



# Oregon

Theodore R. Kubongoski, 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

11/5/2009

**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 020-09

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:** Friday, November 27, 2009

This amendment was not submitted to DLCD for review prior to adoption Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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

<paa>

# 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

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For DLCD Use Only

Jurisdiction: **City of Brookings**

Local file number: **LDC-13-09**

Date of Adoption: **10/26/2009**

Date Mailed: **10/28/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date: 10/28/2009

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation                  | <input type="checkbox"/> Other:                           |

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

Revisions to Land Development Code Chapter 17.100, Hazardous Building Site Protection/ Hillside Development Standards, BMC.

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

There are a few minor word changes.

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable statewide planning goals:

- |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                | <b>12</b>                | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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:

None.

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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**

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## **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](http://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](mailto: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](mailto:mara.ulloa@state.or.us)** - ATTENTION: PLAN AMENDMENT SPECIALIST.

IN AND FOR THE CITY OF BROOKINGS  
STATE OF OREGON

ORDINANCE NO. 09-O-650

IN THE MATTER OF ORDINANCE NO. 09-O-650, AN ORDINANCE AMENDING CHAPTER 17.100, HAZARDOUS BUILDING SITE PROTECTION HILLSIDE DEVELOPMENT STANDARDS, TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.100, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.100 Hazardous Building Site Protection Hillside Development Standards, Title 17, Land Development Code, of the Brookings Municipal Code (BMC).

Section 2. Amend Chapter 17.100. Chapter 17.100, Hazardous Building Site Protection Hillside Development Standards is amended to read as follows:

**Chapter 17.100**

**Hazardous Building Site Protection Hillside Development Standards**

Sections:

- [17.100.010](#) Purpose.
- [17.100.020](#) Definitions.
- [17.100.030](#) General mitigation.
- [17.100.040](#) Decision authority of city manager or planning commission.
- [17.100.050](#) Authority to require site study.
- [17.100.060](#) Geologic report required.
- [17.100.070](#) Engineered plans required.
- [17.100.080](#) Enforcement.

- \* Prior legislation: Ords. 89-O-446, 94-O-446.V, 95-O-446.Z and 99-O-446.FF.

17.100.010 Purpose.

A. The purpose of this chapter is to reduce the effects of flooding, erosion, landslides and siltation during all stages of development on all lots or parcels within the city and to reduce the hazards associated with construction on the steeper hillsides, beach fronts and/or wherever hazards are known or may exist. This chapter applies to all property within the city

and the level of protection required is based on the steepness of slopes, relation to coastal bluffs and other known or hazardous conditions that may exist. This chapter is intended to advance the above purpose:

1. By requiring the study of such areas by a qualified professional as defined in BMC [17.100.020\(D\)](#) and [17.100.070\(B\)](#), prior to development, as defined in BMC [17.100.020\(C\)](#).

2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion, rock or sediment deposition during construction.

3. By establishing mechanisms for enforcement to ensure compliance with this code.

B. The policies and standards of this chapter are based upon the data contained in the Brookings Comprehensive Plan, Goal 7.

C. This chapter is not meant to regulate landscaping/gardening activities on an existing, developed property unless there will be a disturbance of greater than one-half acre in size, or involve terracing or similar activities. A property owner may apply to the site plan committee for authorization to conduct more intense landscaping/gardening activities if they exceed one-half acre in size. [Ord. 07-O-582 § 2.]

#### 17.100.020 Definitions.

For the purposes of this chapter, the following definitions shall apply.

A. "Average slope" means the overall increase/ decrease in elevation over the area proposed for development or the subject property, expressed as a percentage based on the following formula: difference in elevation over horizontal distance.

B. "Determination of 15 Percent Slopes." The applicant may be required to provide a topographic map prepared by a licensed engineer or surveyor. The topographic map shall contain lines drawn approximately perpendicular to the contours indicating the percent of slope. In some instances, the city engineer may accept a sketch and/or certificate prepared by a licensed individual indicating the average slope of the property.

1. If the average slopes are less than 15 percent, but the proposed development is on an area of 15 percent slopes, standards in BMC [17.100.030](#), [17.100.060](#) and [17.100.070](#) shall apply.

2. If the average slopes are greater than 15 percent, but the development is proposed on an area of less than 15 percent slopes, a site-specific review of the proposal by the site plan committee shall determine if standards in BMC [17.100.060](#) and [17.100.070](#) apply.

C. "Development" means the alteration of improved or unimproved land, including but not limited to a land division, buildings or other structures, grading, filling or removal of vegetation.

D. "Geologic report" means a report prepared by a qualified professional geologic consultant – A geologist or engineering geologist working under their professional guidelines, and registered by the state of Oregon. The report would comply with "Guidelines for Preparing Engineering Geologic Reports in Oregon" as adopted by the Oregon State Board of Geologic Examiners and contain the following information:

1. The stability of the property and the suitability for the proposed type of construction in relation to the size of lot, including all existing and proposed new streets.

2. A statement of the need for engineered foundations or for site-specific studies to determine if engineered foundations are necessary.

3. A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant licensed in the state of Oregon has

determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

4. For oceanfront sites, see additional requirements in BMC [17.100.060](#)(B)(2).

E. "Grading" means movement of earth for whatever reason including removal of the root systems for brush and trees.

F. "Hazardous sites" mean areas containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazards as discussed in BMC [17.100.010](#)(A), purpose statement.

G. "Vegetation removal" means cutting of brush and trees. [Ord. 07-O-582 § 2.]

#### 17.100.030 General mitigation.

Prior to development activity on any property, certain standards must be met to reduce building site hazards such as flooding, landslides, soil erosion, sediment deposition, etc. The following process is required:

A. When partitioning or subdividing, the requirements of BMC [17.100.070](#), including a determination of seasonal high water table level impact on development of the property, and ground water drainage mitigation design, if necessary, must be submitted with the application.

