

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

ORDINANCE NO. 10-O-652

IN THE MATTER OF ORDINANCE NO. 10-O-652, AN ORDINANCE AMENDING CHAPTER 17.70, MASTER PLAN DEVELOPMENT DISTRICT, TITLE 17, LAND DEVELOPMENT CODE, OF THE BROOKINGS MUNICIPAL CODE, IN ITS ENTIRETY.

Sections:

- Section 1. Ordinance identified.
- Section 2. Amends Chapter 17.70, in its entirety.

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Chapter 17.70, Master Plan Development, Title 17, Land Development Code, of the Brookings Municipal Code (BMC).

Section 2. Amend Chapter 17.70. Chapter 17.70, Master Plan Development, is amended to read as follows:

**Chapter 17.70
MASTER PLAN DEVELOPMENT (MPD) DISTRICT¹**

Sections:

- [17.70.010](#) Purpose.
- [17.70.020](#) General provisions.
- [17.70.030](#) Allowed uses.
- [17.70.040](#) Master plan of development (MPoD) review procedures.
- [17.70.050](#) Acceptance of application.
- [17.70.060](#) Staff evaluation.
- [17.70.070](#) Review criteria.
- [17.70.080](#) Action by planning commission.
- [17.70.090](#) Action by the city council.
- [17.70.100](#) Notice of decision.
- [17.70.110](#) Effective date and assurance.
- [17.70.120](#) Effective period of master plan of development (MPoD) approval.
- [17.70.130](#) Modification of a master plan of development (MPoD).
- [17.70.140](#) Detailed development plan (DDP) review procedures.
- [17.70.150](#) Acceptance of application.
- [17.70.160](#) Staff evaluation.
- [17.70.170](#) Review criteria for determining compliance with master plan of development (MPoD).
- [17.70.180](#) Action by the planning commission.
- [17.70.190](#) Effective date.
- [17.70.200](#) Effective period of detailed development plan (DDP) approval.
- [17.70.210](#) Modification(s) of a detailed development plan (DDP).
- [17.70.220](#) Determining compliance.

17.70.010 Purpose.

The Master Planned Development (MPD) zone is a land use district. The MPD zone may be applied on sites that are 50 acres or greater in size. The MPD zone shall implement the MP comprehensive plan designation, which shall be placed on all land requiring a "master plan of development" in the Urban Growth Joint Management Agreement (JMA) adopted by the City and the County. Upon or subject to annexation into the City, the MPD Comprehensive Plan designation shall be applied to all

land that is required to adopt a "Master Plan of Development" (MPoD) in the urban growth boundary. In addition, the city may apply the MPD designation to other lands within the city.

The MPD zone is to be implemented through the approval of a MPoD that describes in detail, as outlined in this chapter, how the development of the property will occur and how the development will implement applicable goals and policies of the City's Comprehensive Plan, and applicable provisions of the Land Development Code. The MPoD will assess and minimize, to an acceptable level, the impacts of the development on the City's services, infrastructure, transportation systems and neighboring properties. Best engineering practices for low impact development which preserve existing vegetation, topography, and natural drainage are encouraged. As the MPD zone is implemented through an approved MPoD, no development shall be allowed until applicable requirements of this chapter are met. Compliance with applicable plan goals and policies is deferred until the MPoD review.

Master Planned Development review procedures are established in this chapter for the following purposes:

- A. Promote flexibility in design and permit diversification in location of structures;
- B. Promote efficient use of land and energy and facilitate a more economical arrangement of buildings, circulation systems, land uses, and utilities;
- C. Preserve to the greatest extent possible existing landscape features and amenities, and utilize such features in a harmonious fashion. Retention of existing mature trees and other vegetation is encouraged;
- D. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures;
- E. Combine and coordinate architectural styles, building forms and building relationships within the planned development;
- F. Provide the applicant with reasonable assurance of ultimate approval before expenditure of complete design moneys, while providing the City with assurances that the project will retain the character envisioned at the time of approval;
- G. Promote and encourage energy conservation; and
- H. Provide greater compatibility with surrounding land uses than what may occur with a conventional project. [Ord. 03-O-446.PP.]

