



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

April 22, 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 003-08



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: May 6, 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>

PROP **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

APR 17 2008

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Brookings**

Local file number: **LDC-2-08**

Date of Adoption: **4/14/2008**

Date Mailed: **4/15/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date: 4/15/2008

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 Chap. 17.08, Definitions, BMC.

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

Plan Map Changed from: **NA**

to:

Zone Map Changed from: **NA**

to:

Location: **City Limits**

Acres Involved:

Specify Density: Previous: **NA**

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 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. 003-08 (NOA)

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

NA

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 Amending)
Chapter 17.08, Definitions of the City of) **Ordinance No. 08-O-606**
Brookings Municipal Code.)

Sections:

- Section 1. Ordinance Identified.
- Section 2. Amends Chapter 17.08 in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.08, Definitions, of the Title 17, Land Development Code, of the Brookings Municipal Code (BMC) in its entirety.

Section 2. Amend Chapter 17.08, Definitions, is amended, in its entirety, to read as follows:

**Chapter 17.08
DEFINITIONS**

Sections:

- 17.08.001 Definitions – Generally.
- 17.08.010 A terms.
- 17.08.020 B terms.
- 17.08.030 C terms.
- 17.08.040 D terms.
- 17.08.050 E terms.
- 17.08.060 F terms.
- 17.08.070 G terms.
- 17.08.080 H terms.
- 17.08.090 I terms.
- 17.08.100 J terms.
- 17.08.110 K terms.
- 17.08.120 L terms.
- 17.08.130 M terms.
- 17.08.140 N terms.
- 17.08.150 O terms.
- 17.08.160 P terms.
- 17.08.170 Q terms.
- 17.08.180 R terms.
- 17.08.190 S terms.

17.08.200 T terms.
17.08.210 U terms.
17.08.220 V terms.
17.08.230 W terms.
17.08.240 X terms.
17.08.250 Y terms.
17.08.260 Z terms.

17.08.001 Definitions – Generally.

Where words or phrases used in this code have specialized or technical meanings, definitions are provided. The word “shall” is mandatory and not permissive. All other words or phrases shall be interpreted as they are commonly defined in everyday usage. Some individual Chapters have specific definitions relating to the standards being discussed therein. [Ord. 89-O-446 § 1.]

17.08.010 A terms.

“Abutting” means having a common boundary line, except where two or more lots or parcels adjoin only at a corner.

“Access or accessway” means the place, means or way by which pedestrians and vehicles have ingress and egress to a property or use.

“Accessory structure or use” means a use or structure incidental and subordinate to the main use of the property, and which is located on the same lot with the main one.

“Addition” means a structure that increases size of an existing building or structure on a lot or parcel.

“Adjacent” means to be near, close; for example, a commercial district across the street or highway from a residential district shall be considered as “adjacent.”

“Adjoining” means the same as “abutting.”

“Agriculture structures” means structures intended primarily or exclusively for support of agricultural functions and exemplified by, but not restricted to, barns, silos, water towers, windmills, greenhouses, stables.

“Agriculture” means the use of the land for farming, dairying, pasturage, horticulture, floriculture, silviculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of the normal agricultural activities; and provided further, that the above uses shall not include the operation of a feed lot or other commercial feeding of animals.

“Alley” means a public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

“Alteration” means any structural change to a building or other structure.

“Altered” means structurally changed.

“Amendment” means a change in the wording, context or substance of this code or the comprehensive plan document, or a change in the zone boundaries or area district boundaries upon the zoning map or designations upon the comprehensive plan map.

“Animal hospital” means a place where animals or pets are given medical or surgical treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

“Antenna” means a device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation and is typically mounted on a supporting tower, pole, mast or building.

“Apartment” means a dwelling unit in a multiple-family building or mixed-use structure.

“Architectural projections/features” means decorative extensions or other portions of a building that add no floor space nor key structural value.

“Assessor” means the County Assessor of Curry County. [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.020 B terms.

“Basement” means a space wholly or partly underground, and having more than one-half of its height, measured from its floor to its ceiling below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

“Bed and breakfast” means the rental of one or more rooms in an owner occupied single-family residence where a breakfast meal is served during the a.m. hours only.

“Building” means any structure built and maintained for the support, shelter or enclosure of persons, animals, or property of any kind.

“Building, main” means a building within which is conducted the principal use permitted on the lot or parcel, as provided in this code. [Ord. 03-O-446.SS; Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.030 C terms.

“City” means the City of Brookings, Oregon, as represented by the City manager or designated representative.

“City engineer” means the City engineer of the City of Brookings, Oregon.

“City manager” means the City manager of the City of Brookings, Oregon.

“Clinic” means a place for group medical services not involving overnight housing of patients.

“Club” means an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not groups organized primarily to render a service carried as a business for profit.

“Code” means the City of Brookings Land Development Code.

“Collocation” means the placement of two or more antenna systems or platforms by separate FCC license holders (“providers”) on a structure such as a tower, building, water tank or utility pole.

“Commercial service drive” means an access way for a shopping center containing four or more businesses having common parking areas.

“Commission” or “Planning Commission” means the Planning Commission of the City of Brookings, Oregon.

“Comprehensive Plan” means the comprehensive plan of the City of Brookings, Oregon.

“Condominiums” means a type of residential, commercial or industrial development offering individual ownership of units and common ownership of open spaces and other amenities and facilities, and regulated, in part, by state law (ORS 94.004 through 94.480).

“Construct” means to build, form, or erect by fitting parts together systematically. For the purposes of this code, “construct” shall also include the preparation of a site for building by the clearing of brush and grading of land for roads, driveways, utilities and foundations.

“Contiguous” means the same as “abutting.”

“Council, City” or “Common Council” means the City Council of the City of Brookings, Oregon.

“Courtyard” means an open, unoccupied space of one lot or parcel on which a group of dwelling units face or front.

“Cul-de-sac” means a short street which has one end open to traffic and is terminated by a vehicular turn-around. [Ord. 06-O-572 § 1; Ord. 94-O-446.V § 2; Ord. 89-O-446 § 1.]

17.08.040 D terms.

“Day care or nursery” means a school or child care center housing 17 or more children for no more than 12 hours a day, with or without compensation, including for board, supervision, and/or training provided at premises not the normal residence of the child.

“Dedicate” means to place in public ownership by the recording of a plat or by other conveyance.

“Density” means the total site area, minus the area dedicated to streets, divided by the total number of dwelling units.

“Development” means the alteration of improved or unimproved land, land use approvals, buildings permits activities regulated in Chapter 17.100, Hazardous Building Sites, BMC, and other activities requiring written authorization in this Code.

“Development permit” means a permit issued for a development which is in compliance with this code and the comprehensive plan.

“District” means a zoning district.

“Drainageway” means a natural or manmade watercourse which has the specific function of collecting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation and which conveys concentrations of water over the surface of the land.

“Dwelling group” means the integrated site design of a group of two or more dwelling units located on a lot or parcel in one ownership and having a yard or courtyard in common.

“Dwelling, single-family” means a detached structure that contains one dwelling unit.

“Dwelling, two-family” or **“duplex”** means a structure that contains two dwelling units.

“Dwelling, multifamily” means a structure that contains three or more dwelling units.

“Dwelling unit” means two or more rooms, used by one or more persons for living, sleeping, cooking and sanitation purposes, and having not more than one kitchen. [Ord. 89-O-446 § 1.]

17.08.050 E terms.

“Easement” means an interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

“Enlargement of use” means to increase the physical area for, or the intensity of, the existing use and/or placing an additional use on a lot or parcel. [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.060 F terms.

“Fence, sight-obscuring” means a fence, wall or non-deciduous planting arranged in such a way as to obstruct vision.

“Findings” means written statements of fact, conclusions and determinations based on evidence presented in relation to the decision approval criteria and accepted by the review body in support of a decision.

“Flag lot” means the same as “rear-lot”.

“Floodplain, 100 year” means the land within the City subject to a one percent chance of flooding in any given year.

“Floodway” means that portion of a floodplain and river channel that is necessary to conduct

the waters of the base flood without cumulatively raising the water level more than one foot.

“Floor area” means the area included in the surrounding walls of a building, or portion thereof, exclusive of cantilevered bay windows and courts.

See definition for “Street, frontage.” [Ord. 89-O-446 § 1.]

17.08.070 G terms.

“Garage” or “carport” means a permanently constructed building with covered roof available for the parking of a motor vehicle.

“Grade (ground level)” means the average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

“Guest house” means an accessory building no greater in size than 500 square feet and containing no kitchen or kitchen facilities. that is designed, constructed, and used to provide temporary living accommodations for guests or for members of the same family as that occupying the main structure. [Ord. 89-O-446 § 1.]

17.08.080 H terms.

“Height” see definition for “Structure, height of”.

“Home occupation” means a lawful occupation carried on within a dwelling or in an accessory building to a dwelling by members of the family occupying the dwelling, and which complies with the conditions of Chapter 17.104 BMC.

“Hotel/ Motel” means any building or portion thereof designed and used for temporary occupancy of individuals lodged with or without meals. [Ord. 89-O-446 § 1.]

17.08.090 I terms.

“Irregularly shaped parcel” means a lot or parcel that due to shape or frontage has property lines that do not fit the definition of front, side and rear lot lines making the lot depth and width difficult to determine.

17.08.100 J terms.

Reserved.

17.08.110 K terms.

“Kennel” means any premises where four or more dogs, cats or other small animals are

boarded or bred, excluding those kenneled for medical or grooming purposes. [Ord. 89-O-446 § 1.]

17.08.120 L terms.

“Land divisions” means partitioning or subdividing a subject property.

“Livestock” means any domestic farm animal kept for sale, use or as a pet but not including dogs, cats or poultry.

“Lot” means a single unit of land that is created by a subdivision of land.

“Lot area” means the total amount of land within the property lines bounding a lot or parcel.

“Lot, corner” means any lot having at least two (2) contiguous sides abutting on one or more streets provided that the interior angle at the intersection of such two sides is less than 135 degrees.

“Lot coverage” means that percentage of the total lot area covered by structures.

“Lot depth” means the average distance measured from the front lot line to the rear lot line. For irregular shaped parcels see definition for “Irregularly shaped parcel.”

“Lot, interior” means a lot that is not a corner lot.

“Lot line” means any property line bounding a lot or parcel.

“Lot line adjustment” means the relocation of a common boundary, where an additional lot or parcel is not created.

“Lot line, front” means, in the case of an interior lot, the lot lines separating the lot from the street other than an alley. In the case of a corner lot, “front lot line” means the frontage from which the lot is accessed and addressed.

“Lot line, rear” means a lot line which is opposite and most distant from the front lot line. For an irregular shaped lot, see definition for “Irregularly shaped parcel.”

“Lot line, side” means any lot line not a front lot line or a rear lot line.

“Lot, through” means an interior lot having frontage on two parallel or approximately parallel streets other than alleys.

“Lot width” means the average horizontal distance between the side lot or the distance between the side lot lines within the buildable area (area of the lot less required setbacks). In the case of a corner lot, lot width shall mean the horizontal distance between the lot line adjacent to a street that does not provide access and the opposite lot line. For an irregular shaped lot, see definition for “Irregularly shaped parcel.” [Ord. 98-O-446.DD § 2; Ord. 89-O-446 § 1.]

17.08.130 M terms.

“Maintain” means to keep in good order and repair at all times so that the structure, improvement, or required condition of approval does not constitute any danger or hazard to public safety or a visual blight, and carries out the purpose for which it was installed, constructed or required.

