



# Oregon

Theodore R. Kulongoski, 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

11/10/2010

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 008-10

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: Friday, November 26, 2010

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 Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

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

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# 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**

**NOV 05 2010**

**LAND CONSERVATION  
AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **City of Brookings**

Local file number: **LDC-20-09**

Date of Adoption: **3/8/2010**

Date Mailed: **3/10/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date: 9/4/2009

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".  
Changes to the language of Chapter 17.144, Annexations of the Brookings Municipal Code.

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

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

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 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.** 008-10 (18601) [16388]

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

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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**

**ORDINANCE NO. 10-O-658**

**IN THE MATTER OF ORDINANCE NO. 10-O-658, AN ORDINANCE AMENDING CHAPTER 17.144, ANNEXATIONS, TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.**

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.144, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.144, Annexations, Title 17, Land Development Code, of the Brookings Municipal Code.

Section 2. Amend Chapter 17.144. Chapter 17.144, Annexations is amended to read as follows:

**Chapter 17.144  
ANNEXATIONS**

Sections:

- 17.144.010 Generally.
- 17.144.020 Application materials
- 17.144.030 Annexation impact analysis.
- 17.144.040 Zoning of annexed property.
- 17.144.05 Hearing Process

**17.144.010 Generally.**

A proposal to annex territory to the City of Brookings shall be processed in accordance with the requirements contained herein; provided, that the proposal complies with the provisions of ORS 222.111 to 222.180 and ORS 222.840 to 222.915. [Ord. 05-O-446.UU § 2; Ord. 89-O-446 § 1.]

**17.144.020 Application Materials.**

An application for annexation may be filed with the city on a form prescribed by the City, accompanied by a filing fee in the amount established by general resolution of the City Council. Said application shall contain the following information:

- A. Vicinity map identifying the proposed area of annexation and existing City limits.
- B. Assessor's parcel maps of the proposed annexation area, which maps shall indicate and identify those parcels for which consents to annex have been signed by either electors and/or owners depending on which annexation process is used under the provisions of the ORS.
- C. Consent to annex forms completed and signed by all property owners within the territory proposed to be annexed.
- D. Legal metes and bounds, or lot and block description of the territory proposed to be annexed.

E. Specific information on each parcel within the territory proposed to be annexed as follows:

1. Current assessed valuation as shown on the Curry County assessor's tax rolls.
2. Acreage.
3. Map and tax lot number.
4. Owners of record and/or registered electors residing on the premises of the subject

parcel.

F. Addresses of all dwelling units and businesses within the territory proposed to be annexed.

G. Significant natural features within the area proposed for annexation including, but not limited to, streams, wetlands, slopes, and areas of geological significance.

H. Adjoining land uses.

I. Proposed land uses/ development plan of the territory proposed to be annexed.

J. Written findings of fact prepared by the petitioner(s) or petitioner(s) representatives which address the following:

1. Existing land uses within the territory proposed to be annexed.
2. Existing zoning and comprehensive plan designations within the territory.
3. Existing improvements, such as water system, streets, sanitary sewer, and storm drainage.
4. Proposed or existing Local Improvement Districts within the territory proposed to be annexed.

5. Urban services needed and necessary to service the territory proposed to be annexed, including the availability of the same relative to capacity, condition and cost of extension and/or improvement to urban standards and an estimated time line for any required improvements. City Staff will provide written information regarding existing infrastructure and any improvements that would be necessary to serve the territory proposed to be annexed.

6. Compliance with all applicable goals and policies of the comprehensive plan.

7. Compliance with all of the items listed in BMC 17.144.030.

8. The burden of providing the findings is the responsibility of the applicant. [Ord. 05-O-446.UU § 2; Ord. 89-O-446 § 1.]

### **17.144.030 Annexation impact analysis.**

The following criteria shall apply to all annexation requests:

A. The proposed use for the site complies with the Brookings Comprehensive Plan and with the designation on the Brookings Comprehensive Plan map. If a redesignation of the Plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Brookings Comprehensive Plan.

