

ORDINANCE NO. 93-O-446.N

AN ORDINANCE AMENDING ORDINANCE NO. 89-O-446 (LAND DEVELOPMENT CODE), SECTIONS 80, 116, 136, 140, 144, AND, 176 OF THE CITY OF BROOKINGS.

Sections:

Section 1.	Ordinance Identified.
Section 2.	Amendment to Section 80.
Section 3.	Amendment to Section 116.
Section 4.	Amendment to Section 136.
Section 5.	Amendment to Section 140.
Section 6.	Amendment to Section 144.
Section 7.	Amendment to Section 176

The city of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 89-O-446, enacted April 10, 1989, entitled, "An ordinance adopting the Land Development Code and zoning map of the City of Brookings, repealing certain prior ordinances, and declaring an emergency."

Section 2. Amendment to Section 80 Ordinance No. 89-O-446, Section 80 is hereby amended to read as follows:

80 Sections:

80.020	Site Plan Committee
80.030	Applications

80.020 Site plan committee. There is hereby created a site plan committee consisting of the City Manager, Community Development Director, City Engineer, Planning Director, building official, or their designates, to carry out the duties set forth in this section. This committee shall have the authority to approve, disapprove or to approve with conditions, the site plans for all proposed new buildings or structures, or the expansion of existing structures in those zoning

districts where site plan approval is required. This committee shall also have the authority to review land use applications for completeness pursuant to the submittal requirements of the pertinent section of this code, and to schedule such applications for hearing. In the review of plans, the site plan committee shall be governed by the purpose and objectives set forth in this section.

80.030 Applications.

B. Within seven (7) working days from the date of submission, the Building Official or Planning Director shall present the application to the Site Plan Committee for determination. The Site Plan Committee shall have ten (10) working days to approve the application or clear it for hearing, determine that more information is needed to complete the application, or deny the application on the grounds that it is inconsistent with the Land Development Code or Comprehensive Plan. Such determination will be made in writing to the applicant if the application is denied or found to be incomplete. If found to be incomplete, the applicant will also be informed as to what additional material is required. Upon clearance from the Site Plan Committee a building permit will be issued or, if required, the application will be scheduled for the next available Planning Commission hearing.

Section 3. Amendment to Section 116 Ordinance No. 89-O-446, Section 116.040,B is hereby amended to read as follows:

116.040 Application

B. An applicant shall submit an application form, appropriate fees, and seven (7) copies of a preliminary site plan for review by the Site Plan Committee pursuant to Section 80.030,B. When cleared by the Committee, the application will be scheduled for the next available Planning Commission hearing. The preliminary site plan shall be drawn to scale and include, but not limited to, the following information:

(B. 1 through 7 remain unchanged)

**Section 4. Amendment to Section 136 Ordinance No. 89-O-446,
Section 136 is hereby amended to read as follows:**

136 Sections:

136.030 Applications.

136.040 Burden of proof.

136.030 Applications. The property owner or his authorized agent may make application for a Variance from the provisions of this code by filing an application, on a Land Use Application form, with the City Manager or his designate for review by the Site Plan Committee pursuant to Section 80.030,B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following information:

A. A filing fee in the amount established by general resolution of the city council (no part of which is refundable).

B. A legal description of the property.

C. Plans and elevations necessary to show the proposed development.

D. A map (Curry County assessor's plat) showing the subject property, surrounding properties and the names and addresses of current property owners within 250 feet of the subject property.

E. A statement, plans and supportive evidence that all of the following conditions exist:

1. Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control, and to which the applicant has not contributed.

2. The variance is necessary for the preservation of the property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.

3. The authorization of the variance shall not be materially detrimental to the purpose of this code, be injurious to property in the same zone or vicinity in which the property is located or be otherwise detrimental to the objectives of any city development plan or policy.

4. The variance request is the minimum variance from the provisions and standards of this code which will alleviate the hardship.

136.040 Burden of proof. In order for the planning commission to grant a variance, all the conditions and circumstances listed in subsections A, B, C, D, and E of section 136.030 must be found to exist. The specific findings by the planning commission in granting a variance must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the variance from the provisions of this code. If no evidence is produced concerning any or all of the findings listed in subsections A, B, C, D, and E of section 136.030, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any variance application.

Section 5. Amendment to Section 140. Ordinance No. 89-O-446, Section 140 is hereby amended to read as follows:

140.030 Application. The property owner or his authorized agent may make application for a Conditional Use Permit by filing an application, on a Land Use Application form, with the City Manager or his designate for review by the Site Plan Committee pursuant to Section 80.030,B. Upon clearance from

the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following information:

(140.030. A through G remain unchanged)

Section 6. Amendment to Section 144. Ordinance No. 89-O-446, Section 144 is hereby amended to read as follows:

144.030 Application. The property owner or his authorized agent may make application for an Amendment by filing an application, on a Land Use Application form, with the City Manager or his designate for review by the Site Plan Committee pursuant to Section 80.030,B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following information:

(144.030.A through F remain unchanged)

Section 7. Amendment to Section 176. Ordinance No. 89-O-446, Section 176 is hereby amended to read as follows:

176 Sections

Section 176.050

Section 176.060

176.050 Minor Partitions

A. The property owner or his authorized agent may make application for a Minor Partition by filing an application, on a Land Use Application form with appropriate fees, with the City Manager or his designate for review by the Site Plan Committee pursuant to Section 80.030,B. Upon clearance from the Site Plan Committee, the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by three

(3) copies of the minor partition map containing the following material:

1. Drawn in ink, suitable for reproduction (mylar material), on a map no smaller than 11" x 17". [As amended by Ordinance No. 89-O-454]

2. North arrow, scale (appropriate to the are involved and sufficient to show detail of the plan and related data, such as 1" = 30', 1" = 50', or 1" = 100') and date.