“Manufactured home” means a transportable, single-family dwelling intended for permanent occupancy conforming to the Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD code).

“Manufactured home park” means a defined area under single ownership or control in which manufactured homes are used for human habitation, or in which spaces are improved, designed or offered for such purposes.

“Minor change” means a change to the design and/or conditions of approval of a planned unit development, conditional use permit, partition, or subdivision that does not significantly change the nature of the project or subdivision.

17.08.140 N terms.

“Nonconforming structure or use” means a use of land or structure which lawfully existed at the time of the adoption of this Code, or of any amendment thereto, but which presently does not conform with the regulations imposed by this Code.
[Ord. 89-O-446 § 1.]

17.08.150 O terms.

Reserved.

17.08.160 P terms.

“Parcel” means a single unit of land that is created by the partitioning process.

“Parcel, discrete” means a unit of land created by partitioning of the subject property as defined in ORS 92.010 and in compliance with all regulations in this Code; or by deed or sales contract, if there were no applicable planning, zoning, or partitioning ordinances or regulations in effect at the time the parcel was created.

“Parking area, public” means an open area, other than a street or other public way, used for parking and available to the public whether for a fee, free, or as an accommodation for clients or customers.

“Parking space” means a permanently surfaced and marked area conforming to Chapter 17.92 BMC excluding paved area necessary for access.

“Partition” means creation of three or fewer parcels from the subject property, within the calendar year, and without the creation of a street.

“Permittee” means the person who is proposing to use or who is using the land pursuant to any permit.

“Person” means an individual, firm, co-partnership, joint venture, association, social club,

fraternal organization, corporation, estate, trust, receiver, syndicate, the federal or state government, town, county, district or any other group or combination acting as an entity.

“Plat” means the map or drawing on which the subdividers plan of subdivision is presented and which is submitted for approval and intended to be recorded in its approved final form. [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.170 Q terms.

Reserved.

17.08.180 R terms.

“Rear-lot” means a “flag” shaped lot or parcel with its buildable area set back some distance from a road and having a narrow strip of land on which the driveway provides access to a road.

“Reasonable hours of operation” means daylight hours all days of the week.

“Recreational vehicle” or “travel trailer” means a self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

“Recreational vehicle park” means a commercially developed lot upon which two or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations.

“Rent” means the consideration charged for the occupancy of space in a hotel/ motel or short-term rental as defined in BMC 17.08.190, valued in money, goods, labor, credits, property or other consideration valued in money. [Ord. 01-O-446.MM; Ord. 95-O-446.Y § 2; Ord. 89-O-446 § 1.]

17.08.190 S terms.

“School, private” means an educational facility meeting federal, state, and local requirements and funded by means other than public monies. It does not include business colleges, nursery schools, dance schools, riding academies, or specialized trade or vocational schools.

“School, public” means an educational facility meeting federal, state, and local requirements and funded by public monies.

“Setback” means the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way or property line, to the nearest vertical wall or other element of a building or structure as defined herein.

“Shopping center” means a group of four or more stores planned and designed for the site on which it is built, functioning as an integrated unit, with off-street parking and landscaped areas.

“Short-term rental” means a residential structure, either single-family, duplex, apartment or

condominium, that is rented for lodging purposes for a period of less than 30 days.

“Sign” means any notice, or advertisement, or communication, including the supporting structure, used as an outdoor display.

“Sign, area” means the total amount of the square footage within the outside dimensions of the sign face. Size calculations for double-sided signs consider only the outside dimensions of one side.

“Site plan” means a plot plan, prepared to scale, showing accurate and complete dimensions of all of the existing and proposed structures etc. as listed in 17.80.030, BMC for a specific parcel of land or development site.

“Site plan committee” means the Committee as defined in 17.80.020, BMC.

“Stealth characteristics” means the use of camouflage techniques to disguise or minimize the visual impact of a tower or antennas (i.e., located in conjunction with a church, steeple, stadium lighting, made to look like a tree or flagpole, etc.)

“Street, arterial” means a major street accommodating intra-community through traffic and trips of moderate length. Highway 101 is the only street identified as an arterial street in the City of Brookings Transportation System Plan (TSP).

“Street, collector” means a major street which transports traffic from local streets and neighborhoods to the arterial street system and is identified as such in the City of Brookings Transportation System Plan (TSP).

“Street, frontage” means a street that abuts a front lot line and from which the lot or parcel is accessed and addressed.

“Street, private” means a street that has not been dedicated to the City public purposes.

“Street, public” means a thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, lane, drive, boulevard, highway, road and any other thoroughfare.

“Structural alteration” means any change in the supporting members of a building, such as a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components. [Ord. 01-O-446.MM; Ord. 89-O-446 § 1.]

“Structure” means anything constructed or built, or any piece of work deliberately built up or composed of parts adjoining in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

“Structure, height of” means the average of the vertical distance measured from the highest ridgeline of the roof to the finished grade at the center of all four sides of the structure.

“Subdivision” means a division of land creating four or more lots from the subject property, or creating three or less fewer lots and the creation of a street.

17.08.200 T terms.

“Tax lot” means a single unit of land shown on the Curry County assessor’s parcel map which is identified by a tax lot number and which may, or may not be a discrete parcel.

“Townhouse” means a type of residential, commercial or industrial development offering individual ownership of units including a minimum of the land under the unit and common ownership of open spaces and other amenities and facilities, and regulated, in part, by state law (ORS 94.004 through 94.480). [Ord. 89-O-446 § 1.]

17.08.210 U terms.

“Use” means the purpose for which land and/or a structure is designed, arranged, or intended, or for which it is occupied or maintained. [Ord. 89-O-446 § 1.]

17.08.220 V terms.

“Vision obstruction” means objects limiting visibility for motorists, pedestrians, or bicyclists as defined in BMC 17.128.050. [Ord. 89-O-446 § 1.]

17.08.230 W terms.

“Water-dependent (WD)” means a use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.

“Water-related (WR)” means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

“Wholesale” means the business of selling goods or merchandise to retailers or jobbers for resale to the ultimate consumer.

“Wireless telecommunication facility” means unmanned structures and equipment for the transmission and reception of radio frequency (RF) signals; usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure (tower), antennas or other, transmission and reception devices.

“Wireless telecommunication provider” means a person or company in the business of offering telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

“Wireless telecommunication tower” means a structure more than 10 feet tall, built primarily to support one or more telecommunication antennas.

“Wrecking yard” means an area used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers; or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts; or the storage of inoperable vehicles [Ord. 89-O-446 § 1.]

17.08.240 X terms.

Reserved.

17.08.250 Y terms.

“Yard” means the area defined by required setbacks.

“Yard, front” means an open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.


“Yard, side” means an open space extending from the front yard to the rear yard between a structure and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code. [Ord. 89-O-446 § 1.]

“Yard, rear” means an open space extending the full width of the lot or parcel between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

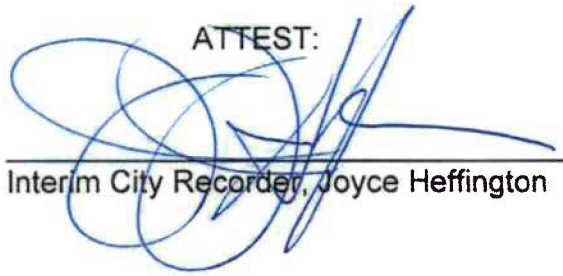
17.08.260 Z terms.

Reserved.

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



Mayor Larry Anderson

ATTEST:



Interim City Recorder, Joyce Heffington

ADVANCE PACKET, 2/18/08

For

Monday, March 4, 2008 Planning Commission Meeting

Included in this packet is a staff report and draft version of Chapter 17.08, Definitions, of the Land Development Code (LDC). It is being distributed now to allow some additional time for your review prior to the hearing to consider the revisions on March 4. Your regular packet will be available one week ahead of the meeting.



STAFF REPORTS
IN SUPPORT OF
AMENDMENTS.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-2-07
HEARING DATE: March 4, 2008

REPORT DATE: February 6, 2008
ITEM NO: 7.1

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Revisions to Chapter 17.08, Definitions, of
the Brookings Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

The City's Land Development Code (LDC) Committee has reviewed and recommends the following changes to Chap. 17.08, Definitions. The draft version is attached to this staff report.

PROPOSED AMENDMENT

Definitions are important in the Code to be certain there is clear understanding of the terms used to implement the standards used for development proposals. Some definitions in this Chapter have word changes, others are new definitions, and some have been moved elsewhere in the document so they are more easily found. It is Staff's desire to make the Code user friendly with understandable definitions and eliminating any conflicting or contradictory terms. Some Land Use terms are quite difficult to describe and Staff and the LDC Committee spent considerable time wordsmithing. As you review these, please make notes of any questions/ ideas you may have to add further clarification.

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-3-08, Chapter 17.08, Definitions, BMC, to the City Council.

**Chapter 17.08
DEFINITIONS**

Draft January 22, 2008

Sections:

- 17.08.001 Definitions – Generally.
- 17.08.010 A terms.
- 17.08.020 B terms.
- 17.08.030 C terms.
- 17.08.040 D terms.
- 17.08.050 E terms.
- 17.08.060 F terms.
- 17.08.070 G terms.
- 17.08.080 H terms.
- 17.08.090 I terms.
- 17.08.100 J terms.
- 17.08.110 K terms.
- 17.08.120 L terms.
- 17.08.130 M terms.
- 17.08.140 N terms.
- 17.08.150 O terms.
- 17.08.160 P terms.
- 17.08.170 Q terms.
- 17.08.180 R terms.
- 17.08.190 S terms.
- 17.08.200 T terms.
- 17.08.210 U terms.
- 17.08.220 V terms.
- 17.08.230 W terms.
- 17.08.240 X terms.
- 17.08.250 Y terms.
- 17.08.260 Z terms.

17.08.001 Definitions – Generally.

~~As used in this code, the masculine includes the feminine and the neuter, and the singular includes the plural.~~ Where words or phrases used in this code have specialized or technical meanings, definitions are provided. The word “shall” is mandatory and not permissive. All other words or phrases shall be interpreted as they are commonly defined in everyday usage. **Some individual Chapters have specific definitions relating to the standards being discussed therein.** [Ord. 89-O-446 § 1.]

17.08.010 A terms.

~~“Abutting” means having a common boundary line, except where two or more lots or parcels adjoin only at a corner or corners, or where the common property line between the lots or parcels measures less than eight feet in a single direction.~~

“Access or accessway” means the place, means or way by which pedestrians and vehicles shall have ~~safe, adequate and usable~~ ingress and egress to a property or use, ~~as required by this code.~~

“Accessory structure or use” means a use or structure incidental and subordinate to the main use of the property, and which is located on the same lot with the main one.

“Addition” means ~~the addition~~ **a structure that increases** to the ~~physical area~~ **size** of an existing building or structure on a lot or parcel of land. ~~requiring a building permit.~~

“Adjacent” means to be near, close; for example, a commercial district across the street or highway from a residential district shall be considered as “adjacent.”

“Adjoining” means the same as “abutting.”

“Agriculture structures” means structures intended primarily or exclusively for support of agricultural functions and exemplified by, but not restricted to, barns, silos, water towers, windmills, greenhouses, stables.

“Agriculture” means the use of the land for ~~agricultural purposes, including~~ farming, dairying, pasturage, horticulture, floriculture, silviculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of the normal agricultural activities; and provided further, that the above uses shall not include the operation of a feed lot or other commercial feeding of animals.

