

# **Advance Packet 1/3/07**

For

**Monday, January 14, 2007 Council Meeting**

Included in this packet is documentation to support the following 1/14/07 Agenda Item:

## **Public Hearing**

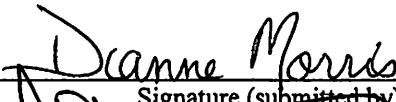

Review and discussion with motion to approve revisions to Chapter 17.04, Development Permit Procedures, of the Brookings Municipal Code, and direct staff to prepare an adopting ordinance for review and possible adoption at the January 21, 2008 City Council meeting.

# CITY OF BROOKINGS

## COUNCIL AGENDA REPORT

Meeting Date: January 14, 2008

Originating Dept: Planning

  
Signature (submitted by)  
  
City Manager Approval

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**Subject:** Revisions to Chapter 17.04, Development Permit Procedures, of the Brookings Municipal Code (BMC).

**Recommended Motion:** Motion approving revisions to Chap. 17.04, Development Permit Procedures, BMC, and directing Staff to prepare an adopting ordinance for review and possible adoption at the January 21, 2008 City Council meeting.

 **Financial Impact:** None.

**Background/Discussion:** The City's Land Development Code Committee and the Planning Commission recommend the changes found in the attached draft of Chap. 17.04, BMC. The current version of Chap. 17.04, BMC, is also attached for comparison purposes.

This Chapter has caused confusion in the past because it speaks of a "Development Permit" and no such form existed. Staff has now created a "Development Permit" form and a copy of this form is attached following the current version of Chap. 17.04, BMC in this packet. The current version discusses making an application for development, attempts to describe what constitutes a complete application, and outlines the process for review and decision making. These issues are dealt with in detail in recently adopted revisions to Chapters 17.80, Site Plan Approval and 17.100, Hazardous Building Site Protection, BMC. In the draft version there are references to these Chapters directing applicants to the needed details.

What Chap. 17.04 does now make clear is that an actual form, a "Development Permit", must be issued prior to any development. As an example, some projects may require a Conditional Use Permit, a permit to work in the right-of-way, approved infrastructure plans, and a building permit. Only when all the required permits have been approved will the Staff sign off on the Development Permit. Only when the applicant has this form in hand, can work begin on the project. In the past an applicant may have received approval for a part of the project and mistakenly thought it authorized work to begin when in reality other aspects of the development needed review and approval as well. The Development Permit provides assurance for the applicant and the City that there is a "notice to proceed".

**Policy Considerations:** N/A

**Attachment(s):**

- Attachment A** – Draft version of Chap. 17.04, Development Permit Procedures, BMC.
- Attachment B** – Current version of Chap. 17.04, Development Permit Procedures, BMC.
- Attachment C** – Development Permit Form

## **Chapter 17.04**

### **DEVELOPMENT PERMIT PROCEDURES**

**Draft October 23, 2007**

#### **Sections:**

- 17.04.010 Purpose.
- 17.04.020 Development permit required.
- 17.04.030 Permit issuance.
- 17.04.040 Lands in violation.
- 17.04.050 Exemptions from requirements to do improvements to public infrastructure.
- 17.04.060 Preapplication conference.
- 17.04.070 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 the City deems requiring written authorization to proceed.

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 Permit issuance.**

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.

#### **17.04.040 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.)

#### **17.04.050 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.]

**17.04.060 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 Unit Development, 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.]

**17.04.070 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.

## Chapter 17.04

## DEVELOPMENT PERMIT PROCEDURES

## Sections:

17.04.010	Purpose.
17.04.020	Development permit required.
17.04.030	Permit issuance.
17.04.040	Lands in violation.
17.04.050	Final decision.
17.04.060	Building permit as development permit.
17.04.070	Exemptions from development permit requirements.
17.04.080	Preapplication conference.
17.04.090	Application materials.
17.04.100	Determining completeness of application.
17.04.110	Resubmittal.
17.04.120	Referral.
17.04.130	Review.
17.04.140	Notice of public hearing or public meeting.
17.04.150	Decision timelines and notice.
17.04.160	Approval or denial.
17.04.170	Action on resubmission of denied application.

**17.04.010 Purpose.**

Development permits are issued to assure property owners that the use and development of land is consistent with the provisions of this code. The development permit supplements and consolidates the various land use permits required in this code, and simplifies the permit procedure. [Ord. 89-O-446 § 1.]

