

Amy Edwards, OSB No. 012492
amy.edwards@stoel.com
Samantha K. Sondag, OSB No. 154244
samantha.sondag@stoel.com
Rachelle D. Collins, OSB No. 214059
rachelle.collins@stoel.com
STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
Telephone: 503.224.3380

Walter Fonseca, OSB No. 136349
wfonseca@ojrc.info
Franz Bruggemeier, OSB No. 163533
fbruggemeier@ojrc.info
Oregon Justice Resource Center
PO Box 5248
Portland, OR 97208
Telephone: 503.944.2270

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

St. Timothy's Episcopal Church, by and through **The Diocese of Oregon**, dba **The Episcopal Diocese of Oregon**, an Oregon nonprofit corporation, and **Reverend James Bernard Lindley**, vicar of St. Timothy's Episcopal Church,

Plaintiffs,

v.

City of Brookings, an Oregon municipal government,

Defendant.

Case No.:

COMPLAINT
(RLUIPA, 42 U.S.C. § 2000cc, *et seq.*; U.S. Const. amend. 1, 14; 42 U.S.C. § 1983; Or. Const. art. I, §§ 2, 3, 8)

DEMAND FOR JURY TRIAL

Plaintiffs St. Timothy's Episcopal Church ("St. Timothy's"), a mission church of Plaintiff the Diocese of Oregon, dba The Episcopal Diocese of Oregon, and the Reverend James Bernard Lindley, the vicar of St. Timothy's ("Father Bernie"; collectively, "Plaintiffs"), allege as follows:

I. INTRODUCTION

1. Since 1946, parishioners of St. Timothy's have expressed their Christian faith through service to the Brookings community. Heeding scripture's instruction to care for the sick, they have offered health clinics and administered vaccines. Consistent with the biblical call to show hospitality to strangers, they have opened their doors to those in need of showers, Internet access, and assistance seeking social services. And they have long observed the direction to feed the hungry, creating space for a food bank and offering free meals to their neighbors.

2. Plaintiffs' commitment to living their faith is well known to Defendant the City of Brookings ("the City"). Indeed, the City has promoted Plaintiffs' meal service to Brookings residents and relied on St. Timothy's to assist houseless community members.

3. The need for services in Brookings only grew during the COVID-19 pandemic. As always, Plaintiffs, as an expression and practice of their faith, heeded the call. When nearly every other church in the area suspended their free meal services, St. Timothy's grew its program. When COVID-19 testing and vaccination proved challenging to find in Brookings, St. Timothy's worked at the direction of the Oregon Health Authority to provide both. And when the City asked St. Timothy's to offer its parking lot to residents who needed a safe and legal place to sleep in their vehicles, St. Timothy's agreed.

4. The City's approach changed in April 2021 after the Brookings City Council received a petition from a handful of citizens chastising "the congregation of vagrants or undesirables" at St. Timothy's. Rather than create or expand social services for Brookings

residents in need, the City took steps to remove their last safety net, beginning a campaign to force St. Timothy's to significantly reduce the services that it has offered on its premises for decades.

5. The City suddenly claimed that St. Timothy's long-established use of its property—which is, by the City's own Land Development Code, a lawful nonconforming use—did not comply with the City's zoning laws. And when Plaintiffs did not accept the City's suggestion that they stop engaging in Christian acts of service for the Brookings community, the City decided to rewrite the laws in an effort to force them to do so.

6. The City adopted an ordinance that, for the first time, required all area churches to apply for a conditional use permit to offer “benevolent meal service,” and conditioned provision of the permit on the churches' agreement to serve no more than two meals per week.

7. St. Timothy's will not agree to limit its meal service, which is a critical expression of congregants' Christian faith, to comply with the City's targeted restrictions. Accordingly, St. Timothy's has been unable to apply for the permit. The City has stated that it will begin enforcing the permit requirement on January 26, 2022.

8. As alleged herein, the City's actions violate the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc, *et seq.*, and have infringed and threaten to infringe Plaintiffs' state and federal constitutional rights to free religious exercise and free speech.

II. PARTIES

9. Plaintiff the Diocese of Oregon, dba The Episcopal Diocese of Oregon, is an Oregon nonprofit corporation with its principal place of business in Portland, Oregon.

10. Plaintiff St. Timothy's is a mission church of The Episcopal Diocese of Oregon located in and serving the community of Brookings, Oregon.

11. Father Bernie is the vicar of St. Timothy's and resides in Brookings, Oregon.

12. Defendant the City of Brookings is a municipal government located within Curry County, Oregon.

III. JURISDICTION

13. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because the claims arise under the Constitution and laws of the United States. The Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

14. This Court is the proper venue for this matter pursuant to 28 U.S.C. § 1391(b)(1) & (2) because the City resides in, and the events giving rise to the claims occurred in, this judicial district.

IV. GENERAL ALLEGATIONS

A. Plaintiffs Have Practiced Their Religious Beliefs in Brookings for Decades.

15. St. Timothy's has operated as a place of worship in Brookings continuously since 1946, five years before the City was incorporated in 1951. At all times, it has been located and owned the property at 401 Fir Street, Brookings, Oregon 97415, which is referred to herein as St. Timothy's "property" or "premises."

16. The Episcopal Church is a denomination of Protestant Christianity. Feeding the hungry, caring for the sick, and sheltering the houseless are fundamental beliefs. A Bible passage from the Gospel of Matthew that is key to Plaintiffs' faith states:

"For I was hungry, and you fed me. I was thirsty, and you gave me a drink. I was a stranger, and you invited me into your home. I was naked, and you gave me clothing. I was sick, and you cared for me. I was in prison, and you visited me." Then these righteous

ones will reply, “Lord, when did we ever see you hungry and feed you? Or thirsty and give you something to drink? Or a stranger and show you hospitality? Or naked and give you clothing? When did we ever see you sick or in prison and visit you?” And the King will say, “I tell you the truth, when you did it to one of the least of these my brothers and sisters, you were doing it to me!”

Matthew 25:35-45.

17. The Bible also commands the faithful to attend to the needs of those who lack daily food (James 2:14-17), “to share [their] bread with the hungry” (Isaiah 58:6-7), and to feed the members of their community in need, instead of turning them away (Mathew 14:14-21).

18. Plaintiffs’ faith, which is grounded in the practices and teaching of the early apostles of Jesus of Nazareth, compels them to seek and serve Christ in all people by loving others. Plaintiffs believe that this love is expressed concretely in generous hospitality that withholds judgment while seeking to serve those in need. That is the foundation of their need to feed the hungry, clothe the naked, and to provide medical and other material support to affirm our common humanity. In their Baptismal Covenant, they have promised to “strive for peace and justice among all people, and to respect the dignity of every human being.”

19. Plaintiffs are, and at all times have been, firmly committed to these sincerely held religious beliefs.

20. In or around 1985, in furtherance of its core religious mission, St. Timothy’s opened a food bank on its premises. In or around 2009, St. Timothy’s began offering free lunchtime meals. By early 2020, St. Timothy’s offered these meals on Saturday, Sunday, Tuesday, and every other Monday. On information and belief, the majority of those who attend St. Timothy’s lunch service have lived in Brookings for five or more years. Many are fixed-income seniors and people experiencing houselessness. Between three and 10 volunteers serve

each meal. Approximately one-fourth of the volunteers are parishioners of St. Timothy's and the rest are community members who wish to express their faith through St. Timothy's meal service.

21. In early 2020, several other Brookings-area churches were also hosting free meal services. They included Trinity Lutheran Church, Catholic Star of the Sea Catholic Church, Brookings Presbyterian Church, and the United Methodist Church (located across the border in Smith River, California).¹ The churches, including St. Timothy's, often coordinated their meal programs to ensure that community members had access to at least one meal nearly every day of the week. That coordination often resulted in Plaintiffs serving three or more meals per week to ensure such community access to food.

22. The City has promoted the free meals that these churches provide as social services for Brookings residents. The City website's "Resource Directory" lists "Brookings Harbor Community Kitchen" as an "Emergency Service," linking to an (outdated) schedule of meals served at different churches throughout Brookings.² The contact phone number—(541) 469-3314—is St. Timothy's phone number.

B. Plaintiffs Continued to Abide by Their Sincerely Held Religious Beliefs Throughout the COVID-19 Pandemic.

23. When the COVID-19 pandemic began in March 2020, nearly all churches except St. Timothy's suspended operation of their meal programs. As a result of the closures, access to free meals fell dramatically at a time when the need for such services reached unprecedented

¹ The Methodist Church has and currently does use St. Timothy's space to provide its meals.

² See <https://www.brookings.or.us/BusinessDirectoryii.aspx?ysnShowAll=0&lngNewPage=0&txtLetter=&txtZipCode=&txtCity=&txtState=&txtBusinessName=&lngBusinessCategoryID=43&txtCustomField1=&txtCustomField2=&txtCustomField3=&txtCustomField4=&txtAreaCode=> (last visited Jan. 27, 2022).

levels. In response to the closures and the pandemic's economic impact on Brookings community members, and consistent with their core religious beliefs, Plaintiffs began offering free lunchtime meals at St. Timothy's six days per week, serving up to 70 people while open. On information and belief, the share of people experiencing houselessness utilizing these lunchtime meals increased dramatically during the pandemic, from approximately 30 percent pre-pandemic to more than 50 percent.

24. The City recognized that the pandemic had created a crisis for Brookings residents experiencing houselessness. On April 13, 2020, the City Council adopted Temporary Emergency Rule 2020-1 ("Rule 2020-1"), which allowed churches, synagogues, and other religious institutions to apply for permits to offer overnight parking space to individuals living in their cars, allowing up to three vehicles per institution. Rule 2020-1 required that these religious institutions provide the vehicle residents "access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities."

25. The City's Public Works and Development Services Director approached Father Bernie shortly after Rule 2020-1 was adopted and requested that St. Timothy's apply for a permit.³ Father Bernie, exercising Plaintiffs' belief in sheltering the houseless, applied on the spot. St. Timothy's was the only applicant for a Rule 2020-1 permit.

³ The City's request was consistent with its historical treatment of St. Timothy's as a resource for Brookings residents in need. For example, in March 2021, a City employee moved the tent of a disabled, houseless resident from nearby Azalea Park to St. Timothy's property, expecting St. Timothy's to provide the resident with care. The City employee consulted neither St. Timothy's nor the owner of the tent, who was on a call at the church. From 2010 through 2014, St. Timothy's operated a health clinic for the uninsured with the City's approval and has continued to provide flu vaccines even after the health clinic moved.

26. Consistent with Rule 2020-1 and the City's request, St. Timothy's hosted two to three vehicles on its premises and offered its facilities to the occupants for more than a year.⁴ Those occupants sometimes brought other individuals onto St. Timothy's property, and neighbors occasionally called the Brookings police about the vehicle residents' activities. At all times, St. Timothy's cooperated with law enforcement.

27. Throughout the COVID-19 pandemic, the poverty crisis in Brookings continued to grow. Individuals camped overnight in Azalea Park, which is across the street from St. Timothy's and less than 0.3 miles from Star of the Sea Catholic Church and Brookings Presbyterian Church.