“Alley” means a public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

“Alteration” means any structural change to a building or other structure, ~~which requires a building permit.~~

“Altered” means structurally ~~altered~~ **changed**.

“Amendment” means a change in the wording, context or substance of this code or the comprehensive plan document, or a change in the zone boundaries or area district boundaries upon the zoning map or designations upon the comprehensive plan map.

“Animal hospital” means a place where animals or pets are given medical or surgical treatment. ~~and are cared for during the time of such treatment.~~ Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

“Antenna” means **a device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation and is typically mounted on a supporting tower, pole, mast or building.**

“Apartment” means a dwelling unit in a multiple-family building **or mixed-use structure.**

“Architectural projections/features” means decorative extensions or other portions of a building ~~having~~ **that add** no floor space nor key structural value.

“Assessor” means the County Assessor of Curry County. [Ord. 91-O-446.F § 1; Ord. 89-O-446

§ 1.]

17.08.020 B terms.

“Basement” means a space wholly or partly underground, and having more than one-half of its height, measured from its floor to its ceiling below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

“Bed and breakfast” means ~~any activity located~~ **the rental of two or more rooms** in an owner occupied single-family residence ~~involving the rental of two or more rooms~~ where one breakfast meal is served during the a.m. hours only.

“Boarding or rooming house” means a dwelling or part thereof, other than a hotel or motel, where lodging with or without meals is provided, for three or more persons, ~~with~~ **for** compensation.

“Building” means any structure built and maintained for the support, shelter or enclosure of persons, animals, ~~ehattels~~ or property of any kind.

~~“Building, height of” means the average of the vertical distance measured from the highest peak of the roof to the finished grade at the center of all four sides of the building. Moved to~~ “Structure, height of”.

“Building, main” means a building within which is conducted the principal use permitted on the lot or parcel, as provided in this code. [Ord. 03-O-446.SS; Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.030 C terms.

“City” means the City of Brookings, Oregon, as represented by the City manager or designated representative.

“City engineer” means the City engineer of the City of Brookings, Oregon.

“City manager” means the City manager of the City of Brookings, Oregon.

“Clinic” means a place for group medical services not involving overnight housing of patients.

“Club” means an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not ~~including groups which are~~ organized primarily to render a service carried as a business for profit.

“Code” **means** the City of Brookings Land Development Code.

“Collocation” **means the placement of two or more antenna systems or platforms by separate FCC license holders (“providers”) on a structure such as a tower, building, water tank or utility pole.**

“Commercial service drive” **means an access way for a shopping center containing four or more businesses having common parking areas.**

“Commission” or “planning commission” means the planning commission of the City of Brookings, Oregon.

“Comprehensive plan” means the comprehensive plan of the City of Brookings, Oregon.

“Condominiums” means a type of residential, commercial or industrial development offering individual ownership of units and common ownership of open spaces and other amenities and facilities, and regulated, in part, by state law (ORS 94.004 through 94.480).

“Construct” means to build, form, or ~~devise~~ erect by fitting parts together systematically. For the purposes of this code, “construct” shall also include the preparation of a site for building by the clearing of brush and grading of land for roads, driveways, utilities and foundations.

“Contiguous” means the same as “abutting.”

“Council, City” or “Common Council” means the City Council of the City of Brookings, Oregon.

“Court” means an open, unoccupied space of one lot or parcel on which a group of dwelling units face or front.

“Cul-de-sac” means a short street which has one end open to traffic and is terminated by a vehicular turn-around. [Ord. 06-O-572 § 1; Ord. 94-O-446.V § 2; Ord. 89-O-446 § 1.]

17.08.040 D terms.

“Day care, nursery or kindergarten” means a school or child care center housing 14 or more children for no more than 12 hours a day, with or without compensation, including for board, supervision, and/or training ~~given~~ **provided** at premises ~~other than~~ **not** the normal residence of the child.

“Density, ~~gross~~” means the ~~quotient of the total number of dwelling units divided by the gross site area.~~ **total site area, minus the area dedicated to streets, divided by the total number of dwelling units.**

“Development” means the alteration of improved or unimproved land, including but not limited to a land division, buildings or other structures, excavation, grading, filling, and removal of vegetation on slopes greater than 15 %.

“Development permit” means a permit issued for a development which is in compliance with this code and the comprehensive plan.

~~“Director of planning” or “planning director” means the director of planning of the City of Brookings, Oregon.~~

“District” means a zoning district.

- ~~1. An “R” district indicates any residential district.~~
- ~~2. A “C” district indicates any commercial district.~~
- ~~3. An “M” district indicates any industrial district.~~

“Drainageway” means a natural or manmade watercourse which has the specific function of

~~transmitting~~ **collecting** natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation and which conveys ~~significant~~ concentrations of water over the surface of the land.

“Dwelling group” means the integrated site design of a group of two or more dwelling units located on a parcel of land in one ownership and having ~~any~~ a yard or court in common.

“Dwelling, single-family” means a ~~building designed or used for residential purposes by not more than one family and containing one dwelling unit only.~~ **detached dwelling unit located on its own lot/ parcel.**

“Dwelling, two-family” or “duplex” means a building designed or used for residential purposes by not more than two families and containing two dwelling units.

“Dwelling, multifamily” means a building ~~or portion thereof designed~~ or used as a residence by three or more families and containing three or more dwelling units.

“Dwelling unit” means ~~one room, or suite of~~ two or more rooms, designated or used by one family or housekeeping unit for living ~~or~~ **and** sleeping purposes and having not more than one kitchen ~~or kitchenette.~~ [Ord. 89-O-446 § 1.]

17.08.050 E terms.

“Easement” means a recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

“Expansion of use” means to increase the physical area for, or the intensity of, the existing use and/or placing an additional use on a lot or parcel of land. [Ord. 91-O-446.F § 1, Ord. 89-O-446 § 1.]

17.08.060 F terms.

“Family” means an individual; or two or more persons related by blood, marriage, legal adoption or guardianship, or a group of not more than five unrelated persons living together in a dwelling unit.

“Fence, sight-obscuring” means a fence, wall or ~~evergreen~~ **non-deciduous** planting arranged in such a way as to obstruct vision.

“Findings” means written statements of fact, conclusions and determinations based on evidence presented in relation to the decision approval criteria and accepted by the review body in support of a decision.

“Flag lot” means ~~the same as “rear-lot”. a “panhandle” shaped lot or parcel with its widest area set back some distance from a road and having a thin strip of land connecting to a road to provide legal access.~~

“Floodplain, **100 year**” means the land within the City subject to a one percent chance of flooding in any given year.

“Floodway” means that portion of a floodplain and river channel that is necessary to conduct the waters of the base flood without cumulatively raising the water level more than one foot.

“Floor area” means the area included in the surrounding walls of a building, or portion thereof, exclusive of ~~vent shafts~~ **cantilevered bay windows** and courts.

“Frontage” means that portion of a parcel of property which abuts a dedicated public street or highway. [Ord. 89-O-446 § 1.]

17.08.070 G terms.

“Garage” or “carport” means a permanently constructed building with covered roof available for the parking of a motor vehicle.

“Grade (ground level)” means the average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

“Group living” means more than five persons unrelated by blood or marriage residing together in a dwelling unit.

“Guest house” means an accessory building, containing no kitchen or kitchen facilities. **that is** designed, constructed, and used ~~for the purpose of to providing~~ **provide** temporary living accommodations for guests or for members of the same family as that occupying the main structure. ~~and containing no kitchen or kitchen facilities.~~ [Ord. 89-O-446 § 1.]

17.08.080 H terms.

“Height” see definition for “Structure, height of”.

“Home occupation” means a lawful occupation carried on within a dwelling or in an ~~attached~~ accessory building to a dwelling by members of the family occupying the dwelling, and which complies with the conditions of Chapter 17.104 BMC. ~~; provided, that the residential character of the building is maintained and the occupation constructed in such a manner as not to manifest any characteristic of a business in the ordinary meaning of the term, except as permitted in this code, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. A home occupation does not involve the retail sale of a product or commodity on the premises, other than teaching, tutoring, or counseling, or other similar professional business service involving a traffic impact of no more than one automobile at a time, nor more than eight persons a day.~~

“Hotel/ **Motel**” means any building or portion thereof designed ~~or~~ **and** used ~~or containing six or more guest rooms or suites of rooms, but not including any institutions in which human beings are housed or detained under legal restraint.~~ **for occupancy of transient individuals lodged with or without meals.** [Ord. 89-O-446 § 1.]

17.08.090 I terms.

“Irregular shaped parcel” means a parcel or lot that due to shape or frontage has property lines that do not fit the definition of front, side and rear lot lines making the lot depth and

width difficult to determine. These parcels shall conform to the setback requirements of rear-lot development, BMC 17.172.061(B)(2)(b).

~~Reserved.~~

17.08.100 J terms.

~~Reserved.~~

17.08.110 K terms.

“Kennel” means any premises where four or more dogs, cats or other small animals are ~~permitted to remain, for a fee, except veterinary clinics and animal hospitals.~~ **boarded or bred. Veterinary clinics, animal hospitals, or grooming establishments may only board animals during the time the animal is being treated.** [Ord. 89-O-446§ 1.]

17.08.120 L terms.

“Land divisions” include:

1. ~~“Major partition” means a partition of land creating three or less parcels from a parent parcel which includes the creation of a road or street.~~
2. ~~“Minor partition” means a partition of land creating~~ **creation of** three or less parcels from ~~parent Parcel~~ **the subject property without the creation of a street.**
3. ~~“Subdivision” means a division of land creating four or more lots from a parent parcel~~ **the subject property, or creating three or less lots and the creation of a street.**
4. ~~“Lot line adjustment” means adjustment of an existing lot line by the relocation of a common boundary, where~~ **an additional unit of land is not created and where any parcel reduced in size by the adjustment is not reduced below the minimum lot size established by this code. complies with any applicable Code requirements.**
5. ~~“Parent parcel” means that parcel of land as it existed on the effective date of this code. Contiguous parcels of land partitioned prior to the effective date of this code, and remaining in single ownership, shall all be considered part of one parent parcel.~~

“Livestock” means any domestic farm animal kept for sale, use or as a pet but not including dogs, cats or poultry.

~~“Lot” means an parcel, of land used or capable of being used under the regulations requirements of this code, lawfully created as such in accordance with the land division laws or ordinances in effect at the time of its creation.~~ **area of land depicted on a subdivision plat.**

~~“Lot area” means the total horizontal area~~ **amount of land** within the lot lines of a ~~lot~~ **property.**

~~“Lot, corner” means any lot having at least two (2) contiguous sides a lot abutting on one two or more~~ **intersecting streets provided that the interior angle at the intersection of such two sides is less other than an alley, except if the streets intersect at an angle greater than 135 degrees.**

“Lot coverage” means that percentage of the total lot area covered by structures.

“Lot depth” means the ~~horizontal distance from the midpoint of the front lot line to the midpoint~~ **average distance measured from the front lot line to** ~~of~~ the rear lot line. **For irregular shaped parcels see definition for “Irregular shaped parcel”.**

“Lot, interior” means a lot ~~other than~~ **that is not** a corner lot.

“Lot line” means the property line bounding a lot.

“Lot line, front” means, in the case of an interior lot, the lot lines separating the lot from the street other than an alley. In the case of a corner lot, “front lot line” means the **frontage from which the lot is accessed and addressed.** ~~the shortest lot line along a street other than an alley.~~

“Lot line, rear” means a lot line ~~not abutting a street~~ which is opposite and most distant from the front lot line. ~~In a case of For an irregular shaped lot, a line a minimum of 10 feet in width within the lot parallel to and at a maximum distance from the front lot line.~~ **see definition for “Irregular shaped parcel”.**

“Lot line, side” means any lot line not a front lot line or a rear lot line.

