



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

March 20, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Carlton Plan Amendment  
DLCD File Number 005-06



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: April 6, 2007**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative  
Mark Fancey, City of Carlton

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DEPT OF

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LAND CONSERVATION AND DEVELOPMENT

# NOTICE OF ADOPTION

Must be filed within 5 working days  
See OAR 660-18-040

Jurisdiction: City of Carlton Local File Number: LA07-01  
Date of Adoption: March 12, 2007 Date Mailed: March 16, 2007  
Date Proposal was Provided to DLCD: December 18, 2006

Type of Adopted Action: (Check all that apply)

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_  
(Please Specify Type of Action)

**Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."**  
The proposed amendment to the Carlton Development Code allows restoration or replacement for any residential nonconforming use that is destroyed by fire or other casualty.

**Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."**  
Additional amendments increased the required paved width for access easements to 20 feet and added the requirement that all approved home occupations must obtain a business license from the City.

Plan Map Changed from: NA to NA

Zone Map Changed from: NA to NA

Location: NA

Acres Involved: NA

Specify Density: Previous: NA New: NA

Applicable Statewide Planning Goals: 1, 2

Was an Exception Adopted? Yes:  No:

DLCD File Number: 005-06 (15753)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment  
**FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X No: \_\_\_  
If no, do the Statewide Planning Goals apply. Yes: \_\_\_ No: \_\_\_  
If no, did the Emergency Circumstances Require immediate adoption. Yes: \_\_\_ No: \_\_\_

Affected State or Federal Agencies, Local Governments or Special Districts: None

Local Contact: Mark Fancey Area Code + Phone Number: (503) 588-6177  
Address: MWVCOG 105 High Street SE  
City: Salem Zip Code+4: 97301-3667

## 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 (2) Copies 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. Submit **TWO (2) copies** of the adopted material, if copies are bound please submit **TWO (2) complete copies** of documents and maps.
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 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 copy this form onto 8 1/2 x11 green paper only; or call the DLCD office at (503) 373-0050; or fax your request to: (503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE # 662

AN ORDINANCE AMENDING THE CITY OF CARLTON DEVELOPMENT CODE AND DECLARING AN EMERGENCY

WHEREAS, the City of Carlton deemed it necessary to amend the Carlton Development Code; and

WHEREAS, the Carlton Planning Commission held a public hearing on the proposed amendments to the City of Carlton Development Code on February 5, 2007, at which time the public was given full opportunity to be present and heard on the matter;

WHEREAS, the Carlton City Council held a public hearing on the proposed amendments to the City of Carlton Development Code on March 5, 2007, at which time the public was given full opportunity to be present and heard on the matter;

WHEREAS, proper notice of the said public hearings was given to the public pursuant to applicable state statutes; and

NOW THEREFORE; The people of the City of Carlton ordain as follows;

SECTION 1. Adoption. The amendment to the City of Carlton Development Code attached hereto and marked Exhibit A is hereby adopted.

SECTION 2. Emergency Clause. The Council desires and deems it necessary for the preservation of the health, peace, and safety of the City of Carlton that this ordinance take effect at once, and therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council and approval by the Mayor.

Passed by this Council this 12<sup>th</sup> day of March, 2007, by the following vote:

AYES: Jernstedt, Williams, Berry, Orit, VanDeWalle, Rhoads, Carl

NAYS: \_\_\_\_\_

Approved by the Mayor this 12<sup>th</sup> day of March, 2007.

Kathie Puel  
Mayor

ATTEST: [Signature]  
City Recorder

**EXHIBIT A**  
**Amendments to the Carlton Development Code**

Proposed amendments to Carlton Development Code Section 3.106.07:

**3.106 NONCONFORMING USES**

**3.106.01 Purpose**

Within the zoning districts established by this Ordinance and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this Ordinance but which would be prohibited or restricted under the terms of this Ordinance. The general purpose of this Section is to encourage the conversion of such nonconforming uses to conforming uses. However, this Section allows nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified. Nothing contained in this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this Ordinance or any amendment thereto. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.

**3.106.02 Process**

Nonconforming uses shall be reviewed in accordance with the Type II review procedures

**3.106.03 Application and Fee**

An application for an alteration or expansion of a nonconforming use shall be filed with the City Manager and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section.

**3.106.04 Discontinuation of Use**

If a non-conforming use is discontinued for a period of more than six (6) consecutive months, the use shall not be resumed unless the new or resumed use conforms to the requirements of this Ordinance.

A nonconforming single-family dwelling may be continued, altered, or restored for residential purposes without review. A single-family dwelling does not lose its nonconforming status due to vacancy.

**3.106.05 Alterations Required by Law**

The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure, or to bring the use or structure into closer compliance with this Ordinance shall be permitted, subject to all other laws, ordinance and regulations.

**3.106.06 Maintenance**

Normal maintenance of a nonconforming use is permitted provided there are not major structural alterations as determined by the Building Official.

