



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

June 30, 2008



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 011-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: July 15, 2008**

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

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

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

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

<paa>

FORM 2

# DLCD

## Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person  electronic  mailed

DEPT OF

JUN 26 2008

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Brookings**

Local file number: **LDC-8-08**

Date of Adoption: **6/23/2008**

Date Mailed: **6/25/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date: N/A

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Housekeeping revisions to the Chapter 17.124 Provisions to Special Uses, Brookings Municipal Code (BMC) zone for clarification and formatting.

Does the Adoption differ from proposal? Please select one

N/A

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD # 011-08 (NOA)**

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

None

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Local Contact: **Dianne Morris**

Phone: **(541) 469-1138** Extension:

Address: **898 Elk Drive**

Fax Number: **541-469-3650**

City: **Brookings, OR**

Zip: **97415-**

E-mail Address: **dmorris@brookings.or.us**

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### **ADOPTION SUBMITTAL REQUIREMENTS**

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

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:  
  
**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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

**In the Matter of an Ordinance Amending )  
Chapter 17.124, Specific Standards Applying to )  
Conditional Uses of the City of Brookings ) Ordinance No. 08-0-616  
Municipal Code. )  
)**

**Sections:**

- Section 1. Ordinance Identified.
- Section 2. Amends Chapter 17.124 in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.124, Specific Standards Applying to conditional Uses of Title 17, Land Development Code, of the Brookings Municipal Code (BMC) in its entirety.

Section 2. Amend Chapter 17.124, Specific Standards Applying to Conditional Uses, is amended, in its entirety, to read as follows:

**Chapter 17.124  
SPECIFIC STANDARDS APPLYING TO CONDITIONAL USES**

**Sections:**

- 17.124.010 Day care or nursery schools.
- 17.124.011 Public or Private Schools
- 17.124.020 Commercial excavation – Removal of earth products.
- 17.124.030 Utilities.
- 17.124.040 Poultry farms and eggeries.
- 17.124.070 Kennels, riding academies and public stables.
- 17.124.080 Animal hospitals and veterinary clinics.
- 17.124.090 Cemetery, crematory, mausoleum, columbarium.
- 17.124.100 Churches, hospitals, or other religious or charitable institutions.
- 17.124.120 Community buildings, social halls, lodges, fraternal organizations, and clubs in an “R” district.
- 17.124.130 Drive-in theaters.
- 17.124.140 Bed and breakfast facilities.
- 17.124.150 Recreation vehicle parks.
- 17.124.160 Manufactured home parks.

- 17.124.170 Short-term rentals.
- 17.124.180 Dwelling groups.
- 17.124.190 Keeping of livestock.
- 17.124.200 Temporary living quarters for caretakers
- 17.124.210 Multi-family dwelling standards in the R-2 zone

**17.124.010 Day care and nursery schools**

A. Facilities for 17 or more children are subject to these provisions, and all State regulations and requirements. All preschool children residing in the dwelling which also serves as a day care or nursery facility shall be counted in the total number of children in such facility for purposes of calculating the category of such facility.

B. Day care or nursery school facilities located in any residential zone shall have a minimum site size of 10,000 square feet. Facilities located in the C-3 zone shall be located on lots of sufficient size to provide for required buildings, parking, pickup and drop off area, and outdoor play area.

C. All such facilities shall provide and thereafter maintain outdoor play areas with a minimum area of 75 square feet per child at total capacity and a sight-obscuring fence, wall or vegetative hedge of at least four feet but not more than six feet in height shall be provided, separating the play area from abutting lots with residential uses.

D. Adequate off-street parking and loading space shall be provided. [Ord. 94-O-446.S § 2; Ord. 92-O-446.H § 3; Ord. 89-O-446 § 1.]

E. Must provide copies of any license/ permit required by Federal or State agencies to operate the school.

**17.124.011 Public or private schools.**

Must provide copies of any license/ permit required by Federal or State agencies to operate the school.

**17.124.020 Commercial excavation – Removal of earth products.**

A. Before a conditional use permit for the commercial excavation and removal of earth products can be granted, plans and specifications showing the location of the premises, grading plan, existing and proposed drainage, proposed truck access, existing vegetation and plant material on the site, and details of proposed reclamation following excavation and removal of earth products relating to regrading and revegetation of the site shall be submitted to, and approved by the planning commission.

B. Any deviation from the plans as approved by the planning commission will serve as grounds for revocation of the conditional use permit.

C. In reviewing the application, the commission may consider the most appropriate use of the land, distances from the property lines, the protection of pedestrians and vehicles, the prevention of the collection and stagnation of water at all stages of the operation, screening and/or berming of the excavation project site from adjoining properties, and the reclamation and rehabilitation of the land upon termination of the operation.