~~“Lot of record” means a lot or parcel held in separate ownership as shown on the records of the county assessor at the time of passage of this code or regulation establishing the zoning district in which the lot is located.~~

“Lot, tax” means one parcel of real property shown on the Curry County assessor’s parcel map which is identified by a tax lot number and which may not necessarily be a ~~lot of record.~~ **discrete parcel.**

“Lot, through” means an interior lot having frontage on two parallel or approximately parallel streets other than alleys. Such a lot shall have one front yard fronting on the ~~primary public~~ street **with the lesser functional classification of street.**

“Lot width” means the **average** horizontal distance between the side lot lines ~~measured at their midpoint between the front and rear lot lines~~ or the distance between the side lot lines within the buildable area (area of the lot less required setbacks). In the case of a corner lot, lot width shall mean the horizontal distance between the ~~longest front lot line~~ **adjacent to a street that does not provide access** and the opposite lot line ~~not abutting the street.~~ **In the case of For an irregular shaped lot, see definition for “Irregular shaped parcel”.** [Ord. 98-O-446.DD § 2; Ord. 89-O-446 § 1.]

17.08.130 M terms.

~~“Maintain” means to cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable to keep in good order and repair at all times so that it does not constitute any danger or hazard to public safety or a visual blight and carries out the purpose for which it was installed, constructed or required.~~

“Manufactured home” means a transportable, single-family dwelling **intended for permanent occupancy** conforming to the Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD code), ~~but is not regulated by the Oregon State Structural Specialty~~

~~Code and Fire Life Safety Regulations, 1985 edition, and intended for permanent occupancy and which arrives at the site complete and ready for occupancy. so that it may be used with or without a permanent foundation.~~

~~“Minor change” means a change to the design and/or conditions of approval of a planned unit development, conditional use permit or subdivision that does not significantly change the nature of the project or subdivision. Minor changes may be allowed subject to the conditions of approval and the design of a completed project including the addition or reduction of buildings, totaling no more than 20 percent of the total floor area originally approved for the project. Minor changes to subdivisions and footprints of planned unit developments which require recordation with the county clerk are only allowed prior to the time of recordation.~~

~~“Mobile Manufactured home park” means a defined area under ~~united~~ **single** ownership or control in which manufactured homes are ~~situated~~ and used for human habitation, or in which spaces are improved, designed or offered for such purposes.~~

~~“Mobile home space” means a plot of ground within a mobile home park designed for the accommodation of one manufactured home.~~

~~“Mobile home subdivisions” shall consist of a minimum area of five acres and be designed and constructed to the same standards and requirements as subdivisions for conventional homes complying with the Oregon State Structural Specialty Code and Fire Life Safety Regulations, 1985 Edition, in addition to the requirements set forth in Chapter 17.32 BMC. A mobile subdivision is designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes, but not limited thereto.~~

~~“Motel” means a building or group of buildings used for transient residential purposes containing guest rooms or dwelling units with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of transient automobile travelers; including groups designated as auto cabins, motor courts, motor hotels and similar designations. [Ord. 92-O-446.J § 2; Ord. 89-O-446 § 1.]~~

17.08.140 N terms.

~~“Nonconforming structure or use” means a use of land or of a building or structure which use lawfully existed at the time of the adoption of this Code, or of any amendment thereto, but which **presently use** does not conform with the use regulations imposed by this Code. or such amendment thereto.~~

~~[Ord. 89-O-446 § 1.]~~

17.08.150 O terms.

Reserved.

17.08.160 P terms.

~~“Parcel” means a unit of land that is created by a partitioning of ~~land~~ property.~~

~~“Parcel, discrete” means a unit of land by a partitioning of land as defined in ORS 92.010 and in compliance with all regulations in this Code or by deed or sales contract, if there were no applicable planning, zoning, or partitioning ordinances or regulations in effect at the time the parcel was created.~~

~~“Parking area, public” means an open area, other than a street or other public way, used for the~~

parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.

“Parking space” means a permanently surfaced and marked area ~~not less than nine feet wide and 20 feet long~~ **conforming to Chapter 17.92 BMC** excluding paved area necessary for access for the parking of a motor vehicle.

“Permittee” means the person who is proposing to use or who is using the land pursuant to any permit required herein.

“Person” means an individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, the federal or state government, town, county, district or any other group or combination acting as an entity.

“Plat” means the map or drawing on which the subdividers plan of subdivision is presented and which is submitted for approval and is intended to be recorded in its approved final form.

[Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.170 Q terms.

Reserved.

17.08.180 R terms.

“Rear-lot” means a “flaglot” shaped lot or parcel with its buildable area set back some distance from a road and having a narrow strip of land on which the driveway provides access to a road.

“Reasonable hours of operation” means daylight hours all days of the week.

“Recreational vehicle” or “travel trailer” means a self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

“Recreational vehicle park” means a **commercially developed** lot upon which two or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations.

“Rent” means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel or short-term rental as defined in BMC 17.08.190, valued in money, goods, labor, credits, property or other consideration valued in money. ~~without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or occupancy by such owner, so long as the charges are made in connection therewith for space occupancy.~~ [Ord. 01-O-446.MM; Ord. 95-O-446.Y § 2; Ord. 89-O-446 § 1.]

17.08.190 S terms.

“School, private and parochial” means schools for children ~~over the age of five years~~ having a curriculum substantially equivalent to a public school. **Day care/ nursery school standards are found in 17.124.010, BMC.**

“School, public” means an institution of learning which offers instruction in the several branches of learning and study required to be taught in public schools. It does not include business colleges, nursery schools, dancing schools, riding academies, or specialized trade or vocational schools.

“Setback” means the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way or property line, to the nearest vertical wall or other element of a building or structure as defined herein. **Mechanical equipment/ appliances such as heat pumps, generators, propane tanks etc. are not required to maintain setbacks from property lines, if they are for residential purposes and no larger than 16 sq. ft. in size. Commercial mechanical equipment or equipment greater than 16 sq. ft. in size must be reviewed and approved by Site Plan Committee.**

“Shopping center” means a group of **four or more** stores planned and designed for the site on which it is built, functioning as an integrated unit, with off-street parking **and** landscaped areas. ~~and pedestrian malls or plazas provided on the property as an integral part of the unit.~~

“Short-term rental” means a residential structure, either single-family, duplex, apartment or condominium, that is rented for lodging ~~or sleeping~~ purposes for a period of less than 30 days.

“Sign” means any notice, ~~or~~ advertisement, **or communication pictorial or otherwise, including the supporting structure**, used as an outdoor display for the purpose of advertising the property ~~or the establishment or enterprise, including goods and services, upon which the sign is exhibited or any type of communication.~~ **This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by law or by federal, state, county or City authority.**

“Sign, area” of. ~~In determining whether a sign is within the area limitations of this code, the area of the total exterior surface shall be measured and computed in square feet; provided, that where the sign has two or more faces, the area of the total exterior surface shall be measured and divided by the number of faces; and provided further, that if the interior angle between the two planes of two faces exceeds 135 degrees they shall be deemed a single face for the purposes hereof. Measurement shall be made at the extreme horizontal and vertical limit of a sign.~~ **means a calculation of the square footage within the outside dimensions of the sign face. Size calculations for double-sided signs consider only the outside dimensions of one side.**

“Site plan” means a plan, prepared to scale, showing accurate and complete ~~dimensioning dimensions~~ of all of the **existing and proposed structures etc. as listed in 17.80.030, BMC** uses and improvements proposed for a specific parcel of land.

“Site plan committee” means the ~~site plan committee of the City of Brookings, Oregon.~~ **Committee as defined in 17.80.020, BMC.**

“Stealth characteristics” means the use of camouflage techniques to disguise or minimize the visual impact of a tower or antennas (i.e., located in conjunction with a church, steeple, stadium lighting, made to look like a tree or flagpole, etc.)

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above.

“Street, arterial” means a major street intended to transport large quantities of traffic in a safe and efficient manner with a minimal number of controlled access points. It shall be identified as an arterial street on the City of Brookings ~~official street master plan~~ **Transportation System Plan (TSP)**.

“Street, collector” means a major street which transports traffic from local streets and neighborhoods to the arterial street system and is identified as such on the City of Brookings ~~official street master plan~~ **Transportation System Plan (TSP)**.

“Street, private” means a ~~street or road created through any process requiring a development permit and constructed to the standards of the land development code with a recorded agreement that such road will be maintained by the property owner(s) which it will serve.~~ **local access road that is built to City standards and that the City has not officially accepted for purposes of jurisdiction, or an existing local access road that was not constructed to City standards and was never intended to be dedicated to the public.**

“Street, public” means a thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, lane, drive, boulevard, highway, road and any other thoroughfare.

“Structure” means anything constructed or built, any ~~edifice or building of any kind~~, or any piece of work ~~artificially~~ **deliberately** built up or composed of parts adjoining in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming ~~and wading~~ pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

“Structure, height of” means the average of the vertical distance measured from the highest **peak** ~~ridge~~line of the roof to the finished grade at the center of all four sides of the structure. **No fill material may be used to solely decrease the height measurement.**

“Structural alteration” means any change in the supporting members of a building, such as a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components. [Ord. 01-O-446.MM; Ord. 89-O-446 § 1.]

17.08.200 T terms.

~~“Temporary use” means a short-term, seasonal or intermittent use, which shall be approved by the planning commission by means of the conditional use permit process with such conditions as the commission deems reasonable in accordance with the conditional use permit standards.~~

“Townhouse” means a type of residential, commercial or industrial development offering individual ownership of units including a minimum of the land under the unit and common ownership of open spaces and other amenities and facilities, and regulated, in part, by state law (ORS 94.004 through 94.480). [Ord. 89-O-446 § 1.]

17.08.210 U terms.

“Use” means the purpose for which land **and/or** a structure is designed, arranged, or intended, or for which it is occupied or maintained. [Ord. 89-O-446 § 1.]

17.08.220 V terms.

“Vision obstruction” means **objects limiting visibility for motorists, pedestrians, or bicyclists** as defined in BMC 17.128.050. [Ord. 89-O-446 § 1.]

17.08.230 W terms.

“Water-dependent (WD)” means a use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water. Therefore, in WD areas such activities as the following **is are** allowed:

1. Service areas for support of waterborne transportation (such as fueling, moorage, unloading, terminal or transfer facilities, marine construction, dismantling or repair);
2. Access to fishing, swimming, boating, ~~fishing (water an integral part of the activity);~~
3. Production of energy from water.

“Water-related (WR)” means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as providing services directly to water-dependent or water-related facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, ~~mobile~~ **manufactured** home parks and recreational vehicle parks are not generally considered dependent on or related to water locations needs. WR uses are those which provide services to WD uses, services directly associated with WD uses or directly tied to function of WD use. The rule is that an activity is WR if an upland location would mean a net loss to the public in quality of goods or services (economic, social, environmental).

“Wholesale” means the business of selling goods or merchandise to retailers or jobbers for resale to the ultimate consumer.

“Wireless telecommunication facility” means an unmanned facility structures and equipment for the transmission and reception of radio frequency (RF) signals; usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure (tower), antennas or other, transmission and reception devices.