**3.106.07 Alteration, Restoration, or Replacement**

- A. The City Manager shall authorize restoration or replacement of **any nonresidential** nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster and the cost of restoration or replacement does not exceed 40% of the value of the original structure, provided the physical restoration or replacement is lawfully commenced within six (6) months of the damage or destruction.
- B. **The City Manager shall authorize restoration or repair of any residential nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster provided the physical restoration or replacement is lawfully commenced within six (6) months of the damage or destruction.**
- BC. The Planning Commission, subject to the Type II review procedure, may extend the restoration or replacement period for an additional six (6) months. In no case shall the total restoration or replacement period exceed one (1) year. Requests for extension of restoration or replacement period shall be submitted in writing thirty (30) days prior to the expiration date of the restoration or replacement period.
- CD. The alteration of a nonconforming use may be authorized by the Planning Commission, subject to the Type II review procedure,

provided that the applicant demonstrates that the proposal satisfies the following criteria:

1. That the alteration of structures would result in a reduction in nonconformity of the use, or would have no greater adverse impact on the neighborhood
2. A change in use to another non-conforming use may be permitted if it is of the same or less intensity of use.
3. The alteration of a non-conforming single-family residence that does not involve a change in use is authorized without Planning Commission approval.

**3.106.08 Conditions of Approval**

In approving the alteration, restoration, or replacement of a nonconforming use, the Planning Commission may impose such conditions, as it deems appropriate to ensure that the intent of this Section is carried out.

Proposed amendments to Carlton Development Code Section 2.202.07:

2.202.07 Access Easements

A private access easement created as the result of an approved partitioning shall conform to the following.

- A. Partition access easements shall only be allowed where the applicable criteria of **Subsection 2.208.03(D)** are satisfied. The easement shall comply with the following standards:
  - 1. Minimum width: 20 feet
  - 2. Minimum paved or curb to curb width: ~~12~~ 20 feet
  - 3. Maximum length: 250 feet
  - 4. No more than 3 dwelling units shall have sole access to the easement
- B. Unless otherwise specified in the **Standard Specifications for Public Works Construction in the City of Carlton**, all private streets serving more than two dwelling units shall be constructed to the same pavement section specifications required for public streets. Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, homeowners association, or other instrument acceptable to the City Attorney.
- C. A turn-around shall be required for any access easement which has only one outlet and which is in excess of 200 feet long or which serves more than two residences. Turn-arounds shall be either a circular turn-around with a minimum paved radius of 35 feet, or a "tee" or "hammerhead" turn-around with a minimum paved dimension across the "tee" of 70 feet and a 20 foot width with appropriate radius at the corners.
- D. All private access easements serving more than two (2) residences shall be designated as fire lanes and signed for no parking.



Proposed amendments to Carlton Development Code Section 2.305:

2.305 HOME OCCUPATIONS

2.305.01 Standards

Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:

- A. Participation: No more than one person shall be employed whom is not a member of the family residing on the premises
- B. Character: The character and primary use of the residence and premises shall not be changed by the use of colors, materials design, construction, lighting, landscaping or lack of landscaping.
- C. Traffic: A home occupation located on a local street, or privately maintained road serving three or more residences, shall not generate more than twenty (20) vehicle trips in one day. A "trip" is a vehicle traveling in one direction to or from a source. Twenty (20) trips are equivalent to ten (10) round trips.
- D. Noise: A home occupation shall not create noise of a type, duration or intensity that, measured at the property line, exceeds 60 DBA between the hours of 7:00 a.m. and 6:00 p.m. No noise shall be created by the home occupation between the hours of 6:00 p.m. and 7:00 a.m. that is detectable to normal sensory perception, off the premises of the home occupation.
- E. Equipment and Process Restrictions: No home occupation shall create vibration, glare, fumes, odors, or electrical interference detectable to normal sensory perception outside the dwelling unit. In the case of electrical interference, nothing shall be used which creates visual or auditory interference in any radio or television off the premises.
- F. Hazards: No equipment, process or material shall be used which will change the fire rating or structure separation, firewall, or ventilation requirements for the structure in which the home occupation is located. No hazardous materials shall be used or stored on the property on which a home occupation located in quantities not

typical of those customarily used in conjunction with activities or primary uses allowed in the zoning district.

- G. Signs: Signing shall be as provided in **Section 2.206**.
- H. On-Premise Client Contact: Customer and client contact shall be primarily by electronic media, telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring, counseling or personal services, which cannot be conducted except by personal contact. Services or sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic.
- I. Deliveries and Large Vehicle Storage: Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except parcel post or private parcel delivery trucks. Vehicles over one (1) ton capacity and used in conjunction with a home occupation shall be stored within an enclosed structure on the property. Regardless of capacity, storage of vehicles within the public right-of-way shall be prohibited.
- J. Parking: Parking spaces needed for the conduct of a home occupation shall be provided off the street, in defined areas which are appropriately designed and surfaced for that purpose, and not located within the side or rear yard setbacks of the district. No more than two (2) home occupation-related vehicles shall be located on the property at one time.
- K. Storage and Use of Yard Areas: Storage of tools, equipment and materials, and display of merchandise and all other activities associated with a home occupation, except as provided above for parking, shall be contained and conducted wholly within covered and enclosed structures and shall not be visible from the exterior of the containing structure(s). Home occupations that involve the care of children may use rear yard areas for playground equipment.
- L. Day care facilities with 12 or fewer children shall not be subject to the provisions of this Section.
- M. **As a condition of approval, prior to commencing business, the home occupation proprietor shall obtain a business license from the City of Carlton.**