



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

10/08/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Brookings Plan Amendment
DLCD File Number 018-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, October 21, 2009

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

Cc: Dianne Morris, City of Brookings
Gloria Gardiner, DLCD Urban Planning Specialist

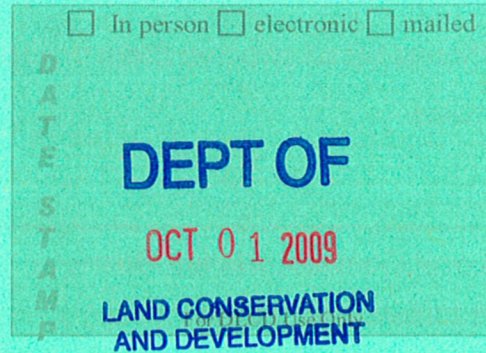
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FORM 2

DLCD

Notice of Adoption

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



Jurisdiction: **City of Brookings**

Local file number: **LDC-11-09**

Date of Adoption: **10/28/2009**

Date Mailed: **9/30/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date: 00/00/0000

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".
Clarification and small evisions to Land Development Code Chapter 17.152, Appeals to City Council.

Does the Adoption differ from proposal? Yes, Please explain below:

There a few minor word changes.

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

to:

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

to:

Location: **N/A**

Acres Involved:

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

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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. 018-09(17857) [15739]

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

None.

Local Contact: **Dianne Morris**

Phone: **(541) 469-1138** Extension:

Address: **898 Elk 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

ORDINANCE 09-O-645

IN THE MATTER OF ORDINANCE 09-O-645, AN ORDINANCE AMENDING CHAPTER 17.152, APPEAL TO CITY COUNCIL, TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN IT'S ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.152, in it's entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.152 Appeal to City Council, Title 17, Land Development Code, of the Brookings Municipal Code (BMC).

Section 2. Amend Chapter 17.152. Chapter 17.152, Appeal to City Council is amended to read as follows:

Chapter 17.152
Appeal to City Council

Sections:

- 17.152.010 Generally.
- 17.152.020 Public hearings.
- 17.152.030 Appeal procedure.
- 17.152.040 Review by city council.

17.152.010 Generally.

Any applicant or any other participant in a land use hearing may, within 15 days, appeal a decision of the Planning Commission to the City Council. The appeal period begins from the postmark date on the mailing of the final order for the specific hearing. The appeal shall be made on forms provided by the Planning Department (available at office or on City webpage) and submitted to that Department together with the appropriate fee. The appeal fee shall be paid by the appellant. The written request appealing the decision of the Planning Commission shall state specific reasons for the appeal based upon pertinent, applicable sections of this Code. Upon receipt of the written request, Staff shall prepare the required legal notice and Council Agenda Report for the next available Council meeting. [Ord. 89-O-446 § 1.]

17.152.020 Public hearings.

Notice of the public hearing shall be given as provided in Chapter 17.84 BMC. A decision concerning the appeal shall be given within 120 days of the date the original application was deemed complete unless such time limitations are extended with the consent of the Applicant or as otherwise provided by Oregon Revised Statutes. [Ord. 96-O-446.BB § 8; Ord. 89-O-446 § 1.]

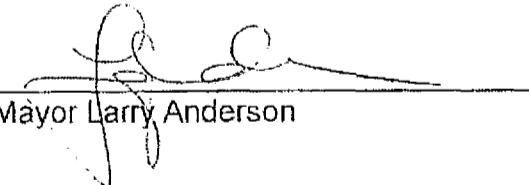
17.152.030 Appeal procedure.

The appeal is a de novo hearing (new hearing) and evidence or testimony not previously presented to the Planning Commission will be allowed. The City Council shall, at the time of the public hearing, hear the applicant, if any, the appellant or their representative, a representative of the Planning Commission, if they chose to participate, any agency representative, and the public. If the council decides to modify or reverse the final order of the Planning Commission, the Council may refer such matter back to the Planning Commission for a report and recommendation prior to the Council taking final action. The final decision of the City Council shall be a written final order which sets out the extent and conditions of the decision. The City Council may uphold, modify or reverse the Planning Commission's decision. [Ord. 89-O-446 § 1.]

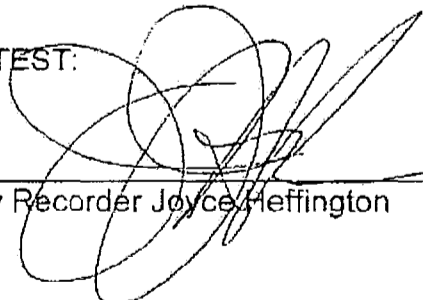
17.152.040 Review by City Council.

Within 15 days following the postmark date on the mailing of the final order of the Planning Commission decision, the City Council may, on its own motion, initiate proceedings to review the action. The City Council shall give notice of the time and place when the decision of the Planning Commission will be reviewed. Notice of hearing will be given in the manner prescribed in Chapter 17.84 BMC. [Ord. 96-O-446.BB § 8; Ord. 89-O-446 § 1.]

First reading: September 28, 2009
Second reading: September 28, 2009
Passage: September 28, 2009
Effective date October 28, 2009
Signed by me in authentication of its passage this 29th day of September, 2009.



Mayor Larry Anderson

ATTEST:


City Recorder Joyce Heffington

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: September 28, 2009

Donna Colby-Hanks
Signature (submitted by)
[Signature]
City Manager Approval

Originating Dept: Planning

Subject: Adopting ordinance for approved revisions to Chapter 17.152, Appeal to City Council of the Brookings Municipal Code (BMC).

