



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

01/21/2014

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 002-14

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, February 07, 2014

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. 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 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: Donna Colby-Hanks, City of Brookings
Gordon Howard, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 002-14 (20188)
[17734]
Received: 1/17/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Brookings

Local file no.: **LDC-3-13**

Date of adoption: 01/13/2014 Date sent: 1/17/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted):

(No)

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Donna Colby-Hanks, Planning Manager

Phone: (541) 469-1137

E-mail: dcolbyhanks@brookings.or.us

Street address: 898 Elk Drive

City: Brookings

Zip: 97415-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

- 17.124.070 Kennels, riding academies and public stables
 - 17.124.090 Cemetery, crematory, mausoleum, columbarium
 - 17.124.190 Keeping of livestock
- All sections are located in 17.124 Specific Standards Applying to Conditional Uses

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: Acres added: Acres removed:

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Curry County

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Adopting ordinance as well as Planning Commission and City Council staff reports.

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 14-O-723**

IN THE MATTER OF ORDINANCE 14-O-723, AN ORDINANCE AMENDING SECTIONS 17.124.070, 17.124.090, AND 17.124.190 OF CHAPTER 17,124, SPECIFIC STANDARDS APPLYING TO CONDITIONAL USES, TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE.

Sections:

Section 1. Ordinance Identified.

Section 2. Amends Sections 17.124.070, 17.124.090, and 17.124.190.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Sections 17.124.070, 17.124.090, and 17.124.190 of Chapter 17.124, Specific Standards Applying to Conditional Uses, Title 17, Land Development Code, of the Brookings Municipal Code.

Section 2. Amends Sections 17.124.070, 17.124.090, and 17.124.190. Sections 17.124.070, 17.124.090, and 17.124.190 are amended to read as follows:

17.124.070 Kennels, riding academies and public stables.

- A. Kennels, riding academies, and public stables shall be located not less than 200 feet from any property line, shall provide automobile and truck ingress and egress, and shall also provide parking and loading spaces so designed as to minimize traffic hazards and congestion.
- B. Applicants shall show that odor, dust, noise, and drainage shall not constitute a nuisance, hazard, or health problem to adjoining property or uses.
- C. No animals shall be permitted to leave the property and wander at large.

17.124.090 Cemetery, crematory, mausoleum, columbarium.

- A. A cemetery, crematory, mausoleum, or columbarium shall have its principal access on a street adequate to serve the use with ingress and egress so designed as to minimize traffic congestion. A traffic impact statement pursuant to Section 17.170.090 may be required. Off-street parking spaces shall be provided pursuant to Chapter 17.92.
- B. Cemeteries located within any "R" district or abutting an "R" district shall establish and maintain a landscape buffer five feet in width as well as a sight obscuring fence, hedge or planting to minimize the conflict with abutting residential use. No mortuary or crematorium can be within 100 feet of an adjacent street or within 200 feet of a residential lot.
- C. All laws and regulations of the State of Oregon must be adhered to and copies of all required permits and licenses shall be provided to the City.

17.124.190 Keeping of livestock.

- A. No horses, cattle, sheep, or other livestock shall be kept on a lot less than three acres in area. No more than two head may be kept on the first three acres; however, one additional animal may be kept for each acre over three acres.
- B. All animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property. Barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line.
- C. Odor, dust, noise, flies or drainage shall not be permitted to create or become a nuisance to surrounding property.
- D. No horses, cattle, sheep, or other livestock shall be permitted to leave the property and wander at large.

First Reading: January 13, 2014 Passage: January 13, 2014
Second Reading: January 13, 2014 Effective Date: February 12, 2014
Signed by me in authentication of its passage this 19th, day of January, 2014

Ron Hedenskog
Mayor Ron Hedenskog

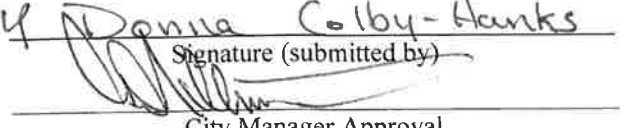
ATTEST:
Joyce Heffington
City Recorder Joyce Heffington

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 13, 2014

Originating Dept: PWDS-Planning

4 Donna Colby-Hanks
Signature (submitted by)

City Manager Approval

Subject: A hearing on File LDC-3-13 for consideration of revisions to Section 17.124.070 Kennels, riding academies and public stables, Section 17.124.090 Cemetery, crematory, mausoleum, columbarium, and Section 17.124.190 Keeping of livestock of Chapter 17.124 Specific Standards Applying to Conditional Uses, Brookings Municipal Code (BMC).

