



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 005-09

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.

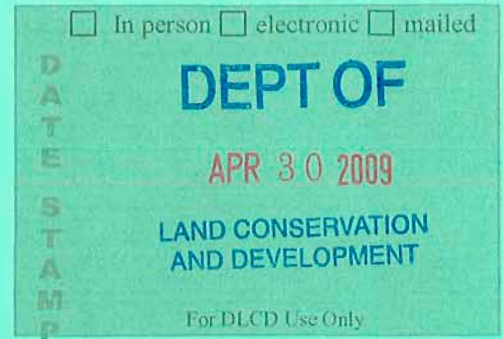
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

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

<paa> YA/email

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-3-09**

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

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".

Revisions to Land Development code Chapter 17.140, Amendments, to separate legislative hearing procedures from quasi-judicial hearing procedures for clarification.

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:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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 NO. 09-O-631

IN THE MATTER OF ORDINANCE 09-O-631, AN ORDINANCE AMENDING CHAPTER 17.140, AMENDMENTS, OF TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends to Chapter 17.140, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.140, Amendments, of Title 17, Land Development Code, of the Brookings Municipal Code in its entirety.

Section 2. Amends to Chapter 17.140. Chapter 17.140, Amendments, is hereby amended to read as follows:

Chapter 17.140
AMENDMENTS

Legislative, Text Amendments

And

Quasi-judicial, Comprehensive Plan Map and/or Zone Changes

Sections:

- 17.140.010 Procedure.
- 17.140.020 Proposed amendments.
- 17.140.030 Application for citizen initiated text amendment.
- 17.140.040 Application for Comprehensive Plan map and/ or zone change.
- 17.140.050 Qualified Comprehensive Plan map and/ or zone change
- 17.140.060 Action by the Planning Commission.
- 17.140.070 Action by the City Council.

17.140.010 Procedure.

The Brookings Comprehensive Plan and Land Development Code may be amended by adopting revisions to reflect changes in the law, clarify language or procedures, correct mistakes, or to reflect changing community conditions. Amendments to the text follow legislative procedures.

This Chapter also provides standards and procedures for quasi-judicial amendments to consider Comprehensive Plan map and/ or zone changes for specific properties.

17.140.020 Proposed Amendments.

A. An amendment to the text of the Comprehensive Plan or Land Development Code may be proposed as a legislative hearing by the City Council, Planning Commission, Planning Director, or an individual.

B. A Comprehensive Plan map and/ or zone change for specific properties may be initiated as a quasi-judicial hearing by a property owner, or the City.

17.140.030 Application for a Citizen Initiated Text Amendment.

A text amendment proposed by a citizen will first be presented to the Planning Commission in the form of a written request.

- If the Planning Commission believes there is merit to the request, the amendment will be considered City initiated and no fee will be charged.
- The Planning Commission will determine whether a workshop is needed prior to the hearing, depending on complexity of the matter.
- Staff will prepare draft language for the amendment and this will be reviewed by the Land Development Code (LDC) Committee.
- After review by the LDC Committee, a workshop or hearing before the Planning Commission will be scheduled.
- If the Planning Commission decides the City should not undertake the proposed text amendment, the citizen may take the request to the City Council for consideration during the Public Comment portion of the Council agenda.

17.140.040 Application for a Comprehensive Plan map and/ or Zone Change.

The property owner, authorized agent, or the City may make application for a zone change amendment by filing an application with the Planning Department for review by the Site Plan Committee pursuant to BMC [17.80](#). After Site Plan Committee determines the application is complete, a quasi-judicial hearing before the Planning Commission will be scheduled. Such application shall be accompanied by the following information:

- A. A completed Land Use Permit Application form;
- B. A description of the subject property, the requested zoning designation, and the proposed uses.
- C. Compatibility of the proposed zoning designation with the surrounding land uses.
- D. Impacts on City services and streets serving the area.
- E. Statement and supportive evidence indicating the manner in which the proposed zone change amendment is in conformance with the Comprehensive Plan for the City of Brookings, applicable provisions of this code, and any applicable Statewide Planning Goals.
- F. The application shall be accompanied by a non-refundable filing fee in the amount established by general resolution of the City Council. [Ord. 93-O-446.N § 6; Ord. 89-O-446 § 1.]