“Wireless telecommunication provider” means a person or company in the business of offering telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

“Wireless telecommunication tower” means a structure more than 10 feet tall, built primarily to support one or more telecommunication antennas.

“Wrecking yard” means an area used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers; or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts; or the storage of **inoperable** vehicles ~~unable to be moved under the power of the vehicle.~~ [Ord. 89-O-446 § 1.]

17.08.240 X terms.

Reserved.

17.08.250 Y terms.

~~“Yard” means any open space on the same lot with a building or a dwelling group structures(s), which open space is unoccupied and unobstructed by any structure from the ground upward to the sky, except from architectural projections. the area defined by required setbacks.~~

“Yard, front” means an open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

“Yard, side” means an open space extending from the front yard to the rear yard between a building structure and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code. [Ord. 89-O-446 § 1.]

17.08.260 Z terms.

Reserved.

Advance Packet

For

Monday, March 24, 2008 Council Meeting

Included in this packet is documentation to support the following Agenda Items:

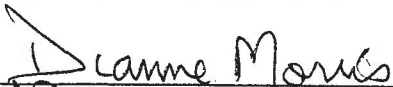
V. Public Hearings

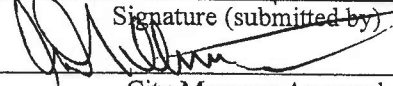
A. Discussion with consideration to approve revisions to Chapter 17.08, Definitions, of the Brookings Municipal Code, and directing staff to prepare an adopting ordinance for review and possible adoption at the April 14, 2008, City Council meeting.

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: March 24, 2008

Originating Dept: Planning




Signature (submitted by)


City Manager Approval

Subject: Revisions to Chapter 17.08, Definitions, of the Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chap. 17.08, Definitions, BMC, and directing Staff to prepare an adopting ordinance for review and possible adoption at the April 14, 2008 City Council meeting.

Financial Impact: None. 

Background/Discussion: Code definitions are important to be certain there is clear understanding of the terms used to implement standards when reviewing development proposals. Some definitions in this Chapter have word changes, others are new definitions, and some have been moved elsewhere in the document so they are more easily found. It is Staff's desire to make the Code user friendly with understandable definitions and eliminate any conflicting or contradictory terms. Some Land Use terms are quite difficult to describe. Staff, the Land Development Code Committee, and the Planning Commission spent considerable time wordsmithing and recommend approval of the changes as found in the attached draft of Chapter 17.08, BMC.

Policy Considerations: N/A

Attachment(s): **Attachment A** – Draft version of Chap. 17.08, Definitions

Chapter 17.08
DEFINITIONS

Draft March 5, 2008
New language in bold text
Language to be omitted has ~~strikethrough~~

Sections:

- 17.08.001 Definitions – Generally.
- 17.08.010 A terms.
- 17.08.020 B terms.
- 17.08.030 C terms.
- 17.08.040 D terms.
- 17.08.050 E terms.
- 17.08.060 F terms.
- 17.08.070 G terms.
- 17.08.080 H terms.
- 17.08.090 I terms.
- 17.08.100 J terms.
- 17.08.110 K terms.
- 17.08.120 L terms.
- 17.08.130 M terms.
- 17.08.140 N terms.
- 17.08.150 O terms.
- 17.08.160 P terms.
- 17.08.170 Q terms.
- 17.08.180 R terms.
- 17.08.190 S terms.
- 17.08.200 T terms.
- 17.08.210 U terms.
- 17.08.220 V terms.
- 17.08.230 W terms.
- 17.08.240 X terms.
- 17.08.250 Y terms.
- 17.08.260 Z terms.

17.08.001 Definitions – Generally.

~~As used in this code, the masculine includes the feminine and the neuter, and the singular includes the plural.~~ Where words or phrases used in this code have specialized or technical meanings, definitions are provided. The word “shall” is mandatory and not permissive. All other words or phrases shall be interpreted as they are commonly defined in everyday usage. **Some individual Chapters have specific definitions relating to the standards being discussed therein.** [Ord. 89-O-446 § 1.]

“Apartment” means a dwelling unit in a multiple-family building or **mixed-use structure**.

“Architectural projections/features” means decorative extensions or other portions of a building ~~having that add~~ no floor space nor key structural value.

“Assessor” means the County Assessor of Curry County. [Ord. 91-O-446.F § 1, Ord. 89-O-446 § 1.]

17.08.020 B terms.

“Basement” means a space wholly or partly underground, and having more than one-half of its height, measured from its floor to its ceiling below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

“Bed and breakfast” means ~~any activity located~~ **the rental of two or more rooms** in an owner occupied single-family residence ~~involving the rental of two or more rooms~~ where one breakfast meal is served during the a.m. hours only.

~~“Boarding or rooming house” means a dwelling or part thereof, other than a hotel or motel, where lodging with or without meals is provided, for three or more persons, with for compensation.~~

“Building” means any structure built and maintained for the support, shelter or enclosure of persons, animals, ~~chattels~~ or property of any kind.

~~“Building, height of” means the average of the vertical distance measured from the highest peak of the roof to the finished grade at the center of all four sides of the building.~~ Moved to “Structure, height of”.

“Building, main” means a building within which is conducted the principal use permitted on the lot or parcel, as provided in this code. [Ord. 03-O-446.SS; Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.030 C terms.

“City” means the City of Brookings, Oregon, as represented by the City manager or designated representative.

“City engineer” means the City engineer of the City of Brookings, Oregon.

“City manager” means the City manager of the City of Brookings, Oregon.

“Clinic” means a place for group medical services not involving overnight housing of patients.

“Club” means an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not ~~including groups which are~~ organized primarily to render a service carried as a business for profit.

Chapter 17.100, Hazardous Building Sites, BMC, and other activities requiring written authorization in this Code.

“Development permit” means a permit issued for a development which is in compliance with this code and the comprehensive plan.

~~“Director of planning” or “planning director” means the director of planning of the City of Brookings, Oregon.~~

“District” means a zoning district.

- ~~1. An “R” district indicates any residential district.~~
- ~~2. A “C” district indicates any commercial district.~~
- ~~3. An “M” district indicates any industrial district.~~

“Drainageway” means a natural or manmade watercourse which has the specific function of ~~transmitting~~ **collecting** natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation and which conveys ~~significant~~ concentrations of water over the surface of the land.

“Dwelling group” means the integrated site design of a group of two or more dwelling units located on a ~~lot or parcel of land~~ in one ownership and having ~~any a~~ **yard or courtyard** in common.

“Dwelling, single-family” means a ~~building designed or used for residential purposes by not more than one family and containing one dwelling unit only.~~ **detached structure that contains one dwelling unit.**

“Dwelling, two-family” or “duplex” means a structure ~~designed or used for residential purposes by not more than two families and~~ **that** contains two dwelling units.

“Dwelling, multifamily” means a structure ~~or portion thereof designed or used as a residence by three or more families and~~ **that** contains three or more dwelling units.

“Dwelling unit” means ~~one room, or suite of two or more rooms, designated or used by one or more family or housekeeping unit persons for living, or sleeping, cooking and sanitation purposes, and having not more than one kitchen or kitchenette.~~ [Ord. 89-O-446 § 1.]

17.08.050 E terms.

“Easement” means a recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

~~“Expansion~~ **Enlargement** of use” means to increase the physical area for, or the intensity of, the existing use and/or placing an additional use on a lot or parcel ~~of land.~~ [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.060 F terms.

~~“Family” means an individual; or two or more persons related by blood, marriage, legal~~

“Home occupation” means a lawful occupation carried on within a dwelling or in an attached accessory building to a dwelling by members of the family occupying the dwelling, and which complies with the conditions of Chapter 17.104 BMC. ~~; provided, that the residential character of the building is maintained and the occupation constructed in such a manner as not to manifest any characteristic of a business in the ordinary meaning of the term, except as permitted in this code, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. A home occupation does not involve the retail sale of a product or commodity on the premises, other than teaching, tutoring, or counseling, or other similar professional business service involving a traffic impact of no more than one automobile at a time, nor more than eight persons a day.~~

“Hotel/ Motel” means any building or portion thereof designed ~~or~~ and used ~~or~~ containing six or more guest rooms or suites of rooms, but not including any institutions in which human beings are housed or detained under legal restraint. **for temporary occupancy of individuals lodged with or without meals.** [Ord. 89-O-446 § 1.]

17.08.090 I terms.

“Irregularly shaped parcel” means a lot or parcel that due to shape or frontage has property lines that do not fit the definition of front, side and rear lot lines making the lot depth and width difficult to determine. ~~These parcels shall conform to the setback requirements of rear lot development, BMC 17.172.061(B)(2)(b).~~
Reserved.

17.08.100 J terms.

Reserved.

17.08.110 K terms.

“Kennel” means any premises where four or more dogs, cats or other small animals are ~~permitted to remain, for a fee, except veterinary clinics and animal hospitals. boarded or bred, excluding those kenneled for medical or grooming purposes. Veterinary clinics, animal hospitals, or grooming establishments may only board animals during the time the animal is being treated.~~ [Ord. 89-O-446§ 1.]

17.08.120 L terms.

“Land divisions” ~~include:~~ means partitioning or subdividing a subject property.

1. ~~“Major partition” means a partition of land creating three or less parcels from a parent parcel which includes the creation of a road or street.~~
2. ~~“Minor partition” means a partition of land creating creation of three or less parcels from parent Parcel the subject property without the creation of a street.~~
3. ~~“Subdivision” means a division of land creating four or more lots from a parent parcel the subject property, or creating three or less lots and the creation of a street.~~

~~“Lot of record” means a lot or parcel held in separate ownership as shown on the records of the county assessor at the time of passage of this code or regulation establishing the zoning district in which the lot is located.~~

~~“Lot, tax” means one parcel of real property shown on the Curry County assessor’s parcel map which is identified by a tax lot number and which may not necessarily be a lot of record. discrete parcel.~~

~~“Lot, through” means an interior lot having frontage on two parallel or approximately parallel streets other than alleys. Such a lot shall have one front yard fronting on the primary public street with the lesser functional classification of street.~~

~~“Lot width” means the average horizontal distance between the side lot lines measured at their midpoint between the front and rear lot lines or the distance between the side lot lines within the buildable area (area of the lot less required setbacks). In the case of a corner lot, lot width shall mean the horizontal distance between the longest front lot line adjacent to a street that does not provide access and the opposite lot line not abutting the street. In the case of For an irregular shaped lot, see definition for “Irregularly shaped parcel.” [Ord. 98-O-446.DD § 2; Ord. 89-O-446 § 1.]~~

17.08.130 M terms.

~~“Maintain” means to cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable to keep in good order and repair at all times so that it the structure, improvement, or required condition of approval does not constitute any danger or hazard to public safety or a visual blight, and carries out the purpose for which it was installed, constructed or required.~~

~~“Manufactured home” means a transportable, single-family dwelling intended for permanent occupancy conforming to the Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD code), but is not regulated by the Oregon State Structural Specialty Code and Fire Life Safety Regulations, 1985 edition, and intended for permanent occupancy and which arrives at the site complete and ready for occupancy. so that it may be used with or without a permanent foundation.~~

~~“Mobile Manufactured home park” means a defined area under united single ownership or control in which manufactured homes are situated and used for human habitation, or in which spaces are improved, designed or offered for such purposes.~~

~~“Minor change” means a change to the design and/or conditions of approval of a planned unit development, conditional use permit or subdivision that does not significantly change the nature of the project or subdivision. Minor changes may be allowed subject to the conditions of approval and the design of a completed project including the addition or reduction of buildings, totaling no more than 20 percent of the total floor area originally approved for the project. Minor changes to subdivisions and footprints of planned unit developments which require recordation with the county clerk are only allowed prior to the time of recordation.~~

~~“Mobile home space” means a plot of ground within a mobile home park designed for the accommodation of one manufactured home.~~

government, town, county, district or any other group or combination acting as an entity.

