



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/20/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Sisters Plan Amendment
DLCD File Number 002-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, March 10, 2009

This amendment was not submitted to DLCD for review prior to adoption Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Planning Director, City of Sisters
Doug White, DLCD Community Services Specialist

<paa>

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: CITY OF SISTERS

Local file number: TA 09-01 REVISION 7/24

Date of Adoption: 2-12-09

Date Mailed: 2-17-09 New final

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** NO Date: 8/27

hearing
date=8/27
/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

1. AMEND CODE SECTION 1.4, 'ENFORCEMENT', TO CLARIFY WHAT IS A VIOLATION OF THE DEVELOPMENT CODE;
 2. ADD TABLE 2.2.110C TO ALLOW MORE APPROVAL TIME FOR PHASED DEVELOPMENTS IN THE COMMERCIAL ZONES, AND
 3. CLARIFY 'DENSITY BONUS' FOR AFFORDABLE HOUSING TO APPLY TO SMALLER LOTS
- Does the Adoption differ from proposal? Please select one

NO

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: _____

Acres Involved: _____

Specify Density: Previous: 125% OF RES. ZONE

New: DENSITY 125% OR 80% LOT SIZE FOR QUALIFYING LOTS

Applicable statewide planning goals: NONE

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment... NO - PHONE CONV. W/ MARK RADABAUGH

45-days prior to first evidentiary hearing? NO Yes No

If no, do the statewide planning goals apply? NO Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Eric Porter, CDD Director Phone: (541)323-5219 Extension: -
Address: 520 E. CASCADE AVE. Fax Number: 541-542 0561
City: SISTERS, OR Zip: 97759 E-mail Address: eporter@ci.sisters.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.



**Sisters
City Council
Agenda Item Summary**

Meeting Date:	February 12, 2009	Staff:	Eric Porter
Type:	Regular Meeting	Dept:	CDD
Subject:	Emergency Development Code Update		

Action Requested: Conduct a public hearing and consider approval for Ordinance NO. 384: AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE AND DECLARING AN EMERGENCY.

Overview of Changes Proposed. Following the previous "emergency" update of the Development Code, staff has identified three portions of the Development Code that have arisen as being problematic. These three sections are more time-sensitive than would otherwise occur through the non-emergency code update process that is underway; hence this request to further amend the Development Code. The three issues considered in this update include:

1. *More specific enforcement verbiage needed for construction that occurs with no permits*
2. *Longer approval and extension time frames needed due to the economic downturn*
3. *Clarification of the 'density bonus' section for affordable housing*

Discussion on Proposed Change No. 1 - *more specific enforcement verbiage needed for construction that occurs with no permits.*

Background. The City of Sisters contracts with The Building Department LLC for building permit services, including plan review, inspection and code enforcement on structures that are being illegally constructed (such as with no building permits). Last year, staff dealt with 2 commercial buildings and several residential projects that occurred without permits.

Director Porter met with Charlcie Kaylor, co-owner of The Building Department in September 2008 to discuss what the City might do to help give the enforcement process more teeth. Ms. Kaylor indicated that the City's municipal code needed to change in a way that would give the City the authority to cite and fine violators. Presently the Building Department relies on state enforcement procedures which are generally ineffective and cumbersome.

On September 24 2008, Director Porter received training on issuing citations from Captain Tim Edwards of the Deschutes County Sheriff's Department. The method and means of issuing citations is now in place, and the Justice Court is aware of the City's ability to issue citations. More specific verbiage is needed to enable city staff to issue citations on construction occurring without permits. Violation of this portion of the development code is a Class C infraction, which carries a \$500 fine if imposed in Municipal Court following a citation.

Existing verbiage (SDC Chapter 1.4):

"No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or any amendment thereto."

Proposed verbiage:

“It is unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, structure or building service equipment or cause or permit the same to be done in violation of this code and the Specialty Codes.”

Option 1 – Approval as proposed.

Option 2 – Approval as amended by the City Council.

Option 3 – No action taken by the Council (no change to the existing Code text).