Recommended Motion: A motion to approve the revisions to Section 17.124.070 Kennels, riding academies and public stables, Section 17.124.090 Cemetery, crematory, mausoleum, columbarium, and Section 17.124.190 Keeping of livestock of Chapter 17.124 Specific Standards Applying to Conditional Uses, BMC.

Financial Impact: None.

Background/Discussion: The State of Oregon Mortuary Board recently sent out an email requesting information on the local code requirements for cemeteries within the City of Brookings. During following conversations, Staff became aware of state requirements that property owners considering cemetery use should be aware of. The proposed additional criteria will alert applicants that the State of Oregon has laws and regulations pertaining to cemetery use.

Following this report is the draft version of Section 17.124.090, Cemetery, crematory, mausoleum, columbarium (**Attachment A**) as well as a *fact sheet* provided by the Oregon Mortuary & Cemetery Board (**Attachment B**).

Chapter 8.15, Nuisances, contains language regarding the control of livestock and not allowing the animals to wander at large. This is confusing as livestock are only allowed with the approval of a conditional use permit confirming all criteria have been met. The proposed draft revisions (**Attachment A**) to Section 17.124.070, Kennels, riding academies, and public stables and Section 17.124.190 Keeping of livestock are to clarify under what conditions livestock are allowed while still prohibiting them from wandering at large. Chapter 8.15, Nuisances, will be revised in the future to clarify that it only pertains to pets wandering at large.

Site Plan Committee reviewed the proposed revisions and found them to be consistent with City ordinances and policies. The Planning Commission considered these revisions at their December 3, 2013 meeting and recommended approval to City Council without further revisions.

Policy Considerations: N/A

Attachment(s):

- A. Final draft BMC Section 17.124.070, Section 17.124.090, and Section 17.124.190.
- B. Oregon Mortuary & Cemetery Board *Fact Sheet*

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-3-13
HEARING DATE: December 3, 2013

REPORT DATE: November 21, 2013
ITEM NO: 5.5

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Revisions to Chapter 17.124 Specific Standards Applying to Conditional Uses, Section 17.124.090, Cemetery, crematory, mausoleum, columbarium, Section 17.124.070, Kennels, riding academies, and public stables and Section 17.124.190 Keeping of livestock Brookings Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

The State of Oregon Mortuary Board recently sent out an email requesting information on the local code requirements for cemeteries within the City of Brookings. During following conversations, Staff became aware of state requirements that property owners considering cemetery use should be aware of. The proposed additional criteria will alert applicants that the State of Oregon has laws and regulations pertaining to cemetery use.

Following this report is the draft version of Section 17.124.090, Cemetery, crematory, mausoleum, columbarium (Attachment A) as well as a *fact sheet* provided by the Oregon Mortuary & Cemetery Board (Attachment B).

Chapter 8.15, Nuisances, contains language regarding the control of livestock and not allowing the animals to wander at large. This is confusing as livestock are only allowed when all criteria are met with a conditional use permit. The proposed draft revisions (Attachment A) to Section 17.124.070, Kennels, riding academies, and public stables and Section 17.124.190 Keeping of livestock are to clarify under what conditions livestock are allowed while still prohibiting them from wandering at large. Chapter 8.15, Nuisances, will be revised in the future to clarify that it only pertains to pets.

Site Plan Committee reviewed the proposed revisions and found them to be consistent with City ordinances and policies.

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-2-13, Section 17.124.090, Cemetery, crematory, mausoleum, columbarium, Section 17.124.070, Kennels, riding academies, and public stables and Section 17.124.190 Keeping of livestock, BMC, to the City Council.

Original text to be deleted is ~~stricken~~.

Proposed new text is **bold**.