B. Prior to any site preparation, the applicant must provide a plan demonstrating that no property shall be disturbed, graded, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another. The plan shall also include the strategy for the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access. This plan shall be submitted to the site plan committee with a permit clearance form, requesting a building permit, or a land use permit application.

C. If site preparation will disturb an area greater than one acre in size, the property owner is required to contact the Department of Environmental Quality (DEQ) and comply with their erosion control requirements. The property owner must provide proof of meeting the DEQ's requirements. This will satisfy the city's erosion control requirements.

D. No grading or filling of more than 50 cubic yards can occur until a grading permit or building permit has been issued. Any amount of grading or filling in a hazardous site, as defined in BMC [17.100.020](#)(F), or in a floodplain must have a grading permit. Grading plans must show compliance with the State of Oregon Structural Specialty Code. [Ord. 07-O-582 § 2.]

#### 17.100.040 Decision authority of city manager or planning commission.

A. The city manager, or his or her designee, shall review and approve or deny requests for building permits or grading permits within areas identified as hazardous sites.

B. The planning commission shall review and approve or deny land use applications proposed within areas identified as being hazardous sites and for all land divisions.

C. The planning commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in BMC [17.100.050](#), [17.100.060](#), and [17.100.070](#). Planning commission decisions may be appealed to the city council as provided in Chapter [17.156](#) BMC. [Ord. 07-O-582 § 2.]

#### 17.100.050 Authority to require site study.

A. The city manager or his or her designee shall require a site study by a qualified professional geologic consultant licensed in the state of Oregon prior to any disturbance on

property, or the approval of a land use application, in hazardous sites, as defined in BMC [17.100.020\(F\)](#).

B. If the report in subsection (A) of this section indicates additional information is needed, site-specific studies prepared by a qualified professional shall be required by the city manager or his or her designee, or the planning commission. [Ord. 07-O-582 § 2.]

#### 17.100.060 Geologic report required.

Note: If minimal brush removal is needed to allow surveying and/or site study prior to applying for a permit, a plot plan and request must be submitted by the applicant describing the amount and location of vegetation removal. Brush and trees can only be cut off at ground level and stumps and roots shall not be removed. The city shall review and approve this plan prior to any removal of vegetation. Erosion control measures must be implemented for any disturbed areas.

Except as stated above, prior to any vegetation removal and/or development, as defined in BMC [17.100.020\(C\)](#), a geologic report, as described in BMC [17.100.020\(D\)](#), shall be required as follows:

A. When developing land within the city, the following provisions apply:

1. All lots and parcels with slopes of less than 15 percent shall provide erosion control measures pursuant to BMC [17.100.030](#).

2. On all lots and parcels that contain slopes of 15 percent or greater, or other identified hazards, but where development is proposed on an area away from these hazardous sites, only compliance with BMC [17.100.030](#) is required, unless other provisions of this section are required at the discretion of the site plan committee.

3. All lots and parcels with average slopes of 15 percent or greater, or other identified hazards, or on lots where the desired development is on a slope of 15 percent or greater, a geologic report and engineered plans in compliance with the provisions of BMC [17.100.070](#) are required prior to the removal of any vegetation or development on the property.

4. On lands that contain slopes of greater than 15 percent, all lots and parcels may be of the minimum lot size allowed by underlying zone, except larger lots may be required if the geologic survey of the property requires a larger lot or parcel to avoid hazardous areas or other conditions.

B. Development on properties adjacent to the Chetco River with slopes greater than 15%, or oceanfront shall comply with the provisions of this section as follows:

1. A geologic report shall be provided prior to the following:

a. Partitioning or subdividing property.

b. Siting a new structure on a vacant lot.

c. Constructing an addition to an existing structure on the water side or the side yard area.

d. Constructing a second floor on an existing structure.

e. Siting an accessory structure (garage, shop, etc.) on the water side or side yard area of an existing dwelling.

2. The geologic report shall contain the following information in addition to the requirements in BMC [17.100.020\(D\)](#):

a. The stability of the bluff and its suitability for the proposed type of construction in relation to the size of lot proposed, including any required setback from the edge of the bluff necessary to accommodate a proposed structure for its projected lifetime. An assessment of the long-term response of the bluff toe, including undertaking assessments of the types of failure (e.g., slumps/landslides) that may be characteristic of the

lithology that makes up the bluff. Assessments should be consistent with the methodology used by the Oregon Department of Geology and Mineral Industries to assess bluff erosion potential in its published coastal erosion studies of other Oregon coastal regions.

b. The need for engineered foundations or for site-specific studies to determine if engineered foundations are necessary.

c. A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant has determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

3. A geologic report (unless the site plan committee determines conditions dictate otherwise) is not required when:

a. Remodeling within an existing intact structure; or

b. Siting an addition or accessory structure on the upland (furthest from the water) side of the existing dwelling. [Ord. 07-O-582 § 2.]

#### 17.100.070 Engineered plans required.

A. No property shall be disturbed, graded, excavated, filled, stormwater drainage redirected or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another.

B. The applicant shall submit plans prepared by an Oregon-licensed civil engineer prior to any site preparation, including vegetation removal, except as allowed for survey purposes in BMC [17.100.060](#). Note: On a lot or parcel with hazardous conditions as defined in BMC [17.100.020\(F\)](#) and on any proposed partition or subdivision. At the discretion of the site plan committee, this requirement may be waived or modified on lots or parcels greater than one acre in size. The plans must be approved by the city and shall include the following information:

1. An erosion control plan showing the area to be denuded of vegetation, erosion control measures and implementation time table. Erosion and sedimentation caused by stormwater runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the city manager or his or her qualified designee:

a. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access shall be done. Removal of trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The city shall observe this in the development of streets and building pads.

b. Measures for controlling runoff, such as silt fencing, hay bales, berms, holding ponds, terraces, ditches, hydroseeding or permanent cover, shall be used as required, particularly in areas having slopes of 15 percent or greater. The applicant shall contact the Oregon Department of Environmental Quality (DEQ) concerning the possible need for a 1200-C stormwater general permit.

