

For: Monday, **October 24, 2016**, City Council Meeting

Advance Packet Information

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

PUBLIC HEARINGS/ORDINANCES

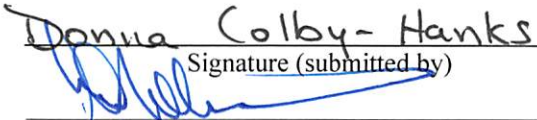
1. A continued Public Hearing on File LDC-2-16 for consideration of revisions to allow approval of a one room bed and breakfast with a home occupation permit. [PWDS-Planning, Pg. 2]
 - a. 9-12-16 Staff Report [Pg. 4]
 - b. BMC Chapter 17.104 Draft Text [Pg. 6]
2. Ordinance 16-O-763 Amending Sub-Section C of Brookings Municipal Code Section 9.10.345, Abusive Solicitation, Definitions [City Manager, Pg. 8]
 - a. Ordinance 16-O-763 [Pg. 9]
 - b. BMC Chapter 9.10.345 Proposed Revisions Red-lined [Pg. 11]
3. Ordinance 16-O-764 Amending Sub-Section B-4 of Brookings Municipal Code Section 5.10.050, Taxicabs, Operator Requirements [City Manager, Pg. 12]
 - a. Ordinance 16-O-764 [Pg. 13]
 - b. BMC Chapter 5.10 Proposed Revisions Red-lined [Pg. 14]

*Obtain Public Comment Forms and view the agenda and packet information on-line at www.brookings.or.us, or at City Hall. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 541-469-1102 if you have any questions regarding this notice.

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: October 24, 2016



Signature (submitted by)

City Manager Approval

Originating Dept: PWDS-Planning

Subject: A continued hearing on File LDC-2-16 for consideration of revisions to allow approval of a one room bed and breakfast with a home occupation permit.

Recommended Motion:

1. Motion to approve revisions proposed by LDC-2-16 to revise Section 17.104.030 Home Occupation Criteria to include a one room bed and breakfast.

2. Motion to revise Section 17.124.140 Specific Standards Applying to Conditional Uses, Bed and breakfast facilities, to clarify the section applies to bed and breakfast facilities with rental of more than one bedroom and direct staff to prepare the adopting ordinance.

or

3. Motion to revise Section 17.124.140 to include obtaining a business license and the paying of transient taxes as criteria in the approval of a conditional use permit for a bed and breakfast and direct staff to prepare the adopting ordinance.

Financial Impact: Motion 1 - Future loss of Conditional Use Permit fees.
Motion 3 - None
Approved by Finance & Human Resources Director: _____

Background/Discussion: City Council moved at their September 12, 2016 meeting to continue the matter of revisions to allow the operation of a one bedroom bed and breakfast to obtain approval to operate with a home occupation permit. Council raised concerns with the impact to a neighborhood should unauthorized conversion of the bed and breakfast to more than one room occur. Without the notice provided with a conditional use permit application, neighbors may not be aware of the bed and breakfast use, the complaint process, or the appeal process.

Currently there are four approved bed and breakfast facilities within the city limits. All rent out more than one bedroom. The existing bed and breakfast approvals will not be affected by the proposed revisions.

With both Motion 1 and Motion 2, the revisions to allow the operation of a one bedroom bed and breakfast with a home occupation permit as proposed in the draft text will be approved. With alternate Motion 3, a conditional use permit application would still be required for the one bedroom facility, however, criteria would be added to alert applicants of the requirements of a business license and the payment of transient taxes. Currently the business license and transient taxes are stated as conditions by staff but are not criteria. It may be unclear to some applicants that a business license is required as the use is occurring in a residential zone.

The cost of processing a conditional use permit (CUP) is approximately \$2,649. Most of this cost is associated with legal publication and mailing of notice to adjacent property owners, and staff time for processing the application through the Planning Commission.

The cost of processing a home occupation permit is about \$41.

Only one applicant has sought relief from the CUP process and fee.

Policy Considerations: The code revisions will provide small opportunities to attract tourists to Brookings.

