

ORDINANCE NO. 444

AN ORDINANCE AMENDING THE CITY OF SISTERS MUNICIPAL CODE, TITLE 8 'HEALTH AND SAFETY', SUBSECTION 8.12.010 'DEFINITIONS' AND SUBSECTION 8.12.042, 'VEGETATION', AND CHAPTER 8.16 'WEED AND BRUSH REMOVAL'

WHEREAS, the affected portion of the City of Sisters Municipal Code was adopted on August 9, 1979 via Ordinance No. 108; and,

WHEREAS, the Municipal Code subsections 8.12.42 and 8.16 are similar but are out of date and in several instances contain conflicting standards; and,

WHEREAS, the Municipal Code does not contain standards that address the Urban/Rural Interface regulations and recommendations that are contained in Oregon Senate Bill 360, Oregon Revised Statutes Chapter 477, and Oregon Administrative Rules Chapter 629-044; and,

WHEREAS, the City seeks to amend the Municipal Code by modifying Chapters 8.12.010, 8.12.42 and 8.16; and,

WHEREAS, the proposed text of modified Chapters 8.12.010, 8.12.42 and 8.16 was routed to various agencies and departments, and their comments are incorporated into the text as is applicable; and,

WHEREAS, the City Council finds that Chapters 8.12.010, 8.12.42 and 8.16 need amending to address fire prevention, the spread of noxious weeds and improved aesthetics; and,

WHEREAS, the City Council finds that the changes proposed are important to help ensure the health, safety and welfare of the residents of the City of Sisters.

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

SECTION 1. The City of Sisters Municipal Code is amended as provided in the attached Exhibit A, which is incorporated into this Ordinance by reference.

PASSED by the Common Council of the City of Sisters this 24th day of April 2014 and **APPROVED** by the Mayor of the City of Sisters.



Brad Boyd, Mayor

ATTEST:



Kathy Nelson, City Recorder

Exhibit A

(Additions are *double underlined* and deletions are *struck out*)

Chapter 8.12

NUISANCES

Sections:

8.12.010	Definitions
8.12.020	Declaration of Purpose
8.12.030	General Nuisance
8.12.040	Public Nuisance
8.12.041	Accumulation of Debris, Garbage, Junk or Animal Excrement
8.12.042	Vegetation, <u>Weed and Brush Removal</u>
8.12.043	Containers
8.12.044	Wells, Cisterns, Etc.
8.12.045	Sidewalks
8.12.046	Dumping on Sidewalks
8.12.047	Attractive Nuisance
8.12.048	Fences
8.12.049	Open Burning / Burn Barrels
8.12.050	Irrigation Canals
8.12.051	Nuisances Affecting Public Health
8.12.052	Discarded Vehicles
8.12.053	Notices and Advertisements
8.12.054	Noises
8.12.055	Trees
8.12.060	Unenumerated Nuisances
8.12.070	Summary Abatement
8.12.080	Remedies Not Exclusive
8.12.090	Public Nuisance Abatement Procedure
8.12.100	Abatement
8.12.110	Public Nuisance Property
8.12.120	Abatement Procedures for Public Nuisance Property
8.12.130	Civil Emergencies
8.12.140	Penalties
8.12.150	Separate Violation

8.12.010 Definitions. For the purposes of the Sisters Nuisance Code, the following definitions mean:

(1) Brush, Shrub – Any woody plant that has several stems, none of which is dominant, and is usually less than 10 feet (3 m) tall. When much-branched and dense, it may be called a bush.

(4 ~~2~~) City Police. Those police officers authorized to perform police services within the City of Sisters.

(3) Clear Space. An area under or adjacent to a tree that is free from ladder fuels. Clear space height (minimum) is 1/3 of the height of a tree on any tree that is less than fifteen (15) feet in height; eight (8) feet height for trees that are at or taller than fifteen (15) feet in height; and a distance of eight (8) feet from the edge of a drip line of a tree's canopy.

(~~2~~ 4) Commercial Property. Property used for commercial purposes and located in a commercial zone.

(~~3~~ 5) Control. The ability to regulate, restrain, manage, counteract or govern conduct that occurs on property.