**17.04.020 Development permit required.**

Except as exempted by BMC 17.04.070, 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 all uses, activities and developments, except those otherwise exempt, subject to the following processes and as required elsewhere in this code:

- A. All uses permitted, or conditionally permitted in all zoning districts of this code;
- B. Uses, activities and development subject to receipt of site plan approval;
- C. The following administrative and/or discretionary approval processes:
  - 1. Home occupation;

- 2. Dwelling groups;
- 3. Rear lot development;
- 4. Planned unit development;
- 5. Nonconforming uses;
- 6. Variances;
- 7. Conditional use permits;
- 8. Amendments;
- 9. Vacations;
- 10. All uses subject to the provisions applying to special uses, Chapter 17.124 BMC;
- 11. Minor, major partitions and subdivisions. [Ord. 89-O-446 § 1.]

**17.04.030 Permit issuance.**

Development permits shall be issued by the city manager or his 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. Notwithstanding the above, valid prior approvals shall be allowed to proceed as provided in BMC 17.01.040, Compliance with code provisions. [Ord. 89-O-446 § 1.]

**17.04.040 Lands in violation.**

The city manager or his 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-O-446 § 1.]

**17.04.050 Final decision.**

A decision on a development permit shall be final upon expiration of the period for filing an appeal as provided in this code, unless appealed. If appealed, a decision on a development permit shall be final upon rendering of a final decision by the appeal review body.

A. The expiration date or phasing schedule for the development permit shall be shown on the development permit. Except as otherwise provided in this code, all development permits shall have a 24-month expiration date.

B. A development permit shall expire upon the expiration date shown on the permit unless the filing of the land partition or subdivision has been completed, or construction of the development has

begun and diligently pursued toward completion, or operation of the use has begun, as appropriate, unless an extension has been granted by the review body as provided in this code. [Ord. 89-O-446 § 1.]

#### **17.04.060 Building permit as development permit.**

A. The developments and activities listed below may utilize the building permit as the development permit; provided, that the provisions of this code are met:

1. Detached single-family dwellings and duplex dwellings on pre-existing lots, which lots conform to the requirements of this code;
2. Accessory buildings;
3. A change internal to a building or other structure that does not result in a change of use from those uses permitted in the zone.

B. The building permit form shall contain a line for the signature of the city manager or his designee indicating compliance with the provisions of this code. Although fees may be established for review for code compliance of the developments and activities listed in subsection (A) of this section, such fees shall be less than the fees established for other development permit review. [Ord. 89-O-446 § 1.]

#### **17.04.070 Exemptions from development permit requirements.**

The developments and activities listed below are exempt from the requirements for a development permit, but are nevertheless subject to the provisions of this code:

A. Landscaping and maintenance or other treatment or use of the land not involving a structure, except grading and filling in a floodplain area and improvement of parking areas;

B. Excavation or filling of land involving 50 cubic yards or less, except when used as backfill or excavation for foundations, and except grading and filling in a floodplain;

C. An emergency measure necessary for the safety or protection of property when authorized by the city manager;

D. Remodel, addition, alteration or repair of an existing single-family residence for residential use;

E. Remodel, alteration or repair within any 12-month period, not in excess of 50 percent of the assessed value or market value, whichever is greater; or the addition of no more than 25 percent of the floor area, in any 12-month period; provided, that no addition may be made under this subsection where the addition and previous additions will

result in total additions of floor area in excess of 50 percent of the floor area of a building as existed on the date of enactment of this subsection (August 11, 1992) or on the date of initial occupancy of a building, whichever is later, excepting those in subsection (D) of this section, not to be construed as excepting from development permit requirements where development includes expansion of use for commercial or industrial activities nor increases of densities for residential;

F. 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 his 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, and pursuant to, the site plan committee and site plan approval process.

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, or subdivision and major partition, or PUD or dwelling group, or rear lot development requires a rough sketch conceptual plan to be reviewed in the preapplication conference.

