

ORDINANCE NO. 97-O-523

AN ORDINANCE ESTABLISHING ADMINISTRATION AND ENFORCEMENT STANDARDS AND PROCEDURES FOR THE CITY OF BROOKINGS AND ITS BUILDING OFFICIAL AND CODE ENFORCEMENT AGENCY; AND DECLARING AN EMERGENCY.

Sections:

- Section 1. Title.
- Section 2. Purpose
- Section 3. Scope
- Section 4. Definitions.
- Section 5. Alternate Materials and Methods.
- Section 6. Modifications.
- Section 7. Tests.
- Section 8. Powers and Duties of Building Official.
- Section 9. Appeals.
- Section 10. Permits and Plans.
- Section 11. Codes and Regulations.
- Section 12. Fees.
- Section 13. Severability.
- Section 14. Penalties.
- Section 15. Emergency Clause.

The City of Brookings ordains as follows:

Section 1. Title. These regulations shall be known as the City of Brookings Building code, may be cited as such and will be referred to herein as “this code”.

Section 2. Purpose. The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of the City who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

Section 3. Scope. This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure, except those located in a public way. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall control. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall apply. Where there is a conflict between this code and a statute of the State of Oregon, the statute shall govern.

Section 4. Definition. For purposes of this code, the term “building official” shall mean the building official of the City of Brookings and the term “code enforcement agency” shall mean the Building Division of the City of Brookings.

Section 5. Alternate Materials and Methods. The provisions of this code are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this code, provided such alternate has been approved and its use authorized by the building official. The building official may approve such alternate material, design or method provided the building official finds that the proposed material, design or method complies with the provisions of this code and that it is, for the purpose intended, at least the equivalent of that prescribed in this code in terms of suitability, strength, effectiveness, fire resistance, durability, safety and sanitation. The building official shall require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of alternate material, design or method shall be recorded and entered in the files of the building official.

Section 6. Modifications. When there are practical difficulties in carrying out the provisions of this code, the building official may grant modifications provided the building official finds that the modification is in conformance with the intent and purpose of this code and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the code enforcement agency.

Section 7. Tests. Whenever there is insufficient evidence of compliance with the provisions of this code or that any material, method or design does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to the city. Test methods shall be as specified by this code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures. All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

Section 8. Powers and Duties of Building Official.

A. General. There is hereby established a code enforcement agency which shall be under the administrative and operational control of the building official. The building official is authorized to enforce all the provisions of this code. The building official shall have the power to render written and oral interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this code.

B. Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint technical officers and inspectors and other employees to carry out the functions of the code enforcement agency.

C. Right of Entry. When it may be necessary to inspect to enforce the provisions of this code, or the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this code or which otherwise makes the building or premises unsafe, dangerous or hazardous, the building official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by Oregon law to secure entry.

D. Stop Work Orders. Whenever any work is being done contrary to the provisions of this code (or other pertinent laws or ordinances implemented through its enforcement), the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the building official to proceed thereafter.

E. Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this code when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time thereafter.

F. Authority to Abate Hazardous Equipment. When the building official ascertains that equipment, or any portion thereof, regulated by this code has become hazardous to life, health or property, the building official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice. When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) shall be given within 24 hours to the involved utility, the owner and/or occupant of the building, structure or premises. When equipment is maintained in violation of this code and in violation of a notice issued pursuant to the provisions of this section, the building official may institute such action as may be necessary to prevent, restrain, correct or abate the violation.

G. Connection after Order to Disconnect. No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this code which has been disconnected or ordered disconnected or discontinued by the building official until the building official specifically authorizes the reconnection and/or use of such equipment.

H. Maintenance. All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the building official may cause a structure to be reinspected.

I. Occupancy Violations. Whenever any building, structure or equipment therein regulated by this code is used contrary to the provisions of this code, the building official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the building official in his notice and make the structure, or portion thereof, comply with the requirements of this code.

#### Section 9. Appeals.

A. Board of Appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of all members of the Common Council of the City of Brookings. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

B. Appeal Procedure. Any decision by the building official relating to the suitability of alternate materials and methods of construction may be appealed to the board of appeals in conformance with procedures provided herein.

#### Section 10. Permits and Plans.

A. Permits Required. No building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved or converted unless a separate permit for each building or structure has first been obtained from the building official. A building permit shall not be required for those structures listed in the 1996 edition of Oregon Structural Specialty Code Section 106.2 entitled "Work exempt from a permit".

B. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the code enforcement agency for that purpose.

C. Submittal Documents. Plans, specifications, engineering calculations, diagrams and other data shall be submitted in one or more sets with each application for a permit. The building official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.

D. Plan Review Requirements.

1. Information on Plans and Specifications. Plans and specifications shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. Plans for buildings more than two stories in height of other than Group R, Division 3 and Group U Occupancies shall indicate how required structural and fire-resistive integrity will be maintained where penetrations are made for electrical, mechanical, plumbing and communication conduits, pipe and similar systems. Ventilation occupancy load and occupancy ventilation design methods shall be identified in the plans or specifications. Ventilation occupancy load and ventilation rates for each occupied space shall be indicated on drawings. Except as to R-3 occupancies and R-1 occupancies which are three stories or less in height, the plans, drawings and specifications shall be maintained as a permanent record on the building premises.
2. State Fire and Life Safety Plan Review, Occupancies to be Reviewed. Certain occupancies identified in ORS 479.155(2) must have a state fire and life safety review. This review will require the payment of a separate plan review fee equal to 40% of the permit fee and this fee shall be in addition to the structural plan review fee.

E. Issuance. The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of the City to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees have been paid, the building official shall issue a permit therefor to the applicant. When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications APPROVED. Such approved plans and specifications shall not be changed, modified or altered without authorization

from the building official, and all work regulated by this code shall be done in accordance with the approved plans. The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

F. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than 90 days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

G. Validity of Permit. The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the city or any other federal, state, or local law, statute, rule, regulation, or ordinance. The issuance of a permit based on plans, specification and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder, when in violation of this code or of any other ordinances of the City.

H. Expiration of Plan Reviews. Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

I. Permit Expiration, Extension and Reinstatement. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section. Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the building official to indicate the intent to start and complete the project. The building official may require the permittee to document these activities. Every permit issued by the building official shall expire by limitation and become null and void 24 months after the date of permit issuance.

If the building or work authorized by permit has not received inspections on a quarterly schedule or final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished. Any permittee holding an unexpired permit may apply for an extension of time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once. Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met: (a) the code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit; (b) no changes have been made or will be made in the original plans and specifications for such work; and (c) the original permit expired less than one year from the request to reinstate.

The fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required. The time limitations set forth in this section are regulatory in nature and effect and shall apply to all permits issued by the City as of the effective date of this ordinance, and to all permits issued thereafter by the City.

J. Work Without a Permit/Investigation Fees. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee equal to the permit fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

K. Not Transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

L. Suspension/Revocation. The building official may, in writing, suspend or revoke a permit issued under the provision of this code whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the City.

M. Inspections. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the building official. The permit holder shall not proceed with construction activity until authorized to do so by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any

expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained and made available by the permit holder until final approval has been granted by the building official.

Section 11. Codes and Regulations.

A. The City has adopted by separate ordinance certain codes which regulate the construction, alteration, repair, demolition, moving, use and occupancy of structures within the City. By this reference the City adopts those provisions of the Oregon Administrative Rules which implement these codes. The building official shall enforce the regulations and provisions set forth in the codes and the Oregon Administrative Rules as if the same were set forth herein.

B. All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages. All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Building Code or such alternate procedures as may have been or as may be adopted by the City. As an alternative, the building official, or another employee or official of the City as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

Section 12. Fees. Fees charged under this code shall be as prescribed by the State of Oregon Building Codes Division. The building official may authorize the refunding of fees paid in accordance with any refund policy in effect in the City. The determination of value or valuation under any provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

Section 13. Severability. If any section, paragraph, subdivision, clause, sentence, or provision of this code shall be adjudged by any court of competent jurisdiction to be

unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the code, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this code notwithstanding the parts to be declared unconstitutional and invalid.

Section 14. Penalties. Any person violating any of the provisions herein for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed \$1000 per violation. Each day that a violation exists is a separate offense.

Section 15. Emergency Clause. The matters contained herein concern the peace, health, safety and welfare of the people of the City of Brookings and therefore an emergency is hereby declared to exist and this ordinance shall become immediately effective upon its final passage by the Council and approval by the Mayor.

[Adopted April 14, 1997; Effective April 17, 1997]