28. In March 2021, City Manager Janelle Howard reported to the City Council about unsuccessful efforts by the Brookings Homeless Task Force ("BHTF") to secure a Project Turnkey grant, which provides funding to experienced non-profits or governments to convert local motels into emergency housing shelters. BHTF had been unable to identify a nonprofit with sufficient experience with large grants to apply. Former Brookings Mayor Jake Pieper sent a letter to BHTF indicating support for a Project Turnkey grant. The City Council reprimanded Pieper on April 12, 2021, because the letter had not been "authorized by a majority vote of the city council" and "could be interpreted as being representative of a position of the city council in general" in contradiction of the Brookings Municipal Code ("BMC"). Pieper resigned on April 13, 2021.

29. The City never applied for a Project Turnkey grant.

⁴ St. Timothy's has long operated a day program on Mondays, Wednesdays, and Fridays during which it offers community members use of shower facilities and assistance with applications for social services.

30. Meanwhile, on April 9 and 10, 2021, while Rule 2020-1 was still in effect, 30 Brookings residents signed and submitted a “Petition to Remove Homeless from St. Timothy Church” (the “Petition”) to the City Council. The Petition requested that the City “prevent the congregation of vagrants or undesirables at St. Timothy Church.” At least one letter submitted with the Petition focused on individuals sleeping in Azalea Park, not St. Timothy’s, but speculated that St. Timothy’s was causing the issue because it “hand[ed] out food” and “let transients hang out.”

31. On June 7, 2021, the City held a workshop to discuss the Petition. A true and correct copy of the City of Brookings Council Workshop Report dated June 7, 2021, is attached as **Exhibit 1**.

32. Although the Petition appeared to focus on the effects of Rule 2020-1, the first two steps that the City elected to explore were “send[ing] an official letter to the Public Health Department inquiring about the operation of an unpermitted commercial kitchen [at St. Timothy’s] that serves up to 70 meals while open” and “requir[ing] St. Timothy’s to apply for a Minor Change to their existing conditional use permit (MC-1-99) in order to condition the increased use of the property, not otherwise anticipated with a church, located in a residential neighborhood.” The last was to “revisit and potentially rescind temporary rule 2020-1 allowing temporary car camping.” Ex. 1 at 4.

33. The City allowed Rule 2020-1 to expire on June 30, 2021. St. Timothy’s has hosted no people residing in vehicles on its property since its expiration.

34. The City Council’s meeting minutes reflect that sometime between June 24, 2021, and July 29, 2021, the City contacted the Oregon Health Authority (“OHA”) to determine if St. Timothy’s was complying with public health regulations.

35. St. Timothy's has at all times complied with applicable health regulations.

36. OHA informed the City that St. Timothy's was in compliance with its regulations.

37. On information and belief, the City did not contact OHA at that time to inquire about any other organization's compliance with public health regulations.

38. In speaking with OHA, the City claims to have learned that OHA "had already classified [St. Timothy's] as a commercial kitchen" under the agency's rules. OHA's rules are not part of the City's Land Use Code.

39. The City then sent a letter dated July 29, 2021, to St. Timothy's stating that its religious practice of feeding the hungry, which it had exercised with the City's approval, and even promotion, for decades, was "not permitted." The City claimed that St. Timothy's should relocate its "commercial kitchen," not utilize its own premises and effectively requiring relocation of the meal service, or limit "the frequency and volume of potential services." A true and correct copy of the letter dated July 29, 2021, is attached as **Exhibit 2** to the Complaint.

40. The City sent similar letters to four other churches in Brookings. Upon information and belief, the City did not send letters to any secular organizations or institutions.

41. Plaintiffs did not adhere to the suggestions in the City's letter and continued to offer lunchtime meals. By this time, St. Timothy's was serving meals four days per week, Friday through Monday, rather than six, because other churches had resumed their meal programs. That is the same schedule to which St. Timothy's adheres today. In light of the continuing pandemic, meals are offered in takeaway containers that diners can take with them or enjoy outside on church property.

/////

/////

C. The City Has Prohibited Churches from Offering Free Meals More Than Two Days per Week.

42. After St. Timothy's did not voluntarily relocate its lunchtime meal service in response to the City's July 29, 2021, letter, the City changed the municipal code to affirmatively deny Plaintiffs their rights to exercise their religious beliefs.

43. On or around August 30, 2021, the City proposed revisions to the Brookings Land Development Code, BMC 17.01.010, *et seq.*, to regulate the provision of "benevolent meal services" by "local churches and other non-profits" through land use permitting. The Council Workshop Report of this date reflects that the City's revisions were focused on St. Timothy's, Star of the Sea Catholic Church, and the Presbyterian Church. A true and correct copy of the City of Brookings Council Workshop Report dated August 30, 2021, is attached as **Exhibit 3** to the Complaint. The City Council directed the City Planning Commission to finalize the proposed revisions.

44. At an October 5, 2021, hearing, the Planning Commission staff proposed "revisions to the BMC that would create a method for allowing benevolent meal services **in churches**, in a residential zone, under a Conditional Use Permit." (Emphasis added.) Those revisions provided that a permit would be required to provide a "benevolent meal service"—defined as "a periodic food service operation that provides food to the public without charge"—"**up to 2 days per week**," up to three hours per day, "between the hours of 9 am and 5 pm." A true and correct copy of the September 23, 2021, Planning Commission Staff Report (the "Report") that was presented at the October 5, 2021, hearing is attached as **Exhibit 4** to the Complaint.

45. The Report leaves no doubt that the proposed revisions targeted Brookings-area churches. Although framed permissively, the permit was plainly designed to restrict these

churches—and St. Timothy’s in particular—from engaging in their religious practice of feeding the hungry.

46. On October 25, 2021, the City Council introduced the proposed revisions to the BMC, presented as Ordinance 21-O-795. The City Council voted unanimously to adopt Ordinance 21-O-795, which was ultimately enacted as BMC 17.08.020(B), 17.20.040(V), 17.24.040(W), 17.28.040(U), 17.124.050 (the “Ordinance”). The City Council further voted to waive the conditional use permit fees for those who applied within 90 days. A true and correct copy of the Ordinance, agenda, and meeting minutes from the October 25, 2021, City Council meeting are attached as **Exhibit 5** to the Complaint.

47. Plaintiffs repeatedly expressed to the City their opposition to the Ordinance, explaining that adoption would impinge on Plaintiffs’ rights to practice central tenets of their faith, harming Plaintiffs and causing members of the Brookings community to go hungry.

48. Since the adoption of the Ordinance, Plaintiffs have continued to serve free lunchtime meals four days per week.

49. Plaintiffs now face the decision of whether to exercise their core religious beliefs or face enforcement action by the City. Plaintiffs intend to continue exercising their core religious beliefs and serving meals at St. Timothy’s four days per week.

50. The conditional use permit application requires applicants to affirm that they will comply with the terms of the Ordinance and not serve meals more than two days per week. Plaintiffs do not intend to restrict their religious exercise to two days or fewer per week because the community need is greater than serving meals only twice per week.

51. On December 13, 2021, the City Council voted to not enforce the Ordinance before January 26, 2022, to align with the conditional use permit fee waiver deadline. As a

result, Plaintiffs are now threatened with government action if they continue their religious practice of ministering to the poor and hungry on their own property.

52. Based on the plain language of the Ordinance and the documented motivations of the City, there is a high likelihood that the City will enforce the Ordinance against Plaintiffs.

V. CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

Violation of the Religious Land Use and Institutionalized Persons Act (RLUIPA) (Substantial Burden Claim, 42 U.S.C. § 2000cc, *et seq.*)

53. Plaintiffs reallege and incorporate by reference paragraphs 1 through 52 as if fully set forth herein.

54. Section 2(a)(1) of RLUIPA provides that

[n]o government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling government interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

42 U.S.C. § 2000cc(a)(1).

55. St. Timothy's is a "religious assembly or institution" under RLUIPA.

56. The City is a "government" under RLUIPA, 42 U.S.C. § 2000cc-5(4)(A), and is responsible for its ordinances as well as the acts, omissions, and interpretations of its officials, employees, and commissioners.

57. "Religious exercise" broadly includes "any exercise of religion, whether or not compelled by, or central to, a system of religious belief," and specifies that the "use, building, or conversion of real property for the purpose of religious exercise shall be considered to be

religious exercise of the person or entity that uses or intends to use the property for that purpose.” 42 U.S.C. § 2000cc-5(7)(A)-(B).

58. St. Timothy’s use of its property is subject to the land use and zoning regulations contained in the Brookings Land Development Code of the BMC.

59. Under the BMC, the City may make an “individualized assessment[]” of the Church’s land use within the meaning of 42 U.S.C. § 2000cc(a)(2)(C).

60. The City’s Ordinance places significant pressure on Plaintiffs to forgo or significantly limit their religious exercise on St. Timothy’s property.

61. Specifically, the City is using its new land use and zoning regulations, as adopted through the Ordinance, to prohibit Plaintiffs from exercising their religious beliefs of serving the hungry through St. Timothy’s meal program more than two days per week.

62. Plaintiffs believe that God and scripture have directed them to continue serving their community by offering St. Timothy’s meal program more than two days per week to ensure that people in need can have access to at least one hot, nutritious meal every day of the week.

63. The City’s land use and zoning regulations, as adopted through the Ordinance, deny and restrict, and will deny and restrict, Plaintiffs’ religious use of St. Timothy’s’ property, is not supported by a compelling government interest, and is not the least restrictive means of furthering any compelling governmental interest.

64. Accordingly, the City has imposed an unlawful substantial burden on Plaintiffs’ religious exercise in violation of RLUIPA, 42 U.S.C. § 2000cc(a).

65. As a direct result of the City’s violation of Plaintiffs’ rights, Plaintiffs are suffering and will suffer harm for which there is no adequate remedy at law.

/////

66. Furthermore, as a direct result of the City's violation of Plaintiffs' rights as alleged above, Plaintiffs are entitled to declaratory relief that the Ordinance and the City's actions limiting St. Timothy's meal service to two days per week violate their rights protected under RLUIPA, to equitable relief, and to recover their costs and attorney fees.

SECOND CLAIM FOR RELIEF
Violation of the Right to Freedom of Religious Exercise
First and Fourteenth Amendments to the U.S. Constitution
(42 U.S.C. § 1983)

67. Plaintiffs reallege and incorporate by reference paragraphs 1 through 66 as if fully set forth herein.

68. The City's actions violate Plaintiffs' civil and constitutional rights under the First Amendment as incorporated by the Fourteenth Amendment to the United States Constitution.

69. The First Amendment provides that no law shall prohibit the free exercise of religion.

70. As alleged throughout, Plaintiffs have engaged in protected First and Fourteenth Amendment conduct. Specifically, Plaintiffs have engaged in their ministry of providing free meals to members of the community.