3. Name, address and telephone number of each of the following: property owner(s), partitioner, preparer of the map, surveyor, and date of survey.

4. Streets: names, locations, pavement widths, rights-of-way, both existing and proposed, and access points.

5. Easements: locations, widths, and purpose of all existing and proposed easements.

6. Utilities: location and size of all existing and proposed storm drains, sewer mains, water mains, and utility poles.

7. Natural features: location and extent of creeks, streams, marshes, and wooded areas.

8. Flood areas: show location of 100-year flood plain and other areas subject to ponding.

9. Slope: show degree and approximate direction of slope and drainage, and indicate average slope to determine compliance with the hazardous building site protection provisions of this code.

10. Districts: location of zoning district boundary.

11. Lot dimensions: existing and proposed lot lines and

their dimensions.

12. Lot size: existing and proposed lot size in square feet or acres.

13. Existing uses: location and outline of existing buildings to remain on the property with distances in feet to new lot lines created by the proposed partition.

14. Location of the parcels by legal metes and bounds description and a statement by the preparer that the descriptions have been prepared in accordance with the public record, and that the map thereof has been prepared to scale.

15. Supplemental information: deed restrictions proposed, if any.

16. A signature by the property owner that guarantees to the city that all information shown on the map is accurate and correct, and the applicant accepts responsibility for same.

17. A statement by the city finance director that all city liens and assessments on the property have been paid, or that the application has been made to the city to segregate assessments.

18. If the proposed partitioning results in the creation of lots greater than twice the minimum lot size allowed, indicate by dashed lines how future divisions and streets can be created.

19. The approving authority (planning commission) certificate shall contain a statement that acknowledges compliance with all conditions of development permit and state statutes, and such compliance shall be certified by the signature of the chairman of the planning commission affixed thereto.

B. Planning commission authority. The planning commission shall have the authority to approve, approve with

conditions or deny the request, based upon the following criteria:

1. Conformance with the comprehensive plan, and applicable development standards of this code, and state and federal laws.

2. Development of any remainder of property under the same ownership, if any, can be accomplished in accordance with this code.

3. Adjoining property under separate ownership can either be developed or be provided access that will allow its development in accordance with this code.

4. The ability to take access from the frontage road pursuant to the provisions of Section 132.060 of this code. [As added by Ordinance No. 91-O-446.F, effective September 10, 1991]

5. Conditions necessary to satisfy the intent of the land development code and comprehensive plan can be satisfied prior to final approval.

176.060 Major partitions and subdivisions

A. Subdivision committee. The purpose of the subdivision committee is to determine compliance with the objectives, standards and criteria of the land development code and provisions contained herein, and to review all submitted preliminary plat requests for conformance with requirements thereof. Following submittal of the preliminary plat map and requisite filing material, a meeting of the subdivision committee shall be convened at which the subdivider or his representative is invited to attend and participate. Following consultation and discussion, a report shall be prepared by the committee, which report shall include information on zoning in the area and on the location in adjoining streets and property of existing sewer and water mains, culverts and drain pipes, electric conduits, or

lines proposed to be used on the property to be subdivided, and invert elevations of sewers at points of proposed connection together with any other data as appears pertinent to the planning commission's review of the preliminary plat.

1. There is hereby created a subdivision committee consisting of the City Manager, Community Development Director, Planning Director, City Engineer, Building Official, Public Works Supervisor, or their designates, and representatives from all affected utilities including but not limited to, electrical power, communications and cable television, to carry out the duties set forth in subsection B., above.

2. Copies of the preliminary plat shall be submitted to the following additional officials, and they will be given at least seven (7) days to review the plat and submit comments to be included within the subdivision committee report:

- (a) County surveyor.**
- (b) County planning department.**
- (c) State highway department if the property is adjacent to a state highway.**
- (d) The school district if there is indication of school district interest in property development in the area.**

B. Application and submittal requirements. The property owner or his authorized agent may make application for a Major Partition or Subdivision by filing an application, on a Land Use Application form with appropriate fees, with the City Manager or his designate for review by the Subdivision Committee pursuant to Section 176.060,A. Upon clearance from the Site Plan Committee,

the application will be scheduled for the next available Planning Commission Hearing. Such application shall be accompanied by the following material:

(Move 1 through 30 under existing 176.060.C to this location)

C. Planning commission authority. The planning commission shall have the authority to approve, approve with conditions or deny the request, based upon the following criteria:

(Move 1 through 8 under existing 176.060.A to this location)

First Reading: _____ March 22, 1993

**Second Reading: _____ March 22, 1993 _____ Passage:
_____ March 22, 1993**

Effective Date: _____ April 20, 1993

**Signed by me in authentication of its passage this _____ 23rd _____ day of
_____ March _____, 1993.**

**Davis
Mayor**

ATTEST:

**Beverly S. Shields
City Recorder**

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[See Ordinance No. 89-O-446 (Land Development Code) for amendments.]

[See Ordinance No. 93-O-446.N in its entirety in original ordinance books.]