17.140.050 Qualified Comprehensive Plan map and/ or Zone Change

When considering a Comprehensive Plan map and/ or Zone Change the Planning Commission and City Council may qualify, or condition, a zone change such that:

- A. The property may not be utilized for all the uses ordinarily permitted in a particular zone;
- or
- B. The development of the site must conform to certain specified standards; or
- C. Any combination of the above.

A qualified zone change shall be dependent on findings of fact including but not limited to the following:

- A. Such limitations are deemed necessary to protect the best interests and insure compatibility with the surrounding property or neighborhood; or
- B. Such limitations are deemed necessary to protect public safety and the City's best interests and/ or infrastructure; or
- C. Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects.

17.140.060 Action by the Planning Commission.

A. Upon filing of said application for an amendment as described in BMC [17.140.030](#), or [17.140.040](#) the matter shall be referred to the Planning Commission and a public hearing shall be held on the matter for which notice shall be given as provided in Chapter [17.84](#) BMC.

B. In the case of a text amendment the Planning Commission shall review the draft language and make any revisions that are considered necessary. The Planning Commission shall recommend approval, qualified approval, or denial to the City Council.

C. In the case of a Comprehensive Plan/ zone change amendment the Planning Commission shall recommend the approval, approval with conditions, or denial of the application to the City Council.

D. In the case of a simple zone change amendment (changing from one residential zone to another residential zone, or from one commercial zone to another commercial zone) the Planning Commission is the decision-making body and may approve, approve with conditions, or deny the application.

E. If the proposed zone change is for property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The Commission may recommend an alternate zoning designation for the area under consideration. [Ord. 96-O-446.BB § 7; Ord. 89-O-446 § 1.]

17.140.070 Action by the City Council.

A. Following the Planning Commission hearing and recommendation for a Comprehensive Plan/ zone change, a hearing before City Council shall be scheduled. Notice of said public hearing shall be given as provided in Chapter [17.84](#) BMC.

B. In the case of a text amendment, the Council shall enact an ordinance approving or denying the amendment.

C. In the case of a zone change amendment, the Council shall enact an ordinance to approve, approve with conditions, or deny the application.

D. The Council may opt to remand the proposal to the Planning Commission for further review. A Council remand shall communicate specific concerns and issues for the Planning Commission's consideration. The Commission shall reconsider the proposal at their next regularly scheduled meeting and report their findings and recommendations at the next regular meeting of the City Council.

E. To adopt an ordinance for a zone change, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings

policies, generalized land use map, and any applicable Statewide Planning Goals.

B. Such limitations are deemed necessary to protect public safety and the City's best interests and/ or infrastructure; or

C. Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects.

17.140.060 Action by the Planning Commission.

A. Upon filing of said application for an amendment as described in BMC 17.140.030, or 17.140.040 the matter shall be referred to the Planning Commission and a public hearing shall be held on the matter for which notice shall be given as provided in Chapter 17.84 BMC.

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17.140.070 Action by the City Council.

A. Following the Planning Commission hearing and recommendation for a Comprehensive Plan/ zone change, a hearing before City Council shall be scheduled. Notice of said public hearing shall be given as provided in Chapter 17.84 BMC.

B. In the case of a text amendment, the Council shall enact an ordinance approving or denying the amendment.

C. In the case of a zone change amendment, the Council shall enact an ordinance to approve, approve with conditions, or deny the application.

D. The Council may opt to remand the proposal to the Planning Commission for further review. A Council remand shall communicate specific concerns and issues for the Planning Commission's consideration. The Commission shall reconsider the proposal at their next regularly scheduled meeting and report their findings and recommendations at the next regular meeting of the City Council.

