

Interim Amendments Status 04/21/09

Completed Interim Amendments

- Building Permit Amnesty
- Payment of Direct Charges
- Postponement/bonding of onsite or offsite improvements (Ordinance No. 3989)
- Cul-de-sac design (Ordinance 3988)
- Animal Control Regulations (Ordinance 3992)
- Agricultural-Residential Buffer Implementation Guidelines
- Agricultural Buffer Setback Applicability
- Regulations for Limited Density Owner-Built Rural Dwellings

Interim amendment priorities have been re-ordered for 2009, pursuant to direction from the Board of Supervisors on December 16, 2008. All items substantially complete as of that date were assigned a priority ranking of 1. Items not assigned a priority ranking are listed in Table 3.

Table 1. Interim Amendments – Department of Development Services

PRIORITY	TOPIC	PROBLEM STATEMENT	STATUS	NEXT STEPS	USERS GROUP	COUNTY COUNSEL	PLANNING COMMISSION	BOARD OF SUPERVISORS
1.a.	Regulations for Limited Density Owner-Built Rural Dwellings	Residents of the Concow fire area have expressed a desire to have the option to use alternate construction methods as provided by Title 25.	Scheduled for Board hearing on March 24, 2009.	Review by County Counsel.	This topic was discussed 10/29/08 and 1/28/09.			At its March 24, 2009 meeting the Board of Supervisors directed 3 revisions to the draft ordinance. Revised ordinance adopted April 7, 2009.
1.b.	Agricultural Re-Use (ZCA07-0005) Prepare ordinance revisions to allow	Several locations of vacant or underutilized buildings/infrastructure within agricultural zones. These are typically non-	Inter-Departmental Review Committee June 4, 2008. Review by Farm	Final Counsel Review Planning Commission Review	Draft Ag. Re-Use ordinance reviewed March 26, 2008	Draft PC package submitted to County Counsel for review 6/27/08.	June 25, 2009 (tent.)	July, 2009 (tent.)

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	<p>consideration of a conditional use permit to utilize existing conforming or non-conforming infrastructure and buildings that are located in the Agricultural areas of the County for Ag-related industrial or commercial uses.</p>	<p>conforming or the non-conforming status has expired. The buildings remain vacant, often not well maintained and likely will not be removed to turn the property into productive agricultural land. There is a need to have support industry related to the Agricultural community in near proximity to the user. Current codes do not facilitate re-use or re-habilitation of these buildings.</p>	<p>Bureau General Plan Subcommittee July 11, 2008.</p> <p>Full Farm Bureau Review August 7, 2008.</p> <p>Received Farm Bureau comments 9/30/08. Comments and potential additions to site inventory under staff review.</p> <p>Staff completing final review package.</p> <p>Parcels proposed for the Ag. Re-Use Site Inventory will be considered by the Board of Supervisors on April 14, 2009 for potential inclusion as Ag. Services sites for the Butte County General Plan 2030 Preferred Land Use Alternative.</p>		<p>Draft Ag Re-Use Site Inventory reviewed May 28, 2008.</p> <p>Revised draft ordinance and site inventory available for Users Group Review July 30, 2008.</p>	<p>Counsel provided comments 7/08/08.</p> <p>Revised draft ordinance submitted to Counsel 7/15/08.</p> <p>Counsel provided comments on revised draft ordinance 7/25/08.</p>		
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<p>1.c.</p>	<p>Minimum Parcel Sizes (GPA08-0001) R-2 through R-4 zones; Section 24.120.10 – (2) Establish reduced minimum parcel sizes appropriate to the densities listed in Policies LUE – 56 and LUE – 57 of the General Plan to remove disincentives in constructing medium and high density residential projects for ownership, rather than rentals.</p> <p align="center">- Combined with -</p> <p>6,500 Square Foot Minimum Amend the Low Density Residential Designation</p>	<p>This is related to the proposed modifications to the Land Use Element of the General Plan (see IV (1.), below), but would <u>not</u> impact the R-1 zone.</p> <p>The General Plan references a zoning standard. This causes a problem for alternative subdivision design that would comply with the General Plan density but proposes, for example, smaller lots with additional open space or common areas.</p>	<p>Planning Commission hearing scheduled.</p>	<p>Prepare PC package</p>	<p>Briefed Users Group on January 28, 2009.</p>	<p>Preliminary Counsel review complete.</p>	<p>Planning Commission heard this item on March 26, 2009 and made its recommendation to the Board of Supervisors.</p>	<p>May 2009 (tent.)</p>
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<p>(LUE – 55), Medium Density Residential Designation (LUE – 56), High Density Residential Designation (LUE – 57) to remove reference to “Zoning allows parcel sizes of 6,500 square feet.” This statement is not a replacement for required land use intensity restrictions and is misleading as parcel sizes under zoning range from 4,000 to 7,000 square feet. Intensity of permitted development should be either through lot coverage or floor area ratios. This additional change would encourage context sensitive design through the use of provisions for</p>							
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	“flex-lot” and Planned Unit Development subdivisions.							
1.d.	SMARA Update The County Surface Mining and Reclamation Ordinance, Chapter 13, Article II, as adopted in 1993 needs to be updated.	The state Surface Mining and Reclamation Act (SMARA) has been amended since the adoption of the County’s ordinance. The ordinance needs to be updated to address the SMARA amendments.	Draft ordinance is under review.	TBD	TBD	Reviewed by County Counsel.	Discussion item December 11, 2008. (No Planning Commission action required.)	Discussion item April 21, 2009 (tent.)
2.a.	Lighting Standards The current ordinance has no standards or lacks specifics on lighting.	These issues are primarily related to ministerial/ building permit actions. There have been circumstances of urban-level lighting in rural areas casting light on adjacent properties.	Preliminary research; information exchange with several counties On 12/16/08 the BOS directed staff to return asap with options for standards and/or development of an ordinance.	TBD	TBD	Request for legal opinion submitted to County Counsel 2/05/09. Initial Counsel comments 2/24/09.	TBD	Discuss options May, 2009 (tent.)
2.b.	Generator Ordinance The current ordinance has no standards or	There have been instances of loud and persistent noise affecting adjacent properties.	On 12/16/08 the BOS directed staff to return asap with options for	TBD	TBD	Request for legal opinion submitted to County Counsel 2/05/09.		Discuss options May 2009 (tent.)

