

# City of Brookings **WORKSHOP Agenda**

## **CITY COUNCIL**

**Monday August 30, 2021, 5:00pm**

City Hall EOC, 888 Elk Drive, Brookings, OR 97415

### **A. Call to Order**

### **B. Roll Call**

### **C. Topics**

- 1.** Municipal Code Revisions – Benevolent Meal Services [Pg. 1]
  - a. Proposed BMC Chapter 17 Revisions [Pg. 2]
- 2.** Municipal Code Revisions – Accessory Dwelling Unit [Pg. 5]
  - a. Proposed BMC Chapter 17.180 Revisions [Pg. 6]

### **D. Council Member Requests for Workshop Topics**

### **E. Adjournment**

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

Due to the COVID-19 virus, meeting participants in the EOC will be limited and social distancing of six (6) feet will be required and maintained.

# CITY OF BROOKINGS

## COUNCIL WORKSHOP REPORT

Meeting Date: August 30, 2021



Signature (submitted by)

Originating Dept: PW/DS



City Manager Approval

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### Subject:

Municipal Code Revisions – Benevolent Meal Services Conditional Use Permit

### Background/Discussion:

Staff received direction from Council at the August 2<sup>nd</sup> workshop to propose revisions to the Brookings Municipal Code (BMC) that would provide a method for local churches and other non-profits to obtain a conditional use permit in order to provide benevolent meal services in a residential zone. Oregon Health Authority (OHA) has classified the community kitchens (St. Timothy's Episcopal Church, Star of the Sea Catholic Church and the Presbyterian Church) as "restaurants". The BMC doesn't allow restaurants either outright or conditionally, as they are currently operating in the church's community kitchens, within residential districts (R-1, R-2, R-3).

Staff, in cooperation with legal counsel from Local Government Law Group, reviewed code sections of the BMC and have developed draft changes to language that would address Council direction to create a method for allowing benevolent meal services in churches, in a residential zone, under a conditional use permit.

Chapters included for review:

- 17.08.020 B Terms
- 17.20 Single-Family Residential (R-1) District
- 17.24 Two-Family Residential (R-2) District
- 17.28 Multi-Family Residential (R-3) District
- 17.124 Specific Standards Applying to Conditional Uses

Proposed revisions include defining benevolent meal services, creating language in the code to list benevolent meal services as a conditional use in residential zones, and a draft of the criteria required for the conditional use permit.

Staff is seeking direction from Council on proposed changes to language in the BMC. With consensus, staff will recommend BMC changes to the Planning Commission, as these are related to Chapter 17, Land Development Code; and if approved by the Planning Commission, staff will recommend Ordinance to the City Council for adoption.

### Attachments:

- a. Proposed BMC Chapter 17 revisions

## Title 17 LAND DEVELOPMENT CODE

### **17.08.020 B terms.**

“Basement” means a space wholly or partly underground, and having more than one-half of its height, measured from its floor to its ceiling, below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

“Bed and breakfast” means the rental of one or more rooms in an owner-occupied, single-family residence where a breakfast meal is served during the a.m. hours only.

“Benevolent Meal Service” means a periodic food service operation that provides food to the public without charge.

“Building” means any structure built and maintained for the support, shelter or enclosure of persons, animals, or property of any kind.

“Building, main” means a building within which is conducted the principal use permitted on the lot or parcel, as provided in this code. [Ord. 08-O-606 § 2; Ord. 03-O-446.SS; Ord. 91-O-446.F § 1; Ord. 89-O-446 § 1.]

## **Chapter 17.20 SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT**

### **17.20.040 Conditional uses.**

The following conditional uses may be permitted subject to a conditional use permit:

A. Recreation uses and facilities, including country clubs, golf courses, and swimming clubs, but not including such intensive commercial recreation uses as a golf driving range, race track or amusement park;

B. Churches, subject to BMC [17.124.100](#);

C. Hospitals, rest, nursing and convalescent homes, subject to BMC [17.124.100](#);

D. Public or private schools, but not including a business, dancing, trade, technical or similar school, and subject to BMC [17.124.011](#);

- E. Nursery schools and day care facilities, subject to BMC [17.124.010](#);
- F. Governmental structures or uses including parks and recreation facilities, fire stations, libraries, and museums, but not including storage or repair yards, warehouses or similar uses;
- G. Riding academies and public stables, subject to BMC [17.124.070](#);
- H. Cemeteries, mortuaries, crematories, mausoleums, and columbariums, subject to BMC [17.124.090](#);
- I. Excavation and removal of sand, gravel, stone, soil or other earth products, subject to BMC [17.124.020](#) (commercial excavations);
- J. Public and quasi-public halls, lodges and clubs, subject to BMC [17.124.120](#);
- K. The keeping of horses, cattle, sheep and other livestock, subject to BMC [17.124.190](#);
- L. Planned unit developments, including duplex or multifamily development, subject to provisions of Chapter [17.116](#) BMC;
- M. Utility substations or pumping stations, subject to BMC [17.124.030](#);
- N. Bed and breakfast facilities, subject to the provisions of BMC [17.124.140](#);
- O. Dwelling groups, subject to BMC [17.124.180](#);
- P. Signs appurtenant to any conditional use and which do not comply with BMC [17.20.080](#);
- Q. Short-term rentals pursuant to the provisions of BMC [17.124.170](#);
- R. Poultry farms and eggeries, subject to the provisions of BMC [17.124.040](#);
- S. Temporary living quarters for caretakers, subject to the provisions of BMC [17.124.200](#);
- T. Cottage industries, subject to BMC [17.124.220](#);
- U. Amateur radio facilities, accessory to a dwelling, subject to the provisions of BMC [17.124.230](#).
- V. Benevolent Meal Service, as a primary use or in combination with another use permitted outright or conditionally, subject to BMC [17.124.050](#).

