



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/12/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment
DLCD File Number 004-09

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, May 20, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

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

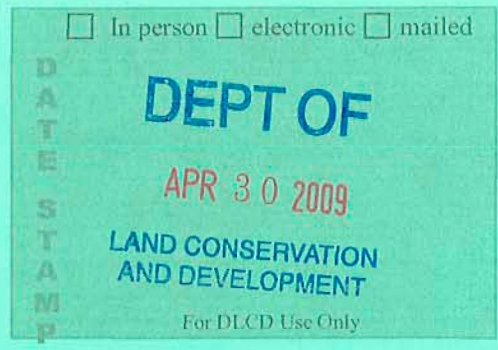
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FORM 2

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**



Jurisdiction: **City of Brookings** Local file number: **LDC-2-09**
 Date of Adoption: **4/27/2009** Date Mailed: **4/29/2009**
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 1/15/2009

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

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
 Revisions to Land Development code Chapter 17.04, Development Permit Procedures, to provide for approval period beginning after all appeals are exhausted.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A** to:
 Zone Map Changed from: **N/A** to:
 Location: **N/A** Acres Involved:
 Specify Density: Previous: **N/A** New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO
 Did DLCD receive a Notice of Proposed Amendment...
 45-days prior to first evidentiary hearing? Yes No
 If no, do the statewide planning goals apply? Yes No
 If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. See First Page

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

Curry County

Local Contact: **Dianne Morris**

Phone: (541) 469-1138 Extension:

Address: **898 Elk Dr.**

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

City: **Brookings**

Zip: **97415-**

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

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**

ORDINANCE 09-O-632

IN THE MATTER OF ORDINANCE 09-O-632, AN ORDINANCE AMENDING CHAPTER 17.04, DEVELOPMENT PERMIT PROCEDURES, OF TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.04, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.04, Development Permit Procedures, of Title 17, Land Development Code, of the Brookings Municipal Code in its entirety.

Section 2. Amends Chapter 17.04. Chapter 17.04, Development Permit Procedures, is hereby amended to read as follows:

**Chapter 17.04
DEVELOPMENT PERMIT PROCEDURES**

Sections:

- 17.04.010 Purpose.
- 17.04.020 Development permit required.
- 17.04.030 Burden of proof.
- 17.04.040 Limitation on new applications.
- 17.04.050 Permit issuance, appeals of a City decision, and effective date of approval.
- 17.04.060 Lands in violation.
- 17.04.070 Exemptions from requirements to do improvements to public infrastructure.
- 17.04.080 Preapplication conference.
- 17.04.090 Process and Decision.

17.04.010 Purpose.

Development permits are issued to authorize the use and development of land consistent with the provisions of this code.

17.04.020 Development permit required.

No person shall engage in or cause the development of land for which a development permit has not been issued. Development permits shall be in a form prescribed by the city. Development permits are required for:

- A. Building permits; and/or
- B. Land use decisions; and/or

- C. Development on a hazardous building site as found in Chapter 17.100; and/or
- D. Other development requiring written authorization in this Code.

Making an application for a development permit is described in Chap. 17.80.030, Site Plan Approval, BMC or for hazardous building sites, Chapter 17.100.

17.04.030 Burden of proof.

In any land use decision, the burden of producing substantial evidence to demonstrate compliance with the applicable criteria is upon the applicant. If adequate evidence is not provided the application must be denied.

17.04.040 Limitation on new applications.

If a land use decision application is denied, said application shall not be eligible for resubmittal for one year from the date of said denial. In order to resubmit an application which has been denied within one year of the initial submittal, a new application affecting the same property must be, in the opinion of the Planning Director, substantially different from the application denied, or conditions must have changed to an extent that further consideration is warranted.

17.04.050 Permit issuance, appeals of a City decision, and effective date of approval.

Development permits shall be issued by the city manager or their designee according to the provisions of this code. Neither the city building official nor any other state or local official shall issue a permit for use, development or occupation of a structure which has not been approved according to this code.

An appeal of an Administrative Decision or a Planning Commission Decision may be filed with the Planning Department no later than 15 days following the date of mailing (postmark date) of the Notice of the Final Order.

The effective date of approval in any land use decision under this Code is the date upon which the decision is no longer appealable.

17.04.060 Lands in violation.

The city manager or their designee shall not issue a development permit for the partitioning, subdivision, development, or use of land that has been previously divided in violation of state or local codes then in effect, or divided in violation of this code subsequent to its adoption, or otherwise developed in violation of this code, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the proposed development in a manner provided by this code. (Ord. 89-0-446 1.)

17.04.070 Exemptions from requirement to do improvements to public infrastructure.

The developments and activities listed below are exempt from the requirements to do improvements to public infrastructure, but are nevertheless subject to the provisions of this code:

- A. Remodel, addition, alteration, or repair of an existing residence for residential use, or siting of an accessory structure;
- B. Remodel, alteration or repair to a commercial structure resulting in no greater impacts or intensity of use.