2. Prior to any grading, a grading plan showing all cut-and-fill slopes associated with new or improved roads, driveways, and building pads, and all utility grading including water, sewer, electrical, telephone, and television cables. The grading plan shall include associated erosion control measures and implementation time table for the grading operation.

3. A drainage plan to control ground water and stormwater runoff.

a. All storm drainage shall be designed by a civil engineer and approved by the city. The storm drain facilities shall be designed for storms having a 25-year recurrence frequency. Stormwater shall be directed into drainage with capacity to be calculated in



accordance with the city's comprehensive plan for storm drainage development and Chapter [8.10](#) BMC, and address on-site and off-site impacts, so as not to flood adjacent or downstream property.

b. In all areas of the city, the city manager or his or her designee may require culverts or other drainage facilities, designed in accordance with the city's comprehensive plan for storm drainage development and Chapter [8.10](#) BMC, to be installed as a condition of construction.

c. The plan must include a determination of seasonal high water table level impact on development of the property, and a ground water drainage mitigation design if necessary.

C. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or boundary, shall require any special impact mitigation measures as recommended in the geologic hazard report.

D. Filling of lowlands shall be done only where it is determined that the fill shall not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed. This provision may be superseded when lowlands contain jurisdictional wetlands, where state wetland removal/fill permits would be required, or areas regulated by the city flood damage prevention ordinance, Chapter [15.15](#) BMC.

E. No work shall commence until the applicant has received written approval from the city and required permits have been issued. [Ord. 07-O-582 § 2.]

F. The property owner/applicant is responsible for the work being done in conformance with the approved plans. If the approved plans were reviewed by the City Engineer, the design engineer or authorized representative shall provide inspection reports and complete and sign a statement ("Certification of Project") that the project was inspected and found to be in accordance with the approved plans. For all other engineered plans approved by the City, the property owner shall complete and sign a statement ("Certification of Project") that the work performed on the subject property was completed in compliance with the approved plans.

#### 17.100.080 Enforcement.

A. The removal of vegetation, grading, construction, location, development or use of land or structures, contrary to the provisions of this chapter, ordinance or permit, or any conditions or limitations approved pursuant to this code, is a violation.

B. In addition to other remedies set forth in Chapter [17.160](#) BMC, and other remedies provided by ordinance or under state law, the city may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection, construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

C. If the city manager determines that a violation of this chapter has occurred, the city shall provide written notice to the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who is known by the city to have participated in committing the violation, through a stop work order, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the city, the city may seek an injunction to stop further development until the violation has been remedied. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the city shall cause the city to take remedial steps to cure the violation and charge the costs, fees and expenses of such

remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the city to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the city recorder is authorized to enter the amount of such charges immediately in the docket of city liens.

D. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this chapter, shall be guilty of a violation.

E. The remedies set forth in this section are cumulative and not exhaustive of all remedies the city may exercise to prevent, correct or abate a violation under this section. [Ord. 07-O-582 § 2.]


First reading: October 26, 2009

Second reading: October 26, 2009

Passage: October 26, 2009

Effective date November 25, 2009

Signed by me in authentication of its passage this 27<sup>th</sup> day of October, 2009.

  
\_\_\_\_\_  
Mayor Larry Anderson

ATTEST:

  
\_\_\_\_\_  
City Recorder Joyce Heffington

CITY OF BROOKINGS FINDINGS

COUNCIL AGENDA REPORT

Meeting Date: October 26, 2009

Signature (submitted by)
City Manager Approval

Originating Dept: Planning

Subject: A hearing on File LDC-13-09 for consideration and possible adoption of revisions to Chapter 17.100, Hazardous Building Site Protection Hillside Development Standards of the Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.100, Hazardous Building Site Protection Hillside Development Standards, BMC.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee reviewed Chapter 17.100, Hazardous Building Site Protection Hillside Development Standards after the City received a letter from Susanna Knight, State Board of Geologist Examiners, who expressed some concerns that the definition of "Geologic report" in BMC 17.100.020(D) might be confusing to the public. This definition was revised to clarify the professionals who may prepare the geologic report.

Other specific revisions are:

- 17.100.060, Geologic report required. Language was added that requires erosion control measures to be implemented for areas disturbed during vegetation removal to allow surveying and/or site studies. In Subsection B, the Planning Commission added with slopes greater than 15% after Chetco River. The Planning Commission also replaced ocean with water in several places to clarify when developed properties must comply with this subsection.
17.100.070, Engineered plans required. Subsection F was added to provide the City assurance that the work performed was completed in compliance with the approved engineered plans.

The Planning Commission reviewed this Chapter and recommended approval to the City Council with the revisions outlined in 17.100.060.

Policy Considerations: N/A

Attachment(s):

- Attachment A. Draft version of Chapter 17.100, Hazardous Building Site Protection Hillside Development Standards, BMC.
Attachment B. Certification of Project form to be completed at end of project
Attachment C. Letter from Susanna Knight, State Board of Geologist Examiners

APPROVED BY CITY COUNCIL ON

10-26-09

**CITY OF BROOKINGS PLANNING COMMISSION**  
**STAFF REPORT**

SUBJECT: Land Development Code Amendment      REPORT DATE: September 22, 2009  
FILE NO: LDC-13-09      ITEM NO: 7.2  
HEARING DATE: October 6, 2009

**GENERAL INFORMATION**

APPLICANT: City Initiated.  
REPRESENTATIVE: City Staff.  
REQUEST: Revisions to Chapter 17.100 Hazardous Building Site Protection  
Hillside Development Standards, Brookings Municipal Code (BMC).  
PUBLIC NOTICE: Published in local newspaper.

**BACKGROUND INFORMATION**

The City received a letter from Susanna Knight, State Board of Geologist Examiners, who expressed some concerns that the definition of "Geologic report" in BMC 17.100.020 might be confusing to the public. After discussion with Ms. Knight, the Land Development Code Committee (LDC) and Staff revised the definition of "geologic report" in 17.100.020(D) to clarify the professionals who may prepare the geologic report.