(4 ~~6~~) Debris. The remains of something broken down or destroyed, including, but not limited to: scrap metal, paper, plastic or wood; pieces of asphalt, concrete, lumber or other building supplies; or yard clippings or cuttings of plant material.

(~~5~~ 7) Development. Any change to real property, including, but not limited to, structures, filling, grading or excavating.

(~~6~~) Firebreak. ~~A space in which combustible or flammable materials are removed so as to prevent the spread or travel of fire.~~

(~~7~~ 8) Garbage. Food waste, refuse, rubbish, trash or other useless material.

(~~8~~ 9) Good Cause. Circumstances beyond the ability of a person acting with reasonable care and diligence to control.

(~~9~~ 10) Inoperative Vehicle. A vehicle that cannot be immediately operated.

(~~10~~ 11) Junk. Broken, discarded, or accumulated objects, including but not limited to: appliances, building supplies, furniture, abandoned vehicles, vehicle parts, old machinery, old machinery parts, mattresses, or any discarded material.

(12) Ladder Fuel - A firefighting term for live or dead vegetation that allows a fire to “climb up” from the landscape or forest floor into the tree canopy. Common ladder fuels include tall grasses, shrubs, and tree branches; both living and dead. On vacant land categorized as ‘Extreme Risk’ land, ladder fuel is any type of vegetation described herein that exceeds 4” in height.

(~~14~~ 13) Livestock. Beef or dairy animals, burros, goats, horses, llamas, mules, rabbits, pigs, or sheep.

(~~12~~ 14) Owner. Any person, agent, firm or corporation having a legal or equitable or management interest in a property. Owner includes, but is not limited to:

a) A mortgagee in possession in whom is vested:

A) All or part of the legal title to the property; or

B) All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or

b) A person who can control what occurs on that property.

~~(13~~ 15) Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

(~~14~~ 16) Person. A person, firm, partnership, association or corporation, trust, estate or any other public or private entity whatsoever.

(~~15~~ 17) Person in Charge of Property. An owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of property.

(~~16~~ 18) Place or Property. Any premises, room, house, building or structure, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(~~17~~ 19) Property. Any real property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, room, house, building or structure or any separate part or portion thereof, whether permanent or not.

(~~18~~ 20) Personal Property. Property that is temporary or movable.

(~~19~~ 21) Public Nuisance Property. Property upon which three or more instances of any of the below listed behaviors occur, or whose employees, residents, owners or occupants engage in three or more instances of any of the below listed behaviors within 50 feet of the property, during any 30 day period as a result of three or more separate and documented incidents.

a) Harassment as defined in ORS 166.065.

b) Intimidation as defined in ORS 166.155.

c) Disorderly conduct as defined in ORS 166.025.

d) Noise disturbance as defined in Section 5.335 (19) of this code.

e) Drinking in public as defined in Section 9.04.100 of this code.

f) Minor in possession of alcohol as defined in ORS 471.430.

g) Assault as defined in ORS 163.160 or ORS 163.165 to 166.185.

h) Sexual abuse as defined in ORS 163.415 or ORS 163.427.

i) Public indecency as defined in ORS 163.465.

j) Trespass as defined in ORS 164.245 to ORS 165.265.

k) Criminal mischief as defined in ORS 164.345 to ORS 164.356.

l) Child abuse and neglect as defined in ORS 163.535 to ORS 163.547 and ORS 163.665 to ORS 163.695.

(~~20~~ 22) Public Sidewalk. A developed walkway or sidewalk within the public right-of-way or on publicly owned property.

(~~24~~ 23) Street. The portion of a road ordinarily used for vehicular travel, including the public right-of-way shoulder.

