



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

November 3, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment
DLCD File Number 005-08



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: November 18, 2008

This amendment was submitted to DLCD for review 45 days 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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

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

<paa> yal

FORM 2

DLCD

Notice of Adoption

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

In person electronic mailed

DATE STAMP

DEPT OF
OCT 30 2008
LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Brookings**

Local file number: **LDC-10-08**

Date of Adoption: **10/27/2008**

Date Mailed: **10/29/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 6/18/2008

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

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
This Chapter adopts incentives for property owners to construct workforce housing.

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: **0**

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 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"/> |

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. 005-08 (16942)

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

In the Matter of an Ordinance Adding)
Chapter 17.180, Workforce Housing,) Ordinance No. 08-O-620
to the Brookings Municipal Code.)

Sections:

- Section 1. Ordinance Identified.
- Section 2. Adds Chapter 17.180.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance adds Chapter 17.180, Workforce Housing, of Title 17, to the Brookings Municipal Code (BMC).

Section 2. Chapter 17.180. Workforce Housing, is added, in its entirety, to read as follows:

Chapter 17.180
WORKFORCE HOUSING

Sections:

- 17.180.010 Purpose.
- 17.180.020 Definitions
- 17.180.030 Density bonus.
- 17.180.040 Accessory dwelling unit.
- 17.180.050 System Development Charge (SDC) deferrals.

17.180.010 Purpose.

Affordable housing is needed within our community to provide for those individuals and households earning less than the median income as defined by the United States Department of Housing and Urban Development (HUD). The provisions of this Chapter are intended to create flexibility, provide developer incentives and provide a means for developing affordable housing.

17.180.020 Definitions.

“Affordable ownership unit” means housing with a mortgage payment that does not exceed 30% of the qualifying annual net income.

“Affordable rental unit” means that the rent charged for the dwelling unit does not exceed 23% of the qualifying annual net income.

“Accessory dwelling unit (ADU)” means a separate dwelling unit contained within or detached from a single-family dwelling on a single lot, containing 1000 square feet or less, excluding any garage area or accessory buildings, and sharing a driveway with the primary dwelling unless from an alley. A recreational vehicle cannot be used as an accessory dwelling unit.

“Accessory dwelling unit occupant” means the renter of the ADU.

“Qualifying annual income” means annual net income that does not exceed 80% for ownership and 60% for rentals of the area median income as determined by the United States Department of Housing and Urban Development (HUD).

17.180.030 Density bonus.

When applying to create a subdivision or planned unit development (PUD), the option of using a density bonus is available based on the following criteria:

Residential developments may devote 20% of the proposed lots to affordable housing pursuant to the following requirements:

1. In the following Residential zones; SR, R-1, R-MH, a density bonus for up to 20% of the proposed lots would allow a minimum lot area for each dwelling unit of 4,000 square feet. No specific minimum lot width is required.

2. In the following Residential zones; R-2, R-3, a density bonus for up to 20% of the proposed lots would allow a minimum lot area of 5,000 square feet for the first two dwelling units and for each additional unit, the lot area shall increase by 1000 square feet. No specific minimum lot width is required

3. All other provisions and requirements of the zoning district shall apply.

4. Any lots created using the Density Bonus lesser square footage requirement must site a dwelling unit in compliance with one of the following options:

A. Affordable housing for purchase. Dwelling units designated as affordable housing available for purchase shall:

1. Only be sold to individuals or families whose annual net income does not exceed 80% of the area median income as determined by HUD; and

2. Have a mortgage payment not to exceed 30% of the monthly net income as outlined below:

- a. Studio Apartment – 1 person qualifying monthly income
- b. 1 bedroom – 2 person qualifying monthly income
- c. 2 bedrooms – 4 person qualifying monthly income
- d. 3 bedrooms – 6 person qualifying monthly income
- e. 4 bedroom – 7 person qualifying monthly income; and

3. Have a deed restriction signed and recorded establishing a period of affordability of not less than 15 years. In no event will a purchaser be required to sell the unit subject to this agreement for less than the purchase price plus any applicable closing costs and realtor fees. If an owner of a dwelling unit subject to this deed restriction decides to rent the unit, 17.180.030 (B), below, is applicable.

B. Affordable housing for rent. Dwelling units designated as affordable housing available for rent shall:

1. Only be rented to individuals or families whose annual net income does not exceed 60% of the area median income as determined by HUD; and
2. Have the rent charged not exceed 23% of the qualifying family net income as outlined below:
 - a. Studio Apartment – average of the 1 & 2 person qualifying monthly income.
 - b. 1 bedroom – average of the 2 & 3 person qualifying monthly income.
 - c. 2 bedrooms – average of the 3, 4, & 5 person qualifying monthly income.
 - d. 3 bedrooms – average of the 4, 5, 6, & 7 person qualifying monthly income.
 - e. 4 bedrooms – average of the 5, 6, 7, & 8 person qualifying monthly income; and
3. Have a deed restriction signed and recording establishing a period of affordability of not less than 15 years.
4. An annual registration fee, set by resolution of the City Council, must be paid and a copy of the current rental agreement provided to the City. Beginning January 1st of each year the City will conduct an annual review of registered affordable rentals to ensure compliance. Properties determined to be non-compliant shall be subject to abatement pursuant to BMC 8.15.090.
5. With any change of tenants new qualifying information must be provided to the City.