D. A bond may be required to ensure performance for reclamation of the project site following removal of such earth products. [Ord. 89-O-446 § 1.]

E. Erosion control measures must be implemented. If the disturbance is greater than one acre in size, a permit from Dept. of Environmental Quality (DEQ) is required. A copy of the approved DEQ permit must be provided to the City.

F. If any disturbance will be on slopes greater than 15% the applicant must comply with Chapter 17.100, Hazardous Building Site Protection, BMC.

G. Applicant must provide copies of any Federal, State, or local permits/ licenses required for this use.

**17.124.030 Utilities**

The erection, construction, alteration or maintenance by public utility or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, shall be permitted in any district. Utility transmission and distribution lines, poles and towers may exceed the height limits otherwise provided for in this code. [Ord. 89-O-446 § 1.] Any proposed outside storage of equipment must be screened by a six foot sight-obscuring fence or hedge.

**17.124.040 Poultry farms and eggeries.**

Any building housing poultry, consisting of more than 10 chickens or other poultry, shall be located not less than 200 feet from every lot line. Odor, dust, noise, feathers, flies or drainage shall not be permitted to create or become a nuisance to surrounding property. [Ord. 89-O-446 § 1.]

**17.124.070 Kennels, riding academies and public stables.**

Kennels, riding academies, and public stables shall be located not less than 200 feet from any property line, shall provide automobile and truck ingress and egress, and shall also provide parking and loading spaces so designed as to minimize traffic hazards and congestion. Applicants shall show that odor, dust, noise, and drainage shall not constitute a nuisance, hazard, or health problem to adjoining property or uses. [Ord. 98-O-446.DD § 11; Ord. 89-O-446 § 1.]

**17.124.080 Animal hospitals and veterinary clinics.**

A veterinary clinic or animal hospital shall not be located within 100 feet of a lot in any adjoining residential district, and the applicant shall show that adequate measures and controls shall be taken to prevent offensive noise and odor. This use does not allow boarding of animals unless they are being treated at the facility. [Ord. 89-O-446 § 1.]

**17.124.090 Cemetery, crematory, mausoleum, columbarium.**

A cemetery, crematory, mausoleum, or columbarium shall have its principal access on a street adequate to serve the use with ingress and egress so designed as to minimize traffic congestion and shall provide required off-street parking space.

B. Cemeteries located within any "R" district or abutting an "R" district shall establish and maintain appropriate landscaping and screening to minimize the conflict with abutting residential use. No mortuary or crematorium can be within 100 feet of an adjacent street or within 200 feet of a residential lot. [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 buildings shall be set back a minimum of 30 feet from a side or rear lot line, and the minimum front yard setback as established in the "R" district in which it is located. All off-street parking facilities shall be adequately screened from abutting property. [Ord. 89-O-446 § 1.]

**17.124.120 Community buildings, social halls, lodges, fraternal organizations, and clubs in an "R" district.**

All buildings shall be set back a minimum of 30 feet from a side or rear lot line, and the minimum front yard setback as established in the "R" district in which it is located. There shall be no external evidence of any incidental commercial activities taking place within the building. All buildings shall be located on a street adequate to serve the use and be able to provide access without causing traffic congestion on local residential streets. Any such use shall prove that there will be no harm to adjacent existing or potential residential development due to excessive traffic generation, noise, or other circumstances. [Ord. 89-O-446 § 1.]

**17.124.130 Drive-in theaters.**

Drive-in theaters shall be located on a street adequate to serve the use and be able to provide ingress and egress so designed as to minimize traffic congestion. The use shall be screened from an "R" district or dwelling so that any noise, lights, or signs shall not disturb residents. [Ord. 89-O-446 § 1.]

**17.124.140 Bed and breakfast facilities.**

"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. All residences proposed for bed and breakfast accommodations shall provide one off-street parking space per rental unit in addition to two spaces for the owner. In terms of eligibility and acceptability, preference will be given by the planning commission to residences applying for bed and breakfast accommodations which display significant architectural or historic character and quality. [Ord. 89-O-446 § 1.]

**17.124.150 Recreation vehicle parks.**

Recreation vehicle parks are regulated by, and must comply with, Health Division and Building Code requirements. The following additional standards shall also apply:

A. The space provided for each recreation vehicle shall be not less than 800 square feet in area, exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for other than recreation vehicles, and common open and landscaped areas.

B. Roadways, other than dedicated, public rights-of-way, shall not be less than 36 feet in width if parking is permitted on the margin of the roadway, or less than 28 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphaltic concrete, Portland cement concrete or similar impervious surface and designed to permit easy access to each recreation vehicle space. The roadway widths may be reduced for one-way travel lanes to a standard approved by the site plan committee.