E. To adopt an ordinance for a zone change, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the Comprehensive Plan goals,

- Staff will prepare draft language for the amendment and this will be reviewed by the Land Development Code (LDC) Committee.
- After review by the LDC Committee, a workshop or hearing before the Planning Commission will be scheduled.
- If the Planning Commission decides the City should not undertake the proposed text amendment, the citizen may take the request to the City Council for consideration during the Public Comment portion of the Council agenda.

17.140.040 Application for a Comprehensive Plan map and/ or Zone Change.

The property owner, authorized agent, or the City may make application for a zone change amendment by filing an application with the Planning Department for review by the Site Plan Committee pursuant to BMC 17.80. After Site Plan Committee determines the application is complete, a quasi-judicial hearing before the Planning Commission will be scheduled. Such application shall be accompanied by the following information:

- A. A completed Land Use Permit Application form;
- B. A description of the subject property, the requested zoning designation, and the proposed uses.
- C. Compatibility of the proposed zoning designation with the surrounding land uses.
- D. Impacts on City services and streets serving the area.
- E. Statement and supportive evidence indicating the manner in which the proposed zone change amendment is in conformance with the Comprehensive Plan for the City of Brookings, applicable provisions of this code, and any applicable Statewide Planning Goals.
- F. The application shall be accompanied by a non-refundable filing fee in the amount established by general resolution of the City Council. [Ord. 93-O-446.N § 6; Ord. 89-O-446 § 1.]

17.140.050 Qualified Comprehensive Plan map and/ or Zone Change

When considering a Comprehensive Plan map and/ or Zone Change the Planning Commission and City Council may qualify, or condition, a zone change such that:

- A. The property may not be utilized for all the uses ordinarily permitted in a particular zone; or
- B. The development of the site must conform to certain specified standards; or
- C. Any combination of the above.

A qualified zone change shall be dependent on findings of fact including but not limited to the following:

- A. Such limitations are deemed necessary to protect the best interests and insure compatibility with the surrounding property or neighborhood; or

**Chapter 17.140
AMENDMENTS**

Legislative, Text Amendments

And

Quasi-judicial, Comprehensive Plan Map and/or Zone Changes

DRAFT 2/26/09

Sections:

<u>17.140.010</u>	Procedure.
<u>17.140.020</u>	Proposed amendments.
<u>17.140.030</u>	Application for citizen initiated text amendment.
<u>17.140.040</u>	Application for Comprehensive Plan map and/ or zone change.
<u>17.140.050</u>	Qualified Comprehensive Plan map and/ or zone change
<u>17.140.060</u>	Action by the Planning Commission.
<u>17.140.070</u>	Action by the City Council.

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The Brookings Comprehensive Plan and Land Development Code may be amended by adopting revisions to reflect changes in the law, clarify language or procedures, correct mistakes, or to reflect changing community conditions. Amendments to the text follow legislative procedures.

This Chapter also provides standards and procedures for quasi-judicial amendments to consider Comprehensive Plan map and/ or zone changes for specific properties.

17.140.020 Proposed Amendments.

A. An amendment to the text of the Comprehensive Plan or Land Development Code may be proposed as a legislative hearing by the City Council, Planning Commission, Planning Director, or an individual.

B. A Comprehensive Plan map and/ or zone change for specific properties may be initiated as a quasi-judicial hearing by a property owner, or the City.

17.140.030 Application for a Citizen Initiated Text Amendment.

A text amendment proposed by a citizen will first be presented to the Planning Commission in the form of a written request.

- If the Planning Commission believes there is merit to the request, the amendment will be considered City initiated and no fee will be charged.
- The Planning Commission will determine whether a workshop is needed prior to the hearing, depending on complexity of the matter.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-3-09
HEARING DATE: April 7, 2009

REPORT DATE: March 30, 2009
ITEM NO: 7.5

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Revisions to Chapter 17.140, Amendments, Brookings
Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

The Land Development Code (LDC) Committee reviewed Chapter 17.140. The current Chapter lacks clarity concerning the type of amendment to be considered and then what criteria should be considered. Rather than attempt to work within the framework of the current version, a complete rewrite was considered appropriate. There are two types of amendments: legislative, which involve text amendments such as this Code revision, and Quasi-judicial, involving specific properties in a Comprehensive Plan Map and/ or zone change. The process and criteria are necessarily quite different. The draft version makes this distinction and describes the process.