“Plat” means the map or drawing on which the subdividers plan of subdivision is presented and which is submitted for approval and is intended to be recorded in its approved final form. [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.170 Q terms.

Reserved.

17.08.180 R terms.

“Rear-lot” means a “flag” shaped lot or parcel with its buildable area set back some distance from a road and having a narrow strip of land on which the driveway provides access to a road.

“Reasonable hours of operation” means daylight hours all days of the week.

“Recreational vehicle” or “travel trailer” means a self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

“Recreational vehicle park” means a **commercially developed** lot upon which two or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations.

“Rent” means the consideration charged, ~~whether or not received by the operator,~~ for the occupancy of space in a hotel/ **motel** or short-term rental as defined in BMC 17.08.190, valued in money, goods, labor, credits, property or other consideration valued in money, ~~without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or occupancy by such owner, so long as the charges are made in connection therewith for space occupancy.~~ [Ord. 01-O-446.MM; Ord. 95-O-446.Y § 2; Ord. 89-O-446 § 1.]

17.08.190 S terms.

“School, private ~~and parochial~~” means ~~schools~~ **an educational facility for children over the age of five years having a curriculum substantially equivalent to a public school. Day care/ nursery school standards are found in 17.124.010, BMC. meeting federal, state, and local requirements and funded by means other than public monies.** It does not include business colleges, nursery schools, dance schools, riding academies, or specialized trade or vocational schools.

“School, public” means ~~an institution of learning which offers instruction in the several branches of learning and study required to be taught in public schools~~ **an educational facility for children meeting federal, state, and local requirements and funded by public monies.**

“Setback” means the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way or property line, to the nearest vertical wall or other

“Street, collector” means a major street which transports traffic from local streets and neighborhoods to the arterial street system and is identified as such ~~on~~ **in** the City of Brookings official street master plan **Transportation System Plan (TSP)**.

“Street, frontage” means a street that abuts a front lot line and from which the lot or parcel is accessed and addressed.

“Street, private” means a ~~street or road created through any process requiring a development permit and constructed to the standards of the land development code with a recorded agreement that such road will be maintained by the property owner(s) which it will serve.~~ **local access road that is built to City standards or an existing local access road that was not constructed to City standards and was never intended to be dedicated to the public.** street that has not been dedicated to the City for ownership and maintenance.

“Street, public” means a thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, lane, drive, boulevard, highway, road and any other thoroughfare.

“Structure” means anything constructed or built, ~~edifice or building of any kind,~~ or any piece of work ~~artificially~~ **deliberately** built up or composed of parts adjoining in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming ~~and wading~~ pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

“Structure, height of” means the average of the vertical distance measured from the highest peak ridgeline of the roof to the finished grade at the center of all four sides of the structure. No fill material may be used to solely decrease the height measurement.

“Structural alteration” means any change in the supporting members of a building, such as a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components. [Ord. 01-O-446.MM; Ord. 89-O-446 § 1.]

“Subdivision” means a division of land creating four or more lots from ~~a parent parcel~~ **the subject property, or creating three or less fewer lots and the creation of a street.**

17.08.200 T terms.

“Tax lot” means one parcel of real property shown on the Curry County assessor’s parcel map which is identified by a tax lot number and which may, or may not be a ~~lot of record.~~ discrete parcel.

~~“Temporary use” means a short term, seasonal or intermittent use, which shall be approved by the planning commission by means of the conditional use permit process with such conditions as the commission deems reasonable in accordance with the conditional use permit standards.~~

“Townhouse” means a type of residential, commercial or industrial development offering

“Wireless telecommunication tower” means a structure more than 10 feet tall, built primarily to support one or more telecommunication antennas.

“Wrecking yard” means an area used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers; or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts; or the storage of **inoperable** vehicles ~~unable to be moved under the power of the vehicle.~~ [Ord. 89-O-446 § 1.]

17.08.240 X terms.

Reserved.

17.08.250 Y terms.

~~“Yard” means any open space on the same lot with a building or a dwelling group structures(s), which open space is unoccupied and unobstructed by any structure from the ground upward to the sky, except from architectural projections.~~ **the area defined by required setbacks.**

“Yard, front” means an open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

“Yard, side” means an open space extending from the front yard to the rear yard between a ~~building~~ **structure** and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code. [Ord. 89-O-446 § 1.]

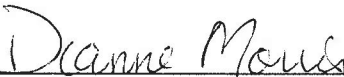
“Yard, rear” means an open space extending the full width of the lot or parcel between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

17.08.260 Z terms.

Reserved.

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: April 14, 2008



Signature (submitted by)

Originating Dept: Planning

City Manager Approval

Subject: Continuation of the hearing to consider revisions to Chapter 17.08, Definitions, of the Brookings Municipal Code (BMC).

Recommended Motion: Motion approving revisions to Chapter 17.08, Definitions, BMC.

Financial Impact: None.

Background/Discussion: At the Council's hearing on March 24, 2008 to consider Chapter 17.08 several changes were proposed. To allow for any possible additional public input on the latest changes, the hearing was continued until this meeting for final consideration and approval. There has been considerable discussion regarding the definition of "dedicate." Staff contacted the City's legal counsel for Planning matters, Jim Spickerman, for his opinion. In a memo dated March 27, 2008 he states "dedicate" does convey ownership. The definition found on page four of Attachment A is the language suggested by Mr. Spickerman. All the other definitions are as agreed upon at the March 24th hearing.

Policy Considerations: N/A

Attachment(s): **Attachment A** – Draft version of Chap. 17.08, Definitions
Attachment B – Memo from Jim Spickerman dated March 27, 2008

**Chapter 17.08
DEFINITIONS**

**Draft March 31, 2008
New language in bold text
Language to be omitted has strikethrough**

Sections:

- 17.08.001 Definitions – Generally.
- 17.08.010 A terms.
- 17.08.020 B terms.
- 17.08.030 C terms.
- 17.08.040 D terms.
- 17.08.050 E terms.
- 17.08.060 F terms.
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- 17.08.250 Y terms.
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17.08.001 Definitions – Generally.

~~As used in this code, the masculine includes the feminine and the neuter, and the singular includes the plural.~~ Where words or phrases used in this code have specialized or technical meanings, definitions are provided. The word “shall” is mandatory and not permissive. All other words or phrases shall be interpreted as they are commonly defined in everyday usage. **Some individual Chapters have specific definitions relating to the standards being discussed therein.** [Ord. 89-O-446 § 1.]

17.08.010 A terms.

“Abutting” means having a common boundary line, except where two or more lots or parcels adjoin only at a corner ~~or corners, or where the common property line between the lots or parcels measures less than eight feet in a single direction.~~

“Access or accessway” means the place, means or way by which pedestrians and vehicles shall have ~~safe, adequate and usable~~ ingress and egress to a property or use, ~~as required by this code.~~

“Accessory structure or use” means a use or structure incidental and subordinate to the main use of the property, and which is located on the same lot with the main one.

“Addition” means ~~the addition~~ **a structure that increases to the physical area size** of an existing building or structure on a lot or parcel. ~~of land, requiring a building permit.~~

“Adjacent” means to be near, close; for example, a commercial district across the street or highway from a residential district shall be considered as “adjacent.”

“Adjoining” means the same as “abutting.”

“Agriculture structures” means structures intended primarily or exclusively for support of agricultural functions and exemplified by, but not restricted to, barns, silos, water towers, windmills, greenhouses, stables.

“Agriculture” means the use of the land for ~~agricultural purposes, including~~ farming, dairying, pasturage, horticulture, floriculture, silviculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of the normal agricultural activities; and provided further, that the above uses shall not include the operation of a feed lot or other commercial feeding of animals.

“Alley” means a public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

“Alteration” means any structural change to a building or other structure, ~~which requires a building permit.~~

“Altered” means structurally ~~altered~~ **changed.**

“Amendment” means a change in the wording, context or substance of this code or the comprehensive plan document, or a change in the zone boundaries or area district boundaries upon the zoning map or designations upon the comprehensive plan map.

“Animal hospital” means a place where animals or pets are given medical or surgical treatment, ~~and are cared for during the time of such treatment.~~ Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

“Antenna” means **a device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation and is typically mounted on a supporting tower, pole, mast or building.**

“Apartment” means a dwelling unit in a multiple-family building **or mixed-use structure**.

“Architectural projections/features” means decorative extensions or other portions of a building ~~having~~ **that add** no floor space nor key structural value.

“Assessor” means the County Assessor of Curry County. [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.020 B terms.

“Basement” means a space wholly or partly underground, and having more than one-half of its height, measured from its floor to its ceiling below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

“Bed and breakfast” means ~~any activity located~~ **the rental of one or more rooms** in an owner occupied single-family residence ~~involving the rental of two or more rooms where one a~~ breakfast meal is served during the a.m. hours only.

~~“Boarding or rooming house” means a dwelling or part thereof, other than a hotel or motel, where lodging with or without meals is provided, for three or more persons, with for compensation.~~

“Building” means any structure built and maintained for the support, shelter or enclosure of persons, animals, ~~chattels~~ or property of any kind.

~~“Building, height of” means the average of the vertical distance measured from the highest peak of the roof to the finished grade at the center of all four sides of the building. Moved to “Structure, height of”.~~

“Building, main” means a building within which is conducted the principal use permitted on the lot or parcel, as provided in this code. [Ord. 03-O-446.SS; Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.030 C terms.

“City” means the City of Brookings, Oregon, as represented by the City manager or designated representative.

“City engineer” means the City engineer of the City of Brookings, Oregon.

“City manager” means the City manager of the City of Brookings, Oregon.

“Clinic” means a place for group medical services not involving overnight housing of patients.

“Club” means an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not ~~including~~ groups which are organized primarily to render a service carried as a business for profit.

“Code” means the City of Brookings Land Development Code.

“Collocation” means the placement of two or more antenna systems or platforms by separate FCC license holders (“providers”) on a structure such as a tower, building, water tank or utility pole.

“Commercial service drive” means an access way for a shopping center containing four or more businesses having common parking areas.

“Commission” or “planning commission” means the planning commission of the City of Brookings, Oregon.

“Comprehensive plan” means the comprehensive plan of the City of Brookings, Oregon.

“Condominiums” means a type of residential, commercial or industrial development offering individual ownership of units and common ownership of open spaces and other amenities and facilities, and regulated, in part, by state law (ORS 94.004 through 94.480).

“Construct” means to build, form, or ~~devise~~ erect by fitting parts together systematically. For the purposes of this code, “construct” shall also include the preparation of a site for building by the clearing of brush and grading of land for roads, driveways, utilities and foundations.

“Contiguous” means the same as “abutting.”

“Council, City” or “Common Council” means the City Council of the City of Brookings, Oregon.

“Courtyard” means an open, unoccupied space of one lot or parcel on which a group of dwelling units face or front.

“Cul-de-sac” means a short street which has one end open to traffic and is terminated by a vehicular turn-around. [Ord. 06-O-572 § 1; Ord. 94-O-446.V § 2; Ord. 89-O-446 § 1.]