71. The City, by adopting the Ordinance, has targeted Plaintiffs from engaging in a core religious practice and thus violated their First Amendment right under the Free Exercise Clause by limiting and impeding Plaintiffs' ability to use their own property to feed the hungry, as prescribed by Christian scripture.

72. Specifically, the Ordinance, as applied to Plaintiffs, is invalid because it targets and substantially burdens Plaintiffs' free exercise by limiting their religious practice of feeding the hungry to no more than twice per week if St. Timothy's applies for a conditional use permit.

The Ordinance is neither supported by a compelling governmental interest nor is it narrowly tailored.

73. Plaintiffs are entitled to declaratory relief that the Ordinance and the City's actions limiting St. Timothy's meal service to two days per week violate their right to free exercise as well as equitable relief and recovery of their costs and attorney fees.

THIRD CLAIM FOR RELIEF
Violation of the Right to Freedom of Speech and Association
First and Fourteenth Amendments to the U.S. Constitution
(42 U.S.C. § 1983)

74. Plaintiffs reallege and incorporate by reference paragraphs 1 through 73 as if fully set forth herein.

75. As alleged throughout, Plaintiffs have engaged in protected First Amendment conduct. Specifically, Plaintiffs have engaged in their ministry of providing free meals to members of the community while speaking and expressing the values of Christian scripture when they operate St. Timothy's meal program. The City's regulations act to specifically target Plaintiffs to prevent them from engaging in that protected expression, conduct, and association.

76. The Ordinance, as applied, violates Plaintiffs' rights to free speech and expression guaranteed by the First and Fourteenth Amendments because it prevents them from expressing their Christian faith through the meal program, and from offering Christian fellowship to diners who attend, more than two days per week.

77. The Ordinance is also, on its face, an overbroad and vague unconstitutional prior restraint of expression and conduct that violates the right to free speech and association under the First and Fourteenth Amendments to the United States Constitution

78. The Ordinance does not represent a reasonable time, place, and manner restriction, and denies Plaintiffs and others their rights to gather and to communicate their message.

79. On its face, the Ordinance is both overbroad and vague in that it reaches constitutionally protected speech, conduct, and association and fails to define key terms and phrases.

80. Plaintiffs are entitled to declaratory relief that the Ordinance and the City's actions limiting St. Timothy's meal service to two days per week violate their right to free speech and association as well as equitable relief and recovery of their costs and attorney fees.

FOURTH CLAIM FOR RELIEF
Violation of the Right to Due Process
Fourteenth Amendment to the U.S. Constitution
(42 U.S.C. § 1983)

81. Plaintiffs reallege and incorporate by reference paragraphs 1 through 80 as if fully set forth herein.

82. The Ordinance is unconstitutionally overbroad and vague on its face and as applied to Plaintiffs in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution because its regulation of sharing food in residential areas fails to provide adequate notice of prohibited conduct and authorizes and encourages arbitrary enforcement.

83. The Ordinance is unconstitutionally vague on its face and as applied to Plaintiffs because it fails to provide clear and definite standards for enforcement. The term "benevolent meal service" is ill-defined, vague, and overbroad. The terms "periodic" and to "the public without charge" are undefined, vague, and overbroad.

84. Plaintiffs are entitled to declaratory relief that the Ordinance violates their right to due process as well as equitable relief and recovery of their costs and attorney fees.

FIFTH CLAIM FOR RELIEF

**Violation of the Oregon State Constitutional Right to Free Religious Opinion, Conscience, and Assembly
(Or. Const. art. I, §§ 2 and 3)**

85. Plaintiffs reallege and incorporate by reference paragraphs 1 through 84.

86. Plaintiffs have been engaged in conduct protected by Article I, section 3 of the Oregon Constitution, which provides that “[n]o law shall in any case whatever control the free exercise, and enjoyment of religious opinions, or interfere with the rights of conscience.”

87. Plaintiffs have been engaged in conduct protected by Article I, section 2 of the Oregon Constitution, which provides that all people “shall be secure in the Natural right, to worship Almighty God according to the dictates of their own consciences.”

88. The City, by adopting the Ordinance, targets and substantially burdens Plaintiffs’ rights of free exercise, enjoyment, conscience, and assembly by limiting their religious practice of feeding the hungry to no more than twice per week.

89. As a direct result of the City’s violation of rights as alleged above, Plaintiffs are entitled to declaratory relief that the Ordinance and the City’s actions limiting St. Timothy’s meal service to two days per week violate their right to free exercise as well as equitable relief, and recovery of their costs and attorney fees.

SIXTH CLAIM FOR RELIEF

**Violation of the Oregon State Constitutional Right to Free Expression
(Or. Const. art. I, § 8)**

90. Plaintiffs reallege and incorporate by reference paragraphs 1 through 89 as if fully set forth herein.

91. Plaintiffs have been engaged in conduct protected by Article I, section 8 of the Oregon Constitution, which provides that “[n]o law shall be passed restraining the free

expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.”

92. Specifically, Plaintiffs express through deed and action their Christian beliefs to diners when they operate their meal program.

93. The Ordinance, as applied, targets and substantially burdens Plaintiffs’ rights to express their Christian beliefs, and to extend Christian hospitality to diners, by limiting service of St. Timothy’s meal program to no more than two days per week if Plaintiffs apply for a conditional use permit.

94. On its face, the Ordinance is both overbroad and vague, does not represent a reasonable time, place, and manner restriction.

95. As a direct result of the City’s violations of Plaintiffs’ rights as alleged above, Plaintiffs are suffering irreparable harm for which there is no adequate remedy at law.

96. Furthermore, as a direct result of the City’s violation of Plaintiffs’ rights as alleged above, Plaintiffs are entitled to declaratory relief that the Ordinance and the City’s actions limiting St. Timothy’s meal service to two days per week violate their right to freedom of expression as well as equitable relief and recovery of their costs and attorney fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

1. A declaration that the Ordinance and the City’s actions limiting St. Timothy’s meal service to two days per week violate Plaintiffs’ rights protected under RLUIPA;
2. A declaration that the Ordinance as applied to Plaintiffs and the City’s actions limiting St. Timothy’s meal service to two days per week violate Plaintiffs’ right to free exercise protected under the First and Fourteenth Amendments to the United States Constitution;

3. A declaration that the Ordinance, on its face and as applied to Plaintiffs, and the City's actions limiting St. Timothy's meal service to two days per week violate Plaintiffs' right to free speech and association protected under the First and Fourteenth Amendments to the United States Constitution;

4. A declaration that the Ordinance, on its face and as applied to Plaintiffs, is unconstitutionally vague and overbroad and violates Plaintiffs' right to due process protected under the Fourteenth Amendment to the United States Constitution;

5. A declaration that the Ordinance and the City's actions limiting St. Timothy's meal service to two days per week violate Plaintiffs' rights protected under Article I, sections 2 and 3 of the Oregon Constitution;

6. A declaration that the Ordinance and the City's actions limiting St. Timothy's meal service to two days per week violate Plaintiffs' rights protected under Article I, section 8 of the Oregon Constitution;

7. A permanent injunction prohibiting enforcement of the Ordinance against Plaintiffs or otherwise limiting St. Timothy's meal service to two days per week;

8. A permanent injunction prohibiting enforcement of the Ordinance and the City's actions limiting St. Timothy's provision of meal services;

9. An award of costs and attorneys' fees, as provided in 42 U.S.C. § 1988, and other provisions of statutory and common law; and

/////

/////

/////

/////

10. Any and all other legal or equitable relief that the Court deems equitable and just.

DATED: January 28, 2022.

STOEL RIVES LLP

s/ Samantha K. Sondag

AMY EDWARDS, OSB No. 012492

amy.edwards@stoel.com

SAMANTHA K. SONDAG, OSB No. 154244

samantha.sondag@stoel.com

RACHELLE D. COLLINS, OSB No. 214059

rachelle.collins@stoel.com

Telephone: 503.224.3380

WALTER FONSECA, OSB No. 136349

wfonseca@ojrc.info

FRANZ BRUGGEMEIER, OSB No. 163533

fbruggemeier@ojrc.info

Oregon Justice Resource Center

PO Box 5248

Portland, OR 97208

Telephone: 503.944.2270

Attorneys for Plaintiffs

City of Brookings WORKSHOP Agenda

CITY COUNCIL

Monday June 7, 2021, 4:00pm

City Hall Chambers, 898 Elk Drive, Brookings, OR 97415

A. Call to Order

B. Roll Call

C. Topics

- 1.** St. Timothy's Episcopal Church – Change of Use [PWDS – Pg. 1]
 - a.** BMC Land Development Code sections relative to St. Timothy's change in use [Pg. 4]
 - b.** Neighborhood Petition [Pg. 6]
 - c.** Peter's Letter – October 10, 2020 [Pg. 9]
 - d.** Curry Coastal Pilot, January 9, 2020 – Linda Pinkham "St. Tim's serving up food and fellowship" [Pg. 11]
 - e.** Episcopal Diocese of Oregon, October 20, 2017 – "Congregation Close Up, St. Timothy's, Brookings" [Pg. 18]
 - f.** City of Brookings Temporary Rule 2020-1, Camping by homeless on property of religious institutions [Pg. 22]

D. Council Member Requests for Workshop Topics


E. Adjournment

All public City meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

Due to the COVID-19 virus, meeting participants in the EOC Building will be limited and social distancing of six (6) feet will be required and maintained.

CITY OF BROOKINGS COUNCIL WORKSHOP REPORT

Meeting Date: June 7, 2021


Signature (submitted by)

Originating Dept: PW/DS


City Manager Approval

Subject:

St. Timothy's Episcopal Church - Change of Use

Background/Discussion:

St. Timothy's Episcopal Church is located at 401 Fir Street in a residential zone designated as R-1 single family residences with a minimum of 6000 square foot lot size. The single family residential (R-1) district allows for single family dwellings outright. Per section 17.124.100 of the Brookings Municipal Code, churches are allowed in an R-1 district with a conditional use permit. St. Timothy's Church was developed prior to codification of the land development code thereby placing the property into a "nonconforming use" or "de facto conditional use" status.

In 1999 the Planning Commission approved a request from St. Timothy's for minor change (MC-1-99) to their nonconforming de facto conditional use permit in order to expand their building to include additional worship space. At that time, then St. Timothy's building committee member Bernie Lindley and Rev. William Smith stated in their finding of facts that there would be no significant increase in traffic to the property due to the addition. The Church at that time had 17 off street parking spaces and with the addition would have been required to provide 22 off street parking spaces. Staff prepared the final conditions of approval without the required 5 additional parking spaces stating that the addition would generate negligible traffic. The Planning Commission approved the staff proposed conditions. Since then, additional parking spaces have been added as there are approximately 26 parking spaces currently. In 2007 a building permit was pulled for the construction of a storage shed.

