



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

April 30, 2007

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment
DLCD File Number 005-06 A



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: May 15, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Steve Oulman, DLCD Transportation Planner
Dianne Morris, City of Brookings

<paa> ya

FORM 2

D L C D NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

APR 26 2007

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: City of Brookings Local File No.: LDC-2-06
(If no number, use none)

Date of Adoption: April 23, 2007 Date Mailed: April 24, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: Sept. 22, 2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write see Attached.≡

Revisions to Land Development Code Chap. 17.160, "Violations"

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write same.≡ If you did not give notice for the proposed amendment, write AN/A.≡

A few wording changes were incorporated as suggested by the City's legal counsel.

Plan Map Changed from : _____ to _____

Zone Map Changed from: _____ to _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: _____

Was an Exception Adopted? Yes: _____ No: x

DLCD File No.: 005-06 A (Violation 17.160)
(15580)
[14149]

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

**In the Matter of an Ordinance Amending)
Ordinance 06-0-572, An Ordinance)
Creating the City of Brookings Municipal) Ordinance 07-O-584
Code, to amend Chapter 17.160,)
Violations, in its entirety.)**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amendment to Chapter 17.160BMC.
- Section 3. Emergency Clause
- Section 4. Finding of emergency

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Ordinance No. 06-0-572, Brookings Municipal Code.

Section 2. Amendment to Chapter 17.160 BMC. Ordinance No. 07-0-584, Chapter 17.160 BMC is hereby amended to read as follows:

Sections:

- 17.160.010 Enforcement.
- 17.160.020 Violations.
- 17.160.030 Penalties.

17.160.010 Enforcement. Pursuant to Chapter 1.05 BMC of this code.

17.160.020 Violations. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this code and any use of any land, building or premise established, conducted, operated or maintained contrary to provisions of this code, shall be and the same is hereby declared a violation and a public nuisance. These public nuisances may be abated and removed pursuant to BMC 8.15.090, General Abatement Procedure. It is provided, however, nothing in this section requires the City to exhaust these administrative remedies prior to seeking equitable relief or damages in Circuit Court.

17.160.030 Penalties for Violations. Pursuant to Chapter 1.05 BMC.

Section 3 Emergency Clause. It is hereby determined that this ordinance is in the interest of public health, safety and welfare of the residents of the City of Brookings, and an emergency having been declared to exist, this ordinance shall become effective upon its passage by the City Council and signing by the Mayor.

Section 4 Finding of Emergency. The Council finds that an emergency exists based on the fact that if the enforcement ordinance is not adopted as an emergency the City will not have the ability to continue to enforce violations of the Brookings Land Development Code under current procedure.

First reading: 4/23/07
Second reading: 4/23/07
Passage: 4/23/07
Effective date _____

Signed by me in authentication of its passage this 23 day of April, 2007.

Pat Sherman
Pat Sherman, Mayor

ATTEST:

Paul Hughes
Paul Hughes, Finance Director/Recorder

City of Brookings
898 Elk Drive
Brookings, OR 97415



COUNCIL AGENDA REPORT

To: Mayor & City Council

From: Dianne Morris, Planning Director

Date: February 21, 2007

Re: Revisions to the Land Development Code

Subject: Revisions to Section 164, Violations; Section 170, Street Standards; Section 171, Neighborhood Circulation Plans; Section 172, Public Improvement Standards and Criteria for Utilities; Section 176, Land Divisions; of the Land Development Code.

LAND DEVELOPMENT CODE CODIFIED AND NEW
CITATION IS "CHAPTER 17.160 BMC"

Background /Discussion: There are numerous sections in the Land Development Code that are in need of corrections or major revisions. A Land Development Code Committee reviewed and prepared draft versions of the above referenced Sections. The Planning Commission held several hearings to review and make suggested changes to the draft versions. The Planning Commission is forwarding the following Sections with a recommendation to approve the proposed changes.

Interim City Manager, Ken Hobson, is conducting research on Street Standards, Section 170.070, "Street Improvements, deferred". His recommendations will not be ready for the March 12, 2007 hearing and for that reason staff feels review of Section 170 should be postponed until the City Council's March 26, 2007 meeting. Staff will prepare another draft of Section 170 with Ken's suggestions prior to the March 26, 2007 meeting.

Proposed Amendments. The draft sections are such a complete change from the current version it would have been extremely confusing to leave old text with strikethroughs, new text in italics etc. as is often done. Instead staff has provided you with a copy of both the newly revised version, and following that, the current version of each section for you to compare in the review process. The current version of Section 172 has been separated into three new Sections, 170, Street Standards; 171, Neighborhood Circulation Plans; and 172, Public Improvement Standards and Criteria for Utilities. A current version of Section 172 is found following the three newly revised versions of Sections 170, 171, & 172. Many of the changes were simply to clarify language or put the text in a more understandable format. The following comments will focus on the substantive changes to process or policy. Once a final version of the revisions has been

adopted by the City Council, the City's Code Publishing consultants will take care of renumbering etc. to codify the changes into the Municipal Code.