(~~22~~ 24) Structure. That which is built or constructed, an edifice or building of any kind, including units thereof or mobile homes; any of which is an addition to or a fixture on real property. (23) Vehicle. Any device in, upon, or by which any person or property is or may be transported, or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

(23 25) Vehicle. Any device in, upon, or by which any person or property is or may be transported, or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

8.12.042 Vegetation, Weed and Brush Removal. ~~No person in charge of property may permit or cause to exist vegetation that:~~

I. General Requirements. ~~No person in charge of property may permit or cause to exist on their property any vegetation that:~~

- (1) Is a hazard to pedestrian use of a public sidewalk or is a hazard to bicycle or vehicular use of a public or private street by impeding passage or vision. The hazards include, but are not limited to:
 - (a) Vegetation which encroaches upon, or overhangs lower than eight (8) feet over a public sidewalk or other pedestrian way, or encroaches upon, or overhangs lower than ~~ten (10)~~ fourteen (14) feet over a public or private street.
 - (b) Vegetation that impedes motorist, bicyclist or pedestrian view of traffic, traffic signs or signals, street lights or name signs, or other safety fixtures or markings places in the public way. This includes vegetation that is within thirty (30) feet of an intersection of two public or private roads and exceeds a height of three (3) feet above finished grade per Sisters Development Code Chapter 2.15.2300, 'Vision Clearance Areas'.
- (2) Is a hazard to the public or property on ~~or near~~ the property where the vegetation is located, due to the vegetation's disease or deterioration;
- (3) Obstructs drainage facilities in a public way, including but not limited to roadside ditches, street curbs and gutters, catch basins or culverts;
- (4) Has roots that have entered a sewer or water line, main or system and that stops, restricts or retards the flow of sewage or water, or damages the pipes or connectors;
- (5) Has roots that have cracked or displaced a sidewalk, curb or street;
- (6) ~~If is a weed, or dead or dry grass more than ten (10) four (4) inches high between May 1 and October 31, except for:~~
 - (a) Agricultural grasses that are not a fire hazard; or,
 - (b) ~~Weeds or grasses on property, if there is a fire break at least 20 feet wide along the entire perimeter. All cut grasses shall be mulched, or removed. Native or introduced grass that is not ladder fuel; is green and healthy, and which is maintained in a manner that its density does not create a fire hazard, or,~~
 - (c) Areas identified by the Sisters Urban Area Comprehensive Plan as open space or natural resource areas, or,
 - (d) Any plant material that is categorized by the City, State of Oregon, and/or United States of America as 'threatened or endangered' shall not be subject to the provisions of this chapter.

~~(7) An invader species, such as Knapweed.~~

An owner may remove a nuisance defined in Subsections (4) and (5) by removing that portion of the root causing the nuisance.

II. **Weed and Brush Removal.** The owner or person responsible for the care of any property located in the Sisters City Limits shall:

(1) Remove or destroy all invader weed species, including but not limited to Knapweed, Russian and domestic thistle, Scotch Broom, and cheat grass from private property, as follows:

(a) All invader weed species that are in flower shall be hand-pulled and bagged, and subsequently removed from the premises.

(b) If not in flower, by using the most efficient and practical means available.

Chapter 8.16

~~WEED AND BRUSH REMOVAL~~ Urban/Rural Interface

Sections:

- 8.16.010 Requirement generally. Definitions.
- 8.16.011 Purpose
- 8.16.012 Urban/Rural Interface Standards
- 8.16.020 ~~Removal~~ -- Service of notice -- Action by City -- Costs.
- 8.16.030 Removal – By City street superintendent.
- 8.16.040. Removal – Filing of statement of cost — Enforcement and collection of a Lien.
- 8.16.050 Violation - Penalty.
- 8.16.060. Exception

~~8.16.010 Requirement generally.~~ **Definitions** ~~The owner or occupant of any real property within the corporate limits of the city shall cut, close to the ground, and remove or destroy all brush, weeds, thistles, grass, bushes, and rank or noxious vegetable growth, growing to a height of six (6) inches or more upon said real property at least twice in each year, once between May 15th and June 15th, and once between July 15th and August 15th. (Ord. 56 §1, 1957.)~~