C. Each recreation vehicle space shall be covered with crushed gravel or paved with asphalt, concrete or similar material and be designed to provide runoff of surface water. The part of the space which is not occupied by a recreation vehicle, not intended as an accessway to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is appropriately landscaped and thereafter maintained. One paved automobile parking space shall be located in the park equal to one (1) space per recreation vehicle park and three (3) spaces for the manager residence and guest parking.

D. There shall be provided trash receptacles for disposal of solid waste materials situated in convenient locations for the use of guests of the park and located in such a manner and be of such

capacity that there is no uncovered accumulation of trash at any time. Such trash receptacles shall be screened from public view.

E. Recreation vehicle parks shall maintain a minimum 20-foot setback from any abutting public streets. Said setback area shall be appropriately landscaped and maintained and a sight-obscuring fence, hedge or wall of not less than six feet in height shall be located at least 10 feet within the required setback area. Except for the area abutting public streets as described above, the park shall be screened on all other sides by a sight-obscuring fence, hedge or wall of not less than six feet in height and said fence, hedge or wall may be located on the property line. [Ord. 89-O-446 § 1.]

#### **17.124.160 Manufactured home parks.**

Manufactured home parks are regulated by the Department of Commerce/ Building Code provisions which contain rules establishing minimum safety standards for the design and construction of manufactured home parks. The following additional standards shall also apply:

A. Each space for a manufactured home shall contain not less than 3,000 square feet, exclusive of space provided for the common use of tenants, such as roadways, general use structures, guest parking, walkways and areas for recreation and landscaping purposes.

B. Roadways, other than dedicated, public rights-of-way, shall not be less than 36 feet in width if parking is permitted on the margin of the roadway, or less than 28 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphaltic concrete, Portland cement concrete or similar impervious surface and designed to permit easy access to each mobile home space. The roadway widths may be reduced for one-way travel lanes to a standard approved by the site plan committee.

C. The manufactured home park shall maintain a minimum 20-foot setback from any abutting public streets. and Said setback area shall be appropriately landscaped and maintained and a sight-obscuring fence, hedge or wall of not less than six feet in height shall be located at least 10 feet within the required setback area.. Except for the area abutting public streets as described above, the park shall be screened on all other sides by a sight-obscuring fence, hedge or wall of not less than six feet in height and said fence, hedge or wall may be located on the property line.

D. Each manufactured home situated within the manufactured home park shall be required to install and maintain rodent-proof skirting around the unit within 30 days of first locating within the park. [Ord. 89-O-446 § 1.]

E. Two (2) parking spaces must be provided for each space.

#### **17.124.170 Short-term rentals.**

Any existing dwelling in any of the residential zones and in the general commercial (C-3) zone can be used for short-term rental purposes as set forth in that zone and pursuant to certain regulations as follows:

A. The property owner or holder shall obtain a business license from the city of Brookings and register the dwelling on a separate form.

B. A transient room tax will be applied pursuant to Chapter 3.10 BMC.

C. The property owner shall provide the name, address and telephone number of a local representative, either a property management business or an individual living within the Brookings urban growth boundary, who has the authority to make or have repairs made, resolve disputes and/or terminate occupancy if necessary.

D. Representative's name and telephone number shall be posted within the dwelling.

E. Applicant shall subscribe to a scheduled waste collection service and provide garbage receptacles on the property. [Ord. 01-O-446.MM.]



**17.124.180 Dwelling groups.**

Dwelling groups shall be allowed on lots that can not otherwise be divided and are less than four acres in size, subject to the following standards.

A. Density. The number of dwelling units allowed shall be established by dividing the total lot area by the minimum lot area of the underlying zone.

1. All residential buildings shall be the type of dwelling unit as allowed in the underlying zone.

2. Buildings may be clustered on the lot.

B. Setbacks. The distance between any principal buildings and the property line shall be not less than established in the zone in which the dwelling group is located. The minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however, that in no case shall the distance be less than 10 feet. An inner courtyard providing access to double-row dwelling groups shall be a minimum of 20 feet in width.

C. Access. Every building containing a dwelling in the group shall be within 60 feet of an access driveway of at least 20 feet in width providing vehicular access from a public street. This 20 foot wide driveway shall have "No Parking" signs installed along the entire length.

D. Neighborhood Character. The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups.

E. All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Chapter 17.80 BMC. [Ord. 95-O-446.X § 2; Ord. 89-O-454 § 2; Ord. 89-O-446 § 1.]

F. Each dwelling unit must have two parking spaces provided within a garage or carport or on a paved surface adjacent to the dwelling. These parking spaces must be available for parking. Spaces may not be converted to habitable space, used for storage of goods, equipment, inoperable vehicles, or other items.