Planning Commission’s recommendation: **Option 1.**

Discussion on Proposed Change No. 2 - longer approval and extension time frames needed due to the economy.

Background. Over the past several months, staff has been approached by a number of developers who need more time for their land use approval decisions, either through longer approval periods than what the code allows, or through more extensions than are presently allowed by code.

Staff then polled other jurisdictions in the area to see what their current code says, and whether they are undergoing any changes to give longer approval times or more extensions to already-approved land use applications. The result of that inquiry is shown below.

Staff contacted local jurisdictions to see whether they were in the process or contemplating allowing longer time frames for land use approvals. Of the seven local jurisdictions contacted, only Bend and Redmond were seeking immediate change. However, other jurisdictions appear to be looking at this as an option, but haven’t acted on it as quickly as Bend and Redmond has. Staff has concluded that the longer approval durations and extensions is being done in response to today’s economic climate and needs to be addressed quickly.

This also will affect several recently-approved land use decisions.

What Other Jurisdictions Allow:

<u>Jurisdiction:</u>	<u>Land Use or Bldg Permit:</u>	<u>Approval Duration:</u>	<u>Extens available:</u>	<u>Chg Proposed:</u>
Sisters	Land Use (single phase)	1 year	1 year	Yes
	Building Permit	6 months	1 year	Yes
Redmond	Land Use (single phase)	2 years	2 years	Unk.
	Building Permit	6 months	6 months	laxed enforcement
Bend	Land Use (single phase)	2 years	1 year	Add’l 2 yr exten.
	Building Permit	6 months	6 months	Not sure
Prineville	Land Use (single phase)	1 year	3 years	No
	Building Permit	6 months	Unk.	No
Madras	Land Use (single phase)	1 year	2 years	No
	Building Permit	6 months	2 years	No
Desch. Co.	Land Use (single phase)	2 years	3 years	No
	Building Permit	6 months	1 year	No
Jeff. Co.	Land Use (single phase)	1 year	1 year	No
	Building Permits	2 years	1 year	No

Proposed Changes. Staff is proposing new text be added in Chapter 2.2, "Commercial Zone", page 2.3 and in the form of a new table that states the following;

Table 2.2.110.C Approval Durations and Extensions in the Commercial and Highway Commercial Zones

- (a) **Single phased development.** All single phased development subject to the provisions of this chapter shall have an approval duration of up to two years following land use approval.
- (b) **Multiple phased development.** The CDD Director may at his / her discretion allow projects to be phased based on the size, scale and number of commercial buildings associated with a project, and / or the number of lots involved with the project. Approval durations for multiple-phased projects shall be two (2) years for phase one, and two years for subsequent phases up to a total of eight (8) years for all phases, including any extensions. In no case shall any approval exceed 8 years, including any extensions issued for the project.
- (c) **Extensions.** At the discretion of the CDD Director or designate, a single one-year extension may be granted. An additional one-year extension may be granted at the discretion of the original Hearings Body, however in no case shall any extension granted exceed the eight-year time limit established in (b) above.

Planning Commission's Discussion. As stated in the introduction, this matter was discussed by the Planning Commission (PC) on February 5th 2009 at a special hearing. The PC wanted more specificity regarding 'phases' and criteria for what constitutes a phase, and was not prepared to make a recommendation to City Council during the Feb 5th 2009 hearing.

However, the timing of an active land use file requires a decision be reached sooner than the PC would be able to provide a formal recommendation. Therefore, an interim measure is needed and is supported by individual members of the Commission (including the PC Chairman), as well as by legal counsel and by the City Manager.

Option 1 – Approval as proposed.

Option 2 – Approval as amended by the City Council.

Option 3 – No action taken by the Council (no change to the existing Code text).

Staff's Recommendation: Option 1.

Discussion on Proposed Change No. 3 - clarification of the 'density bonus' section for affordable housing.

Background. Section 2.1.200 of the Development Code allows a 'density bonus' of up to 125% of the density allowed in a given zone for affordable housing. The issue of whether portion of the code can be interpreted to mean that smaller lots than what the zone allows could be created inversely proportionate to the increased density. Taken literally, the bonus could allow lots that are as small as 4800 s.f. in gross area (125% bonus = 80% of 6000 s.f.)