1. Clear Space. An area under or adjacent to a tree that is free from ladder fuels. Clear space height (minimum) is 1/3 of the height of a tree on any tree that is less than fifteen (15) feet in height; eight (8) feet height for trees that are at or taller than fifteen (15) feet in height; and a distance of eight (8) feet from the edge of a drip line of a tree's canopy.
2. Brush, Shrub – Any woody plant that has several stems, none of which is dominant, and is usually less than 10 feet (3 m) tall. When much-branched and dense, it may be called a bush. (Merriam-Webster)
3. Extreme Risk Land – Property that is classified and mapped by the Oregon Department of Forestry's Forestland Urban Interface Classification Committee as being at an extreme risk of wildfire.
4. Fuel Break. A space in which combustible or flammable materials are removed so as to prevent the spread or travel of fire.
 - a. The purpose of a fuel break is to slow the rate of spread and the intensity of an advancing wildfire; and create an area in which fire suppression operations may more safely occur.
 - b. A fuel break shall be a natural or a human-made area where material capable of allowing a wildfire to spread does not exist; or has been cleared, modified, or treated in such a way that the rate of spread and the intensity of an advancing wildfire will be significantly reduced.

5. Ladder Fuel - A firefighting term for live or dead vegetation that allows a fire to “climb up” from the landscape or forest floor into the tree canopy. Common ladder fuels include tall grasses, shrubs, and tree branches; both living and dead. On vacant land categorized as ‘Extreme Risk’ land, ladder fuel is any type of vegetation described herein that exceeds 4” in height.

8.16.011 Purpose. The purpose of this subsection is to incorporate ‘urban/rural interface’ standards and criteria as a means of reducing the risk of the spread of wildfire.

8.16.012 Urban/Rural Interface Standards.

A. The following standards apply to any site within the Sisters City Limits that is designated as ‘Extreme Fire Risk’ property according to the Fire Risk Map prepared by the Oregon Department of Forestry. The following standards apply to Extreme Fire Risk properties in Sisters:

(1) Extreme fire risk property owners shall:

a) Provide and maintain fuel breaks which are:

1. Immediately adjacent to structures, for a distance of at least thirty (30) feet where feasible, or to the property line, whichever is the shortest distance.
2. Immediately adjacent to driveways, for a distance of at least ten (10) feet from the centerline of a driveway, or to the property line, whichever is the shortest distance.
3. Fuel break shall result in an open area which is not less than 14 feet in height and 12 feet in width or to the property line, whichever is the shortest distance.
4. Fuel breaks shall:
 - a. Consist of an area containing substantially non-flammable ground cover. Examples include asphalt, bare soil, clover, concrete, green grass, ivy, mulches, rock, succulent ground cover, or wildflowers.
 - b. Consist of an area of dry grass which is maintained to an average height of less than four inches.
 - c. Be an area of cut grass, leaves, needles, twigs, and other similar flammable materials, provided such materials do not create a continuous fuel bed.
 - d. Be an area of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:
 - 1) Maintained in a green condition;
 - 2) Maintained substantially free of dead plant material;
 - 3) Maintained free of ladder fuel;
 - 4) Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation;
 - 5) Compliant with subsections 4a and 4b of this section; and,

- 6) Houses with non-treated shake roofs located within Extreme Risk areas have additional 20' clear space requirement where feasible.
- b) Provide and maintain additional fuel breaks which are immediately adjacent to fuel breaks required under Subsection (1)(a), for a distance of 20 feet or to the property line where feasible, whichever is the shortest distance. This fuel break shall be comprised of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:
 1. Maintained in a green condition;
 2. Maintained substantially free of dead plant material;
 3. Maintained free of ladder fuel;
 4. Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation;
 5. Consist of an area containing substantially non-flammable ground cover. Examples include asphalt, bare soil, clover, concrete, green grass, ivy, mulches, rock, succulent ground cover, or wildflowers; and,
 6. Consist of an area of dry grass which is maintained to an average height of less than four inches.
 - c) Remove any portion of a tree which extends to within 10 feet of the outlet of a structure chimney or a stove pipe;
 - d) Maintain the portion of any tree which overhangs a structure substantially free of dead plant material where feasible;
 - e) Maintain the area under decks substantially free of firewood, stored flammable building material, leaves, needles, and other flammable material; and
 - f) During times of the year when wildfire may be a threat, locate firewood, flammable building material, and other similar flammable material:
 - 1) At least 20 feet away from a structure; or
 - 2) In a ventilated fully enclosed space.
 - g) Keep roofs free of leaves, pine needles, and other fuel sources at the start of each fire season.
- B. The owner or person responsible for the care of any property located in the Sisters City Limits shall create clear space that is fuel-free as follows:
- (1) On vacant land, all ladder fuel sources that are directly beneath or are within a horizontal distance of eight (8) feet from a tree drip line shall be removed or cut to a height not to exceed four (4) inches. This does not include ground cover that is kept in green condition including grass.
 - (2) On developed land, all ladder fuel sources that are directly beneath or are within a horizontal distance of eight (8) feet from a tree drip line shall be removed where feasible or cut to a height not to exceed four (4) inches. This