Chapter 17.124 Specific Standards Applying to Conditional Uses

17.124.090 Cemetery, crematory, mausoleum, columbarium.

A. A cemetery, crematory, mausoleum, or columbarium shall have its principal access on a street adequate to serve the use with ingress and egress so designed as to minimize traffic congestion. **A traffic impact statement pursuant to Section 17.170.090 may be required.** ~~and shall provide required~~ **Off-street parking spaces shall be provided pursuant to Chapter 17.92.**

B. Cemeteries located within any "R" district or abutting an "R" district shall establish and maintain **a landscape buffer five feet in width as well as a sight obscuring fence, hedge or planting** ~~appropriate landscaping and screening~~ to minimize the conflict with abutting residential use. No mortuary or crematorium can be within 100 feet of an adjacent street or within 200 feet of a residential lot.

C. **All laws and regulations of the State of Oregon must be adhered to and copies of all required permits and licenses shall be provided to the City.**

17.124.070 Kennels, riding academies and public stables.

A. Kennels, riding academies, and public stables shall be located not less than 200 feet from any property line, shall provide automobile and truck ingress and egress, and shall also provide parking and loading spaces so designed as to minimize traffic hazards and congestion.

B. Applicants shall show that odor, dust, noise, and drainage shall not constitute a nuisance, hazard, or health problem to adjoining property or uses. [Ord. 08-O-616 § 2; Ord. 98-O-446.DD § 11; Ord. 89-O-446 § 1.]

C. **No animals shall be permitted to leave the property and wander at large.**

17.124.190 Keeping of livestock.

- A. No horses, cattle, sheep, or other livestock shall be kept on a lot less than three acres in area. No more than two head may be kept on the first three acres; however, one additional animal may be kept for each acre over three acres.
- B. All animals must be confined to an area on the property and said area of confinement shall not be located closer than 125 feet to a dwelling on any contiguous property. Barns, stables and other buildings and structures to house livestock shall not be located closer than 50 feet to any property line.
- C. Odor, dust, noise, flies or drainage shall not be permitted to create or become a nuisance to surrounding property. [Ord. 08-O-616 § 2.]
- D. **No horses, cattle, sheep, or other livestock shall be permitted to leave the property and wander at large.**

Death Care in Oregon

Fact Sheet: Burial of Human Remains on Private Property

Q: I own property in the State of Oregon. Is it legal for me to bury a family member on the property?

A. Yes, as long as certain conditions are met. Oregon Revised Statute 97 allows for the use of private property for family burial grounds as long as the following is true:

- You are the owner of the property or you have consent of all the owners of the property;
- You have contacted the local planning commission in your area and you have met their requirements for land use, if any; and have their written consent;
- You agree to maintain accurate, permanent records of the burial, and;
- You agree to disclose the burial upon sale of the property.

You must also meet all State requirements for the completion of the death certificate and acquire all transport permits or other documentation required by the Office of Vital Statistics.

Q: Can I offer burial or scattering of ashes on my own land to others?

A: Anyone engaged in the sale of rights of interment (i.e. burial plot/niche or crypt or burial services), scattering of remains, or for establishing a permanent memorial, must be licensed with the State of Oregon Mortuary & Cemetery Board. Furthermore, land used for this purpose must be dedicated as a cemetery and cannot be used for other purposes. So, you may not offer your land for this purpose generally, or charge for this right, unless you have your property dedicated for this purpose, and you secure the appropriate license with the State.

Q: What other considerations should I keep in mind for private burial?

A: Remember that the descendants of the person or persons being buried on your property may wish to continue to visit the grave or memorial many years in the future. This is the value of using cemetery property that has been permanently dedicated to this purpose. If you complete a home burial, please keep in mind and plan to negotiate the long term access rights to the grave site through an easement or other agreement. Otherwise, the new owner of the property is under no obligation to allow access.

Q: What about scattering cremated remains on my property?

A: If you are the owner of the property or have the specific permission of the owner, you may scatter cremated remains. Please remember that there are restrictions on many State or Federal lands that do not allow the scattering of remains. Always check with the owner of the property. As stated above, if you want to charge to allow others to scatter remains on your property, then you must be licensed properly with the State of Oregon.

Q: I still have questions. Who can I call?

A: Please contact your local planning commission or county office for more information about restrictions or requirements in your specific area. For general questions about the laws relating to cemeteries, memorials, etc, please review ORS 97. You may contact the Oregon Mortuary & Cemetery Board at 971.673.1500 or see our website at www.oregon.gov/mortcem. Please contact the Center for Health Statistics for further information on death certificates and transportation permits. You can also contact your local funeral service practitioner for more information or assistance.