Attachment(s):



- A. Staff report of September 12, 2016 City Council meeting
- B. Draft text of Chapter 17.104 Home Occupations and Section 17.124.140 Bed and breakfast facilities

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: September 12, 2016

Originating Dept: PWDS-Planning


Donna Colby-Hawks 
Signature (submitted by)

City Manager Approval

Subject: A hearing on File LDC-2-16 for consideration of revisions to allow approval of a one room bed and breakfast with a home occupation permit.

Recommended Motion:

1. Motion to approve revisions proposed by LDC-2-16 to revise Section 17.104.030 Home Occupation Criteria to include a one room bed and breakfast.
2. Motion to revise Section 17.124.140 Specific Standards Applying to Conditional Uses, Bed and breakfast facilities, to clarify the section applies to bed and breakfast facilities with rental of more than one bedroom.

Financial Impact: Future loss of Conditional Use Permit fees.

Approved by Finance & Human Resources Director: 

Background/Discussion: City Council discussed the fees for land use applications at their May 23, 2016 meeting. Council directed staff to draft and process a code revision for consideration for a one room bed and breakfast to obtain approval to operate with a home occupation permit (HOP). All bed and breakfast facilities currently are required to obtain approval to operate with a conditional use permit (CUP). The fee for a CUP is \$2,649.00, the fee for a HOP is \$41.00.

A bed and breakfast is defined as the rental of one or more bedrooms in an owner-occupied single-family residence. The use requires one off-street parking space per rental room as well as two spaces for the owner.

The intent of the home occupation permit for residential zones is to provide for limited cottage industry activity which is conducted in such a manner that the residential character of the neighborhood is preserved. Home occupations include handicrafts, specialty food items, catering, offices for small businesses as well as instruction such as music and dancing when limited to attendance of no more than five pupils at a time.

There are several uses that are excluded. They include beauty shops, barber shops, pet grooming, and photo studios. These uses impact the city's sewer system more than ordinary residential uses. The headquarters for the assembly of employees is also not allowed with a HOP. The impact on traffic and parking is greater than that created by residential use.

HOP applications are approved as a administrative land use action by staff. There is no notice published in the newspaper or provided to the adjacent neighbors. Staff reviews the proposal in

regards to the criteria found in Chapter 17.104.030 and approves, approves with conditions, or denies the permit. The administrative decision may be appealed to the Planning Commission. Home occupation permits are renewed annually. The permit is not transferrable whereas CUPs are transferred upon sale of the property. In the case where the use evolves and is not in compliance with the criteria, the permit may be revoked or the matter resolved pursuant to Chapter 17.160, Enforcement and Penalties.

There are approximately 103 active home occupation permits within the city. The majority are mobile businesses such as landscaping, contractors, or cleaning services that use the home for storing a few materials and conducting their record keeping activities. Home occupations generate very few violation investigations.

A one room bed & breakfast would have a total of two vehicle trips if rented on consecutive days. This would be in addition to vehicular trips generated by the residents. The vehicular impact would be less than some of the other uses authorized under the HOP chapter. With bed and breakfast facilities, the owners reside in the home and are available to resolve any conflicts that may arise.

Although not currently included as criteria, historically conditions of approval have required the applicant to obtain a business license and submit transient room tax. These requirements have been added as criteria in Chapter 17.124.140.

The Planning Commission considered the proposed revisions at their August 2, 2016 meeting. After receiving comments of support from two citizens, the Planning Commission unanimously recommended approval.

Policy Considerations: The code revisions will provide small opportunities to attract tourists to Brookings.

