



# 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

05/29/2009

**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 013-09

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, June 10, 2009

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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** Planning Director, City of Brookings  
Gloria Gardiner, DLCD Urban Planning Specialist

<paa>

# 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**

**MAY 21 2009**

**LAND CONSERVATION AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **City of Brookings**

Local file number: **LDC-1-09**

Date of Adoption: **3/23/2009**

Date Mailed: **3/25/2009** Remailed: **5-20-09**

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

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 17.104, Home Occupations

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:

- |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <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 file No. 013-09 (17586) [15531]**

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 Dr.**

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

City: **Brookings**

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 17.104, Home Occupations, of )  
Title 17, Land Development Code, of the )     **Ordinance 09-O-629**  
Brookings Municipal Code, in its )  
entirety. )**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.104 in its entirety

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.104, Home Occupations, of Title 17, Land Development Code, of the Brookings Municipal Code in its entirety.

Section 2. Amends Chapter 17.104: Chapter 17.104, Home Occupations, is hereby amended to read as follows:

**Chapter 17.104  
HOME OCCUPATIONS**

Sections:

- 17.104.010 Purpose and scope.
- 17.104.020 Permit required.
- 17.104.030 Criteria.
- 17.104.040 Exclusions.
- 17.104.050 Revocation.
- 17.104.060 Appeal.
- 17.104.070 Existing uses.

**17.104.010 Purpose and scope.**

The intent of the home occupation permit for residential zones is to provide for a limited cottage industry type activity which is conducted in such a manner that the residential character of the building and the neighborhood is preserved. "Home occupation" means any gainful occupation engaged in by an occupant of a dwelling unit, including handicrafts, laundering, seamstress, specially food items, catering, office of clergyman, bookkeeping, teaching of music, dancing and other instruction when limited to attendance of no more than five pupils at a time, and other like occupations. The permit shall not be transferable and the privileges it grants shall be limited to the person named in the permit and to the location and activity for which it is issued. [Ord. 89-O-446 § 1.]

#### 17.104.020 Permit required.

The city manager or his designee, shall issue a home occupation permit only if it is found that all of the following criteria are and will be met by the individual applicant. The permit may include conditions requiring periodic review and renewal, requiring the applicant to sign an acknowledgement of the conditions, or other conditions specifically dealing with the property use involved, where such conditions are found to be reasonably necessary to maintain the criteria herein listed. [Ord. 89-O-446 § 1.]

#### 17.104.030 Criteria.

The home occupation proposal must conform to the following criteria:

A. The activity must be conducted entirely within the dwelling, garage, or accessory structure.

B. The activity must be conducted only by persons residing in the dwelling.

C. The outward residential appearance of all buildings must be preserved, and the use is clearly incidental and secondary to the use of the dwelling for residential purposes.

D. Not more than 50 percent of the floor area of the individual dwelling unit may be utilized for the intended purposes. Any part of a garage or accessory structure may be used provided off-street parking requirements are met.

E. No merchandising or sale of commodities may be conducted on the premises, except such as is produced by the occupants on the premises.

F. A sign may be maintained in conjunction with the home occupation activity, provided it is non-lighted, indicates only the name and trade of the property owner, and is no greater than two square feet in area.

G. The use requires no additional off-street parking spaces.

H. There shall be no emission of odorous, toxic, noxious matter nor any use causing electrical or telecommunication interference, vibration, noise, heat or glare in such quantities as to be readily detectable at any point along or outside property lines of a home occupation so as to produce a public nuisance or hazard. [Ord. 89-O-446 § 1.]

I. Proof of a current business license unless exempt must be provided.

#### 17.104.040 Exclusions.

Home occupation permits shall not be issued for any of the following:

A. Beauty shops;

B. Barber shops;

C. Pet grooming;

D. Photo studios that use chemicals in their processes.

E. Headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

#### 17.104.050 Revocation.

The permit may be revoked by the city manager or his designee for a violation of any conditions listed in BMC 17.104.030. The permittee shall be given written notice of the intent to revoke, a list of reasons for revocation, and the remedies and appeal process. The city manager or his designee may elect to resolve the violation pursuant to Chapter 17.160 BMC. [Ord. 89-O-446 § 1.]