**17.124.190 Keeping of livestock.**

A. No horses, cattle, sheep, or other livestock shall be kept on a lot less than three acres in area. No more than two head may be kept on the first three acres; however, one additional animal may be kept for each acre over three acres.

B. All animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property. Barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line.

C. Odor, dust, noise, flies or drainage shall not be permitted to create or become a nuisance to surrounding property.

**17.124.200 Temporary living quarters for caretakers.**

Where it can be demonstrated that there is a need for a temporary caretaker of either property or individuals residing on the subject property, living quarters may be provided temporarily in the existing dwelling or an accessory structure. The following standards shall apply:

A. Detailed explanation of the need for a caretaker.

B. Plot plan indicating size, layout, and location of the proposed living quarters.

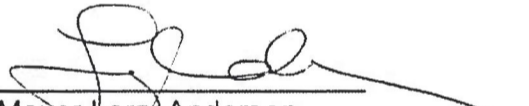
C. Kitchen facilities shall be limited to a sink, refrigerator, hot plate, and microwave.

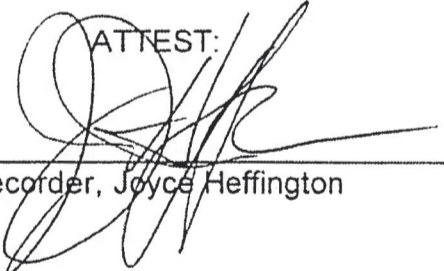
- D. The applicant shall sign an agreement to remove the kitchen facilities and no longer use the temporary living quarters as a separate dwelling once the need for a caretaker no longer exists.
- E. A written request to the Planning Department must be submitted annually indicating there is an on-going need for the caretakers living quarters.

17.124.210 Multi-family dwelling standards in the R-2 zone.

- A. An area equal to at least 15 percent of the site area, inclusive of required setback yards, shall be devoted to usable open space recreation areas. This area must be cleared of brush or obstructions and not used for temporary or regular parking of vehicles.
- B. If commercial dumpsters are to be used, they shall be appropriately screened.

First reading: June 23 2008  
Second reading: June 23, 2008  
Passage: June 23, 2008  
Effective date: July 23, 2008  
Signed by me in authentication of its passage this 29<sup>th</sup> day of June, 2008.

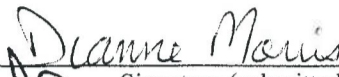
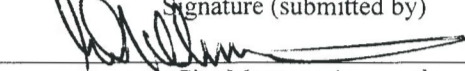
  
\_\_\_\_\_  
Mayor Larry Anderson

ATTEST:  
  
\_\_\_\_\_  
City Recorder, Joyce Heffington

**CITY OF BROOKINGS**  
**COUNCIL AGENDA REPORT**

Meeting Date: June 9, 2008

Originating Dept: Planning

  
\_\_\_\_\_  
Signature (submitted by)  
  
\_\_\_\_\_  
City Manager Approval

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Subject: A hearing on File LDC-8-08 to consider revisions to Chapter 17.124, Provisions Applying to Special Uses of the Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve File LDC-8-08, revisions to Chapter 17.124, Provisions Applying to Special Uses, BMC.

Financial Impact: None.

Background/Discussion: The City's Land Development Code (LDC) Committee reviewed and made revisions to Chapter 17.124, Provisions Applying to Special Uses, BMC. The Planning Commission also reviewed these changes and recommend approval. The current version of this Chapter is a mixture of specific Conditional Use Permit (CUP) standards and other miscellaneous standards. Items not related to CUP standards were removed and inserted in more appropriate places. Following are some of the more important changes:

- The title of this Chapter was changed to better describe what it covers.
- 17.124.010, Day Care and Nursery Schools. State law recently changed the number of children that can be cared for in these facilities without special Planning approval.
- 17.124.050, Stables and Paddocks, Private. This is better covered in 17.124.190, Keeping of Livestock.
- 17.124.060, Outside Storage and Display. This is dealt with in the specific Commercial/Industrial zones.
- Several of these Chapters only allowed the use if located on an arterial street. The only arterial street in Brookings is Chetco Ave. The language was changed to "...shall be located on a street adequate to serve the use."
- 17.124.160, Manufactured Home Parks. This Section had several requirements that were in conflict with State Building Codes. Building Codes, in this instance, has the authority to limit the criteria Planning can use when reviewing and approving a manufactured home park.
- 17.124.200, Temporary Living Quarters for Caretakers. These are the standards for this new use.

Policy Considerations: N/A

Attachment(s): **Attachment A** – Draft version of Chapter 17.124, BMC.