Recommended Motion: Motion to approve Adopting Ordinance 09-O-645, revisions to Chapter 17.152, Appeal to City Council, BMC.

Financial Impact: None

Background/Discussion: The revisions to Chapter 17.152, Appeal to City Council, were approved by the City Council at their September 28, 2009 meeting.

Policy Considerations: N/A

Attachment(s): Adopting Ordinance 09-O-645.

APPROVED BY CITY COUNCIL ON

9-28-09
w/ chg. [Signature]

CITY OF BROOKINGS PLANNING COMMISSION
STAFF REPORT

SUBJECT: Land Development Code Amendment
FILE NO: LDC-11-09
HEARING DATE: Sept. 1, 2009

REPORT DATE: August 21, 2009
ITEM NO: 7.3

GENERAL INFORMATION

APPLICANT: City Initiated.
REPRESENTATIVE: City Staff.
REQUEST: Revisions to Chapter 17.152, Appeal to City Council.
Brookings Municipal Code (BMC).
PUBLIC NOTICE: Published in local newspaper.

BACKGROUND INFORMATION

The Land Development Code (LDC) Committee reviewed Chapter 17.152, Appeal to City Council.

Specific revisions are:

- 17.152.010, Generally. The time for the appeal period was clarified. The process for accepting an appeal form was also corrected.
- 17.152.020, Public Hearing. The legal timelines were corrected to reflect current law.
- 17.152.030, Appeal Procedure. Clarified the hearing before the Council is “de novo”. Removed the language stating the Council decision is final and has immediate effect. Recent revisions included language in Chapter 17.04, Development Permit Procedures, stating the effective date of a decision is when the decision is no longer appealable.

Following this report is the draft version of Chapter 17.152 (Attachment A).

RECOMMENDATION

After careful consideration, and any input the public may provide, Staff supports a Planning Commission recommendation of approval of file LDC-11-09, Chapter 17.152, Appeal to City Council, BMC, to the City Council.

Chapter 17.152
APPEAL TO CITY COUNCIL

Draft May 29, 2009

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

Text to be omitted has strikethrough.

Sections:

- 17.152.010 Generally.
- 17.152.020 Public hearings.
- 17.152.030 Appeal procedure.
- 17.152.040 Review by city council.
- ~~17.152.050 Appeal filing fee.~~

17.152.010 Generally.

Any applicant or any other interested ~~person~~ ***participant in a land use hearing*** may, within 15 days, ***appeal any a*** decision of the Planning Commission ***to the City Council. The appeal period begins from the postmark date on the mailing of the final order for the specific hearing.*** ~~is filed with the city recorder appeal the same by submitting to the office of the city manager a written request that the city council reconsider the order of the planning commission.~~ ***The appeal shall be made on forms provided by the Planning Department and submitted to that Department together with the appropriate fee.*** The written request appealing the decision of the Planning Commission shall state specific reasons for the appeal based upon pertinent, applicable sections of this Code. Upon receipt of the written request, the City Manager shall cause the appeal to be included on the agenda for the next regular council meeting, unless such meeting is within 18 days of the receipt of the request, in which case the matter shall be placed on the agenda for the regular council meeting next following ***Staff shall prepare the required legal notice and Council Agenda Report for the next available Council meeting.*** [Ord. 89-O-446 § 1.]

17.152.020 Public hearings.

~~Within 40 days after the filing of the appeal, a public hearing shall be heard and the council shall render its decision. Notice of the public hearing shall be given as provided in Chapter 17.84 BMC. A decision concerning the appeal shall be given within 120 days of the date the original application was deemed complete unless such time limitations are extended with the consent of the Applicant or as otherwise provided by Oregon Revised Statutes.~~ [Ord. 96-O-446.BB § 8; Ord. 89-O-446 § 1.]

17.152.030 Appeal procedure.

The appeal is a de novo hearing and evidence or testimony not previously presented to the Planning Commission will be allowed. The City Council shall, at the time of the public hearing, hear the applicant, if any, the appellant or his ***their*** representative, the applicant, if any, a representative of the

Planning Commission, *if they chose to participate*, and such other persons as may desire to be heard on their own or on the public behalf *any agency representative, and the public*. If the council decides to modify or reverse the *final* order of the Planning Commission, the Council may refer such matter back to the Planning Commission for a report and recommendation prior to the Council taking final action. The final decision of the City Council shall be accomplished by adopting a written resolution *a written final order* which sets out the extent and conditions of the modification or reversal *decision*. *The City Council may uphold, modify or reverse the Planning Commission's decision*. The decision of the Council shall be final and have immediate effect. [Ord. 89-O-446 § 1.]

17.152.040 Review by City Council.

Within 15 days following the *postmark* date *on the mailing of the final order* of a decision by the Planning Commission *decision*, the City Council may, on its own motion, initiate proceedings to review the action. The City Council shall give notice of the time and place when the decision of the Planning Commission will be reviewed. Notice of hearing will be given in the manner prescribed in Chapter 17.84 BMC. [Ord. 96-O-446.BB § 8; Ord. 89-O-446 § 1.]

17.152.050 Appeal filing fee.

At the time of filing any notice of appeal as authorized in BMC 17.152.010, the Applicant shall pay to the city recorder an appeal fee in such amount as may be provided by general resolution of the City Council. [Ord. 89-O-446 § 1.]

UNITED STATES POSTAGE
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MAILED FROM ZIP CODE 97415



ACE
CITY OF BROOKINGS

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

TO:

DLCD Plan Amend. Specialist
635 Capitol St NE #150
Salem OR 97301-2540