



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

July 23, 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 012-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: August 5, 2008

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

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

<paa>

Notice of Adoption

In person electronic mailed

DEPT OF

JUL 17 2008

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For DLCD Use Only

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-9-08**

Date of Adoption: **7/14/2008**

Date Mailed: **7/16/2008**

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".

Housekeeping revisions to Chapter 17.128 Interpretation and Exceptions, Brookings Municipal Code (BMC) for clarification and formatting.

Does the Adoption differ from proposal? Please select one

N/A

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location:

Acres Involved:

Specify Density: Previous:

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 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. _____

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

None

Local Contact: **Dianne Morris**

Phone: (541) 469-1138 Extension:

Address: **898 Elk Drive**

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

City: **Brookings, OR**

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 Amending)
Chapter 17.128, Interpretations and Exceptions)
of the City of Brookings Municipal Code.) Ordinance No. 08-0-617

Sections:

- Section 1. Ordinance Identified.
- Section 2. Amends Chapter 17.128 in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.128, Interpretations and Exceptions of Title 17, Land Development Code, of the Brookings Municipal Code (BMC) in its entirety.

Section 2. Amend Chapter 17.128, Interpretations and Exceptions, is amended, in its entirety, to read as follows:

Chapter 17.128
INTERPRETATIONS AND EXCEPTIONS

Sections:

- 17.128.010 General exceptions to the lot size requirements.
- 17.128.020 Exception to height regulations.
- 17.128.030 Exception to yard requirements.
- 17.128.040 Vision obstruction and vision clearance area.
- 17.128.050 Access.
- 17.128.060 Authorization of similar uses.
- 17.128.070 Existing land restrictions.

17.128.010 General exceptions to the lot size requirements.

A discrete parcel having an area less than that required for the zoning district in which the property is located, may nevertheless be occupied by any use allowed in the district, subject to compliance with all other requirements of the district, including all yard requirements. Substandard lots within a platted, recorded subdivision which have been consolidated for taxing purposes remain discrete parcels unless a legal planning process to combine the parcels has been completed. [Ord. 89-O-446 § 1.]

17.128.020 Exception to height regulations.

Height limitations set forth elsewhere in this code shall not apply to:

A. Barns, silos, water towers and tanks, other farm buildings and structures, or outdoor theater screens, provided they are not less than 50 feet from every lot line.;

B. Chimneys, church spires, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, monuments, fire hose towers, masts, aerials, antennas, elevator shafts, and other similar projections; and these are subject to minimum setback requirements, excluding setbacks based on height.

In no case shall the height of structures listed above exceed one and one-half times the height limitation set forth in the applicable zoning district, except as exempted in 17.124.030. [Ord. 89-O-446 § 1.]

17.128.030 Exception to yard requirements.

A. Projections into Required Yards. Certain architectural features may project into required yards or courtyards as follows:

1. Cornices, canopies, eaves, sills, or other similar architectural features, including bay windows if no floor area is involved, but these may not in any case extend more than 24 inches into any required yard area.

2. Fire escapes, open uncovered porches, balconies, decks, landing places, or outside stairways may not in any case extend more than 24 inches into any required side or rear yards, and not exceeding six feet into any required front yard.

3. In the case of dwellings existing on the effective date of adoption of this code and which have a front yard setback at or less than that required by the applicable zoning district regulation, an enclosed covered entry porch may project into the required front yard not exceeding six feet and the enclosed porch may not exceed 36 square feet in area.

4. Any open porches, patios, stoops or decks not exceeding 30 inches in height may extend to within 18 inches of any lot line.

5. Fences, walls and hedges may be located within required yards up to the property line, except that such sight-obscuring fences, walls or hedges within a vision clearance area pursuant to BMC 17.128.050 shall not exceed three feet in height measured from the top of curb, or street centerline grade, whichever shall be lower.

B. Exceptions to Front Yard Requirements.

If there are dwellings on both abutting lots with front yards less than the required depth for the district, the front yard for the subject lot need not exceed the average front yard of the abutting dwellings. [Ord. 89-O-454 § 1; Ord. 89-O-446 § 1.]

17.128.040 Vision obstruction and vision clearance area.

A. Nothing in this code shall be deemed to permit a sight obstruction within any required yard area along any street or at a street or alley intersection interfering with the view of operators of motor vehicles or pedestrians on streets or alleys to such an extent as to constitute a traffic hazard. Violations of these requirements will be subject to Chapter 17.160, Violation, BMC.

B. Vision clearance areas shall be located on the corners of properties abutting the intersections of two or more streets and intersections of streets with alleys. A vision clearance area shall consist of a triangular area measured from the corner of the intersecting property lines for a distance specified in this regulation. The third side of the triangle is a line across the corner of the lot joining the nonintersecting ends of the other two sides. The following minimum distances establishing the two sides of the triangle:

1. In a residential district the distance shall be 20 feet along each property line from the point of intersection of two or more streets. For the intersection of a street and an alley, measure 10 feet along the property line adjacent to both the street and alley.

2. In all commercial and industrial zones where yards are required, the distance shall be 15 feet along each property line from the point of intersection of two or more streets. At the intersection of a street and an alley, measure 10 feet along the property line adjacent to both the street and alley.

C. A vision clearance area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three feet in height, measured from the top of the curb, or street center line grade, whichever shall be lower. Trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above grade. [Ord. 89-O-446 § 1.]

17.128.050 Access.

Except as permitted by other provisions of this code, no lot shall contain any building used in whole or in part for residential purposes unless said lot abuts a street, dedicated and improved as a public right-of-way, other than an alley, or an accepted private street, for a distance of at least 20 feet. Residential development is permitted on dedicated but unimproved streets; provided, that the applicant has signed and recorded a deferred improvement agreement. On all lots created after the date of this amendment, the frontage street is the street providing access to the lot or parcel. The lot or parcel must be addressed to that street. The Site Plan Committee may require that driveway construction be completed and approved by the City prior to the recordation of a subdivision or partition plat. Secondary access may be allowed but cannot replace the primary access from the frontage street. [Ord. 91-O-446.F § 2; Ord. 89-O-446 § 1.]


17.128.060 Authorization of similar uses.

The Site Plan Committee may make a determination that a use not specifically named in the allowed uses of a district shall be authorized if the use is of the same general type. [Ord. 89-O-446 § 1.]

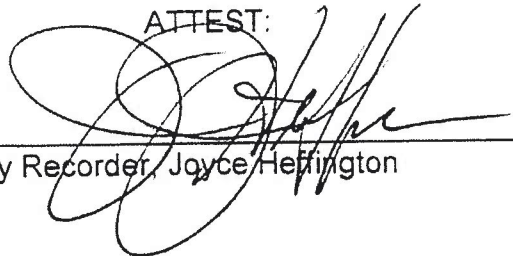
17.128.070 Existing land restrictions.

It is not intended by this code to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this code imposes a greater restriction the provisions of this code shall govern. The City has no obligation to identify, investigate, or enforce any such covenants, conditions, or restrictions (C,C,& R). [Ord. 89-O-446 § 1.]

First reading: July 14, 2008
Second reading: July 14, 2008
Passage: July 14, 2008
Effective date: August 13, 2008
Signed by me in authentication of its passage this 15th day of July, 2008.



Mayor Larry Anderson

ATTEST:


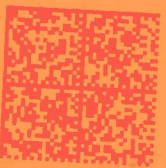
City Recorder, Joyce Heffington

CITY OF BROOKINGS

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

TO:

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



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