**APPROVED BY CITY COUNCIL ON**

6-9-08

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

SUBJECT: Land Development Code Amendment  
FILE NO: LDC-8-08  
HEARING DATE: May 6, 2008

REPORT DATE: April 17, 2008  
ITEM NO: 7.2

**GENERAL INFORMATION**

APPLICANT: City Initiated.  
REPRESENTATIVE: City Staff.  
REQUEST: Revisions to Chapter 17.124, Provisions Applying to Special Uses, Brookings Municipal Code (BMC).  
PUBLIC NOTICE: Published in local newspaper.

**BACKGROUND INFORMATION**

The City's Land Development Code (LDC) Committee reviewed and made revisions to Chapter 17.124, Provisions Applying to Special Uses, BMC. The current version on this Chapter is a mixture of specific Conditional Use Permit (CUP) standards and other miscellaneous standards. Items not related to CUP standards were removed and inserted in more appropriate places. Following are some of the more important changes:

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- 17.124.060, Outside Storage and Display. This is dealt with in the specific Commercial/ Industrial zones.
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- 17.124.160, Manufactured Home Parks. This Section had several requirements that were in conflict with State Building Codes. Building Codes, in this instance, has the authority to limit the criteria Planning can use when reviewing and approving a manufactured home park.
- 17.124.200, Temporary Living Quarters for Caretakers. These are the standards for this new use.

Following this report is the draft version of Chapter 17.124, BMC (Attachment A).

**RECOMMENDATION**

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-8-08, Chapter 17.124, Provisions Applying to Special Uses, BMC, to the City Council.

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Chapter 17.124

**PROVISIONS APPLYING TO SPECIAL USES**

***SPECIFIC STANDARDS APPLYING TO CONDITIONAL USES***

Draft March 19, 2008

Text to be added ***bold and italicize***.

Text to be omitted has ~~strikethrough~~.

Sections:

- 17.124.010 Day care or nursery schools ~~and kindergartens~~
- 17.124.011 Public or Private Schools***
- 17.124.020 Commercial excavation – Removal of earth products.
- 17.124.030 Utilities.
- 17.124.040 Poultry farms and eggeries.
- ~~17.124.050 Stables and paddocks, private.~~
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- 17.124.180 Dwelling groups.***
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17.124.010 ***Day care and nursery schools and kindergartens***

A. Facilities for ~~13~~ ***17*** or more children are subject to these provisions, ~~the provisions of Chapter 17.136 BMC, Conditional Use Permits, and all State regulations and requirements. of the Child Services Division.~~ All preschool children residing in the dwelling which also serves as a day care or nursery facility shall be counted in the total number of children in such facility for purposes of calculating the category of such facility.

B. Day care or nursery school ~~and kindergarten~~ facilities located in any residential zone shall have a minimum site size of 10,000 square feet. ~~Day care, nursery school and kindergarten~~

Facilities located in the C-3 zone shall be located on lots of sufficient size to provide for required buildings, parking, pickup and drop off area, and outdoor play area.

C. All such facilities shall provide and thereafter maintain outdoor play areas with a minimum area of 75 square feet per child at total capacity and a sight-obscuring fence, wall or vegetative hedge of at least four feet but not more than six feet in height shall be provided, separating the play area from abutting lots with residential uses.

D. Adequate off-street parking and loading space shall be provided. [Ord. 94-O-446.S § 2; Ord. 92-O-446.H § 3; Ord. 89-O-446 § 1.]

*E. Must provide copies of any license/ permit required by Federal or State agencies to operate the school.*

**17.124.011 Public or private schools.**

*Must provide copies of any license/ permit required by Federal or State agencies to operate the school.*

**17.124.020 Commercial excavation – Removal of earth products.**

A. Before a conditional use permit for the commercial excavation and removal of earth products can be granted, plans and specifications showing the location of the premises, grading plan, existing and proposed drainage, proposed truck access, existing vegetation and plant material on the site, and details of proposed reclamation following excavation and removal of earth products relating to regrading and revegetation of the site shall be submitted to, and approved by the planning commission.

B. Any deviation from the plans as approved by the planning commission will serve as grounds for revocation of the conditional use permit.

C. In reviewing the application, the commission may consider the most appropriate use of the land, distances from the property lines, the protection of pedestrians and vehicles, the prevention of the collection and stagnation of water at all stages of the operation, screening and/or berming of the excavation project site from adjoining properties, and the reclamation and rehabilitation of the land upon termination of the operation.

D. A bond may be required to ensure performance for reclamation of the project site following removal of such earth products. [Ord. 89-O-446 § 1.]