17.70.020 General provisions.

Development within a Master Planned Development (MPD) zone is governed by the approval of a MPoD which can be developed in a single phase or in multiple phases. Prior to development a MPoD must be approved and prior to construction of any phase a Detailed Development Plan (DDP) must be approved. On sites where a MPD designation exists on the City's official zoning map the provisions of this chapter shall apply. The following procedure allows for Planning Commission review of a MPoD and DDP. An application to apply the MPD zone to specific properties may be submitted and reviewed concurrent with MPoD approval. The applicant may either select to process the development proposal under a DDP concurrent with approval of the MPoD or may request only approval of a MPoD in accordance with BMC [17.70.050](#) and later apply for a DDP for an individual phase or phases of the project. However, prior to issuing any building permits a DDP must be approved by the Planning Commission.

An applicant for MPoD approval may propose one or more alternative development standards for all or any specific areas within the plan boundaries, which supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations. Such alternative standards shall be clearly and specifically identified within the plan submittals, and shall include an explanation and/or drawings, which demonstrates that such alternative standards equally or better meet the purpose of the existing regulations. [Ord. 03-O-446.PP.]

Changes to zoning ordinances, policies, and standards adopted after the date of approval of the plan shall not apply to the development during the duration of the plan.

17.70.030 Allowed uses.

The following uses are allowed outright when they are included in an approved MPoD.

- A. All uses allowed outright and conditionally in the R-1, R-2, R-3 zones;
- B. All uses allowed outright and conditionally in the C-1, C-2, C-3 and C-4 zones.
- C. All uses allowed outright in the I-P and M-2 districts. [Ord. 03-O-446.PP.]

17.70.040 Master plan of development (MPoD) review procedures.

An application filed for a MPoD shall be reviewed in accordance with the following procedures.

A. Application Requirements. Applications shall be made by the owner, or authorized representative, on forms provided by the City. If the MPoD is to include land in more than one ownership, the application must be submitted jointly by all of the owners or persons having an interest in each of the separately owned properties to be included.

1. The application shall be accompanied by the following:

- a. A narrative description of the project addressing the items listed in 17.70.040(C);
- b. Four sets of scaled black line drawings of the MPoD graphic(s), with sheet size not to exceed 30 inches by 42 inches. Where necessary, an overall plan with additional detail sheets may be submitted; and

c. One set of the graphics shall be reduced to fit on eight-and-one-half inch by 11-inch sheets of paper. Graphics and related names/numbers must be legible on this sheet size.

B. Graphic Requirements. A MPoD shall include the following information where applicable:

1. Existing land use map (typically a topographic map that extends at least 300 feet beyond the site. The map includes existing building footprints and makes a distinction between single-family, multifamily, commercial and industrial uses, as well as other significant features such as roads, drainageways, parks, and schools);

2. Site plan(s) and other graphics drawn to scale and containing a sheet title, date, north arrow, and legend, placed in the same location on each sheet and containing the following:

a. Existing site conditions including contours at intervals not greater than 5 feet, watercourses, flood plains, and any unique natural features prepared by an engineer or surveyor licensed in the State of Oregon;

b. A geologic hazard report for any area containing or adjacent to a fault zone, sinkhole, unstable soils, steep slopes of 15% or greater, high water table, or other geologic hazard, as required in 17.100, Hazardous Building Sites, BMC;

c. Exterior boundary of the proposed MPoD and any interior lots/ parcels related to proposed development phases or land divisions;

d. Land use areas designated for residential use within the MPoD shall be identified as such and indicate the type of residential use, the number of units within the area and resulting density;

e. General location and size of areas to be conveyed, dedicated, or reserved as common open spaces, such as public parks, recreational areas, school sites, or others;

f. Existing and proposed general vehicle and pedestrian circulation system including bikeways, sidewalks, off-street parking areas, street standards, and major points of access to public rights-of-way. Notations of proposed ownership (public or private) should be included where appropriate;

g. Existing and proposed preliminary utility systems including sanitary sewer, storm sewer, drainageways, water, electricity, and other non-municipal utilities, where appropriate. Staff will provide written information concerning existing infrastructure and adequacy to serve proposed development;

h. Show adjoining land areas within 150 feet of the subject property to indicate their relationships with the proposed development including land uses, lot lines, circulation systems, public facilities, and unique natural features of the landscape;

i. Location of natural resource, historic and cultural resources as identified on adopted City and County inventories.