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	lacks specifics on noise.		standards and/or development of an ordinance. Preliminary staff research on ordinance options completed.			Initial Counsel comments 2/24/09.		
3.	Small Wineries Amend the code to allow greater latitude for tourism at small wineries. On 4/08/08, the Board indicated interest in exploring opportunities to facilitate tourism at olive orchards and tasting rooms through this code fix.	Current zoning restricts tasting at small wineries to 3 days per week. Vans, buses, and outdoor amplified music are prohibited. Small winery owners indicate that these restrictions limit their success and the success of agri-tourism in the County.	Preliminary research		TBD		TBD	TBD

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Table 2. Interim Amendments - Department of Development Services: Private Applications

PRIORITY	TOPIC	PROBLEM STATEMENT	STATUS	NEXT STEPS	USERS GROUP	COUNTY COUNSEL	PLANNING COMMISSION	BOARD OF SUPERVISORS
Private Application	Setback Requirements for Communication Towers	Under current code section 24-262(g), communication towers require a setback that is equal to or greater than the height of the facility, a requirement that may be overly restrictive. Applications are pending.	Consultant submitted preliminary draft ordinance 1/27/09. Consultant submitted revised draft ordinance 2/19/09. Under staff review.				April 23, 2009 (tent.)	BOS directed development of a Use Permit process with criteria for setback modification - August 19, 2008. May 2009 hearing

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Table 3. Potential Future Amendments – Department of Development Services

<p>Zoning Administrator <u>Topic:</u> Consider the establishment of an administrative hearing process (e.g. Zoning Administrator) to expedite the approval of routine, non-controversial projects: including parcel maps, map extensions, lot line adjustments, certificates of compliance, and minor use permits. The idea would be to modify Code Section 24-70. <u>Problem Statement:</u> Too many minor projects require too much work to achieve a decision. The County could develop streamlined staff report, Environmental Review, and findings processes to save time. Such a process would still provide for appeals to the PC and BOS. It is estimated over 100 of 215 projects could be eligible for this process. Board direction on 12/16/08 was to address this item through the Butte County General Plan 2030 process and comprehensive zoning code update.</p>
<p>Flex Lots <u>Topic/Problem Statement:</u> A flex lot subdivision application cannot be processed within the FEMA 100-year flood designation. This means that a standard lot layout pattern can be processed for hearing but a flex lot (a provision that allows smaller lots with larger open space for avoidance of sensitive areas, common space and other amenities) cannot be processed. The ordinance does require protection of flood zones, however, it did not contemplate a project where the whole property is in the flood zone.</p>
<p>5% Adjustment <u>Topic/Problem Statement:</u> The minimum parcel sizes, particularly in the larger parcel designations, are absolute. For example in a 20-acre minimum zone, you must have 20.00 acres for each parcel proposed in a lot split. Including a provision for a 5% adjustment provided the intent of the zone is maintained subject to Director determination is one approach to consider. It is not uncommon to have larger parcels that are slightly under the nominal acreage. Example - you cannot create four parcels in a 20-acre minimum designation if you are starting from 79 acres.</p>
<p>Fence Materials <u>Topic:</u> Definitions; Section 24.305.160 - Revise definition of “fence” to clarify the list of permitted construction materials to assist in code enforcement. This was recommended by the Code Enforcement Advisory Board. <u>Problem Statement:</u> Code enforcement occasionally encounters proposals to “fence the junk”. With some of these cases, the property owner builds a fence out of materials such as car hoods, metal garage doors, stacked car tires and other used materials. An argument then begins about what constitutes a fence. The existing ordinance can be modified to clarify the fence standards and add efficiency to the code enforcement process.</p>
<p>Solar Fee and Wind Turbine Exemptions <u>Topic:</u> Explore the option of creating a Fee Exemption for solar Building Permits. The goal is to create an incentive for people to install solar panels in Butte County. This would include research of Grant Programs to provide a ‘backfill’ of lost revenue that would cover plan check and inspection services. Board direction on 3/25/08 including exploring exemptions and/or incentives to use wind turbines for power generation.</p>

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Problem Statement: There is not a specific problem with this item. The current Building Permit fee is \$408 for roof-mounted solar panels. This is presented as an opportunity to highlight solar energy production in Butte County by providing a permit incentive.