[Ord. 16-O-752 § 3; Ord. 14-O-722 § 3; Ord. 08-O-612 § 2; Ord. 01-O-446.MM; Ord. 98-O-446.DD § 4; Ord. 95-O-446.Y § 2; Ord. 95-O-446.X § 3; Ord. 93-O-446.L § 2; Ord. 91-O-446.D § 1; Ord. 89-O-446 § 1.]

This would repeat in R2 & R3 zoning districts

## Chapter 17.124

### SPECIFIC STANDARDS APPLYING TO CONDITIONAL USES

#### 17.124.050 Benevolent Meal Service

A. Organizations or individuals providing benevolent meal services may serve meals to the public up to \_\_\_\_ day(s) per week between the hours of \_\_\_\_ am and \_\_\_\_ pm. No benevolent meal service shall last more than \_\_\_\_ hours.

B. Benevolent meal services shall comply with all applicable state and county public health requirements and shall maintain any permits, licenses, or certifications required to provide such services at all times.

C. Benevolent meal services must utilize off-street parking facilities that comply with all applicable requirements of the Brookings Municipal Code. Off-street parking facilities shall include screening measures to reduce noise and other impacts to abutting properties.

D. Any structures used to provide benevolent meal services shall comply with all applicable city, county, and state requirements related to building, fire, and public works standards.



E. An organization providing benevolent meal services must meet the requirements of a charitable organization under Section 501(c)(3) of the Internal Revenue Code.

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Signature (submitted by)  
  
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City Manager Approval

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Subject:

Municipal Code Revisions – Accessory Dwelling Unit

Background/Discussion:

Staff received direction from Council at the August 2<sup>nd</sup> workshop to propose revisions to the Brookings Municipal Code (BMC) that would result in less restrictions on the development of Accessory Dwelling Units (ADU's) under the Workforce Housing Chapter 17.180 of the BMC.

Staff, in cooperation with legal counsel from Local Government Law Group, reviewed code sections of the BMC and have developed changes to language that would address Council direction to make it less restrictive for ADU development in residential zones.

Chapters included for review:

17.180 Workforce Housing

Proposed revisions include eliminating the requirement that an ADU must comply with BMC 17.180.030(D)(2) requiring the rental of an ADU to comply with affordable housing for rent standards.

In addition, in the future, staff will bring draft SDC study to Council for consideration of methodologies, including a reduced amount of an SDC for an ADU. Council may later choose to adopt that as part of a new SDC study.

Staff is seeking direction from Council on proposed changes to language in the BMC. With consensus, staff will recommend BMC changes to the Planning Commission, as these are related to Chapter 17, Land Development Code; and if approved by the Planning Commission, staff will recommend Ordinance to the City Council for adoption.

Attachments:

- a. Proposed BMC Chapter 17.180 revisions



## **Chapter 17.180**

# **WORKFORCE HOUSING**

### **17.180.010 Purpose.**

Affordable housing is needed within our community to provide for those individuals and households earning less than the median income as defined by the United States Department of Housing and Urban Development (HUD). The provisions of this chapter are intended to create flexibility, provide developer incentives and provide a means for developing affordable housing. [Ord. 08-O-620 § 2.]

### **17.180.020 Definitions.**

“Accessory dwelling unit (ADU)” means a separate dwelling unit contained within or detached from a single-family dwelling on a single lot, containing 1,000 square feet or less, excluding any garage area or accessory buildings, and sharing a driveway with the primary dwelling unless from an alley. A recreational vehicle cannot be used as an accessory dwelling unit.

“Accessory dwelling unit occupant” means the renter of the ADU.

“Affordable ownership unit” means housing with a mortgage payment that does not exceed 30 percent of the qualifying annual net income.

“Affordable rental unit” means that the rent charged for the dwelling unit does not exceed 23 percent of the qualifying annual net income.

“Qualifying annual income” means annual net income that does not exceed 80 percent for ownership and 60 percent for rentals of the area median income as determined by the United States Department of Housing and Urban Development (HUD). [Ord. 08-O-620 § 2.]

### **17.180.030 Density bonus.**

When applying to create a subdivision or planned unit development (PUD), the option of using a density bonus is available based on the following criteria:

Residential developments may devote 20 percent of the proposed lots to affordable housing pursuant to the following requirements:

A. In the following residential zones: SR, R-1, R-MH, a density bonus for up to 20 percent of the proposed lots would allow a minimum lot area for each dwelling unit of 4,000 square feet. No specific minimum lot width is required.