Other specific revisions are:

- 17.100.060 Geologic report required. Language was added that requires erosion control measures to be implemented for areas disturbed during vegetation removal to allow surveying and/or site studies.
- 17.100.070 Engineered plans required. "F" was added to provide the City assurance that the work performed was completed in compliance with the approved engineered plans.

Attachments following this report:

- Attachment A – Draft version of Chapter 17.100
- Attachment B – Certification of Project form
- Attachment C – Letter from Susanna Knight, State Board of Geologist Examiners

**RECOMMENDATION**

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-13-09, Chapter 17.100, Hazardous Building Site Protection / Hillside Development Standards, BMC, to the City Council.

Chapter 17.100  
HAZARDOUS BUILDING SITE PROTECTION HILLSIDE DEVELOPMENT  
STANDARDS\*

Draft 8-25-09

Text to be added is *bold and italicized*.

Text to be omitted has strikethrough.

Sections:

<u>17.100.010</u>	Purpose.
<u>17.100.020</u>	Definitions.
<u>17.100.030</u>	General mitigation.
<u>17.100.040</u>	Decision authority of city manager or planning commission.
<u>17.100.050</u>	Authority to require site study.
<u>17.100.060</u>	Geologic report required.
<u>17.100.070</u>	Engineered plans required.
<u>17.100.080</u>	Enforcement.

\* Prior legislation: Ords. 89-O-446, 94-O-446.V, 95-O-446.Z and 99-O-446.FF.

17.100.010 Purpose.

A. The purpose of this chapter is to reduce the effects of flooding, erosion, landslides and siltation during all stages of development on all lots or parcels within the city and to reduce the hazards associated with construction on the steeper hillsides, beach fronts and/or wherever hazards are known or may exist. This chapter applies to all property within the city and the level of protection required is based on the steepness of slopes, relation to coastal bluffs and other known or hazardous conditions that may exist. This chapter is intended to advance the above purpose:

1. By requiring the study of such areas by a qualified professional as defined in BMC 17.100.020(D) and 17.100.070(B), prior to development, as defined in BMC 17.100.020(C).
2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion, rock or sediment deposition during construction.
3. By establishing mechanisms for enforcement to ensure compliance with this code.

B. The policies and standards of this chapter are based upon the data contained in the **Brookings Comprehensive Plan, Goal 7.** ~~document and other technical information.~~

C. This chapter is not meant to regulate landscaping/gardening activities on an existing, developed property unless there will be a disturbance of greater than one-half acre in size, or involve terracing or similar activities. A property owner may apply to the site plan committee for authorization to conduct more intense landscaping/gardening activities if they exceed one-half acre in size. [Ord. 07-O-582 § 2.]

## 17.100.020 Definitions.

For the purposes of this chapter, the following definitions shall apply.

A. "Average slope" means the overall increase/ decrease in elevation over the area proposed for development or the subject property, expressed as a percentage based on the following formula: difference in elevation over horizontal distance.

B. "Determination of 15 Percent Slopes." The applicant may be required to provide a topographic map prepared by a licensed engineer or surveyor. The topographic map shall contain lines drawn approximately perpendicular to the contours indicating the percent of slope. In some instances, the city engineer may accept a sketch and/or certificate prepared by a licensed individual indicating the average slope of the property.

1. If the average slopes are less than 15 percent, but the proposed development is on an area of 15 percent slopes, standards in BMC 17.100.030, 17.100.060 and 17.100.070 shall apply.

2. If the average slopes are greater than 15 percent, but the development is proposed on an area of less than 15 percent slopes, a site-specific review of the proposal by the site plan committee shall determine if standards in BMC 17.100.060 and 17.100.070 apply.

C. "Development" means the alteration of improved or unimproved land, including but not limited to a land division, buildings or other structures, grading, filling or removal of vegetation.

D. "Geologic report" means a report prepared by a qualified professional geologic consultant – A geologist **or engineering geologist** ~~or certified engineer~~ working under their professional guidelines, and licensed **registered** by the state of Oregon. The report would comply with "Guidelines for Preparing Engineering Geologic Reports in Oregon" as adopted by the Oregon State Board of Geologic Examiners and contain the following information:

1. The stability of the property and the suitability for the proposed type of construction in relation to the size of lot, including all existing and proposed new streets.

2. A statement of the need for engineered foundations or for site-specific studies to determine if engineered foundations are necessary.

3. A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant licensed in the state of Oregon has determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

4. For oceanfront sites, see additional requirements in BMC 17.100.060(B)(2).

E. "Grading" means movement of earth for whatever reason including removal of the root systems for brush and trees.

F. "Hazardous sites" mean areas containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes, high water table, or other geologic hazards as discussed in BMC 17.100.010(A), purpose statement.

G. "Vegetation removal" means cutting of brush and trees. [Ord. 07-O-582 § 2.]

#### 17.100.030 General mitigation.

Prior to development activity on any property, certain standards must be met to reduce building site hazards such as flooding, landslides, soil erosion, sediment deposition, etc. The following process is required:

A. When partitioning or subdividing, the requirements of BMC 17.100.070, including a determination of seasonal high water table level impact on development of the property, and ground water drainage mitigation design, if necessary, must be submitted with the application.

B. Prior to any site preparation, the applicant must provide a plan demonstrating that no property shall be disturbed, graded, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another. The plan shall also include the strategy for the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access. This plan shall be submitted to the site plan committee with a permit clearance form, requesting a building permit, or a land use permit application.

C. If site preparation will disturb an area greater than one acre in size, the property owner is required to contact the Department of Environmental Quality (DEQ) and comply with their erosion control requirements. The property owner must provide proof of meeting the DEQ's requirements. This will satisfy the city's erosion control requirements.

D. No grading or filling of more than 50 cubic yards can occur until a grading permit or building permit has been issued. Any amount of grading or filling in a hazardous site, as defined in BMC 17.100.020(F), or in a floodplain must have a grading permit. Grading plans must show compliance with the State of Oregon Structural Specialty Code. [Ord. 07-O-582 § 2.]