C. All structures damaged or destroyed by fire or acts of God provided there is no increase in original floor area, unless otherwise required by law, or in density, nor expansion of use of the original structure is involved. [Ord. 92-O-446.K § 2; Ord. 90-O-446.A § 1; Ord. 89-O-446 § 1.]

17.04.080 Preapplication conference.

A. An applicant or the applicant's authorized representative shall request the city manager or their designee to arrange a preapplication conference, unless the applicant and director agree that the conference is not needed. Such preapplication conference will be conducted by the Site Plan Committee, or in the case of a subdivision, utilize the process found in BMC 17.172.070.

B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this code; to provide for an exchange of information regarding applicable elements of the comprehensive plan and development code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

C. Any multiple-family project involving more than four dwelling units, a Planned Community, dwelling group, or rear lot development requires a rough sketch conceptual plan to be reviewed in the preapplication conference.


D. The applicant shall be provided with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application. [Ord. 89-O-446 § 1.]

17.04.090 Process and Decision

The review process and determination of completeness of an application for a subdivision is found in BMC 17.172.070. The review process and determination of completeness for other applications is found in BMC 17.80.050 through 17.80.070, or for a hazardous building site, in Chapter 17.100, BMC.

First reading: April 27th, 2009
Second reading: April 27th, 2009
Passage: April 27th, 2009
Effective date: May 27th, 2009

Signed by me in authentication of its passage this 28th day of April, 2009.



Mayor Larry Anderson

ATTEST:



City Recorder Joyce Heffington

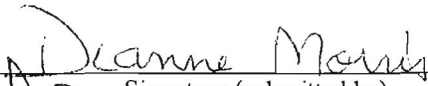
FININGS IN
SUPPORT OF AMENDMENT

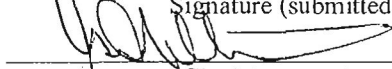
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Originating Dept: Planning



Signature (submitted by)


City Manager Approval

Subject: A hearing on File LDC-2-09 for consideration and possible adoption of revisions to Chapter 17.04, Development Permit Procedures, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.04, Development Permit Procedures, BMC.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee drafted revisions to Chapter 17.04, BMC. This Chapter discusses when permits are required, processing of these, resulting decisions etc. This is one of the first chapters in Title 17, Land Development Code, and contains general direction concerning processes.

Following are some of the highlights of the chapter:

- 17.04.030, "Burden of Proof", and 17.04.040, "Limitation on new applications", are stated elsewhere in the Code, but including them here as well, will help applicants to be aware of these important facts.
- 17.04.050, "Permit issuance, appeals of a City decision, and effective date of approval". This new language dealing with the effective date of approval is the result of a court case which states the approval period begins when the local jurisdiction makes its final decision regardless of appeals. If a jurisdiction has language as proposed in this revision, the approval period begins after all appeals are exhausted. Without this language the approval period could lapse while the applicant was in the appeals process.

Following this report is the draft version of Chapter 17.04, Development Permit Procedures, BMC (Attachment A).

Policy Considerations: N/A

Attachment(s): Draft version of Chapter 17.04, Development Permit Procedures

APPROVED BY CITY COUNCIL ON

4-27-09

Chapter 17.04

DEVELOPMENT PERMIT PROCEDURES

Draft February 18, 2009

Text to be added is *bold and italicized*.

Sections:

- 17.04.010 Purpose.
- 17.04.020 Development permit required.
- 17.04.030 Burden of proof.***
- 17.04.040 Limitation on new applications.***
- 17.04.050 Permit issuance, *appeals of a City decision, and effective date of approval.*
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- 17.04.070 Exemptions from requirements to do improvements to public infrastructure.
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- 17.04.090 Process and Decision

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17.04.070 Exemptions from requirement to do improvements to public infrastructure.

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17.04.080 Preapplication conference.

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B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this code; to provide for an exchange of information regarding applicable elements of the comprehensive plan and development code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

C. Any multiple-family project involving more than four dwelling units, a Planned ~~Community Unit Development~~, dwelling group, or rear lot development requires a rough sketch conceptual plan to be reviewed in the preapplication conference.

D. The applicant shall be provided with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application. [Ord. 89-O-446 § 1.]

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CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-2-09
HEARING DATE: April 7, 2009

REPORT DATE: March 30, 2009
ITEM NO: 7.6

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Revisions to Chapter 17.04, Development Permit Procedures,
Brookings Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

The Land Development Code (LDC) Committee drafted revisions to Chapter 17.04, BMC. This Chapter discusses when permits are required, processing of these, resulting decisions etc. This is one of the first chapters in Title 17, Land Development Code, and contains general direction concerning processes.

Following are some of the highlights of the chapter:

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Following this report is the draft version of Chapter 17.04, Development Permit Procedures, 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-2-09, Chapter 17.04, Development Permit Procedures, BMC, to the City Council.

Chapter 17.04

DEVELOPMENT PERMIT PROCEDURES

Draft February 18, 2009

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POSTNET barcode



CITY OF BROOKINGS

898 Elk Drive
Brookings, OR 97415
Ph: (541)469-2163 Fax: (541)469-3650

TO:

Plan Amendment Specialist
DLCD
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540