	<u>Parking Spaces</u>
St. Timothy's	26
Star of the Sea Catholic	156
Trinity Lutheran	92
Seventh Day Adventist	50
Presbyterian	50
Living Waters Four Square Gospel	50
First Baptist Community*	0
Calvary Assembly of God	53
Grace Bible	40

*established parking agreements with neighboring properties with off street parking

In 2009 St. Timothy’s opened a health care and dental clinic operated out of the downstairs (basement) area. The facility was open from 1-4pm every Tuesday and in the four years the clinic was open served over 1750 patients. There is no record of a minor change to the conditional use permit for this activity. They are currently operating a COVID vaccination clinic.

In 2009 St. Timothy’s began providing meals two days a week. In a Curry Pilot article on January 9, 2020 by Linda Pinkham – “St Tim’s serving up food and fellowship” it is stated that between 60-70 show up at the church for meals, some of them are either on fixed incomes, experiencing homelessness, families or the working poor. Staff believes St. Timothy’s Church is operating a commercial kitchen without a permit. Staff also believes St. Timothy’s is operating in the capacity as a “Mission” would for they are providing shower facilities including the offering of clothing, hygiene kits and dignity bags every Monday, Wednesday and Friday morning as well as free hair cut’s during soup kitchen hours. In addition staff is aware that individuals have listed the church as their physical address in order to establish businesses, receive mail and to facilitate eligibility for social services. There is no record of a minor change to the conditional use permit for this activity.

Since the opening of the soup kitchen at St. Timothy’s in 2009 there has been a significant increase in calls for service through dispatch of the Brookings Police Department by comparison to other churches in residential neighborhoods.

	<u>2010</u>	<u>2020</u>
St. Timothy's*	8	154
Star of the Sea Catholic*	5	24
Trinity Lutheran*	4	20
Seventh Day Adventist*	2	19
Presbyterian*	5	13
Living Waters Four Square Gospel	2	7
First Baptist Community	4	7
Calvary Assembly of God	7	7
Grace Bible	0	0

*Represents churches that are currently or have offered dine in or take out meal services.

In 2020, the City of Brookings issued a permit for a maximum of three car campers in the parking lot of St. Timothy’s. On several occasions during the active permit they have exceeded the amount allowed. There have been no other requests for a temporary car camping permit from other churches in the city.

A neighboring resident of St. Timothy’s presented a petition at a City Council meeting in March of 2021. The petition has 29 signatures from concerned neighbors. He expressed concern regarding the subject property as he shared his negative experience with the visitors that frequent the church regularly for services he believes are offered outside the churches conditional use permit.

Staff is seeking input from Council on potential future steps to address neighborhood concerns regarding St. Timothy's change in use and need for a minor change to the de facto conditional use permit (CUP). These steps may include:

1. Send an official letter to Public Health Department inquiring about the operation of an unpermitted commercial kitchen that serves up to 70 meals while open.
2. Require St. Timothy's to apply for a Minor Change to their existing conditional use permit (MC-1-99) in order to condition the increased use of the property, not otherwise anticipated with a church, located in a residential neighborhood.
3. Revisit and potentially rescind temporary rule 2020-1 allowing temporary car camping authorized by the City in March 2020.

Attachments:

1. BMC Land Development Code sections relative to St. Timothy's change in use
2. Neighborhood petition
3. Peters Letter - October 10, 2020
4. Curry Coastal Pilot, January 9, 2020 - Linda Pinkham "St. Tim's serving up food and fellowship"
5. Episcopal Diocese of Oregon, October 20, 2017 – "Congregation Close Up, St. Timothy's, Brookings"
6. City of Brookings Temporary Rule 2020-1, Camping by homeless on property of religious institutions

17.116.090 Minor change.

The applicant may apply to the planning commission for a minor change to the site plan and/or conditions of approval of an approved planned community. The planning commission will hold a public hearing to consider the nature of the requested change, impacts the change may have on surrounding properties and/or on the remaining portion of the project, and the impact on the city's services and facilities. The commission may approve or deny the minor change. If the change is approved it may be incorporated into the project. If it is denied the project remains as originally approved and the change cannot be incorporated. Applications for a minor change must be submitted with the following:

A. A filing fee in an amount established by general resolution of the city council. No part of the fee is refundable.

B. A site plan or revised subdivision map showing the proposed changes and how they compare to the originally approved project. If the change does not include the physical site plan of the project, a text explaining the desired change must be submitted.

C. A statement explaining how the proposed change relates to the approved project and any impacts it may have on the project and/or adjoining property holders and city services and facilities. [Ord. 09-O-636 § 2; Ord. 92-O-446.J § 3; Ord. 89-O-446 § 1. Formerly 17.116.110.]

17.120.010 Continuation of a nonconforming use.

A lawfully preexisting use of a structure or site, which does not conform to the regulations for the district in which it is located, shall be deemed to be a lawful, nonconforming use and may be continued, subject to the following regulations:

A. Routine maintenance and repairs may be performed on structures or sites.

B. No nonconforming structure shall be moved, altered, or enlarged unless required by law, allowed elsewhere in this code, or unless the moving, alteration or enlargement will result in the elimination of the nonconforming use.

C. No structure partially occupied by a nonconforming use shall be moved, altered or enlarged in such a way as to permit the enlargement of the space occupied by the nonconforming use. [Ord. 09-O-637 § 2; Ord. 89-O-446 § 1.]

17.124.100 Churches, hospitals, other religious or charitable institutions.

In any "R" district, all such uses shall be located on a street adequate to serve the use. All off-street parking facilities shall be adequately screened from abutting property to reduce noise and other negative impacts. [Ord. 09-O-640 § 2; Ord. 08-O-616 § 2; Ord. 89-O-446 § 1.]

17.136.110 Violation of conditions.

It shall be unlawful for any person to violate any condition imposed by a conditional use permit. The planning commission may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in Chapter [17.84](#) BMC. The foregoing shall not be the exclusive remedy for a violation of conditions of approval. [Ord. 09-O-641 § 2; Ord. 96-O-446.BB § 6; Ord. 89-O-446 § 1.]

17.136.150 Use permit to run with the land.

A conditional use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, unless revoked by the planning commission for violation of the conditions of approval. [Ord. 09-O-641 § 2; Ord. 92-O-446.J § 4; Ord. 89-O-446 § 1. Formerly 17.136.160.]






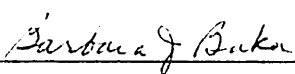
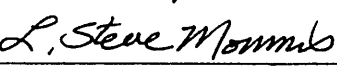
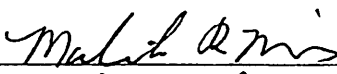
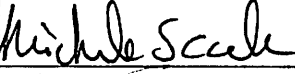

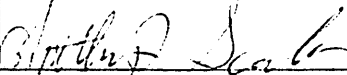

Petition to Remove Homeless from St. Timothy Church

Petition summary and background	This Petition will be submitted to the City of Brookings with the purpose to reconsider allowing vagrants to continue to live and congregate at St. Timothy's Church with no supervision for matters concerning public safety and the personal expenses of the homeowners living next to the church. In the past six months alone, vagrants have caused significant problems in the community including but not limited to, criminal trespassing, theft, harassment, possession of drugs, littering (trash and drug paraphernalia), disorderly conduct, physical altercation, and even child neglect. These types of hostile individuals should not be allowed to camp in a community for concerns of safety and the wellbeing of other citizens.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to remove the homeless encampment and prevent the congregation of vagrants or undesirables at St. Timothy Church.

Printed Name	Signature	Address	Comment	Date
Brandon Usry		412 Fir St. Brookings, Oregon	I have written a more detailed paper in regards to this issue.	4/9/2021
Doreen Golding	<i>D Golding</i>	412 Fir St Brookings OR		4/10/21
Justin Holmes	<i>J Holmes</i>	615 old county Rd		4/10/21
Karen Holmes	<i>K Holmes</i>	615 old county Rd		4/10/21
Roger L. Thompson	<i>R Thompson</i>	617 old county Rd		4/16/21
Janet Walsh	<i>Janet Walsh</i>	617 Old County Rd		4/16/21
Kare Van Zelf	<i>K Van Zelf</i>	406 Azalea Park Rd		4.10.21
Andrea Christensen	<i>A Christensen</i>	407 Azalea Park Rd		4/10/21
Matthew Rivera	<i>M Rivera</i>	410 Azalea Park Rd		4/10/21
JASON MARR	<i>J Marr</i>	410 AZALEA PARK RD		4/10/21
ANGEL NAVARRO	<i>A Navarro</i>	412 AZALEA PARK RD		4/10/21
Debra Navarro	<i>D Navarro</i>	412 Azalea Park Rd		

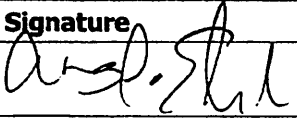

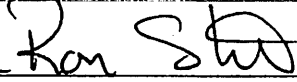

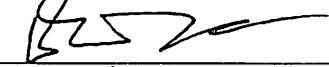

Petition to Remove Homeless from St. Timothy Church

Petition summary and background	This Petition will be submitted to the City of Brookings with the purpose to reconsider allowing vagrants to continue to live and congregate at St. Timothy's Church with no supervision for matters concerning public safety and the personal expenses of the homeowners living next to the church. In the past six months alone, vagrants have caused significant problems in the community including but not limited to, criminal trespassing, theft, harassment, possession of drugs, littering (trash and drug paraphernalia), disorderly conduct, physical altercation, and even child neglect. These types of hostile individuals should not be allowed to camp in a community for concerns of safety and the wellbeing of other citizens.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to remove the homeless encampment and prevent the congregation of vagrants or undesirables at St. Timothy Church.

Printed Name	Signature	Address	Comment	Date
Paul Rice		425 Azalea Park Rd		4/10/21
Gabbie Settemire		428 Azalea Park Rd		4/10/21
Becky Winter		512 Pacific Ave. # 3		4/10/21
Martia Shepherd		308 Fir St.		4/10/21
Braden Braulotte		509 Fir Street		4/10/21
Barbara Baker		435 Fir St		4/10/21
Larry S. Morris		434 Fir		4/10/21
Malinda R. Morris		434 FIR		4/10/21
Michelle Scala		438 Fir St.		4/10/21
Michelle Scala		438 Fir St		4/10/21
Anthony Scala		438 Fir St		4/10/21
Robin Stark		424 Fir St		4/10/21

Petition to Remove Homeless from St. Timothy Church

Petition summary and background	This Petition will be submitted to the City of Brookings with the purpose to reconsider allowing vagrants to continue to live and congregate at St. Timothy's Church with no supervision for matters concerning public safety and the personal expenses of the homeowners living next to the church. In the past six months alone, vagrants have caused significant problems in the community including but not limited to, criminal trespassing, theft, harassment, possession of drugs, littering (trash and drug paraphernalia), disorderly conduct, physical altercation, and even child neglect. These types of hostile individuals should not be allowed to camp in a community for concerns of safety and the wellbeing of other citizens.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to remove the homeless encampment and prevent the congregation of vagrants or undesirables at St. Timothy Church.