#### 17.100.040 Decision authority of city manager or planning commission.

A. The city manager, or his or her designee, shall review and approve or deny requests for building permits or grading permits within areas identified as hazardous sites.

B. The planning commission shall review and approve or deny land use applications proposed within areas identified as being hazardous sites and for all land divisions.

C. The planning commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in BMC 17.100.050, 17.100.060, and 17.100.070. Planning commission decisions may be appealed to the city council as provided in Chapter 17.156 BMC. [Ord. 07-O-582 § 2.]

#### 17.100.050 Authority to require site study.

A. The city manager or his or her designee shall require a site study by a qualified professional geologic consultant licensed in the state of Oregon prior to any disturbance on property, or the approval of a land use application, in hazardous sites, as defined in BMC 17.100.020(F).

B. If the report in subsection (A) of this section indicates additional information is needed, site-specific studies prepared by a qualified professional shall be required by the city manager or his or her designee, or the planning commission. [Ord. 07-O-582 § 2.]

#### 17.100.060 Geologic report required.

Note: If minimal brush removal is needed to allow surveying and/or site study prior to applying for a permit, a plot plan and request must be submitted by the applicant describing the amount and location of vegetation removal. Brush and trees can only be cut off at ground level and stumps and roots shall not be removed. The city shall review and approve this plan prior to any removal of vegetation. **Erosion control measures must be implemented for any disturbed areas.**

Except as stated above, prior to any vegetation removal and/or development, as defined in BMC 17.100.020(C), a geologic report, as described in BMC 17.100.020(D), shall be required as follows:

A. When developing land within the city, the following provisions apply:

1. All lots and parcels with slopes of less than 15 percent shall provide erosion control measures pursuant to BMC 17.100.030.

2. On all lots and parcels that contain slopes of 15 percent or greater, or other identified hazards, but where development is proposed on an area away from these hazardous sites, only compliance with BMC 17.100.030 is required, unless other provisions of this section are required at the discretion of the site plan committee.

3. All lots and parcels with average slopes of 15 percent or greater, or other identified hazards, or on lots where the desired development is on a slope of 15 percent or greater, a geologic report and engineered plans in compliance with the provisions of BMC 17.100.070 are required prior to the removal of any vegetation or development on the property.

4. On lands that contain slopes of greater than 15 percent, all lots and parcels may be of the minimum lot size allowed by underlying zone, except larger lots may be required if the geologic survey of the property requires a larger lot or parcel to avoid hazardous areas or other conditions.

B. Development on properties adjacent to the **Chetco River, or oceanfront bluffs or bluff slopes** shall comply with the provisions of this section as follows:

1. A geologic report shall be provided prior to the following:

a. Partitioning or subdividing property.

b. Siting a new structure on a vacant lot.

c. Constructing an addition to an existing structure on the ocean side or the side yard area.

d. Constructing a second floor on an existing structure.

e. Siting an accessory structure (garage, shop, etc.) on the ocean side or side yard area of an existing dwelling.

2. The geologic report shall contain the following information in addition to the requirements in BMC 17.100.020(D):



a. The stability of the bluff and its suitability for the proposed type of construction in relation to the size of lot proposed, including any required setback from the edge of the bluff necessary to accommodate a proposed structure for its projected lifetime. An assessment of the long-term response of the bluff toe, including undertaking assessments of the types of failure (e.g., slumps/landslides) that may be characteristic of the lithology that makes up the bluff. Assessments should be consistent with the methodology used by the Oregon Department of Geology and Mineral Industries to assess bluff erosion potential in its published coastal erosion studies of other Oregon coastal regions.

b. The need for engineered foundations or for site-specific studies to determine if engineered foundations are necessary.

c. A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant has determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

3. A geologic report (unless the site plan committee determines conditions dictate otherwise) is not required when:

a. Remodeling within an existing intact structure; or

b. Siting an addition or accessory structure on the upland (furthest from the ocean) side of the existing dwelling. [Ord. 07-O-582 § 2.]

#### 17.100.070 Engineered plans required.

A. No property shall be disturbed, graded, excavated, filled, stormwater drainage redirected or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another.

B. The applicant shall submit plans prepared by an Oregon-licensed civil engineer prior to any site preparation, including vegetation removal, except as allowed for survey purposes in BMC 17.100.060. Note: On a lot or parcel with hazardous conditions as defined in BMC 17.100.020(F) and on any proposed partition or subdivision. At the discretion of the site plan committee, this requirement may be waived or modified on lots or parcels greater than one acre in size. The plans must be approved by the city and shall include the following information:

1. An erosion control plan showing the area to be denuded of vegetation, erosion control measures and implementation time table. Erosion and sedimentation caused by stormwater runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the city manager or his or her qualified designee:

a. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access shall be done. Removal of trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The city shall observe this in the development of streets and building pads.

b. Measures for controlling runoff, such as silt fencing, hay bales, berms, holding ponds, terraces, ditches, hydroseeding or permanent cover, shall be used as required, particularly in areas having slopes of 15 percent or greater. The applicant shall contact the Oregon Department of Environmental Quality (DEQ) concerning the possible need for a 1200-C stormwater general permit.

2. Prior to any grading, a grading plan showing all cut-and-fill slopes associated with new or improved roads, driveways, and building pads, and all utility grading including water, sewer, electrical, telephone, and television cables. The grading plan shall include associated erosion control measures and implementation time table for the grading operation.

3. A drainage plan to control ground water and stormwater runoff.

a. All storm drainage shall be designed by a civil engineer and approved by the city. The storm drain facilities shall be designed for storms having a 25-year recurrence frequency. Stormwater shall be directed into drainage with capacity to be calculated in accordance with the city's comprehensive plan for storm drainage development and Chapter 8.10 BMC, and address on-site and off-site impacts, so as not to flood adjacent or downstream property.

b. In all areas of the city, the city manager or his or her designee may require culverts or other drainage facilities, designed in accordance with the city's comprehensive plan for storm drainage development and Chapter 8.10 BMC, to be installed as a condition of construction.

c. The plan must include a determination of seasonal high water table level impact on development of the property, and a ground water drainage mitigation design if necessary.