B. An adequate level of urban services and infrastructure to accommodate anticipated future development either is available, or can reasonably be made available. An adequate level of urban services shall be defined as: municipal sanitary sewer, storm drainage, and water service meeting the requirements enumerated in the Brookings Public Facilities Plan and the Land Development Code for provision of these services. The adequacy of these services shall be considered in relation to annexation proposals. If any substandard infrastructure exists within the boundaries of the area proposed for annexation, the City may deny an annexation application.

C. Documentation of impacts on existing streets within the annexation area and adjacent transportation facilities by future development of the area. The adequacy of the transportation facilities shall be considered in relation to annexation proposals.

D. As development occurs within the annexed area new streets shall be constructed to the standards of the Brookings Transportation System Plan and Land Development Code. While it is preferred that public streets located within the City limits be a part of the City maintained street system, streets within the annexed area shall remain in the County's jurisdiction until such time as they are improved to the City street standards. If the proposed annexation includes the transfer of County maintained roads to the City maintained street system, said streets located within the annexation area shall be improved to City standards prior to annexation approval, or the formation of a Local Improvement District to fund said street improvements shall accompany the annexation application.

E. Documentation of the availability and adequacy to serve the proposed annexation with police, fire, parks, and school facilities and services.

F. Improvements for needed infrastructure shall be secured by a funding mechanism that will place the economic burden on the territory proposed for annexation and not on the City of Brookings. [Ord. 05-O-446.UU § 2; Ord. 91-O-446.G § 2; Ord. 89-O-446 § 1. Formerly 17.144.040.]

**17.144.040 Zoning of annexed property.**

A request for a City zoning designation for the territory proposed to be annexed shall be considered at the time of the annexation proposal; however, the City Council will ultimately determine the zoning to be applied. The zoning designation of annexed territory shall be specified in the annexation ordinance and shall become effective upon acceptance of the annexation by the Secretary of State. [Ord. 05-O-446.UU § 2; Ord. 89-O-446 § 1. Formerly 17.144.050.]

**17.144.050 Hearing Process**


A. The Planning Commission will conduct a public hearing to consider the application request. The Commission will review the materials submitted and analyze how the application relates to the criteria stipulated in 17.144.040, BMC. A recommendation from the Planning Commission will be forwarded to the City Council.

B. The City Council will consider the Planning Commission's recommendation and whether the application meets the appropriate criteria. The Council will make a decision to approve or deny the requested annexation.

First Reading: March 8, 2010  
Second Reading: March 8, 2010  
Passage: March 8, 2010  
Effective Date: April 7, 2010

Signed by me in authentication of its passage this 9<sup>th</sup> day of March, 2010

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

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

CITY OF BROOKINGS

FINDINGS

COUNCIL AGENDA REPORT

Meeting Date: March 8, 2010

Signature (submitted by)
City Manager Approval

Originating Dept: Planning

Subject: A hearing on File LDC-20-09 for consideration and possible adoption of revisions to Chapter 17.144, Annexations, Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.144, Annexations, BMC

Financial Impact: None

Background/Discussion: The Land Development Code (LDC) Committee reviewed Chapter 17.144, Annexations.

Some of the more significant revisions are as follows:

- 17.144.020 (I), Application Materials - In the current version of this Chapter there was no requirement to state what the proposed uses would be in the annexed area. This is very important to analyze impacts.
17.144.020 (J) (5), Application Materials - This change makes it clear the City will provide written information to the Applicant regarding the existing infrastructure to be sure all parties know what costs will be involved in serving the area to be annexed.
17.144.030 (D), Annexation Impact Analysis. It is problematic for the City to annex a street that doesn't meet City standards. The proposed language offers a possible resolution to that situation, while still leaving the option of allowing the County to continue ownership and maintenance of existing streets within the annexed area.
17.144.050, Hearing Process - In the current version of this Chapter there was no statement about the need for the two hearing process, with the City Council as the decision-making body. This proposed language corrects that omission.