Mobile Homes

Topic/Problem Statement: On 2/21/08, the Board directed staff to research standards among other jurisdictions for managing the visual, public health, safety, and quality-of-life impacts of allowing aging or derelict mobile homes to remain in place. Standards for habitability should be explored, including age, quality, and condition. Further direction on 3/25/08 included working with Public Works to explore options for retiring or recycling derelict mobile homes or those older than 10 years.

Information Update 9-09-08: The California State Department of Housing and Community Development (HCD) has adopted emergency regulations which require that manufactured homes installed in California meet the exterior fire safe/ fire resistive construction standards contained in the recently adopted 2007 California Building Code. These regulations became effective September 1, 2008, and apply in all areas designated as State Responsibility Areas (SRA). These regulations preclude the installation of homes that have not been constructed in the factory to meet these standards, and homes manufactured prior to January 1, 2006.

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Table 4. Interim Amendments – Department of Public Works

PRIORITY	TOPIC	PROBLEM STATEMENT	STATUS	NEXT STEPS	USERS GROUP	COUNTY COUNSEL	PLANNING COMMISSION	BOARD OF SUPERVISORS
1	<p>California Subdivision Map Act Section 66462.5 is entitled; <u>Approval of Final Map Cannot Be Refused Because of Offsite Improvement Requirements on Land Not Belonging to Subdivision or Local Agency.</u> Staff is looking for Board policy on how the County treats subdivision map applications where either the subdivider proposes or staff will be recommending offsite improvements to accommodate either traffic</p>	<p>Subdivision Map Act Section 66462.5(a) states, "A city, county, or city and county shall not postpone or refuse approval of a final map because the subdivider has failed to meet a tentative map condition which requires the subdivider to construct or install offsite improvements on land in which neither the subdivider nor the local agency has sufficient title or interest, including an easement or license, at the time the final map is filed with the local agency..." In such cases,</p>	<p>Staff developing administrative draft of policy options and recommendations.</p>		<p>Reviewed March 26, 2008.</p>			<p>TBD</p>

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	<p>and/or drainage improvements to the project.</p>	<p>unless city, county or city and county requires subdivider to enter into an agreement...(to construct improvements after city or county acquires interest in land) A) The city or county has 120 days to acquire by negotiation or condemnation an interest in the land necessary for the improvements to be constructed, or B) All offsite improvements shall be deemed to be waived.</p>						
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2	Grading Ordinance Revision: Amend Article I of Chapter 13 of the Butte County Code to establish standards, plan review and permit processes for grading and earthwork including the control of erosion and sedimentation.	Existing County Code requires a grading permit for earthwork exceeding 1,000 cubic yards that is located above 300 feet mean sea level as well as for building permits and other County discretionary permits such as subdivisions, Use Permits, mining etc. However, County Code is silent on all other grading activities not associated with the permitted activities discussed above.	The Board Committee (Supervisors Josiassen and Connelly) and the User Group have reviewed a number of drafts and revisions. The User Group had a 1-hour workshop on this subject on February 27, 2008.	Based on comments from Users Group and Committee, staff is making revisions to the proposed ordinance.				TBD
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3	Issuance of development permits on parcels that were initially created in violation of the County Code but can now be shown to meet code requirements	Undeveloped parcels, created more than 30 years ago, technically in violation of the County Code cannot obtain permits for development without first obtaining a Certificate of Compliance although many can currently show compliance with County standards.	Staff preparing administrative draft Ordinance.						TBD
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Not numbered	Amend BCC 20-68 (Subdivision Maps – Extensions of Time)	SB 1185 allows map extensions of up to 6 years. Butte County Code allows extensions of up to 5 years. The Butte County code needs to be amended to conform to the state provisions, per Counsel advice.	May be categorically exempt from CEQA.	Prepare text of amendment	Take draft amendment to Users Group for review.		N/A	TBD
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Table 5. Interim Amendments – Department of Public Health

PRIORITY	TOPIC	PROBLEM STATEMENT	STATUS	NEXT STEPS	USERS GROUP	COUNTY COUNSEL	PLANNING COMMISSION	BOARD OF SUPERVISORS
1	On-Site Systems		The timing of this code amendment will depend upon the length of the environmental process.	Prepare Notice of Preparation for EIR.				Staff briefing and Board of Supervisors discussion February 24, 2009.

Note: Preparation of a Community Wastewater Ordinance is being undertaken as part of the General Plan EIR process. Adoption of the Community Wastewater Ordinance is expected in December 2010.