C. Developments which abut the coastal bluffs or coastal shoreland boundary, or direct surface water runoff over the bluffs or boundary, shall require any special impact mitigation measures as recommended in the geologic hazard report.

D. Filling of lowlands shall be done only where it is determined that the fill shall not cause flooding or damage to adjacent properties and where adequate drainage facilities are installed. This provision may be superseded when lowlands contain jurisdictional wetlands, where state wetland removal/fill permits would be required, or areas regulated by the city flood damage prevention ordinance, Chapter 15.15 BMC.

E. No work shall commence until the applicant has received written approval from the city and required permits have been issued. [Ord. 07-O-582 § 2.]

**F. The property owner/applicant is responsible for the work being done in conformance with the approved plans. If the approved plans were reviewed by the City Engineer, the design engineer or authorized representative shall provide inspection reports and complete and sign a statement ("Certification of Project") that the project was inspected and found to be in accordance with the approved plans. For all other engineered plans approved by the City, the property owner shall complete and sign a statement ("Certification of Project") that the work performed on**

**the subject property was completed in compliance with the approved plans.**

17.100.080 Enforcement.

A. The removal of vegetation, grading, construction, location, development or use of land or structures, contrary to the provisions of this chapter, ordinance or permit, or any conditions or limitations approved pursuant to this code, is a violation.

B. In addition to other remedies set forth in Chapter 17.160 BMC, and other remedies provided by ordinance or under state law, the city may institute appropriate action or proceedings to prevent, restrain, correct, abate or remove the unlawful location, erection, construction, development, maintenance, repair, alteration, occupancy or use of land or structures.

C. If the city manager determines that a violation of this chapter has occurred, the city shall provide written notice to the owner of the land and the developer, general agent, architect, builder, contractor or other person or entity who is known by the city to have participated in committing the violation, through a stop work order, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the city, the city may seek an injunction to stop further development until the violation has been remedied. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the city shall cause the city to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the city to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the city recorder is authorized to enter the amount of such charges immediately in the docket of city liens.

D. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this chapter, shall be guilty of a violation.

E. The remedies set forth in this section are cumulative and not exhaustive of all remedies the city may exercise to prevent, correct or abate a violation under this section. [Ord. 07-O-582 § 2.]

# CERTIFICATION OF PROJECT

Attachment B

GOVERNING JURISDICTION: CITY OF BROOKINGS  
898 Elk Drive  
Brookings, Oregon 97415  
Phone: (541) 469-1137 Fax: (541) 469-3650

PROJECT NAME: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

DATE & PROJECT #: \_\_\_\_\_

Engineer Signature Block:

I was the design engineer on the above referenced project and I, or my authorized representative, did supervise and inspect the work on the subject property.

I certify that such project was inspected and found to be in accordance with the plans and specifications, including any changes therein approved by the City of Brookings.

Inspections were made by:

\_\_\_\_\_

\_\_\_\_\_

Design Engineer's Signature

\_\_\_\_\_

Date

**Attach copies of all inspection reports.**

Property Owner Signature Block:

I certify that the work performed on subject property was completed in compliance with the approved engineered plans.

\_\_\_\_\_

Property Owner's Signature

\_\_\_\_\_

Date

The City of Brookings is not liable to any party, including Property Owner or Engineer, for failure of this project, whether in its design or construction, to comply with local, state, or federal laws or building codes. Such compliance is the responsibility of Property Owner and architects, engineers, or other consultants retained by Property Owner.



Oregon

Theodore R. Kulongoski, Governor

State Board of Geologist Examiners  
1193 Royvonne Avenue SE, #24  
Salem, OR 97302  
Phone: 503.566.2837  
Fax: 503.485.2947  
Email: osbge@osbge.org

June 19, 2009

CITY OF BROOKINGS  
GARY MILLIMAN, CITY MANAGER  
898 ELK DRIVE  
BROOKINGS, OR 97415

Dear Mr. Milliman:

The Oregon State Board of Geologist Examiners (Board) was recently contacted by James Rodine, RG, CEG of Wolf Creek, Oregon. He subsequently submitted information for Board consideration and review. Chapter 17.100 Hazardous Building Site Protection et. al. of the Brookings Municipal Code (BMC) was included in that information. All of the information submitted by Mr. Rodine was reviewed by the Board and discussed at the June 12, 2009, Board Work Session.

During the Board discussion, it was noted that the language of the BMC might be confusing to the public. In BMC 17.100.020 (D), the definition of "geologic report" is provided. In that definition, the BMC references the GUIDELINES FOR PREPARING ENGINEERING GEOLOGIC REPORTS. The registrants of the Board are Registered Geologists (RG or Geologist) or Certified Engineering Geologists (CEG or Engineering Geologists). The title certified engineer is used in your code. This title does not represent a Certified Engineering Geologist, as a CEG is not an Engineer.

Please allow me to direct you to some important statutes regulating the practice of geology. ORS 672.505 (3) defines an Engineering Geologist as follows:

(3) "Engineering geologist" means a person who applies geologic data, principles and interpretation to naturally occurring materials so that geologic factors affecting planning, design, construction and maintenance of civil engineering works are properly recognized and utilized.

If the work product involves planning, design, construction and maintenance of civil engineering works, a Certified Engineering Geologist (CEG) must do this work. The geology law clearly defines in ORS 672.525 (7) that a Registered Geologist (RG) cannot do such work and reads as follows:

(7) No person, including a person registered as a geologist under this section, shall practice or offer to perform any activities of an engineering geologist as defined in ORS 672.505 unless the person is certified as an engineering geologist under ORS 672.565.