The Planning Commission reviewed this Chapter and recommended approval to the City Council.

Following this report is the draft version of Chapter 17.144 (Attachment A).

Policy Considerations: N/A

Attachment(s): Draft version of Chapter 17.144, Annexations, BMC.

APPROVED BY CITY COUNCIL ON

3-8-10

**Chapter 17.144  
ANNEXATIONS**

**Draft December 9, 2009**

Text to be added in ***bold and italicized***.

Text to be omitted has ~~strikethrough~~.

Sections:

- 17.144.010 Generally.
- 17.144.020 Application ~~procedures~~.***materials***
- 17.144.030 Annexation impact analysis.
- 17.144.040 Zoning of annexed property.
- 17.144.050 ***Hearing Process***

**17.144.010 Generally.**

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**17.144.020 Application ~~procedures~~.*Materials*.**

An application for annexation may be filed with the city on a form prescribed by the **City**, accompanied by a filing fee in the amount established by general resolution of the **City Council**. ~~No part of the filing fee is refundable.~~ Said application shall contain the following information:

- A. Vicinity map identifying the proposed area of annexation and existing **City** limits.
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- E. Specific information on each parcel within the territory proposed to be annexed as follows:
  - 1. Current assessed valuation as shown on the Curry County assessor's tax rolls.
  - 2. Acreage.
  - 3. Map and tax lot number.
  - 4. ~~Owner or~~ Owners of record and/or registered electors residing on the premises of the subject parcel.



F. Addresses of all dwelling units and businesses within the territory proposed to be annexed.

G. Significant natural features within the area proposed for annexation including, but not limited to, streams, wetlands, slopes, and areas of geological significance.

H. Adjoining land uses.

**I. Proposed land uses/ development plan of the territory proposed to be annexed.**

J. Written findings of fact prepared by the petitioner(s) or petitioner(s) representatives which address the following:

1. Existing land uses within the territory proposed to be annexed.
2. Existing zoning and comprehensive plan designations within the territory.
3. Existing improvements, such as water system, streets, sanitary sewer, and storm drainage.
4. ~~Special service districts~~ **Proposed or existing Local Improvement Districts** within the territory proposed to be annexed. ~~such as water, irrigation, fire, school, sanitary, etc.~~
5. Urban services needed and necessary to service the territory proposed to be annexed, **including** the availability of **the** same relative to capacity, condition and cost of extension and/or improvement to urban standards and an estimated time line for any required improvements. **City Staff will provide written information regarding existing infrastructure and any improvements that would be necessary to serve the territory proposed to be annexed.**
6. Compliance with all applicable goals and policies of the comprehensive plan.
7. Compliance with all of the items listed in BMC 17.144.030.
8. The burden of providing the findings is the responsibility of the applicant. [Ord. 05-O-446.UU § 2; Ord. 89-O-446 § 1.]

#### **17.144.030 Annexation impact analysis.**

The following criteria shall apply to all annexation requests:

A. The proposed use for the site complies with the Brookings **Comprehensive Plan** and with the designation on the Brookings **Comprehensive Plan** map. If a redesignation of the **Plan** map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Brookings **Comprehensive Plan**.

B. An adequate level of urban services and infrastructure to accommodate anticipated future development either is available, or can reasonably be made available. An adequate level of urban services shall be defined as: municipal sanitary sewer, storm drainage, and water service meeting the requirements enumerated in the Brookings **Public Facilities and services Plan** and the **Land Development Code** for provision of these services. The adequacy of these services shall be considered in relation to annexation proposals. **If any substandard infrastructure exists within the boundaries of the area proposed for annexation, the City may deny an annexation application.**

C. Documentation of impacts on existing streets within the annexation area and adjacent transportation facilities by future development of the area. The adequacy of the transportation facilities shall be considered in relation to annexation proposals.