Here is a brief synopsis of the chapter:

- 17.140.020, Proposed Amendments. Describes the different types of amendments.
- 17.140.030, Citizen Initiated Text Amendment. Describes process to consider whether to process this type of amendment.
- 17.140.040, Application for Comp. Plan/ zone change. Application requirements.
- 17.140.050, Qualified Comp. Plan/ zone change. Possible limitations that may be applied and reasons for these limitations.
- 17.140.060, Action by the Planning Commission. Planning Commission process.
- 17.140.070, Action by the City Council. City Council process.

Following this report is the draft version of Chapter 17.140 (Attachment A). The current version of Chapter 17.140 is also attached (Attachment B).

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-3-08, Chapter 17.140, Amendments, BMC, to the City Council.

17.140.070 Limitation on new applications.

In a case where an application for an amendment is denied by the city council, said application shall not be eligible for resubmittal for one year from the date of said denial, unless said denial was specifically stated to be without prejudice. A new application affecting the same property must be, in the opinion of the planning commission and the city council, substantially different from the application denied to be eligible for consideration within one year from the said date of denial, unless the first denial was denied without prejudice, or the planning commission finds that conditions have changed to an extent that further consideration is warranted. [Ord. 89-O-446 § 1.]

17.140.080 Resolution of intent to rezone.

If from the facts presented in the findings and the report and recommendations of the planning commission and required by BMC 17.140.040, the city council determines that the public health, safety, welfare, and convenience will be best served by a proposed change of zone, the council may indicate its general approval in principle of the proposed rezoning by the adoption of a "resolution of intent to rezone" the area involved. This resolution shall include any conditions, stipulations or limitations which the council may feel necessary to require in the public interest as a prerequisite to final action, including those provisions which the council may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the city council. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning, or by imposing setback, area or coverage restrictions not specified in the code for the zoning classification, or as a substitute for a variance. Upon completion of compliance action by the applicant, the council shall, by ordinance, effect such rezoning. The failure of the applicant to meet any or all conditions, stipulations or limitations contained in the resolution, including the time limit placed on the resolution, shall render the resolution of intent to rezone null and void, unless an extension is granted by the council upon recommendation of the planning commission. [Ord. 89-O-446 § 1.]

such public hearing at such other time or at such other place it desires. Notice of said public hearing shall be given as provided in Chapter 17.84 BMC, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park.

B. At the conclusion of the public hearing, the council may enact an ordinance granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment. The council shall in any event render its decision on any application within 60 days after the receipt of the report and recommendation of the planning commission or after the expiration of such 90 days as aforesaid; provided, however, that nothing shall prohibit the city council from, by motion, postponing disposition of the application to a definite time past the said 60-day period.

C. If the council proposes to adopt an amendment that is substantially altered from the recommendation of the commission, the council may refer said proposed amendment back to the commission for report and recommendation, which may include the holding of a joint meeting, before adoption. The commission shall consider said amendment within 30 days of said referral and report thereon at the next regular meeting of the city council. Failure to so report will be deemed to constitute approval by the planning commission.

D. Except as set forth herein, in order for the city council to adopt an ordinance for an amendment to this code, comprehensive plan document and/or map, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and generalized land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan. For amendments to the land development code that are legislative in nature, findings will not be required. [Ord. 96-O-446.BB § 7; Ord. 94-O-446.W § 2; Ord. 89-O-446 § 1.]

17.140.060 Burden of proof.

If findings are required, the specific findings made by the city council, upon the recommendation of the planning commission, to adopt an ordinance for an amendment to this code, comprehensive plan text and/or map must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the amendment. If no evidence is produced concerning the requisite findings listed in BMC 17.140.050(D), the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings of the ordinance adopting the amendment proposal. [Ord. 94-O-446.W § 2; Ord. 89-O-446 § 1.]