17.08.040 D terms.

“Day care or nursery ~~or kindergarten~~” means a school or child care center housing ~~14~~ 17 or more children for no more than 12 hours a day, with or without compensation, including for board, supervision, and/or training ~~given~~ provided at premises ~~other than~~ not the normal residence of the child.

“Dedicate” means to ~~transfer ownership or the right to use private property to the public another party.~~ place in public ownership by the recording of a plat or by other conveyance.

“Density, gross” means the ~~quotient of the total number of dwelling units divided by the gross site area.~~ total site area, minus the area dedicated to streets, divided by the total number of dwelling units.

“Development” means the alteration of improved or unimproved land, including ~~but not limited to a land use approvals, buildings permits or other structures, excavation, grading, filling, and removal of vegetation on slopes greater than 15 %~~ activities regulated in

Chapter 17.100, Hazardous Building Sites, BMC, and other activities requiring written authorization in this Code.

“Development permit” means a permit issued for a development which is in compliance with this code and the comprehensive plan.

~~“Director of planning” or “planning director” means the director of planning of the City of Brookings, Oregon.~~

“District” means a zoning district.

- ~~1. An “R” district indicates any residential district.~~
- ~~2. A “C” district indicates any commercial district.~~
- ~~3. An “M” district indicates any industrial district.~~

“Drainageway” means a natural or manmade watercourse which has the specific function of ~~transmitting~~ **collecting** natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation and which conveys ~~significant~~ concentrations of water over the surface of the land.

“Dwelling group” means the integrated site design of a group of two or more dwelling units located on a **lot or parcel of land** in one ownership and having ~~any~~ **a yard or courtyard** in common.

~~“Dwelling, single-family” means a building designed or used for residential purposes by not more than one family and containing one dwelling unit only.~~ **detached structure that contains one dwelling unit.**

~~“Dwelling, two-family” or “duplex” means a structure designed or used for residential purposes by not more than two families and that~~ contains two dwelling units.

~~“Dwelling, multifamily” means a structure or portion thereof designed or used as a residence by three or more families and that~~ contains three or more dwelling units.

“Dwelling unit” means ~~one room, or suite of two or more rooms, designated or used by one or more family or housekeeping unit persons~~ for living, ~~or sleeping,~~ **cooking and sanitation** purposes, and having not more than one kitchen ~~or kitchenette~~. [Ord. 89-O-446 § 1.]

17.08.050 E terms.

“Easement” means ~~an recorded~~ interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

~~“Expansion~~ **Enlargement** of use” means to increase the physical area for, or the intensity of, the existing use and/or placing an additional use on a lot or parcel ~~of land~~. [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.060 F terms.

~~“Family” means an individual; or two or more persons related by blood, marriage, legal~~

~~adoption or guardianship, or a group of not more than five unrelated persons living together in a dwelling unit.~~

“Fence, sight-obscuring” means a fence, wall or ~~evergreen~~ **non-deciduous** planting arranged in such a way as to obstruct vision.

“Findings” means written statements of fact, conclusions and determinations based on evidence presented in relation to the decision approval criteria and accepted by the review body in support of a decision.

“Flag lot” means ~~the same as “rear-lot”. a “panhandle” shaped lot or parcel with its widest area set back some distance from a road and having a thin strip of land connecting to a road to provide legal access.~~

“Floodplain, **100 year**” means the land within the City subject to a one percent chance of flooding in any given year.

“Floodway” means that portion of a floodplain and river channel that is necessary to conduct the waters of the base flood without cumulatively raising the water level more than one foot.

“Floor area” means the area included in the surrounding walls of a building, or portion thereof, exclusive of ~~vent shafts~~ **cantilevered bay windows** and courts.

~~“Frontage” means that portion of a parcel of property which abuts a dedicated public street or highway. See definition for “Street, frontage.” [Ord. 89-O-446 § 1.]~~

17.08.070 G terms.

“Garage” or “carport” means a permanently constructed building with covered roof available for the parking of a motor vehicle.

“Grade (ground level)” means the average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

~~“Group living” means more than five persons unrelated by blood or marriage residing together in a dwelling unit.~~

“Guest house” means an accessory building **no greater in size than 500 square feet** and containing no kitchen or kitchen facilities. **that is** designed, constructed, and used ~~for the purpose of to providing~~ **provide** temporary living accommodations for guests or for members of the same family as that occupying the main structure. ~~and containing no kitchen or kitchen facilities.~~ [Ord. 89-O-446 § 1.]

17.08.080 H terms.

“Height” see definition for “Structure, height of”.

“Home occupation” means a lawful occupation carried on within a dwelling or in an attached accessory building to a dwelling by members of the family occupying the dwelling, and which complies with the conditions of Chapter 17.104 BMC. ~~; provided, that the residential character of the building is maintained and the occupation constructed in such a manner as not to manifest any characteristic of a business in the ordinary meaning of the term, except as permitted in this code, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. A home occupation does not involve the retail sale of a product or commodity on the premises, other than teaching, tutoring, or counseling, or other similar professional business service involving a traffic impact of no more than one automobile at a time, nor more than eight persons a day.~~

“Hotel/ Motel” means any building or portion thereof designed ~~or~~ **and** used ~~or containing six or more guest rooms or suites of rooms, but not including any institutions in which human beings are housed or detained under legal restraint.~~ **for temporary occupancy of individuals lodged with or without meals.** [Ord. 89-O-446 § 1.]

17.08.090 I terms.

“Irregularly shaped parcel” means a lot or parcel that due to shape or frontage has property lines that do not fit the definition of front, side and rear lot lines making the lot depth and width difficult to determine. ~~These parcels shall conform to the setback requirements of rear lot development, BMC 17.172.061(B)(2)(b).~~
Reserved.

17.08.100 J terms.

Reserved.

17.08.110 K terms.

“Kennel” means any premises where four or more dogs, cats or other small animals are permitted to remain, for a fee, ~~except veterinary clinics and animal hospitals.~~ **boarded or bred, excluding those kenneled for medical or grooming purposes. Veterinary clinics, animal hospitals, or grooming establishments may only board animals during the time the animal is being treated.** [Ord. 89-O-446§ 1.]

17.08.120 L terms.

“Land divisions” include: **means partitioning or subdividing a subject property.**

1. ~~“Major partition” means a partition of land creating three or less parcels from a parent parcel which includes the creation of a road or street.~~

2. ~~“Minor partition” means a partition of land creating creation of three or less parcels from parent Parcel the subject property without the creation of a street.~~

3. ~~“Subdivision” means a division of land creating four or more lots from a parent parcel the subject property, or creating three or less lots and the creation of a street.~~

4. "Lot line adjustment" means adjustment of an existing lot line by the relocation of a common boundary, where ~~an additional unit of land is not created and where any parcel reduced in size by the adjustment is not reduced below the minimum lot size established by this code. complies with any applicable Code requirements.~~

5. "Parent parcel" means that parcel of land as it existed on the effective date of this code. Contiguous parcels of land partitioned prior to the effective date of this code, and remaining in single ownership, shall all be considered part of one parent parcel.

"Livestock" means any domestic farm animal kept for sale, use or as a pet but not including dogs, cats or poultry.

"Lot" means a parcel, of land used or capable of being used under the regulations requirements of this code, lawfully created as such in accordance with the land division laws or ordinances in effect at the time of its creation. ~~area single unit of land depicted on a subdivision plat that is created by a subdivision of land.~~

"Lot area" means the total ~~horizontal area~~ amount of land within the lot lines ~~property lines bounding a lot or parcel.~~ of a lot .

"Lot, corner" means any lot having at least two (2) contiguous sides ~~a lot~~ abutting on one ~~two~~ or more ~~intersecting~~ streets provided that the interior angle at the intersection of such two sides is less ~~other than an alley~~, except if the streets intersect at an angle greater than 135 degrees.

"Lot coverage" means that percentage of the total lot area covered by structures.

"Lot depth" means the ~~horizontal distance from the midpoint of the front lot line to the midpoint~~ average distance measured from the front lot line to ~~of~~ the rear lot line. For irregular shaped parcels see definition for "Irregularly shaped parcel."

"Lot, interior" means a lot ~~other than~~ that is not a corner lot.

"Lot line" means the any property line bounding a lot or parcel.

"Lot line adjustment" means ~~adjustment of an existing lot line by the relocation of a common boundary, where an additional lot or parcel is not created. and where any parcel reduced in size by the adjustment is not reduced below the minimum lot size established by this code. complies with any applicable Code requirements.~~

"Lot line, front" means, in the case of an interior lot, the lot lines separating the lot from the street other than an alley. In the case of a corner lot, "front lot line" means the **frontage from which the lot is accessed and addressed.** ~~the shortest lot line along a street other than an alley.~~

"Lot line, rear" means a lot line ~~not abutting a street~~ which is opposite and most distant from the front lot line. ~~In a case of~~ For an irregular shaped lot, a line a minimum of 10 feet in width within the lot parallel to and at a maximum distance from the front lot line. Also see definition for "Irregularly shaped parcel."

"Lot line, side" means any lot line not a front lot line or a rear lot line.

~~“Lot of record” means a lot or parcel held in separate ownership as shown on the records of the county assessor at the time of passage of this code or regulation establishing the zoning district in which the lot is located.~~

~~“Lot, tax” means one parcel of real property shown on the Curry County assessor’s parcel map which is identified by a tax lot number and which may not necessarily be a lot of record. **discrete parcel.**~~

~~“Lot, through” means an interior lot having frontage on two parallel or approximately parallel streets other than alleys. Such a lot shall have one front yard fronting on the primary public street **with the lesser functional classification of street.**~~

~~“Lot width” means the **average** horizontal distance between the side lot lines ~~measured at their midpoint between the front and rear lot lines~~ or the distance between the side lot lines within the buildable area (area of the lot less required setbacks). In the case of a corner lot, lot width shall mean the horizontal distance between the ~~longest front~~ lot line **adjacent to a street that does not provide access** and the opposite lot line ~~not abutting the street.~~ **In the case of For an irregular shaped lot, see definition for “Irregularly shaped parcel.”** [Ord. 98-O-446.DD § 2; Ord. 89-O-446 § 1.]~~

17.08.130 M terms.

~~“Maintain” means to cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to such an extent that it remains attractive, safe and presentable to keep in good order and repair at all times so that **it the structure, improvement, or required condition of approval does not constitute any danger or hazard to public safety or a visual blight,** and carries out the purpose for which it was installed, constructed or required.~~

~~“Manufactured home” means a transportable, single-family dwelling **intended for permanent occupancy** conforming to the Manufactured Housing Construction and Safety Standards Code (also referred to as the HUD code), ~~but is not regulated by the Oregon State Structural Specialty Code and Fire Life Safety Regulations, 1985 edition,~~ and intended for permanent occupancy and which arrives at the site complete and ready for occupancy. ~~so that it may be used with or without a permanent foundation.~~~~

~~“**Mobile Manufactured** home park” means a defined area under ~~united~~ **single** ownership or control in which manufactured homes are ~~situated and~~ used for human habitation, or in which spaces are improved, designed or offered for such purposes.~~

~~“Minor change” means a change to the design and/or conditions of approval of a planned unit development, conditional use permit or subdivision that does not significantly change the nature of the project or subdivision. ~~Minor changes may be allowed subject to the conditions of approval and the design of a completed project including the addition or reduction of buildings, totaling no more than 20 percent of the total floor area originally approved for the project. Minor changes to subdivisions and footprints of planned unit developments which require recordation with the county clerk are only allowed prior to the time of recordation.~~~~

~~“Mobile home space” means a plot of ground within a mobile home park designed for the accommodation of one manufactured home.~~

~~“Mobile home subdivisions” shall consist of a minimum area of five acres and be designed and constructed to the same standards and requirements as subdivisions for conventional homes complying with the Oregon State Structural Specialty Code and Fire Life Safety Regulations, 1985 Edition, in addition to the requirements set forth in Chapter 17.32 BMC. A mobile subdivision is designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes, but not limited thereto.~~

~~“Motel” means a building or group of buildings used for transient residential purposes containing guest rooms or dwelling units with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of transient automobile travelers; including groups designated as auto cabins, motor courts, motor hotels and similar designations. [Ord. 92-O-446.J § 2; Ord. 89-O-446 § 1.]~~

17.08.140 N terms.

~~“Nonconforming structure or use” means a use of land or of a building or structure which use lawfully existed at the time of the adoption of this Code, or of any amendment thereto, but which presently use does not conform with the use regulations imposed by this Code. or such amendment thereto.~~
[Ord. 89-O-446 § 1.]