does not include ground cover that is kept in a green condition including grass.

(3) Evergreen trees such as Ponderosa Pine and Juniper trees shall have lower limbs maintained as follows:

a. On trees, except ornamental trees, that are fifteen (15) feet tall or less, the lower 1/3 of the tree branches shall be limbed.

b. On trees, except ornamental trees, that are more than fifteen (15) feet tall, a clear space of eight (8) vertical feet shall be maintained underneath the drip line, and shall be free of limbs.

c. Dead tree limbs shall be removed from trees where feasible.

(4) All dead brush located within eight (8) feet of a drip line shall be removed. Live brush located within eight (8) feet of a drip line shall be thinned and maintained in a green and healthy state.

(5) Trees that are dead or diseased shall be removed from all properties.

(6) For houses that have non-treated shake roofs, there shall be a fuel break immediately adjacent to any structure for a distance of 20 feet or to the property line where feasible, whichever is the shortest distance, and shall be comprised of single specimens or isolated groupings of ornamental shrubbery, native trees, or other plants, provided they are:

a. Maintained in a green condition;

b. Maintained substantially free of dead plant material;

c. Maintained free of ladder fuel;

d. Arranged and maintained in such a way that minimizes the possibility a wildfire can spread to adjacent vegetation;

e. Consist of an area containing substantially non-flammable ground cover. Examples include asphalt, bare soil, clover, concrete, green grass, ivy, mulches, rock, succulent ground cover, or wildflowers; and,

f. Consist of an area of dry grass which is maintained to an average height of less than four inches.

C Modification of Standards. The City may, in writing, reduce or waive any standard herein if the City finds that conditions so warrant. Reductions or waivers made under this rule:

(1) May be made only after a written request from the owner;

(2) Are intended to be few in number;

(3) Must address:

- a. A site specific condition or a unique situation which does not warrant the development of alternate standards under OAR 629-044-1070; or
 - b. A conflict with the requirements of other codes, laws, ordinances, or regulations, as described in ORS 477.023(2), and which does not warrant the development of alternate standards under OAR 629-044-1070; and
- (4) Shall be:
- a. On a form provided by the City;
 - b. Signed by the City and by the owner.

8.16.020 Removal -- Service of notice -- Action by City -- Costs. ~~If any person, firm or corporation owning, possessing, or having the care or control of any lot or parcel of land within the city fails and neglects to comply with the requirements of this chapter as required in section 8.16.010, the city shall cause to be served upon the person, firm or corporation, a written notice to remove the brush, grass, weeds, or other growth within seven (7) days, or the city will cause the same to be done and charge the cost thereof as a lien against the property. Such notice shall be served upon such owner or occupant if he is found upon the premises or within the city, and in case the owner or occupant cannot be found within the city after reasonable diligence and inquiry, such notice shall be posted in a conspicuous place upon the premises and a copy thereof mailed to the last known address of the owner or occupant. (Ord. 56—2, 1957.)~~ If any property owner or tenant having control of any parcel of land within the city fails to comply with the requirements of this chapter, the City shall serve notice to the responsible party that the violation of this section shall be corrected within fourteen (14) days of receipt of the notice to abate. If the responsible party is unable to be located after reasonable diligence, a notice shall be posted on the violating property where it can be seen from a public road where feasible, and a copy of the notice shall be mailed to the address of record according to the County Assessor's data base.