D. A map (Curry County assessor's plat) showing the subject property, and surrounding properties and a listing of current property owners within 250 feet of the property subject to this application;

E. Statement and supportive evidence indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan for the city of Brookings and each of the applicable provisions of this code together with any other data pertinent to the findings prerequisite to the granting of an amendment to this code, zoning map or comprehensive plan map and/or text as listed in BMC 17.140.050(D);

F. The application shall be accompanied by a filing fee in the amount established by general resolution of the city council. No part of the filing fee is refundable. [Ord. 93-O-446.N § 6; Ord. 89-O-446 § 1.]

17.140.040 Action by the planning commission.

A. Upon filing of said application for an amendment as described in BMC 17.140.030, or upon motion of the city council or planning commission for the initiation of an amendment, the matter shall automatically be referred to the planning commission and a public hearing shall be held on the matter for which notice shall be given as provided in Chapter 17.84 BMC, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The planning commission shall study the matter to the extent that it considers such study to be necessary, and shall, in open meeting, recommend the approval or disapproval of said amendment. The recommendation shall be made by a majority of those present at the planning commission meeting at which official action is taken on the application. The recommendation shall be reported to the city council by filing said recommendation with the city recorder. No further action of acceptance of the recommendation need be taken by the city council, but the city recorder shall, upon filing the recommendation, report the same to the city council at the next regular city council meeting after the filing of the recommendations.

B. The report and recommendations of the planning commission shall be made within 90 days after the filing of the application; provided, that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the commission to so report within 90 days without the aforesaid agreement shall be deemed to be a recommendation of approval of the proposed amendment of the planning commission. If the commission deems it advisable, it may recommend that the area under consideration for change in classification or designation be enlarged or diminished, or reclassified to a district or category other than the district or category originally initiated. [Ord. 96-O-446.BB § 7; Ord. 89-O-446 § 1.]

17.140.050 Action by the city council.

A. Hearing before City Council. Upon receipt of said report from the planning commission or upon the expiration of such 90 days as aforesaid, a public hearing is automatically set for the next regular city council meeting following the receipt of the report; provided, however, that the council may, by motion, set the date of

**Chapter 17.140
AMENDMENTS**

CURRENT
VERSION

Sections:

<u>17.140.010</u>	Procedure.
<u>17.140.020</u>	Initiation of amendments.
<u>17.140.030</u>	Application.
<u>17.140.040</u>	Action by the planning commission.
<u>17.140.050</u>	Action by the city council.
<u>17.140.060</u>	Burden of proof.
<u>17.140.070</u>	Limitation on new applications.
<u>17.140.080</u>	Resolution of intent to rezone.

17.140.010 Procedure.

This code or the comprehensive plan map or text may be amended by changing the boundaries of districts or designations or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment, by following the procedure of this code. [Ord. 89-O-446 § 1.]

17.140.020 Initiation of amendments.

An amendment to the text of this code or to the zoning map and/or to the comprehensive plan map or text may be initiated by:

- A. Motion of the planning commission;
- B. Motion of the city council;
- C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map redesignation. [Ord. 89-O-446 § 1.]

17.140.030 Application.

The property owner or his authorized agent may make application for an amendment by filing an application, on a land use application form, with the city manager or his designee for review by the site plan committee pursuant to BMC 17.80.030(B). Upon clearance from the site plan committee, the application will be scheduled for the next available planning commission hearing. Such application shall be accompanied by the following information:

- A. Name and address of the applicant;
- B. Title report and/or other documentation to provide evidence that the applicant is the owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application;
- C. Address, legal description and Curry County assessor's tax lot and map number of the subject property;

issues for the Planning Commission's consideration. The Commission shall reconsider the proposal at their next regularly scheduled meeting and report their findings and recommendations at the next regular meeting of the City Council.

E. To adopt an ordinance for a zone change, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the Comprehensive Plan goals, policies, generalized land use map, and any applicable Statewide Planning Goals.