Attachment(s): A. Draft text of Chapter 17.104 Home Occupations and Section 17.124.140 Bed and breakfast facilities

Chapter 17.104

HOME OCCUPATIONS

17.104.030 Criteria.

The home occupation proposal must conform to the following criteria:

- A. The activity must be conducted entirely within the dwelling, garage, or accessory structure.
- B. The activity must be conducted only by persons residing in the dwelling.
- C. The outward residential appearance of all buildings must be preserved, and the use is clearly incidental and secondary to the use of the dwelling for residential purposes.
- D. Not more than 50 percent of the floor area of the individual dwelling unit may be utilized for the intended purposes. Any part of a garage or accessory structure may be used provided off-street parking requirements are met.
- E. No merchandising or sale of commodities may be conducted on the premises, except such as is produced by the occupants on the premises.
- F. A sign may be maintained in conjunction with the home occupation activity, provided it is nonlighted, indicates only the name and trade of the property owner, and is no greater than two square feet in area.
- G. **With the exception of the bed and breakfast in 17.104.030(J), ¶the use requires no additional off-street parking spaces.**
- H. There shall be no emission of odorous, toxic, noxious matter nor any use causing electrical or telecommunication interference, vibration, noise, heat or glare in such quantities as to be readily detectable at any point along or outside property lines of a home occupation so as to produce a public nuisance or hazard.
- I. Proof of a current business license unless exempt must be provided.
- J. **A bed and breakfast limited to the rental of one bedroom in an owner-occupied single-family residence may be approved as a home occupation. A breakfast meal may be served during the a.m. hours only. One off-street parking space in addition to two spaces for the homeowner shall be provided. A transient room tax will be applied pursuant to Chapter 3.10 BMC.**

Chapter 17.124

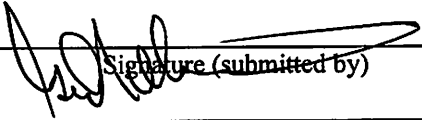
SPECIFIC STANDARDS APPLYING TO CONDITIONAL USES

17.124.140 Bed and breakfast facilities.

“Bed and breakfast” means the rental of ~~one or~~ more than one bedrooms in an owner-occupied single-family residence where a breakfast meal may be is served during the a.m. hours only. All residences proposed for bed and breakfast accommodations shall provide one off-street parking space per rental unit in addition to two spaces for the owner. In terms of eligibility and acceptability, preference will be given by the planning commission to residences applying for bed and breakfast accommodations which display significant architectural or historic character and quality. **The property owner shall obtain a business license from the City of Brookings. A transient room tax will be applied pursuant to Chapter 3.10 BMC.**

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: October 24, 2016



Signature (submitted by)

City Manager Approval

Originating Dept: City Manager

Subject: Ordinance 16-O-763 Amending Sub-Section C of Brookings Municipal Code Section 9.10.345, Abusive Solicitation, Definitions.

Recommended Motion:

Motion to adopt Ordinance 16-O-763 amending Sub-Section C of Brookings Municipal Code Section 9.10.345, Abusive Solicitation, Definitions.

Background/Discussion:

The City Council discussed the potential liability issues associated with particular phrasing of Sub-Section C of Brookings Municipal Code Section 9.10.345, Abusive Solicitation, Definitions at its Workshop meeting of October 3.

Staff received direction to return to the City Council with amendments to the Ordinance per the recommendations made by City Attorney Martha Rice.

Attachment(s):

- a. Ordinance 16-O-763
- b. Brookings Municipal Code Chapter 9.10.345 with proposed changes red-lined

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 16-O-763

IN THE MATTER OF ORDINANCE 16-O-763, AN ORDINANCE AMENDING SUB-SECTION C OF BROOKINGS MUNICIPAL CODE SECTION 9.10.345, ABUSIVE SOLICITATION, DEFINITIONS.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Sub-Section C of Section 9.10.345

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Sub-Section C of Section 9.10.345 of the Brookings Municipal Code.

Section 2. Amends Section 9.10.345 : Sub-Section C of Section 9.10.345, Abusive Solicitation, Definitions is amended to read as follows:

C. Definitions. The following words or phrases as used in this chapter shall have the following meanings:

1. "Solicitation" means an in-person request made to obtain an immediate donation of money or other item of value.
2. "Threatening" means conduct that has the effect of placing one in reasonable apprehension of imminent physical harm.
3. "Abusive solicitation" means intentionally, recklessly or knowingly engaging in threatening conduct immediately before, during, or immediately after making a solicitation, including, but not limited to, the following listed conduct:
 - a. Blocking or impeding the passage of the person solicited;
 - b. Following the person solicited by proceeding behind, ahead or alongside of him or her after the person solicited has declined the request;
 - c. Touching the solicited person without the solicited person's consent;
 - d. Using words, signage, gestures, and/or actions directed toward the person being solicited which are threatening.