D. Upon the request of the applicant, the city manager or his designee shall provide the applicant 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 Application materials.**

A complete application for a development permit shall consist of items required by this code, in addition to the following:

A. A completed application, on a form provided by the city;

B. Legal description, assessor's parcel map number and tax lot number for all properties included in the application;

C. Evidence that the property included in the application is owned by the applicant, or that the applicant is the duly authorized agent of the owner;

D. Additional information, including maps, plans, sketches and calculations as required by other sections of this code;

E. Where applicable, a statement of intent, explaining the nature and proposed use of the development, pertinent background information and other information that may have a bearing in determining the action to be taken;

F. As many duplicates of the above information as may be requested by the city manager or his designee to facilitate expeditious review of the application;

G. Submission of application fees as established by the city. [Ord. 89-O-446 § 1.]

#### **17.04.100 Determining completeness of application.**

The city manager or his designee shall review the application and make a determination of application completeness within five working days of receiving the application. If the director determines that the application is incomplete or the necessary attachments have not been submitted, the director shall notify the applicant of the negative determination by mailing or otherwise conveying an explanation to the applicant on the next working day following determination of completeness. [Ord. 89-O-446 § 1.]

#### **17.04.110 Resubmittal.**

An application for which a negative determination has been made may be resubmitted after revision to overcome the reasons for the negative determination. [Ord. 89-O-446 § 1.]

#### **17.04.120 Referral.**

Within five working days of accepting an application for a development permit, the city manager or his designee shall:

A. Transmit one copy of the application, or appropriate parts of the application to members of the site plan committee, who shall then meet pursuant to BMC 17.80.050 to render a decision on the application.

B. Transmit the development permit application, or appropriate parts of the application, to

other governmental bodies where approval of other governmental bodies is required prior to granting a development permit. [Ord. 89-O-446 § 1.]

#### **17.04.130 Review.**

A. The city manager or his designee shall include in the transmittals noted in BMC 17.04.120 (A) the date of site plan review scheduled for the application, or if no site plan review is required, some other date for submission of comment. If no comment is forthcoming by the date of site plan review, or by the other date provided if no site plan review is required, the referral agency or city department is presumed to have no comments and objections.

B. The city manager or his designee may extend the deadline for comment by the referral agency or city department up to 10 working days, but only if the application involved unusual circumstances. [Ord. 89-O-446 § 1.]

#### **17.04.140 Notice of public hearing or public meeting.**

Within 10 working days of accepting a complete application, the city manager or his designee shall:

A. Set a date for a public hearing if a public hearing is required by this code; or

B. Set a date for a noticed public meeting, if such meeting is required by this code. [Ord. 89-O-446 § 1.]

#### **17.04.150 Decision timelines and notice.**

Within 15 days of the date of accepting a permit application not involving approval from governmental bodies, or upon the effective date of approval by other governmental bodies, the city manager or his designee shall grant or deny the development permit. Upon grant or denial, the city manager or his designee shall notify the applicant and, if required, others entitled to notice of the disposition of the application. The notice shall indicate the date that the decision will take effect, and describe the right of appeal. [Ord. 96-O-446.BB § 2; Ord. 89-O-446 § 1.]

#### **17.04.160 Approval or denial.**

The decision of the city manager or his designee shall be based upon the application, the evidence, comments from referral agencies and approvals required by other governmental bodies. The decision of the city manager or his designee shall be final upon being rendered subject only to any appeals filed under the provisions of this code.

A. Approval. The city manager or his designee shall issue a development permit if applicable approvals by other governmental bodies have been granted and the proposed development otherwise conforms to the requirements of this code.

B. Denial. The city manager or his designee shall deny the development permit if required approvals from other governmental bodies are not obtained or the application otherwise fails to comply with code requirements. The notice shall describe the reason for denial. [Ord. 89-O-446 § 1.]

**17.04.170 Action on resubmission of denied application.**

An applicant may make appropriate alterations to a proposal which has been previously denied by a review body and resubmit it with payment of the required fee. Other provisions of this code may establish a minimum amount of time between the date of denial and resubmission of development proposals. [Ord. 89-O-446 § 1.]





## DEVELOPMENT PERMIT

\_\_\_\_\_  
Date

Property Address: \_\_\_\_\_

Tax Lot: \_\_\_\_\_ Assessor Map: \_\_\_\_\_

Owner/ Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Type of Development: \_\_\_\_\_ Building; \_\_\_\_\_ Land Use Decision; \_\_\_\_\_ Hazardous  
Site as found in Chapter 17.100, BMC; \_\_\_\_\_ Other, requiring written authorization.

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This development permit is issued as per conditions of approval by the City Staff. Permit holder agrees to abide by all provisions of the Brookings Municipal Code. Failure to adhere to the aforementioned may result in the revocation of this permit. This permit serves as an official Notice to Proceed.

\_\_\_\_\_  
Building Official

\_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
Planning Director

\_\_\_\_\_  
Fire Chief

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Public Works Inspector