Printed Name	Signature	Address	Comment	Date
Angela Edwards		521 Fir St Apt. 4		4-10-2021
Michelle Greene		423 Fir St.		4/10/21
Ron Streele		421 FIR ST		4/10/21
Todd Pearson		420 Fir St		4/10/21
Kathleen Pearson		420 Fir St		4/10/21
CLAYTON WELLS		407 FIR STREET		04/10/21

October 10, 2020

Dear City of Brookings,

I am writing this letter with Praise and Fear. I have lived in Brookings for the past 31 years and in the past 2 years I have seen many changes. I am speaking of *our* Azalea Park and the surrounding neighborhood. I believe there has been many positive changes to the park. I love that it has been made user friendly to the community. The Basketball Courts, Soccer/Flag Football Field, Softball Fields with play area, trails, Frisbee Golf and new Restrooms. I also love the clearing of some tress and the underbrush to see out in the distance as you walk. This is just to name a few. But I feel like we as a community are losing *our* Park.

My Fear is for our children and young adults. I have been to the park many times with my grandchildren and we have to watch where we walk because there are people coming out of the bushes, sleeping in sleeping bags and walking up to us to see if we have coins or food. My daughter who is a senior has played summer soccer, basketball and Softball at the park and we had to have her park under lights because of the people in the dark approaching her. We have even had a transient strike a whip towards our direction as we were walking through.

I feel that the majority of the issue is from St. Timothy's Church on the corner of Old County and Fir St. They hand out food all day and let transients hang out there and stroll over to the park to hang out. The transients that have motor homes or vehicles park at the church or across the street at Azalea Park and stay there. For example the city is in the process of working on the parking lot across from St Timothy's, so now we have many motorhomes parking at Kid Town with our kids there. Transients had made a camp down from the church in the bushes and the city cleaned that out. St Timothy's makes it easy for Transients to stick around the neighborhood.

On April 6, 2020 City Councilors passed a temporary emergency rule about homeless camping on religious institutions during a pandemic. I understand that, but I feel that the St Timothy's church is acting as a Soup Kitchen 6 days a week and a religious institution on Sunday. The definition of a religious institution is "Churches, temples, mosques and other places of worship and *institutions* that exist to support and manage the practice of a specific set of *religious* beliefs." The definition of a Soup Kitchen is "a place where free food is served to those who are homeless or destitute". Don't get me wrong I am sure there is some good that comes from St Timothy's but I also feel that it is a free for all most the time. I go by other religious institutions in town and if they are serving food you never see all the mischievous actions or loitering.

I know that transients have become an issue and I am not a professional on how to fix the problem, but I do know that we need to save our kids and community. We should not feel threatened, scared or fearful in our own parks, beaches and streets.

I thank you for your time reading my concerns and complaint. I truly do appreciate all the time and efforts that our city puts into making Brookings that best it can be.

Thank You,

A handwritten signature in black ink, appearing to read "Tina Peters", written in a cursive style.

Tina Peters

541-254-0463

5/24/2021

Photos / St. Tim's serving up food and fellowship | News Paid | currypilot.com

https://www.currypilot.com/news_paid/photos-st-tim-s-serving-up-food-and-fellowship/article_ed4243ea-3319-11ea-bd04-1726685ef366.html

FEATURED

Photos / St. Tim's serving up food and fellowship

Linda Pinkham pilotnews@countrymedia.net

Jan 9, 2020

5/24/2021

Photos / St. Tim's serving up food and fellowship | News Paid | currypilot.com



Angele Holm salts the gravy.

Linda Pinkham / The Pilot

Every Tuesday, lunch is served at St. Timothy's Episcopal Church in Brookings ... to anyone who wants to eat, whether homeless, hungry or just lonesome.

On this chilly day, when the doors are opened early so guests can come in to warm up, between 60 and 70 people show up at the church, at 401 Fir St.

Many of them are regulars, although several new people come each month. Some of them are on fixed incomes and eat there to stretch their pensions. Many are homeless, some are families, others the "working poor."

Lunch is served at noon, but already this morning the pans are clattering and large pots are boiling on the stove. The menu will be vegetable beef soup, baked ham, mashed potatoes with gravy, vegetables, toasted and buttered bread, and desserts.

5/24/2021

Photos / St. Tim's serving up food and fellowship | News Paid | currypilot.com



Tracy Rutt is learning to cook. He's in his third week at the kitchen as a volunteer. Angele Holm handed over the kitchen after Dec. 31 to other volunteers.

Linda Pinkham / The Pilot

Every week for the past 11 years, Angele Holm, age 69, has been cooking, joined by about half a dozen or more fellow volunteers. She said she'll be retiring on Jan. 31.

"I started working here in 2009, when they had the free clinic," she said. "My husband was an RN. He died seven years ago.

"This year has been very challenging for me, because of Ron (Hedenskog) and John (Stover) being gone. They were my partners, but they retired last year. It was fun.

"I've decided to spend more time with my family. I have four kids, 10 grandchildren and four great-grandchildren, spread out between Cave Junction, Grants Pass and Washington. I'm going to do some traveling and fix my house up.

5/24/2021

Photos / St. Tim's serving up food and fellowship | News Paid | currypilot.com



Eddie Klein bastes the ham while another volunteer, Angel LeMieux, checks the vegetables.

Linda Pinkham / The Pilot

“I’m training Eddie Klein and Tracy Rutt,” said Holm. “They will stay after I’m gone. Eddie is very familiar with the church, the community and this kitchen, and he’ll get some other volunteers in here.”

Klein cooks breakfast on Mondays and lunch on Saturdays, and makes bag lunches on Sundays. He’s now cooking on Tuesdays, as well.

Klein said he’s has been a volunteer at the soup kitchen for eight to 10 years. “I know most of the homeless folks here because, well, I’m homeless. I know Father Bernie and the ‘churchies.’ I know them because I am a member of the church.

“St. Tim’s does a lot for the downtrodden,” said Klein.

5/24/2021

Photos / St. Tim's serving up food and fellowship | News Paid | currypilot.com

"It gives me something to do. Keeps me out of bars and houses of ill repute," he said with a laugh. "We're family oriented. It's fun."

"Eddie does everything here," Holm said, giving him a hug. "He takes care of everyone here."

In addition to providing meals several days a week, the church opens its showers upstairs for people to use every Monday, Wednesday and Friday morning.

Staff also hand out vouchers for The Old Wash House Laundromat at 97900 Shopping Center Ave. in Harbor for those who want to wash their clothing.

Holm was the last owner of Rubio's restaurant. "I had 20 years of cooking experience in restaurants before moving here. I learned how to delegate, how to push people around. Just kidding.



Tracy Rutt stirs the mashed potatoes.

Linda Pinkham / The Pilot

5/24/2021

Photos / St. Tim's serving up food and fellowship | News Paid | currypilot.com

"Are the potatoes done yet?" Holm asks volunteer Rutt, who's in charge of the potatoes.

"Have you ever made mashed potatoes before?" she asks. "I'm not going to be here soon, so you're going to have to start thinking for yourself."

As for why he volunteers, Rutt said, "I'm a practicing Buddhist. I'm exploring that path to understand myself better through helping other people.

"This is my third week," he said. "I started from no-cook, to doing some cooking."

"He's still shaking in his boots," Holm ribbed.

"He's worried they're going to throw the food at him," said Angel LeMieux, a new volunteer.

"Angele (Holm) is changing her phone number as soon as she leaves."

The work for each Tuesday's meal begins on Sunday, when Holm decides what to cook and creates the menu. "If I don't have the menu by Sunday night, I can't sleep," she said.

On Monday, she goes shopping. Her food budget comes from the church and donations from the congregation. "I try to keep it as low as possible and use what I have first," she said.

"It runs about \$30 a week, which is pretty good for serving 60 people. I came from a family with nine children. I know how to save money."

Holm checks in again on the potatoes, which have had milk and a pound of butter added to them. "Do you think that's enough for 60 scoops? We can stretch it with some more milk. You can heat the milk in the microwave."

Then, she tastes the soup. "It'll be full up to here when it's done," she said, pointing to near the top of the 5-gallon pot, "by the time we get everything added." She likes to use fresh vegetables and adds plenty of garlic in the winter.

5/24/2021

Photos / St. Tim's serving up food and fellowship | News Paid | currypilot.com



Rose Johnson has the day's menu done.

Linda Pinkham / The Pilot

Rose Johnson, who's 83, writes out what's on the menu. She usually gets a ride to the soup kitchen with Angele. "When she leaves, I'm going to leave, too," Johnson said.

Phillip Nelson, who's been volunteering for eight years, arrives to begin washing dishes.

"They've got all the pressure, I just do the easy work," said Nelson

Other volunteers who help out each week include Linda Nelson, dishes; Ursula Greger, server; and Diana Zelmer, baker.

5/24/2021

Congregation Close-up: St. Timothy's, Brookings - Episcopal Diocese of Oregon



Search ...

- About Us**
- Beliefs**
- Ministries**
- Events**
- Stories**
- Administration**
- Convention**

- About Us**
- Beliefs**
- Ministries**
- Events**
- Stories**
- Administration**
- Convention**

Congregation Close-up: St. Timothy's, Brookings

October 20, 2017 / [Webmaster](#)

5/24/2021

Congregation Close-up: St. Timothy's, Brookings - Episcopal Diocese of Oregon



In the years before the Affordable Care Act and the accompanying Medicaid expansion in Oregon, a volunteer-run clinic at St. Timothy provided health care for 25% of the working-age population in Brookings. One day during the clinic, a man in need of attention came (it seemed) out of the bushes. Long lacking access to bathing facilities, the man's odor and unwashed skin overwhelmed the doctor and made it impossible to conduct a thorough examination. Suddenly, a long-neglected shower fixture (installed in 1984 to accommodate youth group overnights that never actually happened) took on new purpose as the doctor ushered the man in to bathe, and the shower ministry of St. Timothy was born.