First Reading: _____
Second Reading: _____

Passage: _____
Effective Date: _____

Signed by me in authentication of its passage this _____, day of _____, 2016

ATTEST:

Mayor Ron Hedenskog

City Recorder Teri Davis

PROPOSED REVISIONS

9.10.345 Abusive solicitation.

A. Purpose. The city council deems it advisable and in the city's best interest to provide for the safety of the community by adopting regulations regarding solicitation of an abusive nature within the city's jurisdiction.

B. Abusive Solicitation. No person shall engage in abusive solicitation as defined in this section. A person shall not be deemed to be in violation of this subsection when he or she passively displays a sign unless that person takes abusive action to obtain and/or retrieve an item of value from another person caused by the sign being displayed.

C. Definitions. The following words or phrases as used in this chapter shall have the following meanings:

1. "Solicitation" means an in-person request made to obtain an immediate donation of money or other item of value.

~~2. "Offensive" means conduct that has the effect of provoking or being likely to provoke an imminent violent or disorderly response.~~

3. "Threatening" means conduct that has the effect of placing one in reasonable apprehension of imminent physical harm.

4. "Abusive solicitation" means intentionally, recklessly or knowingly engaging in ~~offensive or~~ threatening conduct immediately before, during, or immediately after making a solicitation, including, but not limited to, the following listed conduct:

~~a. Continuing to solicit once the person being solicited has declined the request;~~

b. Blocking or impeding the passage of the person solicited;

c. Following the person solicited by proceeding behind, ahead or alongside of him or her after the person solicited has declined the request;

d. Touching the solicited person without the solicited person's consent;

e. Using words, signage, gestures, and/or actions directed toward the person being solicited which are ~~offensive or~~ threatening.

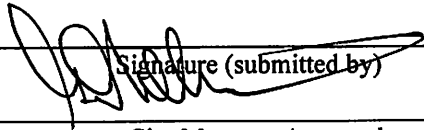
D. Penalties. Any violation of the provisions of this section constitutes a violation of Brookings Municipal Code and subject to Chapter 1.05 BMC, General Penalty.

E. Severance. If any section, subsection, sentence, clause, or phrase of the ordinance codified in this section is held invalid or unconstitutional by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of the ordinance codified in this section. [Ord. 16-O-754 § 2.]

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: October 24, 2016

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Ordinance 16-O-764 Amending Sub-Section B-4 of Brookings Municipal Code Section 5.10.050, Taxicabs, Operator Requirements.

Recommended Motion:

Motion to adopt Ordinance 16-O-764 amending Sub-Section B-4 of Brookings Municipal Code Section 5.10.050, Taxicabs, Operator Requirements.

Background/Discussion:

It was brought to Staff's attention that the owner of both taxicab services in Brookings struggles to employ operators/drivers for his business due to the BMC requirement that operators possess a valid Oregon driver's license. To alleviate this difficulty, Ordinance 16-O-764 amends the requirement to also allow for operators to possess a valid California driver's license.

Attachment(s):

- a. Ordinance 16-O-764
- b. BMC Chapter 5.10 with edits

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 16-O-764

IN THE MATTER OF ORDINANCE 16-O-764, AN ORDINANCE AMENDING BROOKINGS MUNICIPAL CODE SECTION 5.10.050, TAXICABS, OPERATOR REQUIREMENTS.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Sub-Section B-4 of Section 5.10.050

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Sub-Section B-4 of Section 5.10.050 of the Brookings Municipal Code.