The current CDD Director contacted three former Planning Directors to see how they interpreted this part of the Code, and found that different interpretations had been made in the past.

On February 21, 2008, the City Council made a one-time interpretation that the density bonus provision in the Development Code would be applied to create smaller lots. The Council also directed staff to revisit this portion of the Development Code during the non emergency code update that is underway.

On February 5th, 2009, the Sisters Urban Area Planning Commission voted unanimously to support City Council adoption of the following text change to clarify what a 'density bonus' should mean for affordable housing.

2.1.200 - Special Standards for Certain Uses (*continued*)

L. Income and Rent Controlled Housing.

5. Density Bonus. Housing developments that meet the eligibility requirements of this section may be up to 125% as dense as is otherwise allowed within the applicable district. **This density bonus may be applied to the creation of new lots that are no smaller than 80% of the minimum lot size in any residential zone, provided they apply to the creation of lots that contain single family dwellings.**

Option 1 – CC adoption as proposed.

Option 2 – CC adoption as amended.

Option 3 – No CC action taken.

Planning Commission's Recommendation: ***Option 1.***

Financial Impact: A decision to extend the time period for planning and building permit approval will have a negative impact on the General Fund.

Attachment(s): Attachment A – Ordinance No. 384

Concurrence: CM: _____ A&F: _____ PW: _____ CDD: _____

ORDINANCE NO. 384

AN ORDINANCE OF THE CITY OF SISTERS ADOPTING AMENDMENTS TO THE CITY OF SISTERS DEVELOPMENT CODE TO STRENGTHEN ENFORCEMENT RULES, CLARIFY DENSITY BONUS AND AMEND THE TIME AND DURATION FOR PERMIT APPROVALS AND EXTENSIONS AND DECLARING AN EMERGENCY

WHEREAS, the City of Sisters adopted the Development Code for the City of Sisters on June 28, 2001, by Ordinance No. 324; and

WHEREAS, the City of Sisters finds that certain revisions, clarifications and amendments to the City of Sisters Development Code are necessary in order to make the Code easier to use and understand and to facilitate orderly and beneficial development within the City of Sisters; and

WHEREAS, the City Council held a public hearing on February 12, 2009 on the proposed Development Code amendment and determined that the amendment meets all applicable approval criteria, including all notice requirements, and that the ordinance will benefit the City of Sisters.

NOW, THEREFORE, the City Council of the City of Sisters ordains as follows:

1. The Sisters Development Code is amended as provided in the attached Exhibit A, which is incorporated into this Ordinance by reference.
2. The City Council finds that immediate adoption of this ordinance is in the best interest of the city and that it is necessary for the immediate preservation of the peace, health and safety of the community. Therefore, the City Council declares an emergency and this Ordinance shall take effect upon passage.

PASSED by the Common Council of the City of Sisters this 12 day of February, 2009 and APPROVED by the Mayor of the City of Sisters.



Lon Kellstrom, Mayor

ATTEST:


Kathy Nelson, City Recorder

Exhibit A

Sisters Development Code Chapter 1.4.200, Violation of Code Prohibited

~~“No person shall~~ **It is unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, or use, occupy or maintain any building, or structure or building service equipment or cause or permit the same to be done in violation of this code and the Specialty Codes or shall use, divide or transfer any land in violation of this Code or any amendment thereto.”**

Sisters Development Code Chapter 2.2.110.C

Table 2.2.110.C

Approval Durations and Extensions in the Commercial and Highway Commercial Zones

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Sisters Development Code Chapter 2.1.200, Special Standards for Certain Uses

L. Income and Rent Controlled Housing.

- 5. Density Bonus. Housing developments that meet the eligibility requirements of this section may be up to 125% as dense as is otherwise allowed within the applicable district. **This density bonus may be applied to the creation of new lots that are no smaller than 80% of the minimum lot size in any residential zone, provided they apply to the creation of lots that contain single family dwellings.**

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