C. Narrative Requirements. A written statement shall include the following information:

1. Statement of planning objectives to be achieved by the project. This statement should indicate a description of the character of the proposed development, and a discussion indicating how the application meets the review criteria in BMC [17.70.070](#).
2. Statement addressing how the project is in compliance with the applicable goals and policies of the comprehensive plan.
3. Quantitative data for the total concept development plan for the following where appropriate:
 - a. Total number and type of dwelling units;
 - b. Parcel size;
 - c. Proposed lot coverage of buildings and structures where known;
 - d. Gross densities per acre;
 - e. Approximate allocation and amount of open space (lands not designated for buildings or vehicle parking and maneuvering areas);
 - f. General type and location of land committed to nonresidential construction uses. The applicant may specify a list of allowable uses within the master plan area which may not include all uses allowed in the underlying zone;
4. General statement of intentions concerning timing, responsibilities, and assurances for all public and nonpublic improvements, such as irrigation, private roads and drives, landscape, and maintenance;
5. Statement describing project phasing, if proposed. Phases shall be:
 - a. Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features; capable of substantial occupancy, operation, and maintenance upon completion of construction and development;
 - b. Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and
 - c. Provided with such temporary or permanent transitional features, buffers, or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the MPoD.
 - d. Phasing plan including timing for construction and provision of dwelling units, parcel sizes and open space by phase.
6. Traffic impact study consistent with phasing plan. [Ord. 03-O-446.PP.]

17.70.050 Acceptance of application.

- A. The City Planner shall review the application in accordance with BMC 17.80.050, Site Plan Approval.
- B. After an application is deemed complete, the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter [17.84](#) BMC, Public Hearings Notice Procedures. [Ord. 03-O-446.PP.]

17.70.060 Staff evaluation.

The City Planner shall prepare a report that evaluates whether the MPoD complies with the review criteria. The report shall also include a recommendation for approval or denial and, a list of conditions for the Planning Commission to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.070 Review criteria.

The Planning Commission shall approve an application for MPoD upon finding that the following approval criteria are met:

- A. The proposed MPoD is consistent with the purposes identified in BMC [17.70.010](#) and the intent of the MPD zone;
- B. If phases (stages) are proposed, the Applicant must submit a timeline to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.120 describes the effective period of approval.)
- C. The proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that

existing utility services and water supplies for adjacent properties will not be negatively affected at each phase;

D. The proposed MPoD will demonstrate that the plan respects the physical characteristics of the site;

E. The applicant demonstrates that all deviations from the development standards are warranted and that such alternative standards equally or better meet the purpose of the existing regulations.

F. The circulation plan proposed in the MPoD will demonstrate that adequate transportation facilities are available, and the plan promotes the most economic, safe and efficient movement of traffic;

G. The proposed MPoD meets the applicable requirements of the Urban Growth Boundary Joint Management Agreement. [Ord. 03-O-446.PP.]

17.70.080 Action by Planning Commission.

The Planning Commission shall conduct a public hearing in accordance with BMC [17.84.040](#). Following the close of the hearing the Planning Commission shall recommend the approval, conditional approval or denial of the MPoD. The recommendation shall be reported to the City Council. In a Council Agenda Report which includes findings that specify how the application has or has not complied with the above review criteria. [Ord. 03-O-446.PP.]

17.70.090 Action by the City Council.

A. A public hearing will be scheduled before the City Council.

B. At the conclusion of the public hearing, the Council may grant approval of the MPoD, approval of the MPoD with conditions, or may, by motion, deny the granting of the MPoD. [Ord. 03-O-446.PP.]

17.70.100 Notice of decision.

The City Planner shall provide the applicant with a notice of decision and Final Order in accordance with applicable legal requirements, that includes a written statement of the City Council decision, a reference to findings leading to it, any conditions of approval, and appeal period deadline. A notice of decision shall also be mailed to persons who presented testimony orally or in writing at the public hearing. [Ord. 03-O-446.PP.]

17.70.110 Effective date and assurance.

The decision of the City Council shall become effective 15 days from the postmark date on the mailing of the Final Order. Approval of the MPoD shall assure the applicant the right to proceed with the development in substantial conformity with the plan and approval of the DDP, subject to such modifications as may be authorized. Changes to zoning ordinances, policies and standards adopted after the date of approval of the plan shall not apply to the development during the duration of the plan. [Ord. 03-O-446.PP.]

17.70.120 Effective period of Master Plan of Development (MPoD) approval.

If the applicant has not submitted a DDP for the planned development or the first phase within four years from the date of approval, the MPoD shall expire. The Applicant has the opportunity to apply for an extension of time prior to the expiration of the approval. The Planning Commission may grant an extension if the Applicant demonstrates there have been delays beyond his/ her control such as:

- Difficulty obtaining financing due to economic or market conditions.
- Delays in obtaining required Agency permits.
- Lack of available contractors to perform needed work.
- Or similar circumstances.