A qualified zone change shall be dependent on findings of fact including but not limited to the following:

A. Such limitations are deemed necessary to protect the best interests and insure compatibility with the surrounding property or neighborhood; or

B. Such limitations are deemed necessary to protect public safety and the City's best interests and/ or infrastructure; or

C. Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects.

17.140.060 Action by the Planning Commission.

A. Upon filing of said application for an amendment as described in BMC 17.140.030, or 17.140.040 the matter shall be referred to the Planning Commission and a public hearing shall be held on the matter for which notice shall be given as provided in Chapter 17.84 BMC.

B. In the case of a text amendment the Planning Commission shall review the draft language and make any revisions that are considered necessary. The Planning Commission shall recommend approval, qualified approval, or denial to the City Council.

C. In the case of a Comprehensive Plan/ zone change amendment the Planning Commission shall recommend the approval, approval with conditions, or denial of the application to the City Council.

D. In the case of a simple zone change amendment (changing from one residential zone to another residential zone, or from one commercial zone to another commercial zone) the Planning Commission is the decision-making body and may approve, approve with conditions, or deny the application.

E. If the proposed zone change is for property containing a mobile home park, notice shall also be provided to tenants of such mobile home park. The Commission may recommend an alternate zoning designation for the area under consideration. [Ord. 96-O-446.BB § 7; Ord. 89-O-446 § 1.]

17.140.070 Action by the City Council.

A. Following the Planning Commission hearing and recommendation for a Comprehensive Plan/ zone change, a hearing before City Council shall be scheduled. Notice of said public hearing shall be given as provided in Chapter 17.84 BMC.

B. In the case of a text amendment, the Council shall enact an ordinance approving or denying the amendment.

C. In the case of a zone change amendment, the Council shall enact an ordinance to approve, approve with conditions, or deny the application.

D. The Council may opt to remand the proposal to the Planning Commission for further review. A Council remand shall communicate specific concerns and

- If the Planning Commission believes there is merit to the request, the amendment will be considered City initiated and no fee will be charged.
- The Planning Commission will determine whether a workshop is needed prior to the hearing, depending on complexity of the matter.
- Staff will prepare draft language for the amendment and this will be reviewed by the Land Development Code (LDC) Committee.
- After review by the LDC Committee, a workshop or hearing before the Planning Commission will be scheduled.
- If the Planning Commission decides the City should not undertake the proposed text amendment, the citizen may take the request to the City Council for consideration during the Public Comment portion of the Council agenda.

17.140.040 Application for a Comprehensive Plan map and/ or Zone Change.

The property owner, authorized agent, or the City may make application for a zone change amendment by filing an application with the Planning Department for review by the Site Plan Committee pursuant to BMC 17.80. After Site Plan Committee determines the application is complete, a quasi-judicial hearing before the Planning Commission will be scheduled. Such application shall be accompanied by the following information:

- A. A completed Land Use Permit Application form;
- B. A description of the subject property, the requested zoning designation, and the proposed uses.
- C. Compatibility of the proposed zoning designation with the surrounding land uses.
- D. Impacts on City services and streets serving the area.
- E. Statement and supportive evidence indicating the manner in which the proposed zone change amendment is in conformance with the Comprehensive Plan for the City of Brookings, applicable provisions of this code, and any applicable Statewide Planning Goals.
- F. The application shall be accompanied by a non-refundable filing fee in the amount established by general resolution of the City Council. [Ord. 93-O-446.N § 6; Ord. 89-O-446 § 1.]

17.140.050 Qualified Comprehensive Plan map and/ or Zone Change

When considering a Comprehensive Plan map and/ or Zone Change the Planning Commission and City Council may qualify, or condition, a zone change such that:

- A. The property may not be utilized for all the uses ordinarily permitted in a particular zone; or
- B. The development of the site must conform to certain specified standards; or
- C. Any combination of the above.