*E. Erosion control measures must be implemented. If the disturbance is greater than one acre in size, a permit from Dept. of Environmental Quality (DEQ) is required. A copy of the approved DEQ permit must be provided to the City.*

*F. If any disturbance will be on slopes greater than 15% the applicant must comply with Chapter 17.100, Hazardous Building Site Protection, BMC.*

*G. Applicant must provide copies of any Federal, State, or local permits/ licenses required for this use.*

**17.124.030 Utilities**

The erection, construction, alteration or maintenance by public utility or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, ~~but not including buildings~~, shall be permitted in any district. Utility transmission and distribution lines, poles and towers may exceed the height limits otherwise provided for in this code. [Ord.

89-O-446 § 1.] *Any proposed outside storage of equipment must be screened by a six foot sight-obscuring fence or hedge.*

**17.124.040 Poultry farms and eggeries.**

Any building housing poultry, consisting of more than 10 chickens or other poultry, shall be located not less than 200 feet from every lot line. Odor, dust, noise, feathers, flies or drainage shall not be permitted to create or become a nuisance to surrounding property. [Ord. 89-O-446 § 1.]

**17.124.050 Stables and paddocks, private.**

All stables and paddocks shall be located on the rear half of a lot and not closer than 50 feet to any property line. Odor, dust, noise, flies or drainage shall not be permitted to create or become a nuisance to surrounding property. [Ord. 89-O-446 § 1.]

**17.124.060 Furniture and appliance businesses, outside storage and display.**

~~Outdoor storage, display or sales of new or used furniture, household appliances, apparatus, floor coverings or similar merchandise is expressly prohibited, but this does not apply to an occupant of property used only for residential purposes within an "R" district where storage is not visible from without the premises and violates no other ordinance of the city. Any existing use of commercial or industrial premises, which was lawful on the effective date of this code, but which violates the provisions of this section, shall be discontinued within six months after written notification to the owner or occupant of the premises. [Ord. 89-O-446 § 1.]~~

**17.124.070 Kennels, riding academies and public stables.**

Kennels, riding academies, and public stables shall be located not less than 200 feet from any property line, shall provide automobile and truck ingress and egress, and shall also provide parking and loading spaces so designed as to minimize traffic hazards and congestion. Applicants shall show that odor, dust, noise, and drainage shall not constitute a nuisance, hazard, or health problem to adjoining property or uses. [Ord. 98-O-446.DD § 11; Ord. 89-O-446 § 1.]

**17.124.080 Animal hospitals and veterinary clinics.**

A veterinary clinic or animal hospital shall not be located within 100 feet of a lot in any adjoining residential district, and the applicant shall show that adequate measures and controls shall be taken to prevent offensive noise and odor. *This use does not allow boarding of animals unless they are being treated at the facility.* [Ord. 89-O-446 § 1.]

**17.124.090 Cemetery, crematory, mausoleum, columbarium.**

A cemetery, crematory, mausoleum, or columbarium shall have its principal access ~~on an arterial street (as designated by the arterial street map adopted by resolution of the city council)~~ *on a street adequate to serve the use* with ingress and egress so designed as to minimize traffic congestion and shall provide required off-street parking space.

B. Cemeteries located within any "R" district or abutting an "R" district shall establish and maintain appropriate landscaping and screening to minimize the conflict with abutting residential use. *No mortuary or crematorium can be within 100 feet of an adjacent street or within 200 feet of a residential lot.* [Ord. 89-O-446 § 1.]

**17.124.100 Churches, hospitals, or other religious or eleemosynary charitable institutions.**

In any "R" district, all such uses shall be located on ~~an arterial street (as designated by the arterial street map adopted by resolution of the city council)~~, *on a street adequate to serve the use*. All buildings shall be set back a minimum of 30 feet from a side or rear lot line, and the minimum front yard setback as established in the "R" district in which it is located. All off-street parking facilities shall be adequately screened from abutting property. [Ord. 89-O-446 § 1.]

**17.124.110 ~~Circuses, carnivals, animal rides, animal displays, amusement rides.~~**

~~A circus, carnival, animal ride, animal display or amusement ride may be permitted for a term not to exceed 90 days in any zoning district with the written approval of the city council. [Ord. 89-O-446 § 1]~~

**17.124.120 Community buildings, social halls, lodges, fraternal organizations, and clubs in an "R" district.**

All buildings shall be set back a minimum of 30 feet from a side or rear lot line, and the minimum front yard setback as established in the "R" district in which it is located. There shall be no external evidence of any incidental commercial activities taking place within the building. All such uses *buildings* shall be located on ~~an arterial street (as designated by the arterial street map adopted by resolution of the city council)~~, *a street adequate to serve the use* and be able to provide access without causing traffic congestion on local residential streets. ~~and~~ Any such use shall prove that there will be no harm to adjacent existing or potential residential development due to excessive traffic generation, noise, or other circumstances. [Ord. 89-O-446 § 1.]

