

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

ORDINANCE 09-O-632

IN THE MATTER OF ORDINANCE 09-O-632, AN ORDINANCE AMENDING CHAPTER 17.04, DEVELOPMENT PERMIT PROCEDURES, OF TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.04, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.04, Development Permit Procedures, of Title 17, Land Development Code, of the Brookings Municipal Code in its entirety.

Section 2. Amends Chapter 17.04. Chapter 17.04, Development Permit Procedures, is hereby amended to read as follows:

**Chapter 17.04
DEVELOPMENT PERMIT PROCEDURES**

Sections:

- 17.04.010 Purpose.
- 17.04.020 Development permit required.
- 17.04.030 Burden of proof.
- 17.04.040 Limitation on new applications.
- 17.04.050 Permit issuance, appeals of a City decision, and effective date of approval.
- 17.04.060 Lands in violation.
- 17.04.070 Exemptions from requirements to do improvements to public infrastructure.
- 17.04.080 Preapplication conference.
- 17.04.090 Process and Decision.

17.04.010 Purpose.

Development permits are issued to authorize the use and development of land consistent with the provisions of this code.

17.04.020 Development permit required.

No person shall engage in or cause the development of land for which a development permit has not been issued. Development permits shall be in a form prescribed by the city. Development permits are required for:

- A. Building permits; and/or
- B. Land use decisions; and/or

- C. Development on a hazardous building site as found in Chapter 17.100; and/or
- D. Other development requiring written authorization in this Code.

Making an application for a development permit is described in Chap. 17.80.030, Site Plan Approval, BMC or for hazardous building sites, Chapter 17.100.

17.04.030 Burden of proof.

In any land use decision, the burden of producing substantial evidence to demonstrate compliance with the applicable criteria is upon the applicant. If adequate evidence is not provided the application must be denied.

17.04.040 Limitation on new applications.

If a land use decision application is denied, said application shall not be eligible for resubmittal for one year from the date of said denial. In order to resubmit an application which has been denied within one year of the initial submittal, a new application affecting the same property must be, in the opinion of the Planning Director, substantially different from the application denied, or conditions must have changed to an extent that further consideration is warranted.

17.04.050 Permit issuance, appeals of a City decision, and effective date of approval.

Development permits shall be issued by the city manager or their designee according to the provisions of this code. Neither the city building official nor any other state or local official shall issue a permit for use, development or occupation of a structure which has not been approved according to this code.

An appeal of an Administrative Decision or a Planning Commission Decision may be filed with the Planning Department no later than 15 days following the date of mailing (postmark date) of the Notice of the Final Order.

The effective date of approval in any land use decision under this Code is the date upon which the decision is no longer appealable.

17.04.060 Lands in violation.

The city manager or their designee shall not issue a development permit for the partitioning, subdivision, development, or use of land that has been previously divided in violation of state or local codes then in effect, or divided in violation of this code subsequent to its adoption, or otherwise developed in violation of this code, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the proposed development in a manner provided by this code. (Ord. 89-0-446 1.)

17.04.070 Exemptions from requirement to do improvements to public infrastructure.

The developments and activities listed below are exempt from the requirements to do improvements to public infrastructure, but are nevertheless subject to the provisions of this code:

- A. Remodel, addition, alteration, or repair of an existing residence for residential use, or siting of an accessory structure;
- B. Remodel, alteration or repair to a commercial structure resulting in no greater impacts or intensity of use.

C. All structures damaged or destroyed by fire or acts of God provided there is no increase in original floor area, unless otherwise required by law, or in density, nor expansion of use of the original structure is involved. [Ord. 92-O-446.K § 2; Ord. 90-O-446.A § 1; Ord. 89-O-446 § 1.]

17.04.080 Preapplication conference.

A. An applicant or the applicant's authorized representative shall request the city manager or their designee to arrange a preapplication conference, unless the applicant and director agree that the conference is not needed. Such preapplication conference will be conducted by the Site Plan Committee, or in the case of a subdivision, utilize the process found in BMC 17.172.070.

B. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this code; to provide for an exchange of information regarding applicable elements of the comprehensive plan and development code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

C. Any multiple-family project involving more than four dwelling units, a Planned Community, dwelling group, or rear lot development requires a rough sketch conceptual plan to be reviewed in the preapplication conference.

D. The applicant shall be provided with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application. [Ord. 89-O-446 § 1.]

17.04.090 Process and Decision

The review process and determination of completeness of an application for a subdivision is found in BMC 17.172.070. The review process and determination of completeness for other applications is found in BMC 17.80.050 through 17.80.070, or for a hazardous building site, in Chapter 17.100, BMC.

First reading: April 27th, 2009
Second reading: April 27th, 2009
Passage: April 27th, 2009
Effective date May 27th, 2009

Signed by me in authentication of its passage this 28th day of April, 2009.



Mayor Larry Anderson

ATTEST:


City Recorder Joyce Heffington