17.104.060 Appeal.

Any applicant, or affected property owner or resident has the right to appeal the administrative decision of the city manager or his designee, to the planning commission in a manner as provided in Chapter 17.156 BMC. [Ord. 89-O-446 § 1.]

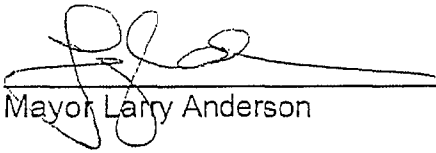
First reading: March 23, 2009

Second reading: March 23, 2009

Passage: March 23, 2009

Effective date April 22, 2009

Signed by me in authentication of its passage this 24<sup>th</sup> day of March, 2009.

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

ATTEST:

  
\_\_\_\_\_  
City Recorder Joyce Heffington

FINDINGS

CITY OF BROOKINGS  
**COUNCIL AGENDA REPORT**

Meeting Date: March 23, 2009

Originating Dept: Planning

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

Subject: Adopting ordinance for approved revisions to Chapter 17.104, Home Occupations, Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 09-O- 629.

Financial Impact: None

Background/Discussion: The revisions to this Chapter were approved by the City Council at their March 23, 2009 meeting.

Policy Considerations: N/A

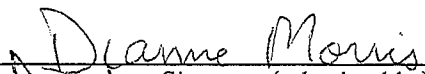
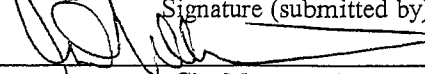
Attachment(s): Adopting Ordinance 09-O-629.

APPROVED BY CITY COUNCIL ON  
March 23, 2009

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

Meeting Date: March 23, 2009

Originating Dept: Planning

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

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Subject: A hearing on File LDC-1-09 for consideration and possible adoption of revisions to Chapter 17.104, Home Occupations, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.104, Home Occupations, BMC.

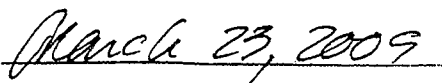
Financial Impact: None

Background/Discussion: The Staff drafted revisions to Chapter 17.104, Home Occupations, BMC. The City's Land Development Code (LDC) Committee reviewed the proposed revisions and is in agreement with the changes. The Planning Commission conducted a hearing on this matter at their February meeting and recommended approval of the draft to the City Council. Most of the revisions involving clarification or liberalizing of standards to accommodate Home Occupations. This clean, low-impact type of commercial use, often called "cottage industry" is sometimes the affordable beginnings of a new business that may later expand to a building in a commercial zone if successful. The City desires to support diversification of our economy and aid new businesses. This year the City has reviewed and approved and licensed 106 Home Occupations. They function compatibly within the residential neighborhoods as evidenced by the lack of violation investigations involving this use. Following are some of the more important changes:

- 17.104.030(A), Criteria. The word "attached" was removed. There is no reason an unattached accessory structure shouldn't be used and this restriction has prevented several potential home occupations.
- 17.104.030(D), Criteria. Liberalized the size limitation on the area to be used. Other criteria already insure the primary use of the dwelling must be the residential use and that only residents of the dwelling may conduct the activity.
- 17.104.040(E), Exclusions. Excluded this activity as it has resulted in neighborhood problems.

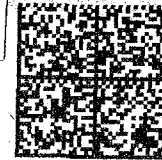
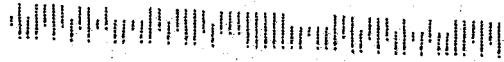
**APPROVED BY CITY COUNCIL ON**

Policy Considerations: N/A

  
\_\_\_\_\_  
Date

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





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0002192361 MAY 20 2009  
MAILED FROM ZIP CODE 97415

**\$ 000.59<sup>0</sup>**

**CITY OF BROOKINGS**

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

**TO:**

*Att: Larry French*

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