B. In the following residential zones: R-2, R-3, a density bonus for up to 20 percent of the proposed lots would allow a minimum lot area of 5,000 square feet for the first two dwelling units and for each additional unit the lot area shall increase by 1,000 square feet. No specific minimum lot width is required.

C. All other provisions and requirements of the zoning district shall apply.

D. Any lots created using the density bonus lesser square footage requirement must site a dwelling unit in compliance with one of the following options:

1. Affordable Housing for Purchase. Dwelling units designated as affordable housing available for purchase shall:

a. Only be sold to individuals or families whose annual net income does not exceed 80 percent of the area median income as determined by HUD; and

b. Have a mortgage payment not to exceed 30 percent of the monthly net income as outlined below:

i. Studio apartment: One-person qualifying monthly income;

ii. One bedroom: Two-person qualifying monthly income;

iii. Two bedrooms: Four-person qualifying monthly income;

iv. Three bedrooms: Six-person qualifying monthly income;

v. Four bedroom: Seven-person qualifying monthly income; and

c. Have a deed restriction signed and recorded establishing a period of affordability of not less than 15 years. In no event will a purchaser be required to sell the unit subject to this agreement for less than the purchase price plus any applicable closing costs and realtor fees. If an owner of a dwelling unit subject to this deed restriction decides to rent the unit, subsection (B) of this section is applicable.

2. Affordable Housing for Rent. Dwelling units designated as affordable housing available for rent shall:

a. Only be rented to individuals or families whose annual net income does not exceed 60 percent of the area median income as determined by HUD; and

b. Have the rent charged not exceed 23 percent of the qualifying family net income as outlined below:

i. Studio apartment: average of the one- and two-person qualifying monthly incomes;

ii. One bedroom: average of the two- and three-person qualifying monthly incomes;

iii. Two bedrooms: average of the three-, four-, and five-person qualifying monthly incomes;

iv. Three bedrooms: average of the four-, five-, six-, and seven-person qualifying monthly incomes;



v. Four bedrooms: average of the five-, six-, seven-, and eight-person qualifying monthly incomes; and

c. Have a deed restriction signed and recorded establishing a period of affordability of not less than 15 years.

d. An annual registration fee, set by resolution of the city council, must be paid and a copy of the current rental agreement provided to the city. Beginning January 1st of each year the city will conduct an annual review of registered affordable rentals to ensure compliance. Properties determined to be noncompliant shall be subject to abatement pursuant to BMC [8.15.090](#).

e. With any change of tenants new qualifying information must be provided to the city. [Ord. 08-O-620 § 2.]

## **17.180.040 Accessory dwelling unit.**

The site plan committee shall authorize an accessory dwelling unit (ADU) only if it is found that all of the following general requirements are and will be met by the applicant:

A. An ADU may be created within, or detached from, any single-family dwelling, whether existing or new, as an accessory use.

B. Only one ADU may be created per parcel accessory to the single-family dwelling.

C. Only the property owner may apply for an ADU.

~~D. The rental of an ADU must comply with BMC [17.180.030\(D\)\(2\)](#), Affordable Housing for Rent. Repeal by ordinance~~

E. An owner may convert an ADU to another lawful accessory use. If the owner wishes to re-convert the space to a dwelling unit, it may only be used in compliance with the ADU requirements.

*F. Repealed by Ord. 20-O-786.*

G. ADUs shall contain 1,000 square feet or less.

H. All other applicable standards for the zone, including but not limited to setbacks, must be met with the exception of requiring a garage.

I. An annual ADU registration fee set by resolution of the city council must be paid. Upon sale of the property, the new owner shall be required to reregister the ADU.

J. If a garage or detached structure does not currently meet setbacks, it may not be converted to an ADU.

K. The owner of the property shall pay system development charges (SDC) for the additional dwelling unit and accept full responsibility for sewer and water bills.

L. Neither the ADU nor the primary dwelling may be used as a short-term rental.

M. Beginning January 1st of each year the city will conduct an annual review of registered ADUs to ensure compliance. Properties determined to be in noncompliance shall be subject to abatement pursuant to BMC [8.15.090](#). [Ord. 20-O-786 § 2 (Exh. A); Ord. 08-O-620 § 2.]

## **17.180.050 System development charge (SDC) deferrals.**

The City of Brookings will offer SDC deferrals to developers of housing projects that contain affordable units as defined in BMC [17.180.020](#) pursuant to the following requirements:

A. SDC deferrals will be offered for a period of two years at a zero percent interest rate. Developers utilizing this incentive will be required to sign a promissory note and system development charge deferral agreement with the city of Brookings. The SDC deferral agreement must be recorded and a copy provided to the city.

B. SDCs will be due in full or will need to be financed with the city of Brookings prior to transfer of ownership or at the end of the two-year deferral period.

C. The rental of a dwelling unit with an SDC deferral must comply with BMC [17.180.030](#)(D)(2), Affordable Housing for Rent. [Ord. 08-O-620 § 2.]