5/24/2021

Congregation Close-up: St. Timothy's, Brookings - Episcopal Diocese of Oregon

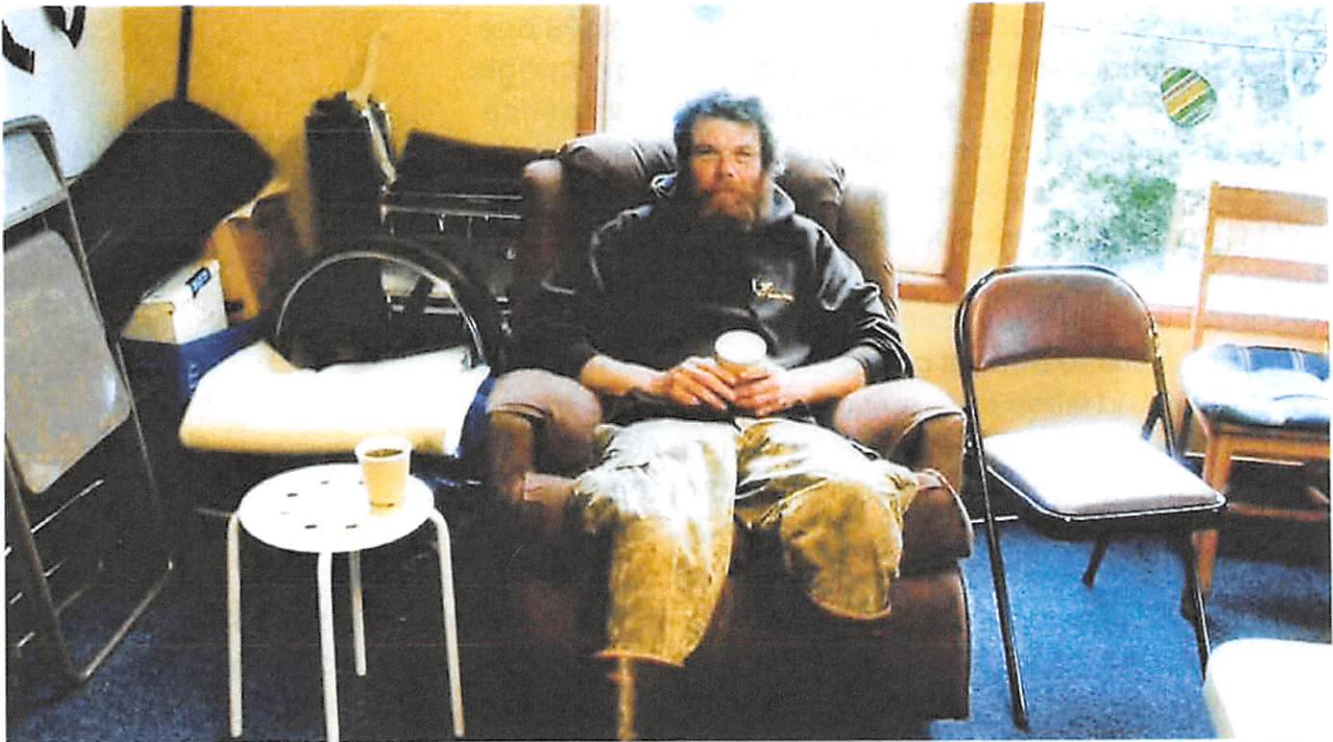
With the shower already in place, the church made one other essential ministry investment: prioritizing a budget with funds to hire two parish administrators, Clare Price and Pat Brookfield, to be on site during the hours the building is open. Rev. Bernie Lindley is quick to point out that Clare and Pat are not just secretaries – they are long-time members of St. Timothy and an important part of the ministry, providing caring faces and honoring the words of Jesus to bring a group of two or three together for prayer. And when they arrive to unlock the doors three mornings each week, the people who enter step into a place of welcome – and the possibility that they have as much to give as they receive.

Over the years, people coming for showers have taken on the responsibility of making the coffee and setting out the snacks available each day, creating a hospitable communal space. St. Timothy employs no custodial staff, and it is quite common for someone to take a shower and then spend a few minutes sweeping the steps or washing coffee cups. Two men come around each week to care for the community garden, taking ownership of that space and using their skills and energy to build something for the greater good. The vegetables they grow are regularly incorporated into the sack lunches and Community Kitchen meals provided by St. Timothy's feeding ministry.

In this county of just 14,000 people, the congregation of St. Timothy has a reputation for being a vital part of the social fabric in what is a largely unchurched area. With a bivocational priest (Bernie+ works as a commercial fisherman) the congregation's enthusiasm for and ownership of ministries is critical in keeping St. Timothy's doors open to everyone.

5/24/2021

Congregation Close-up: St. Timothy's, Brookings - Episcopal Diocese of Oregon



This energy overflows into the greater Brookings community and creates connections that draw in volunteers from outside the church. Showers are just one part of being clean, and when it became obvious that the church could not meet the need to wash clothes and sleeping bags, it was a mother's friend's daughter who owns a laundromat that stepped up to offer detergent and the use of her industrial-sized washers and dryers. Another woman provides haircuts, and others – acknowledging the church's history as a trustworthy funnel of goods and services – donate clothes, money, and even vehicles. Recently, a woman hours from living in her car came to St. Timothy for help. In what can only be described as God's perfect timing, someone had just donated a fifth wheel trailer, which by that very evening was set up in an RV park, giving the woman a new home.

For Bernie+, who was baptized into the congregation as a child, served as an acolyte in his youth, and was called to consider ordination by the parish's previous priest, St. Timothy is a place of transformation. He was molded by the congregation and encouraged by their commitment to outreach and caring for people in need. He cites Matthew 25:31-46 as a guiding inspiration for the people of St. Timothy, and credits parishioners with striving to deeply embody the values of love, justice and peace that they commit to in the Baptismal Covenant.

Visit the [St. Timothy's website](#).

This story was originally featured in the Summer 2017 edition of *In Conversation*, our diocesan magazine. To subscribe to the magazine, [email Heidi Pitts](#), Director of Communications.



City of Brookings

Temporary Emergency Rule 2020-1

WHEREAS on March 23, 2020, the City Council by Resolution 20-R-1174 declared a state of emergency due to the COVID-19 outbreak. It also authorized the City Manager, during this temporary State of Emergency, to take actions and issue orders necessary and reasonable to protect health, safety and welfare of the City and the public and to conduct activities that minimize or mitigate the effect of the emergency, as long as such actions or orders are in compliance with City, state and federal law; and

WHEREAS the City's municipal code, BMC 8.15.087, restricts RV use within the City; and

WHEREAS the City Manager recommends that the Council temporarily allow provisions included in ORS 203.082, Camping by Homeless on property of religious institutions, limited to the period we are under the Governor's "Stay Home, Stay Safe" order for COVID-19, and only to those individuals who have been residents over six months.

NOW therefore, the Council of the City of Brookings hereby temporarily adopts Rule 2020-1 as follows:

Camping by homeless on property of religious institutions:

(1) The City will temporarily allow churches, synagogues and similar religious institutions to offer overnight camping space on institution property to homeless persons living in vehicles.

(2) In addition to any conditions or limitations imposed by the City, a religious institution located within the City and offering camping space described under subsection (1) of this section must:

(a) Limit camping space at the institution site to three or fewer vehicles at the same time; and

(b) Provide campers with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities.



City of Brookings

898 Elk Drive, Brookings, OR 97415
(541) 469-1159 Fax (541) 469-3650
www.brookings.or.us

July 29, 2021

Pastor Bernie Lindley
St. Timothy's Episcopal Church
PO Box 1237
401 Fir Street
Brookings, OR 97415

Re: Commercial Kitchen in Single-Family Residential District

Dear Pastor Lindley,

The City of Brookings is providing this letter to discuss concerns related to the commercial kitchen at St. Timothy's Church, located at 401 Fir Street, Brookings, OR 97415.

St. Timothy's operates as a religious institution in the R-1-6 Single-Family Residential District under a de facto conditional use permit. While Brookings Municipal Code (BMC) 17.20.040(B) allows religious institutions in the Single-Family Residential District subject to conditional use permits, commercial kitchens, restaurants, and similar food service operations are not permitted outright or conditionally in that zoning district. The City is concerned that St. Timothy's has added a use that is not allowed in the zone; a commercial kitchen, which would violate BMC Chapter 17.20.

The City wants to work with St. Timothy's to ensure that its use of the property complies with the BMC's residential zoning standards. To avoid potential violations of the BMC, St. Timothy's could relocate its commercial kitchen to a zoning district that allows restaurants, cafes, and other food service operations. In addition, St. Timothy's could modify its operations to become a benevolent meal site under OAR 333-150-0000(4)(e) that would not utilize a permanent kitchen facility. The City would also be happy to work with St. Timothy's to establish potential limits on the frequency and volume of potential meal services. Such limits could help ensure that St. Timothy's use of the property does not constitute a commercial kitchen or restaurant that would not be allowed in the residential zoning district.

We would be happy to discuss St. Timothy's options for achieving compliance with the BMC in more detail. Please feel free to reach out if you'd like to schedule that discussion or if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Baron", is written over a horizontal line.

Anthony Baron
Public Works and Development Services Director

City of Brookings
WORKSHOP Agenda

CITY COUNCIL

Monday August 30, 2021, 5:00pm

City Hall EOC, 888 Elk Drive, Brookings, OR 97415

A. Call to Order

B. Roll Call

C. Topics

1. Municipal Code Revisions – Benevolent Meal Services [Pg. 1]
 - a. Proposed BMC Chapter 17 Revisions [Pg. 2]
2. Municipal Code Revisions – Accessory Dwelling Unit [Pg. 5]
 - a. Proposed BMC Chapter 17.180 Revisions [Pg. 6]

D. Council Member Requests for Workshop Topics

E. Adjournment


All public City meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

Due to the COVID-19 virus, meeting participants in the EOC will be limited and social distancing of six (6) feet will be required and maintained.

CITY OF BROOKINGS

COUNCIL WORKSHOP REPORT

Meeting Date: August 30, 2021



Signature (submitted by)

Originating Dept: PW/DS



City Manager Approval

Subject:

Municipal Code Revisions – Benevolent Meal Services Conditional Use Permit

Background/Discussion:

Staff received direction from Council at the August 2nd workshop to propose revisions to the Brookings Municipal Code (BMC) that would provide a method for local churches and other non-profits to obtain a conditional use permit in order to provide benevolent meal services in a residential zone. Oregon Health Authority (OHA) has classified the community kitchens (St. Timothy’s Episcopal Church, Star of the Sea Catholic Church and the Presbyterian Church) as “restaurants”. The BMC doesn’t allow restaurants either outright or conditionally, as they are currently operating in the church’s community kitchens, within residential districts (R-1, R-2, R-3).

Staff, in cooperation with legal counsel from Local Government Law Group, reviewed code sections of the BMC and have developed draft changes to language that would address Council direction to create a method for allowing benevolent meal services in churches, in a residential zone, under a conditional use permit.

Chapters included for review:

- 17.08.020 B Terms
- 17.20 Single-Family Residential (R-1) District
- 17.24 Two-Family Residential (R-2) District
- 17.28 Multi-Family Residential (R-3) District
- 17.124 Specific Standards Applying to Conditional Uses

Proposed revisions include defining benevolent meal services, creating language in the code to list benevolent meal services as a conditional use in residential zones, and a draft of the criteria required for the conditional use permit.

Staff is seeking direction from Council on proposed changes to language in the BMC. With consensus, staff will recommend BMC changes to the Planning Commission, as these are related to Chapter 17, Land Development Code; and if approved by the Planning Commission, staff will recommend Ordinance to the City Council for adoption.

Attachments:

- a. Proposed BMC Chapter 17 revisions

Title 17
LAND DEVELOPMENT CODE

17.08.020 B terms.

“Basement” means a space wholly or partly underground, and having more than one-half of its height, measured from its floor to its ceiling, below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

“Bed and breakfast” means the rental of one or more rooms in an owner-occupied, single-family residence where a breakfast meal is served during the a.m. hours only.

“Benevolent Meal Service” means a periodic food service operation that provides food to the public without charge.

“Building” means any structure built and maintained for the support, shelter or enclosure of persons, animals, or property of any kind.