**Chapter 17.140
AMENDMENTS**

Legislative, Text Amendments

And

Quasi-judicial, Comprehensive Plan Map and/or Zone Changes

DRAFT 2/26/09

Sections:

<u>17.140.010</u>	Procedure.
<u>17.140.020</u>	Proposed amendments.
<u>17.140.030</u>	Application for citizen initiated text amendment.
<u>17.140.040</u>	Application for Comprehensive Plan map and/ or zone change.
<u>17.140.050</u>	Qualified Comprehensive Plan map and/ or zone change
<u>17.140.060</u>	Action by the Planning Commission.
<u>17.140.070</u>	Action by the City Council.

17.140.010 Procedure.

The Brookings Comprehensive Plan and Land Development Code may be amended by adopting revisions to reflect changes in the law, clarify language or procedures, correct mistakes, or to reflect changing community conditions. Amendments to the text follow legislative procedures.

This Chapter also provides standards and procedures for quasi-judicial amendments to consider Comprehensive Plan map and/ or zone changes for specific properties.

17.140.020 Proposed Amendments.

A. An amendment to the text of the Comprehensive Plan or Land Development Code may be proposed as a legislative hearing by the City Council, Planning Commission, Planning Director, or an individual.

B. A Comprehensive Plan map and/ or zone change for specific properties may be initiated as a quasi-judicial hearing by a property owner, or the City.

17.140.030 Application for a Citizen Initiated Text Amendment.

A text amendment proposed by a citizen will first be presented to the Planning Commission in the form of a written request.

FINDINGS FOR REVISIONS

CITY OF BROOKINGS COUNCIL AGENDA REPORT

Meeting Date: April 27, 2009

Dianne Merrin
Signature (submitted by)
[Signature]
City Manager Approval

Originating Dept: Planning

Subject: A hearing on File LDC-3-09 for consideration and possible adoption of revisions to Chapter 17.140, Amendments, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.140, Amendments, BMC.

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee reviewed Chapter 17.140. The current Chapter lacks clarity concerning the type of amendment to be considered and then what criteria should be used. Rather than attempt to work within the framework of the current version, a complete rewrite was considered appropriate. There are two types of amendments: legislative, which involve text amendments such as this Code revision, and Quasi-judicial, involving specific properties in a Comprehensive Plan Map and/ or zone change. The process and criteria are necessarily quite different. The draft version makes this distinction and describes the process.

Here is a brief synopsis of the Chapter:

- 17.140.020, Proposed Amendments. Describes the different types of amendments.
- 17.140.030, Citizen Initiated Text Amendment. Describes process to consider whether to process this type of amendment.
- 17.140.040, Application for Comp. Plan/ zone change. Application requirements.
- 17.140.050, Qualified Comp. Plan/ zone change. Possible limitations that may be applied and reasons for these limitations.
- 17.140.060, Action by the Planning Commission. Planning Commission process.
- 17.140.070, Action by the City Council. City Council process.

The Planning Commission reviewed this draft and recommends approval to the City Council. Following this report is the draft version of Chapter 17.140 (Attachment A). The current version of Chapter 17.140 is also attached (Attachment B).

Policy Considerations: N/A

Attachment(s): Draft version of Chapter 17.104, Home Occupations

APPROVED BY CITY COUNCIL ON

4-27-09

must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the Comprehensive Plan goals, policies, generalized land use map, and any applicable Statewide Planning Goals.

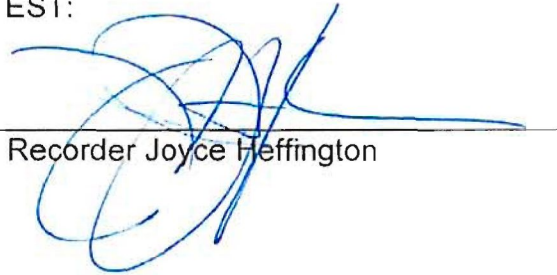
First reading: April 27th, 2009
Second reading: April 27th, 2009
Passage: April 27th, 2009
Effective date: May 27th, 2009

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



Mayor Larry Anderson

ATTEST:



City Recorder Joyce Heffington