**17.124.130 Drive-in theaters.**

Drive-in theaters shall be located ~~only on an arterial street (as designated by the arterial street map adopted by resolution of the city council)~~, *on a street adequate to serve the use and be able to* provide ingress and egress so designed as to minimize traffic congestion. *The use* shall be so screened from an "R" district or dwelling *so* that any noise, *lights, or signs* shall not disturb residents. ~~or prospective residents, shall maintain signs and other lights only in such a way as not to disturb neighboring residents, and shall be so designed that the screen will be set back from and shall not be clearly visible from any street or highway.~~ [Ord. 89-O-446 § 1.]

**17.124.140 Bed and breakfast facilities.**

~~A bed and breakfast facility is any establishment in a residential district having rooms or apartments rented or kept for rent to travelers or transients for a charge or fee paid or to be paid for rental or use of such facility. "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.~~ All residences proposed for bed and breakfast accommodations shall be owner-occupied and shall provide one off-street parking space per rental unit in addition to two spaces for the owner. In terms of eligibility and acceptability, preference will be given by the planning commission to residences applying for bed and breakfast accommodations which display significant architectural or historic character and quality. [Ord. 89-O-446 § 1.]

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#### 17.124.150 Recreation vehicle parks.

Recreation vehicle parks are regulated by, *and must comply with*, Health Division pursuant to ~~ORS 446.310 to 446.990 and OAR 333-31-001 to 333-31-090~~ which contain rules for the construction, operation and use of tourist facilities that are necessary to protect the health and welfare of persons using these facilities. *and Building Code requirements*. The following additional standards shall also apply:

A. The space provided for each recreation vehicle shall be not less than 800 square feet in area, exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for other than recreation vehicles, and common open and landscaped areas.

B. Roadways, other than dedicated, public rights-of-way, shall not be less than 36 feet in width if parking is permitted on the margin of the roadway, or less than 28 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphaltic concrete, Portland cement concrete or similar impervious surface and designed to permit easy access to each recreation vehicle space. The roadway widths may be reduced for one-way travel lanes to a standard approved by the site plan committee.

C. Each recreation vehicle space shall be covered with crushed gravel or paved with asphalt, concrete or similar material and be designed to provide runoff of surface water. The part of the space which is not occupied by a recreation vehicle, not intended as an accessway to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is appropriately landscaped and thereafter maintained. One paved automobile parking space shall be located in the park equal to one (1) space per recreation vehicle park *and three (3) spaces for the manager residence and guest parking*.

D. There shall be provided trash receptacles for disposal of solid waste materials situated in convenient locations for the use of guests of the park and located in such a manner and be of such capacity that there is no uncovered accumulation of trash at any time. Such trash receptacles shall be screened from public view.

E. Recreation vehicle parks shall maintain a minimum 20-foot setback from any abutting public streets. ~~and~~ Said setback area shall be appropriately landscaped and maintained and a sight-obscuring fence, hedge or wall of not less than six feet in height *shall be located at least 10 feet within the required setback area*. Except for the ~~access roadway into the park area abutting public streets as described above~~, the park shall be screened on all *other* sides by a sight-obscuring fence, hedge or wall of not less than six feet in height and said fence, hedge or wall shall *may* be located at the ~~above listed 20-foot setback~~ *on the property line*. [Ord. 89-O-446 § 1.]

#### 17.124.160 Mobile Manufactured home parks.

~~Mobile~~ *Manufactured* home parks are regulated by the Department of Commerce/ Building Code provisions pursuant to ~~ORS 446.003 to 446.145 and OAR 918, Division 600 814-28-010 and OAR 814-28-131~~ which contain rules establishing minimum safety standards for the design and construction of ~~mobile~~ *manufactured* home parks. The following additional standards shall also apply:

A. Each space for a ~~mobile~~ *manufactured* home shall contain not less than 3,000 square feet, exclusive of space provided for the common use of tenants, such as roadways, general use structures, guest parking, walkways and areas for recreation and landscaping purposes.

B. Roadways, other than dedicated, public rights-of-way, shall not be less than 36 feet in width if parking is permitted on the margin of the roadway, or less than 28 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphaltic concrete, Portland cement concrete or similar impervious surface and designed to permit easy access to each mobile

home space. The roadway widths may be reduced for one-way travel lanes to a standard approved by the site plan committee.