“Building, main” means a building within which is conducted the principal use permitted on the lot or parcel, as provided in this code. [Ord. 08-O-606 § 2; Ord. 03-O-446.SS; Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

Chapter 17.20
SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT

17.20.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

A. Recreation uses and facilities, including country clubs, golf courses, and swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park;

B. Churches, subject to BMC [17.124.100](#);

C. Hospitals, rest, nursing and convalescent homes, subject to BMC [17.124.100](#);

D. Public or private schools, but not including a business, dancing, trade, technical or similar school, and subject to BMC [17.124.011](#);

- E. Nursery schools and day care facilities, subject to BMC [17.124.010](#);
- F. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, and museums, but not including storage or repair yards, warehouses or similar uses;
- G. Riding academies and public stables, subject to BMC [17.124.070](#);
- H. Cemeteries, mortuaries, crematories, mausoleums, and columbariums, subject to BMC [17.124.090](#);
- I. Excavation and removal of sand, gravel, stone, soil or other earth products, subject to BMC [17.124.020](#) (commercial excavations);
- J. Public and quasi-public halls, lodges and clubs, subject to BMC [17.124.120](#);
- K. The keeping of horses, cattle, sheep and other livestock, subject to BMC [17.124.190](#);
- L. Planned unit developments, including duplex or multifamily development, subject to provisions of Chapter [17.116](#) BMC;
- M. Utility substations or pumping stations, subject to BMC [17.124.030](#);
- N. Bed and breakfast facilities, subject to the provisions of BMC [17.124.140](#);
- O. Dwelling groups, subject to BMC [17.124.180](#);
- P. Signs appurtenant to any conditional use and which do not comply with BMC [17.20.080](#);
- Q. Short-term rentals pursuant to the provisions of BMC [17.124.170](#);
- R. Poultry farms and eggeries, subject to the provisions of BMC [17.124.040](#);
- S. Temporary living quarters for caretakers, subject to the provisions of BMC [17.124.200](#);
- T. Cottage industries, subject to BMC [17.124.220](#);
- U. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC [17.124.230](#).
- V. Benevolent Meal Service, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC [17.124.050](#).

[Ord. 16-O-752 § 3; Ord. 14-O-722 § 3; Ord. 08-O-612 § 2; Ord. 01-O-446.MM; Ord. 98-O-446.DD § 4; Ord. 95-O-446.Y § 2; Ord. 95-O-446.X § 3; Ord. 93-O-446.L § 2; Ord. 91-O-446.D § 1; Ord. 89-O-446 § 1.]

This would repeat in R2 & R3 zoning districts

Chapter 17.124

SPECIFIC STANDARDS APPLYING TO CONDITIONAL USES

17.124.050 Benevolent Meal Service

A. Organizations or individuals providing benevolent meal services may serve meals to the public up to ___ day(s) per week between the hours of ___ am and ___ pm. No benevolent meal service shall last more than ___ hours.

B. Benevolent meal services shall comply with all applicable state and county public health requirements and shall maintain any permits, licenses, or certifications required to provide such services at all times.

C. Benevolent meal services must utilize off-street parking facilities that comply with all applicable requirements of the Brookings Municipal Code. Off-street parking facilities shall include screening measures to reduce noise and other impacts to abutting properties.

D. Any structures used to provide benevolent meal services shall comply with all applicable city, county, and state requirements related to building, fire, and public works standards.

E. An organization providing benevolent meal services must meet the requirements of a charitable organization under Section 501(c)(3) of the Internal Revenue Code.

PLANNING COMMISSION AGENDA

CITY OF BROOKINGS
Council Chambers - 898 Elk Drive
October 5, 2021 at 7:00 PM



1. CALL TO ORDER - PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. PLANNING COMMISSION CHAIR PERSON ANNOUNCEMENTS
4. PUBLIC HEARINGS

4.1 In the matter of File No. LDC-1-21, city initiated, revisions to the Brookings Municipal Code, Title 17 Land Development Code, Chapter 17.180, Workforce Housing, Section 17.180.040, deleting paragraph D. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the Planning Commission will make a recommendation to City Council on this matter.

4.2 In the matter of File No. LDC-2-21, city initiated, revisions to the Brookings Municipal Code, Title 17 Land Development Code, Chapter 17.08.020 adding a definition of Benevolent Meal Service, Chapters 17.20.040, 17.24.040 and 17.28.040 adding Benevolent Meal Service as a Conditional Use. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the Planning Commission will make a recommendation to City Council on this matter.

5. MINUTES FOR APPROVAL
 - 5.1 Minutes of Planning Commission meeting of September 7, 2021
6. UNSCHEDULED PUBLIC APPEARANCES
7. REPORT FROM THE PLANNING STAFF
8. COMMISSION FINAL COMMENTS
9. ADJOURNMENT

Unscheduled public appearances and comments are limited to 5 minutes. All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. Please contact 469-1103 if you have any questions regarding this notice.

You can view the Planning Commission meeting LIVE on television on Charter PEG Channel 181; stream it LIVE on a computer by copying and pasting the following link inside your web browser: <mms://68.185.2.46:8080>; or to stream it LIVE on a mobile device you will need to download the VLC Media Player which is available at: <https://or-brookings2.civicplus.com /252/Watch-Meetings-Live> and follow directions and links for your device.



City of Brookings

898 Elk Drive, Brookings, OR 97415
(541) 469-1103 Fax (541) 469-3650 TTY (800) 735-1232
www.brookings.or.us

PUBLIC WORKS AND DEVELOPMENT SERVICES DEPARTMENT

Email: September 2, 2021
Publish: September 10, 2021

NOTICE OF PUBLIC HEARING BEFORE THE BROOKINGS PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Brookings Planning Commission on Tuesday, October 5, 2021 at 7:00 PM in the Council Chambers of Brookings City Hall, 898 Elk Drive, Brookings, OR 97415.

In the matter of File No. LDC-1-21, city initiated, revision to the Brookings Municipal Code, Chapter 17.180, Workforce Housing, Section 17.180.040, deleting paragraph D. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the Planning Commission will make a recommendation to City Council on this matter.

In the matter of File No. LDC-2-21, city initiated, revisions to the Brookings Municipal Code, Title 17 Land Development Code, Chapter 17.08.020 adding a definition of Benevolent Meal Service, Chapters 17.20.040, 17.24.040 and 17.28.040 adding Benevolent Meal Service as a Conditional Use. The criteria used to decide this matter is found in Chapter 17.140, Amendments, of the Brookings Municipal Code. This is a legislative hearing and the Planning Commission will make a recommendation to City Council on this matter.

The public is invited to attend and participate in the public hearing. All persons wishing to address this matter will have an opportunity to do so in person at the hearing or by submitting written evidence to the Brookings Planning Department at the address above. If you wish to speak at the hearing, you will be asked to sign in and afforded five (5) minutes to speak. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties an opportunity to respond to the issues precludes appeal to the Oregon Land Use Board of Appeals (LUBA).

A copy of the application, all documents and evidence submitted on behalf of the applicant is available for public inspection at no cost at the Brookings Planning Department, 898 Elk Drive, Brookings, OR. The staff report prepared in this case will be available seven days prior to the hearing. Copies of documents may be obtained at reasonable cost.

All public meetings are held in accessible locations, auxiliary aids will be provided upon request with advance notification. Please contact 541-469-1103 to make appropriate arrangements or for additional information. TTY 800-735-1232.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-2-21
HEARING DATE: October 5, 2021

REPORT DATE: September 23, 2021
ITEM NO: 4.2

GENERAL INFORMATION

APPLICANT: City Initiated

REPRESENTATIVE: City Staff

REQUEST: Revisions to the Brookings Municipal Code (BMC), Title 17 Land Development Code, Chapter 17.08.020 adding a definition of Benevolent Meal Service, Chapters 17.20.040, 17.24.040 and 17.28.040 adding Benevolent Meal Service as a Conditional Use and addition to Chapter 17.124 adding specific standards for Benevolent Meal Services

PUBLIC NOTICE: Published September 10, 2021 in local newspaper

BACKGROUND INFORMATION

Staff received direction from Council and Planning Commission, at a joint workshop held August 30, 2021, to propose revisions to the BMC that would provide a method for local churches and other non-profits to obtain a Conditional Use Permit in order to provide benevolent meal services in a residential zone. Oregon Health authority (OHA) has classified the community kitchens located at St. Timothy's Episcopal Church, Star of the Sea Catholic Church and the Presbyterian Church as restaurants. The BMC does not allow "restaurants" either outright or conditionally as they are currently operating within residential districts (R-1, R-2, R-3).

Staff is proposing revisions to the BMC that would create a method for allowing benevolent meal services in churches, in a residential zone, under a Conditional Use Permit.

Chapters 17 sections included for review:

Section 17.08.020 B Terms

Section 17.20.040, 17.24.040, 17.28.040 Conditional Uses

Section 17.124 Specific Standards Applying to Conditional Uses.

Proposed revisions include adding the definition of Benevolent Meal Services in Section 17.08.020 B Terms, adding benevolent meal services as a conditional use in Sections 17.20.040, 17.24.040 and 17.28.040.

Proposed revisions to Chapter 17 Land Development Code, Sections;

17.08.020 B Terms

"Benevolent meal service" means a periodic food service operation that provides food to the public without charge.

17.20.040 Conditional Uses.

V. Benevolent meal services, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC 17.124.050

17.24.040 Conditional Uses.

W. Benevolent meal services, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC 17.124.050

17.28.040 Conditional Uses.

U. Benevolent meal services, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC 17.124.050

17.124.050 Benevolent Meal Service

A. Organizations or individuals providing benevolent meal services may serve meals to the public up to 2 days per week between the hours of 9am and 5pm. Benevolent meal services shall last no more than three hours per day.

B. Benevolent meal services shall comply with all applicable state and county public health requirements and shall maintain any permits, licenses, or certifications required to provide such services at all times.

C. Benevolent meal services must utilize off-street parking facilities that comply with all applicable requirements of the Brookings Municipal Code. Off-street parking facilities shall include screening measures to reduce noise and other impacts to abutting properties.

D. Any structures used to provide benevolent meal services shall comply with all applicable city, county and state requirements related to building, fire and public works standards.

E. An organization providing benevolent meal services must meet the requirements of a charitable organization under Section 501(c)(3) of the Internal Revenue Code.

RECOMMENDATION

Staff supports a Planning Commission recommendation of approval to the City Council of file #LDC-2-21; revisions to the Brookings Municipal Code (BMC), Title 17 Land Development Code, Chapter 17.08.020 adding a definition of Benevolent Meal Service, Chapters 17.20.040, 17.24.040 and 17.28.040 adding Benevolent Meal Service as a Conditional Use and addition to Chapter 17.124 adding specific standards for Benevolent Meal Services.