17.180.040 Accessory dwelling unit.

The Site Plan Committee shall authorize an Accessory Dwelling Unit (ADU) only if it is found that all of the following general requirements are and will be met by the applicant.

- A. An ADU may be created within, or detached from, any single-family dwelling, whether existing or new, as an accessory use.
- B. Only one ADU may be created per parcel accessory to the single-family dwelling;
- C. Only the property owner may apply for an ADU. The property owner must occupy the primary dwelling as their primary residence. A primary residence shall be the residence where the owner is registered to vote, used as the primary residence for tax purposes, or other proof that the residence is primary. The owner shall sign an affidavit before a notary affirming that the owner occupies the primary dwelling. A deed restriction shall be recorded and a copy provided to the City declaring the Accessory Dwelling Unit status of the subject property.
- D. The rental of an ADU must comply with 17.180.030 (4) (B), Affordable housing for rent, BMC.
- E. An owner may convert an ADU to another lawful accessory use. If the owner wishes to re-convert the space to a dwelling unit, it may only be used in compliance with the ADU requirements.
- F. One off-street parking space shall be provided for the ADU in addition to the two off-street parking spaces required for the primary dwelling pursuant to BMC 17.88.
- G. ADU's shall contain 1,000 square feet or less.
- H. All other applicable standards for the zone including, but not limited to setbacks, must be met with the exception of requiring a garage.

I. An annual ADU registration fee, set by resolution of the City Council must be paid. Upon sale of the property, the new owner shall be required to reregister the ADU.

J. If a garage or detached structure does not currently meet setbacks, it may not be converted to an ADU.

K. The owner of the property shall pay System Development Charges (SDC) for the additional dwelling unit and accept full responsibility for sewer and water bills.

L. Neither the ADU nor the primary dwelling may be used as a short-term rental.

M. Beginning January 1st of each year the City will conduct an annual review of registered ADUs to ensure compliance. Properties determined to be in non-compliance shall be subject to abatement pursuant to BMC 8.15.090.

17.180.050 System Development Charge (SDC) deferrals.

The City of Brookings will offer SDC deferrals to developers of housing projects that contain affordable units as defined in 17.180.020, BMC pursuant to the following requirements:

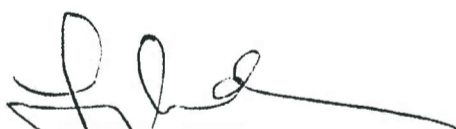
A. SDC deferrals will be offered for a period of two (2) years at a 0% interest rate. Developers utilizing this incentive will be required to sign a Promissory Note and System Development Charge Deferral Agreement with the City of Brookings. The SDC Deferral Agreement must be recorded and a copy provided to the City.

B. SDCs will be due in full or will need to be financed with the City of Brookings prior to transfer of ownership or at the end of the two (2) years deferral period.

C. The rental of a dwelling unit with a SDC deferral must comply with 17.180.030 (4) (B), Affordable housing for rent, BMC.

First reading: October 27, 2008
Second reading: October 27, 2008
Passage: October 27, 2008
Effective date: November 26, 2008

Signed by me in authentication of its passage this 28th day of October, 2008.



Mayor Larry Anderson

ATTEST:


City Recorder Joyce Heffington

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-10-08
HEARING DATE: August 19, 2008

REPORT DATE: August 7, 2008
ITEM NO: 7.1

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Amendment to Brookings Municipal Code (BMC) to add Chapter 17.180, Workforce Housing.
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

The City's Land Development Code (LDC) Committee drafted provisions to provide incentives that will hopefully encourage construction of workforce housing. On June 17, 2008 the Planning Commission conducted a workshop to solicit comments from the public in this review process. The general provisions received support. Concern was expressed that the median income used was possibly too high and the percentage of the qualifying monthly income used in the formulas to calculate the mortgage or rental payment may be too low. The Planning Commission requested the LDC Committee to do further review on these elements. A letter dated July 2, 2008 was received from the Department of Land Conservation and Development (DLCD) (**Attachment B**) with comments and suggestions. The LDC considered these matters and made a few revisions to the draft as explained below.