~~C. There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the park.~~

~~D. There shall be provided trash receptacles for disposal of solid waste materials situated in convenient locations for the use of occupants of the mobile home park and located in such a manner and be of such capacity that there will be no uncovered accumulation of trash at any time. Such trash receptacles shall be screened from public view.~~

EC. The mobile *manufactured* home park shall maintain a minimum 20-foot setback from any abutting public streets. and Said setback area shall be appropriately landscaped and thereafter maintained and a sight-obscuring fence, hedge or wall of not less than six feet in height *shall be located at least 10 feet within the required setback area.* ~~Except at the entry, exit, and vision clearance areas,~~ Except for the *area abutting public streets as described above*, the park shall be screened on all *other* sides by a sight-obscuring fence, hedge or wall of not less than six feet in height and said fence, hedge or wall ~~shall~~ *may* be located ~~at the above listed 20-foot setback on the property line.~~

FD. Each mobile *manufactured* home situated within the mobile *manufactured* home park shall be required to install and maintain rodent-proof skirting around the unit within 30 days of first locating within the park. [Ord. 89-O-446 § 1.]

~~GE. Two (2) parking spaces must be provided for each space.~~

#### **17.124.170 Short-term rentals.**

Any existing dwelling in any of the residential zones and in the general commercial (C-3) zone can be used for short-term rental purposes as set forth in that zone and pursuant to certain regulations as follows:

A. The property owner or holder shall obtain a business license from the city of Brookings and register the dwelling on a separate form.

B. A transient room tax will be applied pursuant to Chapter 3.10 BMC.

C. The property owner shall provide the name, address and telephone number of a local representative, either a property management business or an individual living within the Brookings urban growth boundary, who has the authority to make or have repairs made, resolve disputes and/or terminate occupancy if necessary.

D. Representative's name and telephone number shall be posted within the dwelling.

E. Applicant shall subscribe to a scheduled waste collection service and provide garbage receptacles on the property. [Ord. 01-O-446.MM.]

#### **17.124.180 Dwelling groups.**

*Dwelling groups shall be allowed on lots that can not otherwise be divided and are less than four acres in size, subject to the following standards.*

A. *Density. The number of dwelling units allowed shall be established by dividing the total lot area by the minimum lot area of the underlying zone.*

*1. All residential buildings shall be single-family the type of dwelling unit as allowed in the underlying zone.*

*2. Buildings may be clustered on the lot.*

B. **Setbacks.** The distance between any principal buildings and the property line shall be not less than established in the zone in which the dwelling group is located. The minimum distance between residential buildings shall be twice the minimum side yard setback that would be required for the tallest building on the lot; provided, however, that in no case shall the distance be less than 10 feet. ~~This requirement shall also apply to portions of the same~~

~~building separated from each other by a court or other open space.~~ An inner courtyard providing access to double-row dwelling groups shall be a minimum of 20 feet in width.

C. *Access.* Every building containing a dwelling in the group shall be within 60 feet of an access ~~roadway having a curb-to-curb section~~ driveway of at least 20 feet in width providing vehicular access from a public street. This 20 foot wide driveway shall have "No Parking" signs installed along the entire length.

D. *Neighborhood Character.* The development of dwelling groups shall respect the character of both the neighborhood in which it is located and the properties adjacent to said dwelling group. Emphasis shall be placed on retention of neighborhood character and privacy of adjacent properties when reviewing dwelling groups.

E. *All dwelling groups shall be subject to the review and approval of the site plan committee, as provided in Chapter 17.80 BMC. [Ord. 95-O-446.X § 2; Ord. 89-O-454 § 2; Ord. 89-O-446 § 1.]*

F. *Each dwelling unit must have two parking spaces provided within a garage or carport or on a paved surface adjacent to the dwelling. These parking spaces must be available for parking. Spaces may not be converted to habitable space, used for storage of goods, equipment, inoperable vehicles, or other items.*

#### **17.124.190 Keeping of livestock.**

- A. *No horses cattle, sheep, or other livestock shall be kept on a lot less than three acres in area. No more than two head may be kept on the first three acres; however, one additional animal may be kept for each acre over three acres.*
- B. *All animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property. Barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line.*
- C. *Odor, dust, noise, flies or drainage shall not be permitted to create or become a nuisance to surrounding property.*

#### **17.124.200 Temporary living quarters for caretakers.**

*Where it can be demonstrated that there is a need for a temporary caretaker of either property or individuals residing on the subject property, living quarters may be provided temporarily in the existing dwelling or an accessory structure. The following standards shall apply:*

- A. *Detailed explanation of the need for a caretaker.*
- B. *Plot plan indicating size, layout, and location of the proposed living quarters.*
- C. *Kitchen facilities shall be limited to a sink, refrigerator, hot plate, and microwave.*
- D. *The applicant shall sign an agreement to remove the kitchen facilities and no longer use the temporary living quarters as a separate dwelling once the need for a caretaker no longer exists.*
- E. *A written request to the Planning Department must be submitted annually indicating there is an on-going need for the caretakers living quarters.*



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