D. As development occurs within the annexed area new streets shall be constructed to the standards of the Brookings *Transportation System Plan* and *Land Development Code*. ***While it is preferred that public streets located within the City limits be a part of the City maintained street system, existing streets within the annexed area shall remain in the County's jurisdiction until such time as they are improved to the City street standards. If the proposed annexation includes the transfer of County maintained roads to the City maintained street system, said streets located within the annexation area shall be improved to City standards prior to annexation approval, or the formation of a Local Improvement District to fund said street improvements shall accompany the annexation application.***

E. Documentation of the availability and adequacy to serve the proposed annexation with police, fire, parks, and school facilities and services.

F. Improvements for needed infrastructure shall be secured by a funding mechanism that will place the economic burden on the territory proposed for annexation and not on the City of Brookings. [Ord. 05-O-446.UU § 2; Ord. 91-O-446.G § 2; Ord. 89-O-446 § 1. Formerly 17.144.040.]

#### **17.144.040 Zoning of annexed property.**

A. ~~A proposal for annexation shall include~~ **A request for a City zoning designation for the territory proposed to be annexed which shall be considered at the time of the annexation proposal; however, the City Council will ultimately determine the zoning to be applied. The zoning designation of annexed territory shall be specified in the annexation ordinance and shall become effective upon acceptance of the annexation by the Secretary of State.** [Ord. 05-O-446.UU § 2; Ord. 89-O-446 § 1. Formerly 17.144.050.]

#### **17.144.050 Hearing Process**

**A. The Planning Commission will conduct a public hearing to consider the application request. The Commission will review the materials submitted and analyze how the application relates to the criteria stipulated in 17.144.040, BMC. A recommendation from the Planning Commission will be forwarded to the City Council.**

**B. The City Council will consider the Planning Commission's recommendation and whether the application meets the appropriate criteria. The Council will make a decision to approve or deny the requested annexation.**

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

SUBJECT: Land Development Code Amendment  
FILE NO: LDC-20-09  
HEARING DATE: February 2, 2010

REPORT DATE: Jan. 21, 2010  
ITEM NO: 7.1

**GENERAL INFORMATION**

APPLICANT: City Initiated.  
REPRESENTATIVE: City Staff.  
REQUEST: Revisions to Chapter 17.144, Annexations, Brookings  
Municipal Code (BMC).  
PUBLIC NOTICE: Published in local newspaper.

**BACKGROUND INFORMATION**

The Land Development Code (LDC) Committee reviewed Chapter 17.144, Annexations. Some of the more significant revisions are as follows:

- 17.144.020 (I), Application Materials – In the current version of this Chapter there was no requirement to state what the proposed uses would be in the annexed area. This is very important to analyze impacts.
- 17.144.020 (J) (5), Application Materials – This change makes it clear the City will provide written information to the Applicant regarding the existing infrastructure to be sure all parties know what costs will be involved in serving the area to be annexed.
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- 17.144.050, Hearing Process – In the current version of this Chapter there was no statement about the need for the two hearing process, with the City Council as the decision-making body. This proposed language corrects that omission.

Following this report is the draft version of Chapter 17.144 (Attachment A).

**RECOMMENDATION**

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-20-09, Chapter 17.144, Annexations, BMC, to the City Council.

**Chapter 17.144  
ANNEXATIONS**

**Draft December 9, 2009**

Text to be added in ***bold and italicized***.

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Sections:

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***A. The Planning Commission will conduct a public hearing to consider the application request. The Commission will review the materials submitted and analyze how the application relates to the criteria stipulated in 17.144.040, BMC. A recommendation from the Planning Commission will be forwarded to the City Council.***

***B. The City Council will consider the Planning Commission's recommendation and whether the application meets the appropriate criteria. The Council will make a decision to approve or deny the requested annexation.***

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**TO:**

Plan Amendment Specialist

DLCD

635 Capitol St. NE, Suite 150

Salem, OR 97301-2540

DEPT OF

NOV 05 2010

LAND CONSERVATION  
AND DEVELOPMENT