PROPOSED LANGUAGE

- Median Income
 - Reviewed several other sources of income data.
 - The City of Brookings has a higher median income than Curry County.
 - If this figure is lowered it will further limit those who will qualify and those that will qualify may be on such a limited budget they are not able to consider using this program.
 - If this figure is lowered it will force the cost of a dwelling unit or rental so low that construction of these homes may not be financially feasible.
 - It is very desirable to use the U.S. Department of Housing and Urban Development (HUB) chart (the source of the median income figures being considered) as it is updated annually and this same chart is also used for other affordability programs.
-

- Percentage of Income Used for Mortgage or Rental Payments
 - Staff contacted 5 local lending institutes to research the percentage of income they consider appropriate for home loans. The percentages ranged from 28% to 41%, depending on other debt the individual may have.
 - Our economy is suffering right now due to lending institutes giving loans that require too much of the total income to make the mortgage payments.
 - A letter submitted in the Workshop from the Coos-Curry Housing Authorities described spending 40% of an income on mortgage or rental payments as a burden (**Attachment C**).
 - LDC Committee felt the 30% limit for mortgage payments and 23% for rental payments was realistic.
- Dave Perry, Dept. of Land Conservation and Development (DLCD) expressed support for Chapter 17.180 and had the following comments/ suggestions:
 - In the “Density Bonus” incentive Perry feels the 50 ft. minimum lot width is a barrier to flexibility. It would lessen the backyard area potentially and thereby the privacy. LDC Committee removed the lot width requirement. Another suggestion was lessening the front yard setback to these smaller lots. The Planning Commission can consider this and make a recommendation on this provision as well.
 - The “Accessory Dwelling Units” (ADU) provisions required two off-street parking spaces for the unit. Perry felt one was more realistic and the LDC Committee revised the requirement to one space. Another possible disincentive was felt to be the annual ADU registration fee. The LDC Committee left that provision in. There needs to be annual review of the ADU’s for compliance and this registration/ fee would trigger that review and cover some of the cost of Staff time to process these.

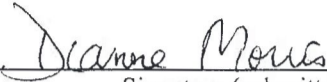
Following this report is the draft version of Chapter 17.180, Workforce Housing. The HUD chart is **Attachment A**. Dave Perry letter is **Attachment B**. The Coos-Curry Housing Authorities letter is **Attachment C**.

RECOMMENDATION

Staff supports a Planning Commission recommendation of approval of file LDC-10-08, Chapter 17.180, Workforce Housing, BMC, to the City Council.

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: September 22, 2008



Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: A hearing on File LDC-10-08 an amendment to the Brookings Municipal Code (BMC) to add provisions related to Workforce Housing, Chapter 17.180.

Recommended Motion: Motion to approve File LDC-10-08, adding Chapter 17.180, Workforce Housing, BMC and direct Staff to prepare an adopting ordinance. Also direct staff to prepare a resolution to set the registration fee for dwellings approved using provisions in 17.180.030 (B) and 17.180.040.

Financial Impact: None.

Background/Discussion: The City's Land Development Code (LDC) Committee drafted provisions to provide incentives that will hopefully encourage construction of workforce housing. On June 17, 2008 the Planning Commission conducted a workshop to solicit comments from the public in this review process. The general provisions received support. Concern was expressed that the median income used, found in **Attachment A** – U.S. Dept. of Housing and Urban Development chart, was possibly too high. Also there were concerns that the percentage of the qualifying annual income used in the formulas to calculate the mortgage or rental payment may be too low. The Planning Commission requested the LDC Committee to do further review on these elements. A letter dated July 2, 2008 was received from the Department of Land Conservation and Development (DLCD) (**Attachment B**) with comments and suggestions. The LDC considered these matters, made a few revisions to the draft, and decided to leave the median income and percentage formulas the same as explained below. At the August 19, 2008 hearing on this matter, Staff and the Planning Commission made a few additional revisions which can be seen in the italicized text in the attached draft of Chapter 17.180.

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- It is very desirable to use the U.S. Department of Housing and Urban Development (HUD) chart (the source of the median income figures being considered) as it is updated annually and this same chart is also used for other affordability programs.
- Percentage of Income Used for Mortgage or Rental Payments
 - Staff contacted 5 local lending institutes to research the percentage of income they consider appropriate for home loans. The percentages ranged from 28% to 41%, depending on other debt the individual may have.
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 - In the “Density Bonus” incentive Perry feels the 50 ft. minimum lot width is a barrier to flexibility. It would lessen the backyard area potentially and thereby the privacy. LDC Committee removed the lot width requirement. Another suggestion was lessening the front yard setback to these smaller lots. The Planning Commission did not suggest lessening this setback requirement.
 - The “Accessory Dwelling Units” (ADU) provisions required two off-street parking spaces for the unit. Perry felt one was more realistic and the LDC Committee revised the requirement to one space. Another possible disincentive was felt to be the annual ADU registration fee. The LDC Committee and Planning Commission left that provision in. There needs to be annual review of the ADU’s for compliance and this registration/ fee would trigger that review and cover some of the cost of Staff time to process these.

The Planning Commission recommends approval of the attached draft of Chapter 17.180, Workforce Housing, BMC.

Policy Considerations: N/A

Attachment(s): **Draft version of Chapter 17.180, Workforce Housing, BMC.**

Attachment A – U.S. Dept. of Housing and Urban Development chart
Attachment B – DLCD letter
Attachment C – Coos-Curry Housing Authorities letter

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CITY OF BROOKINGS

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

TO:

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