The Commission may, at its discretion, extend the period for two additional years per extension, subject to applicable hearing and notice requirements. If after the approval of the first DDP, substantial construction has not been started or at any time construction has lapsed for a period of three years, the MPoD will expire. Substantial construction in this case means obtaining all necessary permits required by governmental agencies to commence construction of any structures or needed infrastructure. BMC 17.70.200 describes the approval period for a DDP and requests for an extension of time. [Ord. 03-O-446.PP.]

17.70.130 Modification of a master plan of development (MPoD).

A modification to an approved MpoD is required when a proposed DDP does not meet the standards stated in 17.70.170. An Applicant may request a modification of an approved MPoD by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may request a change to the plot plan/ plat or to the conditions of approval. The request must be accompanied by:

- A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;
- B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.
- C. The Applicant must provide findings for the following criteria:
 - 1. Address how the requested modification relates to the approved project and any impacts that will result.
 - 2. Address any impacts to adjoining properties.
 - 3. Address the effect on City services and facilities.

The Planning Commission will review the proposed modification based on the criteria in 17.70.130 (C).

In all modifications, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change.

17.70.140 Detailed Development Plan (DDP) review procedures.

The applicant can request that each phase or a portion of a phase be reviewed in accordance with the DDP review procedures, so long as each detailed development plan is in substantial conformance with the MPoD. An application filed for a DDP shall address the applicable requirements specified in the approved MPoD for the subject property and include the following additional information.

A. Graphic Requirements. Must demonstrate the DDP is in substantial conformance with the approved graphic depiction of the MpoD for the subject property completed to a scale sufficient to clearly show all required data, on paper not to exceed 30" x 42" and shall include:

- 1. Topographic contours at two-foot minimum intervals for slopes under 20 percent and at five-foot minimum intervals for slopes at or greater than 20 percent. Where the slopes exceeds 15 percent compliance with the standards established in Chapter 17.100 BMC, must be met.
- 2. For all buildings except single-family and duplex homes, the location of existing and proposed structures and other improvements, including maximum heights, building types, and gross density per acre (for residential developments) and location of fire hydrants, existing overhead lines in the abutting right-of-way, easements and walkways;
- 3. Typical architectural elevations of buildings and structures (which may be submitted on additional sheets) sufficient to indicate the architectural intent and character of the proposed development for all buildings except single-family and duplex residential;
- 4. Landscape plan also drawn to scale showing location of landscaped areas and other landscape features including walls and fences, and irrigation systems proposed to maintain plant materials. A list of trees and other plant materials to be used shall be provided. 40% of new trees and plants must be drought-resistant. The landscape plan must be in compliance with applicable section of BMC 17.94, Landscaping, and BMC 17.92.100, Off-street Parking Areas;
- 5. Utilities plan indicating how sanitary sewer, storm sewer, natural drainages, and water systems will function and how negative impacts to existing sanitary sewers, storm sewers, drainage and water systems of adjacent properties will be avoided;
- 6. Circulation plan showing street, driveway, parking area, service area, loading area, pedestrian way, and bikeway improvements and their dimensions;
- 7. Location and dimensions of all areas to be conveyed, dedicated, or-reserved as common open spaces, public parks, recreational areas, school sites, or other areas;
- 8. Exterior lighting plan indicating the location, and direction of illumination. Lighting on streets proposed to be dedicated to the City must comply with standards found in the Public Works document, "General Engineering Requirements and Standard Specifications".

B. Narrative Requirements. In addition to addressing the applicable conditions of approval in the Final Order of the approved MpoD for the subject property, the DDP shall include:

1. Proposals for setbacks or approximate building envelopes, lot areas where a concurrent land division is proposed and number of parking spaces to be provided (in ratio to gross floor area or number of units);
2. Updated statement outlining timing, responsibilities, and assurances for all public and nonpublic improvements such as irrigation, private roads and drives, landscape, and maintenance; identify any changes since approval of MPoD;
3. Statement addressing compatibility of proposed development to adjacent land uses relating to such items as architectural character, building type, and height of proposed structures;
4. Statement demonstrating consistency with adopted traffic impact study and the transportation plan.

C. Tentative Plat. If a DDP is to be partitioned or subdivided, a tentative plan or plat shall also be submitted as part of a MPoD or DDP submittal in accordance with Chapter [17.172](#) BMC, Land Divisions, to permit simultaneous review. [Ord. 03-O-446.PP.]