17.08.150 O terms.

Reserved.

17.08.160 P terms.

~~“Parcel” means a single unit of land that is created by a the partitioning process of land.~~

“Parcel, discrete” means a unit of land created by partitioning of land- the subject property as defined in ORS 92.010 and in compliance with all regulations in this Code; or by deed or sales contract, if there were no applicable planning, zoning, or partitioning ordinances or regulations in effect at the time the parcel was created.

~~“Parking area, public” means an open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.~~

~~“Parking space” means a permanently surfaced and marked area not less than nine feet wide and 20 feet long conforming to Chapter 17.92 BMC excluding paved area necessary for access. for the parking of a motor vehicle.~~

“Partition” means creation of three or less fewer parcels from the subject property, within the calendar year, and without the creation of a street.

~~“Permittee” means the person who is proposing to use or who is using the land pursuant to any permit required herein.~~

“Person” means an individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, the federal or state government, town, county, district or any other group or combination acting as an entity.

“Plat” means the map or drawing on which the subdividers plan of subdivision is presented and which is submitted for approval and is intended to be recorded in its approved final form. [Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

17.08.170 Q terms.

Reserved.

17.08.180 R terms.

“Rear-lot” means a “flag” shaped lot or parcel with its buildable area set back some distance from a road and having a narrow strip of land on which the driveway provides access to a road.

“Reasonable hours of operation” means daylight hours all days of the week.

“Recreational vehicle” or “travel trailer” means a self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

“Recreational vehicle park” means a **commercially developed** lot upon which two or more recreational vehicles occupied for living or sleeping purposes are located, regardless of whether a fee is paid for such service or accommodations.

“Rent” means the consideration charged, ~~whether or not received by the operator,~~ for the occupancy of space in a hotel/ **motel** or short-term rental as defined in BMC 17.08.190, valued in money, goods, labor, credits, property or other consideration valued in money. ~~without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or occupancy by such owner, so long as the charges are made in connection therewith for space occupancy.~~ [Ord. 01-O-446.MM; Ord. 95-O-446.Y § 2; Ord. 89-O-446 § 1.]

17.08.190 S terms.

~~“School, private and parochial” means schools for children over the age of five years having a curriculum substantially equivalent to a public school. Day care/ nursery school standards are found in 17.124.010, BMC.~~ **meeting federal, state, and local requirements and funded by means other than public monies.** It does not include business colleges, nursery schools, dance schools, riding academies, or specialized trade or vocational schools.

~~“School, public” means an institution of learning which offers instruction in the several branches of learning and study required to be taught in public schools~~ **an educational facility for children meeting federal, state, and local requirements and funded by public monies.**

“Setback” means the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way or property line, to the nearest vertical wall or other element of a building or structure as defined herein. **Mechanical equipment/appliances such as heat pumps, generators, propane tanks etc. are not required to maintain setbacks from property lines, if they are for residential purposes and no larger than 16 sq. ft. in size. Commercial mechanical equipment or equipment greater than 16 sq. ft. in size must be reviewed and approved by Site Plan Committee.**

“Shopping center” means a group of **four or more** stores planned and designed for the site on which it is built, functioning as an integrated unit, with off-street parking **and** landscaped areas and pedestrian malls or plazas provided on the property as an integral part of the unit.

“Short-term rental” means a residential structure, either single-family, duplex, apartment or condominium, that is rented for lodging or sleeping purposes for a period of less than 30 days.

“Sign” means any notice, or advertisement, **or communication** pictorial or otherwise, **including the supporting structure**, used as an outdoor display. ~~for the purpose of advertising the property or the establishment or enterprise, including goods and services, upon which the sign is exhibited or any type of communication.~~ This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by law or by federal, state, county or City authority.

“Sign, area” ~~of. In determining whether a sign is within the area limitations of this code, the area of the total exterior surface shall be measured and computed in square feet; provided, that where the sign has two or more faces, the area of the total exterior surface shall be measured and divided by the number of faces; and provided further, that if the interior angle between the two planes of two faces exceeds 135 degrees they shall be deemed a single face for the purposes hereof. Measurement shall be made at the extreme horizontal and vertical limit of a sign.~~ **means the total amount calculation of the square footage within the outside dimensions of the sign face. Size calculations for double-sided signs consider only the outside dimensions of one side.**

“Site plan” means a **plot plan**, prepared to scale, showing accurate and complete dimensioning **dimensions** of all of the **existing and proposed structures etc. as listed in 17.80.030, BMC** uses and improvements proposed for a specific parcel of land or development site.

“Site plan committee” means the ~~site plan committee of the City of Brookings, Oregon.~~ **Committee as defined in 17.80.020, BMC.**

“Stealth characteristics” means the use of camouflage techniques to disguise or minimize the visual impact of a tower or antennas (i.e., located in conjunction with a church, steeple, stadium lighting, made to look like a tree or flagpole, etc.)

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above.

“Street, arterial” means a major street intended to transport large quantities of traffic in a safe and efficient manner with a minimal number of controlled access points **accommodating intracommunity through traffic and trips of moderate length. It shall be Highway 101 is the**

only street identified as an arterial street ~~on~~ in the City of Brookings ~~official street master plan~~ **Transportation System Plan (TSP).**

“Street, collector” means a major street which transports traffic from local streets and neighborhoods to the arterial street system and is identified as such ~~on~~ in the City of Brookings ~~official street master plan~~ **Transportation System Plan (TSP).**

“Street, frontage” means a street that abuts a front lot line and from which the lot or parcel is accessed and addressed.

“Street, private” means a ~~street or road created through any process requiring a development permit and constructed to the standards of the land development code with a recorded agreement that such road will be maintained by the property owner(s) which it will serve.~~ **local access road that is built to City standards or an existing local access road that was not constructed to City standards and was never intended to be dedicated to the public.** ~~street that has not been dedicated to the City for ownership and maintenance public purposes.~~

“Street, public” means a thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, lane, drive, boulevard, highway, road and any other thoroughfare.

“Structural alteration” means any change in the supporting members of a building, such as a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components. [Ord. 01-O-446.MM; Ord. 89-O-446 § 1.]

“Structure” means anything constructed or built, ~~edifice or building of any kind,~~ or any piece of work ~~artificially~~ **deliberately** built up or composed of parts adjoining in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming ~~and wading~~ pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts and similar recreation areas.

“Structure, height of” means the average of the vertical distance measured from the highest peak ridgeline of the roof to the finished grade at the center of all four sides of the structure. No fill material may be used to solely decrease the height measurement.

“Subdivision” means a division of land creating four or more lots from a ~~parent parcel~~ **the subject property, or creating three or less fewer lots and the creation of a street.**

17.08.200 T terms.

“Tax lot” means ~~one parcel of real property~~ a single unit of land shown on the Curry County assessor’s parcel map which is identified by a tax lot number and which may, or may not be a ~~lot of record.~~ discrete parcel.

~~“Temporary use” means a short term, seasonal or intermittent use, which shall be approved by the planning commission by means of the conditional use permit process with such conditions as~~

the commission deems reasonable in accordance with the conditional use permit standards.

“Townhouse” means a type of residential, commercial or industrial development offering individual ownership of units including a minimum of the land under the unit and common ownership of open spaces and other amenities and facilities, and regulated, in part, by state law (ORS 94.004 through 94.480). [Ord. 89-O-446 § 1.]

17.08.210 U terms.

“Use” means the purpose for which land **and**/or a structure is designed, arranged, or intended, or for which it is occupied or maintained. [Ord. 89-O-446 § 1.]

17.08.220 V terms.

“Vision obstruction” means **objects limiting visibility for motorists, pedestrians, or bicyclists** as defined in BMC 17.128.050. [Ord. 89-O-446 § 1.]

17.08.230 W terms.

“Water-dependent (WD)” means a use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water. ~~Therefore, in WD areas such activities as the following are allowed:~~

- ~~1. Service areas for support of waterborne transportation (such as fueling, moorage, unloading, terminal or transfer facilities, marine construction, dismantling or repair);~~
- ~~2. Access to fishing, swimming, boating, fishing (water an integral part of the activity);~~
- ~~3. Production of energy from water.~~

“Water-related (WR)” means uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. ~~Except as providing services directly to water dependent or water related facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, mobile manufactured home parks and recreational vehicle parks are not generally considered dependent on or related to water locations needs. WR uses are those which provide services to WD uses, services directly associated with WD uses or directly tied to function of WD use. The rule is that an activity is WR if an upland location would mean a net loss to the public in quality of goods or services (economic, social, environmental).~~

“Wholesale” means the business of selling goods or merchandise to retailers or jobbers for resale to the ultimate consumer.

“Wireless telecommunication facility” means an unmanned facility structures and equipment for the transmission and reception of radio frequency (RF) signals; usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure (tower), antennas or other, transmission and reception devices.

“Wireless telecommunication provider” means a person or company in the business of offering telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

“Wireless telecommunication tower” means a structure more than 10 feet tall, built primarily to support one or more telecommunication antennas.

“Wrecking yard” means an area used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers; or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts; or the storage of **inoperable vehicles ~~unable to be moved under the power of the vehicle.~~ [Ord. 89-O-446 § 1.]**

17.08.240 X terms.

Reserved.

17.08.250 Y terms.

~~“Yard” means any open space on the same lot with a building or a dwelling group structures(s), which open space is unoccupied and unobstructed by any structure from the ground upward to the sky, except from architectural projections.~~ **the area defined by required setbacks.**

“Yard, front” means an open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

“Yard, side” means an open space extending from the front yard to the rear yard between a building structure and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code. [Ord. 89-O-446 § 1.]

“Yard, rear” means an open space extending the full width of the lot or parcel between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this code.

17.08.260 Z terms.

Reserved.

MEMORANDUM

DATE: March 27, 2008

TO: Dianne Morris
Planning Director
City of Brookings

FROM: James W. Spickerman

RE: Ownership of Dedicated Streets

*Gleaves
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I understand this issue to involve the definition of "dedicate" pertaining to the dedicated streets within subdivisions.

As I indicated to you, the City "owns" dedicated streets. ORS 92.090(3) specifically sets forth the status of streets within a subdivision:

"(3) No plat of a proposed subdivision or partition shall be approved unless:

(a) streets and roads for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any set street or road and easements for public or private utilities"

The City's ownership is outright and the property owner only retains a reversionary interest in the portion of the street abutting the property owner's parcel, in the event the street should be vacated. ORS 271.140 specifically provides the title to a street vacated accrues to the lands bordering to each side in equal portions.

Please let me know if you have further questions in this regard.