Following this staff report are copies of the draft versions and the current versions of each Section. Following the Sections are the written comments received by the Planning Commission during their hearings.

Section 164, "Violations". (new title) The changes reference other sections where enforcement and penalties are listed to provide consistency in the Land Development Code.

Section 170, "Street Standards". This Section will be reviewed on March 26, 2007 after additional information can be provided to the City Council regarding Section 170.070, "Street improvements, deferred". This Section is currently a part of Section 172, "Public Facilities Improvement Standards and Criteria". These draft revisions made separate sections for streets, utilities, and neighborhood circulation plans.

Section 170.020, "Definitions" was added to clarify terms used in this Section.

Section 170.050, "Street Construction Standards". Current text which describes construction details have been deleted and are proposed to be added to the Public Works document titled "Standard Details and Specifications for Construction".

Section 170.060, "Street Standards", Table 170.060 describes various types of streets. This revision adds a Residential One Way Street, Commercial One Way Street, Hillside Street, and a One Way Hillside Street. These options are designed to provide for challenging topography and other circumstances. There is still authority for the Planning Commission to consider an alternate construction standard but having these street types defined will provide for uniformity in most cases. When an applicant proposes to create a new street the plat is initially reviewed by the Site Plan Committee, which includes the Fire Chief and Public Works. They offer guidance as to which street standard would be appropriate or if an alternate standard is warranted. The Planning Commission then reviews the proposal and has the authority to approve or deny.

Section 170.070, "Street Improvements, Deferred." This Section leaves the provision for Deferred Improvement Agreements (DIA) but eliminates the formula for when this option can be considered. The Planning Commission and City Staff have discussed other options as the "Note" after this section indicates.

Section 170.100, "Access Management". The chart describing various driveway approaches has been removed and is proposed to be included in the Public Works "Standard Details and Specifications for Construction" document. Residential driveway approaches are addressed in 170.120 in this version. "F" of this Section describes connectivity requirements to provide for continuity in the City's road system. Other language in this section better defines commercial and shared access.

Section 170.110, "Bicycle and Pedestrian Development Standards". This Section describes the requirements for provision of bicycle and pedestrian facilities.

Section 171, "Neighborhood Circulation Plans". This Section is currently included in Section 172, "Public Facilities Improvement Standards and Criteria". As these standards

are specific to one area, the Dawson Tract, having it in a separate section will avoid some confusion that's occurred in the past.

Section 172, "Public Improvement Standards and Criteria for Utilities". This Section is currently included in Section 172, "Public Facilities Improvement Standards and Criteria". Current text which describes construction details have been deleted and are proposed to be added to the Public Works document titled "Standard Details and Specifications for Construction".

Section 176, "Land Divisions".

Section 176.040, "Lot Line Adjustments and Lot Line Vacations". A more complete description of submittal requirements and the filing process have been added to the Lot Line Adjustment portion. The description of submittals and process for Lot Line Vacation has been added. I think it would be best to make Lot Line Vacations a separate item ("176.050") within this Section.

Sections 176.060, "Partitions" and 176.070, "Subdivisions" have had many "housekeeping" type changes to better explain the submittal process and requirements. The standards for approval for partitions remain the same. For subdivisions, Standards 176.060 C. (4) & (5) have been removed as they are understood without listing as a standard. The last standard listed in the draft version describes timelines for approval of phasing a subdivision. Other standards remain the same. Expiration of preliminary approval, 176.060 H., extends the time to two (2) years from the current one (1) year limitation. Given weather and the complexity of some subdivision infrastructure, it was considered appropriate.

Section 176.080, "Final Subdivision Plat Approval". The Committee altered the format describing the process and submittals for clarification. Some of the submittal requirements have been combined or eliminated. The approval criterion remains the same except for requiring written confirmation that conditions of approval have been met. Process for recording of the final plat and timelines have been clarified.

Recommendation: The Planning Commission and Staff recommend approval of the changes proposed for the above referenced Sections of the Land Development Code.

Financial Impact(s): None.

City Manager Review and Approval for placement on Council Agenda:

Ken Hobson, Interim City Manager

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dcolbyhanks@brookings.or.us
www.brookings.or.us



Memo

To: Mayor/City Council
From: Donna Colby-Hanks ^{DC}
Date: March 2, 2007
Re: Further information for revision to the Land Development Code (LDC),
Section 164, Enforcement

The City Land Use Attorney, James Spickerman, had concerns about of abatement process when dealing with violations of the LDC. Language proposed by Mr. Spickerman is in bold and italics. This change will make Section 164 consistent with the abatement procedure described in Chapter 8.15.090, General Abatement Procedure. Language to be removed provides for action in Circuit Court. Municipal Court is the appropriate venue for processing violations. The Circuit Court option is still retained.