City Engineer requesting a review of such user fee. The written request shall, where applicable, show the actual estimated average flow of storm water in comparison with the values upon which the charge is based, including the manner and method in which such measurements were made. The review of the request shall be made by the City Engineer who shall determine if it is substantiated or not, and if the request is determined to be substantiated, the user fees for that user shall be recomputed based on the approved and revised flow and the

new charges thus recomputed will be applicable beginning with the date that the written request was received by the City Engineer.

B. Appeal. Any person aggrieved by the action of the City Engineer in denying or modifying a request for application for a review of Storm Water System User Fees shall have the right of appeal of such action to the City Council by delivering written notice of such appeal to the City Manager within 15 days after receiving the written notice of the action of the City Engineer, and such Notice of Appeal shall specify therein all facts through reasons to be relied upon in such appeal. The appeal shall be held before the Council at its next regular meeting held not earlier than ten (10) days after the filing of such Notice of Appeal. The decision of the Council upon such appeal shall be final and conclusive.

First Reading:	September 8, 2008
Second Reading:	September 8, 2008
Passage:	September 8, 2008
Effective Date:	October 8, 2008

Adopted by the Council of the City of Brookings on September 8, 2008, and signed by the Mayor this 9th day of September, 2008.



Mayor Larry Anderson

ATTEST:



City Recorder Joyce Heffington