17.70.150 Acceptance of application.

A. The City Planner shall review the application in accordance with BMC 17.80.050, Site Plan Approval.

B. After an application is deemed complete, the City Planner shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter 17.84 BMC, Public Hearing Notice Proceedings. [Ord. 03-O-446.PP.]

17.70.160 Staff evaluation.

The City Planner shall prepare a report that evaluates whether the DDP complies with the review criteria in BMC [17.70.170](#). The report should include a recommendation for approval or denial and, a list of conditions for the Planning Commission to consider if an approval is granted. [Ord. 03-O-446.PP.]

17.70.170 Review criteria for determining compliance with master plan of development (MpoD).

A. Request for approval of a DDP shall be reviewed to determine whether it is in substantial conformance with the MpoD. The DDP shall be deemed to not be in substantial conformance with the MpoD if it results in any of the following types of changes from the MpoD:

1. Change in development density and/or intensity that results in a peak hour trip generation of greater than 10 percent of the total approved in the MpoD;
2. Reduction of more than 10 percent of the area reserved for common open space and/or usable open space from what was previously specified;
3. Reduction of specific setback requirements by more than 10 percent where previously specified;
4. Reduction of project amenities provided such as recreational facilities;
5. Reduction of screening, and/or landscaping provisions by more than 10 percent from what was previously specified; and
6. If subdivision or partition, the application does not meet the applicable requirements of Chapter [17.172](#) BMC.

This list is not all inclusive. The DDP must generally be in substantial conformance with the MpoD.

B. All deviations within the limits set by the criteria in subsection (A) of this section from those of the approved MPoD shall be justified and explained either in the required graphic or narrative materials. [Ord. 03-O-446.PP.]

C. If phases (stages) are proposed, the applicant must submit a timeline to the Planning Commission for their consideration. The Applicant must then comply with the approved phasing timeline. (BMC 17.70.200 describes the effective period of approval.)

17.70.180 Action by the Planning Commission.

The Planning Commission may approve, conditionally approve, or deny the DDP. The Planning Commission's decision shall include findings that specify how the DDP is or is not in substantial conformance with the MPoD. [Ord. 03-O-446.PP.]

17.70.190 Effective date.

The decision of the Planning Commission shall become effective 15 days from the postmark date on the mailing of the Final Order unless an appeal is filed. [Ord. 03-O-446.PP.]

17.70.200 Effective period of detailed development plan (DDP) approval.

A. Approval of a DDP shall be valid for a three-year period from the date of initial approval. If the applicant has not begun construction within this time frame, the approval shall expire. At its discretion and without a public hearing, the Commission may extend the approval for a period not to exceed two additional years per extension.

B. If the Planning Commission has approved implementation of the DDP in phases, the approved timeline will apply. At its discretion and without a public hearing, the Commission may extend the approval for a period not to exceed two additional years per extension. [Ord. 03-O-446.PP.]

17.70.210 Modification(s) of a detailed development plan (DDP).

A modification to an approved DDP is required when final building and/or construction plans are not in substantial conformance with the adopted DDP. An Applicant may request a modification of an approved DDP by submitting an application, appropriate fee, and supporting materials. The Planning Commission will conduct a public hearing to consider the modification. A modification may request a change to the plot plan/ plat or the conditions of approval. The request must be accompanied by:

A. A revised plot plan or plat showing the proposed changes and how they compare to the originally approved project, or;

B. If the modification does not change the physical site plan of the project, a text explaining the desired change must be submitted.

C. The Applicant must provide findings for the following criteria:

1. Address how the requested modification relates to the approved project and any impacts that will result.
2. Address any impacts to adjoining properties.
3. Address the effect on City services and facilities.

The Planning Commission will review the proposed modification based on the criteria in 17.70.210 (C).

In a modification, review shall be limited to the area proposed for modification and the impacts attributed to the proposed change. [Ord. 03-O-446.PP.]

17.70.220 Determining compliance.

A building permit or other site development permit request shall be in substantial compliance with the DDP and all modifications. [Ord. 03-O-446.PP.]

First Reading: March 8, 2010
Second Reading: March 8, 2010
Passage: March 8, 2010
Effective Date: April 7, 2010

Signed by me in authentication of its passage this

5th, day of March, 2010



Mayor Larry Anderson

ATTEST:



City Recorder Joyce Heffington