Section 2. Amends Sub-Section B-4 of Section 5.10.050 : Sub-Section B-4 of Section 5.10.050, Taxicabs, Operator Requirements is amended to read as follows:

- 4. The applicant for a taxicab driver's permit does not hold a valid Oregon or California driver's license; or

First Reading: _____ Passage: _____
Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage this _____, day of _____, 2016

ATTEST:

Mayor Ron Hedenskog

City Recorder Teri Davis

Chapter 5.10

TAXICABS

Sections:

- 5.10.010 Permit to operate required.
- 5.10.020 Taxicab defined.
- 5.10.030 Application procedures.
- 5.10.040 Annual license fee.
- 5.10.050 Operator requirements.
- 5.10.060 Suspension and revocation of permits.
- 5.10.070 Insurance required.
- 5.10.080 License and equipment requirements.
- 5.10.090 Taxicab maintenance requirements.
- 5.10.100 Passenger requirements.
- 5.10.110 Revocation of license.
- 5.10.120 Penalty for violation.

5.10.010 Permit to operate required.

It shall be unlawful to engage in the business of operating a taxicab within the city of Brookings without first having secured a permit therefor. Such operation of a taxicab service for hire by any person, firm, or corporation is hereby prohibited unless the owner and/or operator thereof first pays an annual license fee and, based upon the approval of his application, receives from the city of Brookings a permit to so operate said taxicab within the corporate limits of the city of Brookings. [Ord. 84-O-387 § 1.]

5.10.020 Taxicab defined.

"Taxicab," as used herein, shall mean and include any vehicle used to carry or transport passengers or their property for hire, whether or not operating on a fixed route, and otherwise within the exemptions of Chapter 767 ORS. [Ord. 84-O-387 § 2.]

5.10.030 Application procedures.

All owners and operators of taxicabs shall duly file with the city an application for the operation thereof within the corporate limits of the city of Brookings; and further, the form and requirements thereof shall be as prescribed from time to time by the city manager subject only to the review and further amendment thereof by the common council of the city of Brookings. [Ord. 84-O-387 § 3.]

5.10.040 Annual license fee.

A. No permit for the use and operation of a taxicab shall be issued until said application has been approved by the city manager and the payment by applicant of the annual license fee in the amount of

\$65.00. Said annual license fee may be adjusted, from time to time, upon motion of the city council; however, all taxicab permits issued under this chapter shall begin on the first day of the fiscal year and expire on the last day of said year and no license fee herein required shall be prorated over said fiscal year, but shall be paid in full amount as if the same had been issued on the first day of the fiscal year.

B. The annual license fee, payable in advance, shall be for each such taxicab operated and shall be in addition to any other fee required by any other ordinance of the city of Brookings, including but not limited to the business license fee. The permit granted hereunder shall be displayed in a prominent place in the taxicab while it is in use. [Ord. 93-O-387.C § 2; Ord. 84-O-387 § 4.]

5.10.050 Operator requirements.

A. No person shall operate a taxicab for hire within the city of Brookings without having first obtained a taxicab driver's permit.

B. Application for such permit may be made by the payment of a fee to the city of Brookings in the sum of \$20.00 and shall set forth the name, address, date of birth and Oregon driver's license number of the applicant. The applicant shall provide a two-and-one-half-inch by three-and-one-half-inch photograph to be attached to the taxicab driver's permit. A permit may be issued by the city of Brookings if the applicant satisfactorily passes the police background investigation. The chief of police, or his designee, shall investigate each applicant for a taxicab driver's permit. The following shall be cause for the chief of police to deny a permit:

1. The applicant for a taxicab driver's permit has been convicted within the previous 36 months of any major traffic offense, as defined by Oregon law, possession of an open container of alcohol or possession, manufacture or delivery of a controlled substance (not including the delivery of medically prescribed drugs).

2. The applicant for a taxicab driver's permit has been convicted of a felony within the previous 36 months;

3. The applicant for a taxicab driver's permit has accumulated more than three convictions for moving traffic offenses within the previous 12 months;

4. The applicant for a taxicab driver's permit does not hold a valid Oregon driver's license; or

5. The applicant for a taxicab driver's permit is not 21 years of age.

or California