City of Brookings MEETING AGENDA

CITY COUNCIL

Monday, October 25, 2021, 7:00pm

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

CITY COUNCIL

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Ceremonies/Appointments/Announcements

1. Red Ribbon Week Proclamation [Pg. 1]

E. Oral Requests and Communications from the audience

(*Public Comments on non-agenda items – five (5) minute limit per person, please submit Public Comment Form in advance)

F. Consent Calendar

1. Approve Council minutes for October 11, 2021 [Pg. 2]
2. Accept Financials for September 2021 [Pg. 4]

G. Staff Reports/Public Hearings/Ordinances/Resolutions/Final Orders

1. KCIW Memorandum of Understanding Extension [Pg. 10]
 - a) KCIW letter, requesting extension [Pg. 12]
 - b) Current MOU [Pg. 13]
2. Land Development Code Revisions – Accessory Dwelling Unit [Pg. 15]
 - a) Ordinance 21-O-794 [Pg. 16]
 - b) Exhibit A [Pg. 17]
3. Conditional Use Permit – Benevolent Meal Services [Pg. 18]
 - a) Ordinance 21-O-795 [Pg. 20]
 - b) Exhibit A [Pg. 21]

H. Remarks from Mayor and Councilors

I. Adjournment

*Public Comment forms and the agenda packet are available on-line at www.brookings.or.us, at Brookings City Hall and at Chetco Community Public Library. Return completed Public Comment forms to the City Recorder before the start of the meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

Due to the COVID-19 virus, meeting participants in the council chambers will be limited and social distancing of six (6) feet will be required and maintained. If you would like to view the City Council Meeting live, you can via:

- Television – Charter Channel 181
- Internet – Go to the City of Brookings website at <http://www.brookings.or.us>


Watch Meeting Live instructions: 1. Visit the City of Brookings website home page. 2. Click on Government (top page). 3. Click on City Council (right side). 4. Under Agenda & Meetings click Watch Meeting Live. 5. You will need to download the VLC Media Player. Follow directions and links for your device.

On computers, it is possible to stream the meetings LIVE by copying and pasting the following link inside your web browser: <mms://68.185.2.46:8080>

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: October 25, 2021


Signature (submitted by)

Originating Dept: PW/DS


City Manager Approval

Subject:

Conditional Use Permit - Benevolent Meal Service

Recommended Motion:

1. Approve file LDC-2-21 and adopt ordinance 21-O-795 amending the Brookings Municipal Code Chapter 17, Sections 17.08.020 B Terms, 17.20.040, 17.24.040, 17.28.040 Conditional Uses and 17.124 Specific Standards Applying to Conditional Uses.
2. Approve waiver for entities that apply for CUP under above mentioned sections for 3 months from adoption of Ordinance 21-O-795.

Financial Impact:

None

Background/Discussion:

Staff received direction from Council and Planning Commission at a joint workshop held on August 30, 2021 to propose revisions to the Brookings Municipal Code (BMC) that would provide a method for local churches and other non-profits to obtain a conditional use permit in order to provide benevolent meal services in a residential zone. Oregon Health authority (OHA) has classified the community kitchens located at St. Timothy's Episcopal Church, Star of the Sea Catholic Church and the Presbyterian Church as restaurants. The BMC doesn't allow "restaurants" either outright or conditionally as they are currently operating within residential districts (R-1, R-2, R-3).

Staff is proposing revisions to the BMC that would create a method for allowing benevolent meal services in churches and other non-profits, in a residential zone, under a conditional use permit.

At the October 5th meeting, the Planning Commission reviewed and recommended approval of file LDC-2-21 and adoption of ordinance 21-O-795 amending the Brookings Municipal Code Chapter 17, Sections 17.08.020 B Terms, 17.20.040, 17.24.040, 17.28.040 Conditional Uses and 17.124 Specific Standards Applying to Conditional Uses.

City Council indicated at the workshop that any planning fees associated with a CUP for benevolent meal services would be waived for an initial period (i.e. 3 months). After 3 months, an organization could still individually request that waiver.

Attachment(s):

- a. Ordinance 21-O-795
- b. Exhibit A

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 21-O-795**

**IN THE MATTER OF ORDINANCE 21-O-795, AN ORDINANCE AMENDING A SUBSECTION OF
BROOKINGS MUNICIPAL CODE IN CHAPTER 17 LAND DEVELOPMENT CODE**

Sections:

Section 1. Ordinances Identified.

Section 2. Amends Chapter 17, Section 17.08.020 B Terms

Amends Chapter 17, Section 17.20.040 Conditional Uses

Amends Chapter 17, Section 17.24.040 Conditional Uses

Amends Chapter 17, Section 17.28.040 Conditional Uses

Amends Chapter 17, Section 17.124 Specific Standards Applying to
Conditional Uses

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends the Brookings Municipal Code Chapter 17 Land Development Code.

Section 2. Amends Chapter 17, Sections 17.08.020 B Terms, 17.20.040 Conditional Uses, 17.24.040 Conditional Uses, 17.28.040 Conditional Uses, and 17.124 Specific Standards Applying to Conditional Uses are hereby amended to read as presented in Exhibit A attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

First Reading: _____ Passage: _____

Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage this 25th day of October 2021.

ATTEST:

Mayor Ron Hedenskog

City Recorder Janell K Howard

Exhibit A

Conditional Uses - Benevolent Meal Services

Changes to BMC:

(additions are bold and underlined, deletions are ~~bold and strikeout~~)

Chapter 17

LAND DEVELOPMENT CODE

17.08.020 B Terms

“Benevolent meal service” means a periodic food service operation that provides food to the public without charge

Chapter 17.20

SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT

17.20.040 Conditional Uses.

V. Benevolent meal services, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC 17.124.050

Chapter 17.24

TWO-FAMILY RESIDENTIAL (R-2) DISTRICT

17.24.040 Conditional Uses.

W. Benevolent meal services, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC 17.124.050

Chapter 17.28

MULTIPLE-FAMILY RESIDENTIAL (R-3) DISTRICT

17.28.040 Conditional Uses.

U. Benevolent meal services, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC 17.124.050

Chapter 17.124

SPECIFIC STANDARDS APPLYING TO CONDITIONAL USES

17.124.050 Benevolent Meal Service

A. Organizations or individuals providing benevolent meal services may serve meals to the public up to 2 days per week between the hours of 9am and 5pm. No benevolent meal service shall last more than three hours per day.

B. Benevolent meal services shall comply with all applicable state and county public health requirements and shall maintain any permits, licenses, or certifications required to provide such services at all times.

C. Benevolent meal services must utilize off-street parking facilities that comply with all applicable requirements of the Brookings Municipal Code. Off-street parking facilities shall include screening measures to reduce noise and other impacts to abutting properties.

D. Any structures used to provide benevolent meal services shall comply with all applicable city, county and state requirements related to building, fire and public works standards.

E. An organization providing benevolent meal services must meet the requirements of a charitable organization under Section 501(c)(3) of the Internal Revenue Code.

City of Brookings
CITY COUNCIL MEETING MINUTES
City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415
Monday, October 25, 2021

Call to Order

Mayor Hedenskog called the meeting to order at 7:01 PM

Roll Call

Council Present: Mayor Ron Hedenskog, Councilors Brad Alcorn, Ed Schreiber, John McKinney, and Michelle Morosky; a quorum present

Staff present: City Manager Janell Howard, Public Works Director Tony Baron, Deputy Public Works Director Jay Trost, Deputy Finance Director Lu Ehlers, and Deputy Recorder Natasha Tippetts

Media Present: 2

Others Present: 29 audience members

Ceremonies

1. Award Red Ribbon Week Proclamation to Emblem Club

Oral Requests and Communications from the Audience

1. Mike Murphy – PO Box 953, Brookings; provided information about the proposed Harbor Water plant
2. Bob Webb – 22 Seascape Court, Brookings; provided opinion on public safety
- 3.

Consent Calendar

1. Approve Council minutes for October 11, 2021
2. Accept Financials for September 2021

Councilor Schreiber moved, Councilor McKinney seconded, and Council voted unanimously to approve the Consent Calendar.

Staff Reports

1. **KCIW Memorandum of Understanding Extension**

Staff report presented by Janell Howard

Doug Hansen spoke on behalf of KCIW

Councilor McKinney moved, Councilor Alcorn seconded, and Council voted unanimously to deny the extension of the KCIW Memorandum of understanding.

2. **Land Development Code Revisions – Accessory Dwelling Unit**

Staff report presented by Tony Baron

Councilor Schreiber moved, Councilor Alcorn seconded, and Council voted unanimously on Ordinance 21-O-794 to be read by title only.

Councilor McKinney moved, Councilor Schreiber seconded, and Council voted unanimously on adopting Ordinance 21-O-794.

3. **Conditional Use Permit – Benevolent Meal Services**

Staff report presented by Tony Baron

Oral Requests:

1. Tracy Rupp, 97371 Marina Loop, Brookings; provided opinion in support of St. Timothy's Episcopal Church services
2. Diana Cooper, 805 Paradise Lane, Brookings; spoke in support of services from St. Timothy's Episcopal Church
3. Bernie Lindley, 401 Fir Street, Brookings; gave opinion on public records in regards to this Ordinance
4. Hank Cunningham, 520 Redwood Street, Brookings; spoke in support of services from St. Timothy's Episcopal Church
5. Teresa Lawson, 820 Brookhaven Drive, Brookings; spoke in support of services from St. Timothy's Episcopal Church
6. Reverend Linda Lee, 98874 North Bank Road, Brookings; spoke in support of services from St. Timothy's Episcopal Church
7. Bill Hamilton, 1 Park Avenue, Brookings; spoke in support of services from St. Timothy's Episcopal Church

Councilor Schreiber moved, Councilor Morosky seconded, and Council voted unanimously on Ordinance 21-O-795 to be read by title only.

Councilor McKinney moved, Councilor Alcorn seconded, and Council voted unanimously on adopting Ordinance 21-O-795.

Councilor Schreiber moved, Councilor McKinney seconded, and Council voted unanimously to waive Conditional Use Permit Fees to those who apply within 90 days.

Remarks from Mayor and Councilors

All Council remarked that they are attempting to find a middle solution to both public and church.

Adjournment

Mayor Hedenskog moved, Councilor Mckinney seconded and Council voted unanimously to adjourn the meeting at 8:02 PM

Respectfully submitted:

ATTESTED:
this 8th day of November, 2021:

Ron Hedenskog, Mayor

Janell K. Howard, City Recorder

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
St. Timothy's Episcopal Church, et al., and Reverend James Bernard Lindley
(b) County of Residence of First Listed Plaintiff Curry County, OR
(c) Attorneys (Firm Name, Address, and Telephone Number)
Samantha K. Sondag, Stoel Rives LLP, 760 SW Ninth Ave., Ste. 3000, Portland, OR 97205 503-224-3380

DEFENDANTS
City of Brookings
County of Residence of First Listed Defendant Curry County, OR
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State X 1 X 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)
X 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983
Brief description of cause:
Challenge to city ordinance under federal and state Constitutions; 42 U.S.C. § 2000cc, et seq.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE: Jan 28, 2022
SIGNATURE OF ATTORNEY OF RECORD: s/ Samantha K. Sondag

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.