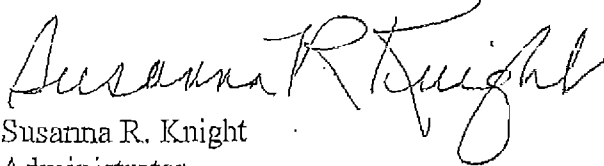
Because BMC 17.100.020 (D) references the term "geologist", a company may determine that an RG can do such work. However, only a CEG can legally do the work as described

in the BMC. Any Registered Geologist or "geologist" performing such work would be in violation of State statutes and Board rules. The geologist could be subject to a civil penalty.

The Board would welcome the opportunity to discuss your BMC language with you and offer suggestions for revision that is consistent with State laws. If you have any other questions about the practice of geology, the Board also welcomes those.

Thank you for the opportunity to share this information with you and the City of Brookings.

Respectfully on behalf of the Board,

A handwritten signature in cursive script that reads "Susanna R. Knight". The signature is written in black ink and is positioned above the printed name and title.

Susanna R. Knight  
Administrator

cc: James Rodine, RG, CEG  
Members of OSBGE

AC 09 06 143

Chapter 17.100  
HAZARDOUS BUILDING SITE PROTECTION HILLSIDE DEVELOPMENT  
STANDARDS\*

Draft 10-09-09

Text to be added is ***bold and italicized***.

Text added by the Planning Commission is ***bold, italicized, and underlined***.

Text to be omitted has ~~strikethrough~~.

Sections:

- 17.100.010 Purpose.
- 17.100.020 Definitions.
- 17.100.030 General mitigation.
- 17.100.040 Decision authority of city manager or planning commission.
- 17.100.050 Authority to require site study.
- 17.100.060 Geologic report required.
- 17.100.070 Engineered plans required.
- 17.100.080 Enforcement.

\* Prior legislation: Ords. 89-O-446, 94-O-446.V, 95-O-446.Z and 99-O-446.FF.

17.100.010 Purpose.

A. The purpose of this chapter is to reduce the effects of flooding, erosion, landslides and siltation during all stages of development on all lots or parcels within the city and to reduce the hazards associated with construction on the steeper hillsides, beach fronts and/or wherever hazards are known or may exist. This chapter applies to all property within the city and the level of protection required is based on the steepness of slopes, relation to coastal bluffs and other known or hazardous conditions that may exist. This chapter is intended to advance the above purpose:

1. By requiring the study of such areas by a qualified professional as defined in BMC 17.100.020(D) and 17.100.070(B), prior to development, as defined in BMC 17.100.020(C).
2. By requiring special construction techniques to control dust, mud, water runoff, soil erosion, rock or sediment deposition during construction.
3. By establishing mechanisms for enforcement to ensure compliance with this code.

B. The policies and standards of this chapter are based upon the data contained in the ***Brookings*** ~~Comprehensive P~~plan, ***Goal 7*** document and other ~~technical information~~.

C. This chapter is not meant to regulate landscaping/gardening activities on an existing, developed property unless there will be a disturbance of greater than one-half acre in size, or involve terracing or similar activities. A property owner may apply to the site plan committee for authorization to conduct more intense

#### 17.100.030 General mitigation.

Prior to development activity on any property, certain standards must be met to reduce building site hazards such as flooding, landslides, soil erosion, sediment deposition, etc. The following process is required:

A. When partitioning or subdividing, the requirements of BMC 17.100.070, including a determination of seasonal high water table level impact on development of the property, and ground water drainage mitigation design, if necessary, must be submitted with the application.

B. Prior to any site preparation, the applicant must provide a plan demonstrating that no property shall be disturbed, graded, excavated, filled or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another. The plan shall also include the strategy for the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access. This plan shall be submitted to the site plan committee with a permit clearance form, requesting a building permit, or a land use permit application.

C. If site preparation will disturb an area greater than one acre in size, the property owner is required to contact the Department of Environmental Quality (DEQ) and comply with their erosion control requirements. The property owner must provide proof of meeting the DEQ's requirements. This will satisfy the city's erosion control requirements.

D. No grading or filling of more than 50 cubic yards can occur until a grading permit or building permit has been issued. Any amount of grading or filling in a hazardous site, as defined in BMC 17.100.020(F), or in a floodplain must have a grading permit. Grading plans must show compliance with the State of Oregon Structural Specialty Code. [Ord. 07-O-582 § 2.]

#### 17.100.040 Decision authority of city manager or planning commission.

A. The city manager, or his or her designee, shall review and approve or deny requests for building permits or grading permits within areas identified as hazardous sites.

B. The planning commission shall review and approve or deny land use applications proposed within areas identified as being hazardous sites and for all land divisions.

C. The planning commission may approve, approve with conditions or require changes or deny the proposal based upon the criteria or standards listed in BMC 17.100.050, 17.100.060, and 17.100.070. Planning commission decisions may be appealed to the city council as provided in Chapter 17.156 BMC. [Ord. 07-O-582 § 2.]

#### 17.100.050 Authority to require site study.

A. The city manager or his or her designee shall require a site study by a qualified professional geologic consultant licensed in the state of Oregon prior to any disturbance on property, or the approval of a land use application, in hazardous sites, as defined in BMC 17.100.020(F).

B. If the report in subsection (A) of this section indicates additional information is needed, site-specific studies prepared by a qualified professional shall be required by the city manager or his or her designee, or the planning commission. [Ord. 07-O-582 § 2.]



Oregon Department of Geology and Mineral Industries to assess bluff erosion potential in its published coastal erosion studies of other Oregon coastal regions.

b. The need for engineered foundations or for site-specific studies to determine if engineered foundations are necessary.

c. A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant has determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

3. A geologic report (unless the site plan committee determines conditions dictate otherwise) is not required when:

a. Remodeling within an existing intact structure; or

b. Siting an addition or accessory structure on the upland (furthest from the ~~ocean~~ water) side of the existing dwelling. [Ord. 07-O-582 § 2.]

#### 17.100.070 Engineered plans required.

A. No property shall be disturbed, graded, excavated, filled, stormwater drainage redirected or developed within the city so as to cause slides of mud, soil, rock, vegetative material or any eroded or depositional material to be deposited on the property of another.

B. The applicant shall submit plans prepared by an Oregon-licensed civil engineer prior to any site preparation, including vegetation removal, except as allowed for survey purposes in BMC 17.100.060. Note: On a lot or parcel with hazardous conditions as defined in BMC 17.100.020(F) and on any proposed partition or subdivision. At the discretion of the site plan committee, this requirement may be waived or modified on lots or parcels greater than one acre in size. The plans must be approved by the city and shall include the following information:

1. An erosion control plan showing the area to be denuded of vegetation, erosion control measures and implementation time table. Erosion and sedimentation caused by stormwater runoff shall be minimized by employing the following measures, or substitute measures deemed acceptable by the city manager or his or her qualified designee:

a. Only the minimal removal of vegetation cover, particularly tree cover, necessary for building placement or access shall be done. Removal of trees and brush for view enhancement can be a part of the grading plan if such an action does not increase the potential hazard and/or mitigation can be applied. The city shall observe this in the development of streets and building pads.

b. Measures for controlling runoff, such as silt fencing, hay bales, berms, holding ponds, terraces, ditches, hydroseeding or permanent cover, shall be used as required, particularly in areas having slopes of 15 percent or greater. The applicant shall contact the Oregon Department of Environmental Quality (DEQ) concerning the possible need for a 1200-C stormwater general permit.

2. Prior to any grading, a grading plan showing all cut-and-fill slopes associated with new or improved roads, driveways, and building pads, and all utility grading including water, sewer, electrical, telephone, and television cables. The grading plan shall include associated erosion control measures and implementation time table for the grading operation.

3. A drainage plan to control ground water and stormwater runoff.

general agent, architect, builder, contractor or other person or entity who is known by the city to have participated in committing the violation, through a stop work order, to cease all further development until such time as the violation has been remedied. If development continues in disregard of notice from the city, the city may seek an injunction to stop further development until the violation has been remedied. The amount of time to remedy the violation shall depend upon the nature of the violation, the circumstance then existing and whether an emergency exists. Noncompliance within the time set by the city shall cause the city to take remedial steps to cure the violation and charge the costs, fees and expenses of such remedial action to the owner of the land. This shall include any expenses, costs and fees paid by the city to third persons for labor and materials to remedy the violation. Charges made under this subsection shall be a lien against the real property on which the violation arises and the city recorder is authorized to enter the amount of such charges immediately in the docket of city liens.

D. The owner of the land, and the developer, general agent, architect, builder, contractor or other person or entity who takes part in any violation of this chapter, shall be guilty of a violation.

E. The remedies set forth in this section are cumulative and not exhaustive of all remedies the city may exercise to prevent, correct or abate a violation under this section. [Ord. 07-O-582 § 2.]

# CERTIFICATION OF PROJECT

Attachment B

GOVERNING JURISDICTION: CITY OF BROOKINGS

898 Elk Drive  
Brookings, Oregon 97415  
Phone: (541) 469-1137 Fax: (541) 469-3650

PROJECT NAME: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

DATE & PROJECT #: \_\_\_\_\_

Engineer Signature Block:

I was the design engineer on the above referenced project and I, or my authorized representative, did supervise and inspect the work on the subject property.

I certify that such project was inspected and found to be in accordance with the plans and specifications, including any changes therein approved by the City of Brookings.

Inspections were made by:

\_\_\_\_\_

\_\_\_\_\_  
Design Engineer's Signature

\_\_\_\_\_  
Date

**Attach copies of all inspection reports.**

Property Owner Signature Block:

I certify that the work performed on subject property was completed in compliance with the approved engineered plans.

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date

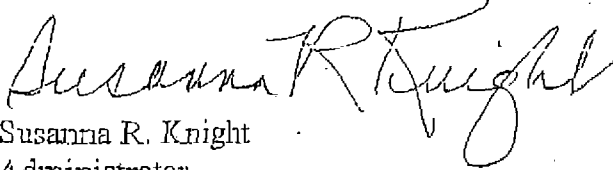
The City of Brookings is not liable to any party, including Property Owner or Engineer, for failure of this project, whether in its design or construction, to comply with local, state, or federal laws or building codes. Such compliance is the responsibility of Property Owner and architects, engineers, or other consultants retained by Property Owner.

in the BMC. Any Registered Geologist or "geologist" performing such work would be in violation of State statutes and Board rules. The geologist could be subject to a civil penalty.

The Board would welcome the opportunity to discuss your BMC language with you and offer suggestions for revision that is consistent with State laws. If you have any other questions about the practice of geology, the Board also welcomes those.

Thank you for the opportunity to share this information with you and the City of Brookings.

Respectfully on behalf of the Board,

A handwritten signature in cursive script that reads "Susanna R. Knight". The signature is written in black ink and is positioned above the printed name and title.

Susanna R. Knight  
Administrator

cc: James Rodine, RG, CEG  
Members of OSBGE

AC 09 06 143

**Chapter 17.100**  
**HAZARDOUS BUILDING SITE PROTECTION HILLSIDE DEVELOPMENT**  
**STANDARDS\***

17.100.020 Definitions.

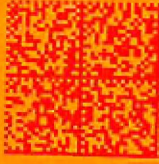
D. "Geologic report" means a report prepared by a qualified professional geologic consultant – A geologist, **geotechnical engineer, or engineering geologist** ~~or certified engineer~~ working under their professional guidelines, and ~~licensed~~ **registered** by the state of Oregon. The report would comply with "Guidelines for Preparing Engineering Geologic Reports in Oregon" as adopted by the Oregon State Board of Geologic Examiners and contain the following information:

1. The stability of the property and the suitability for the proposed type of construction in relation to the size of lot, including all existing and proposed new streets.

2. A statement of the need for engineered foundations or for site-specific studies to determine if engineered foundations are necessary.

3. A clear statement of all requirements or conditions on the proposed development that the qualified professional geologic consultant licensed in the state of Oregon has determined is necessary to mitigate the geological hazards that have been identified in the site investigation.

4. For oceanfront sites, see additional requirements in BMC 17.100.060(B)(2).



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