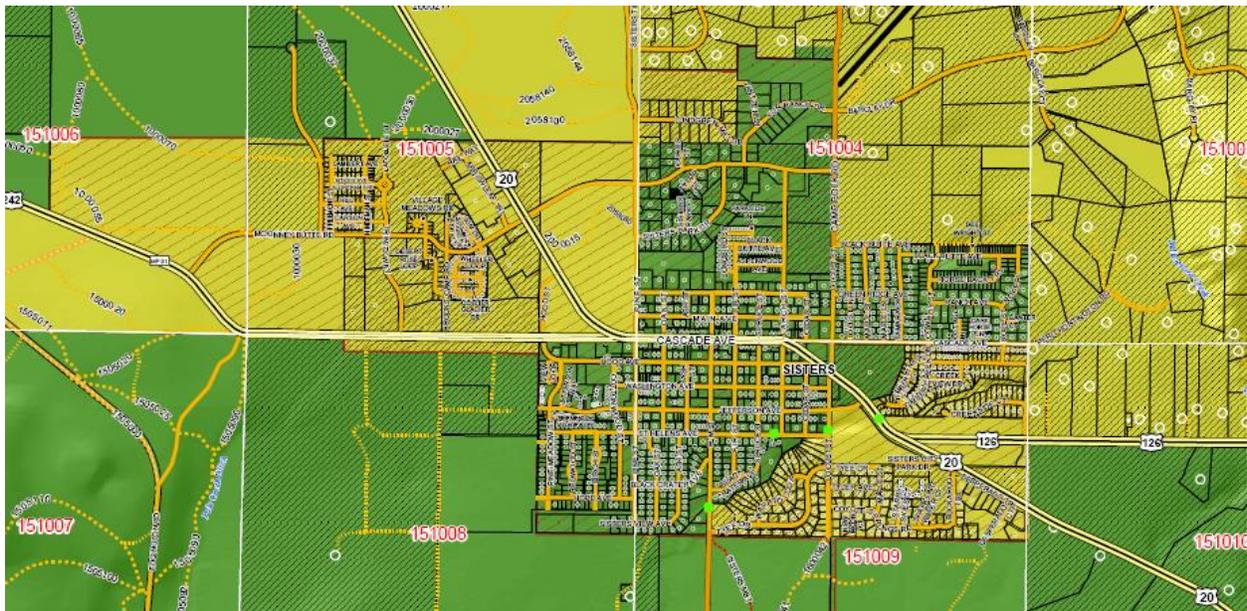
8.16.030 Removal – By City street superintendent. ~~If any property owner or tenant person, firm, or corporation fails to comply with the requirements of this chapter within seven (7) days of the time allowed within the notice required by 8.16.020, the City street superintendent may cause the violation to be abated . The officer charged with abatement of the violation shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of the violation. The officer responsible for overseeing the abatement of the violation shall keep a detailed account of all associated costs, and the property owner or tenant will then be billed for the total cost plus ten (10) percent for administrative cost recovery. go upon such lots or parcels, with such assistance as he may necessary, and destroy and eradicate said brush, grass, or weeds in such manner as shall be most effective in his judgment. (Ord. 56 – 3, 1957.)~~

8.16.040. Removal – Filing of statement of cost — Enforcement and collection of a lien. In the event that the owner fails to pay the cost specified in (3) herein, the City may at its discretion file a lien on the subject property. The lien may be removed at such time when the balance of the amount owed to the City as stated in (3) herein is paid in full. Upon the completion of the work set out in Section 8.16.030, the street superintendent shall file with the common council an itemized statement of the cost thereof, plus ten (10) percent to cover the expenses of inspection, overhead, and enforcement of this chapter and the service or posting of the notice as required in Section 8.16.020. After a reasonable opportunity to be heard in objection thereto, the common, Council shall then, by order, declare the correctness of said statement and declare

the same to be a lien upon the property involved, to be entered in the lien docket, which lien shall be enforced and collected by advertising and selling such property involved in the manner now provided by law for the sale of real property on execution.

8.16.050 Violation – Penalty. Any violation of this Chapter is a Class B infraction. Any person violating any of the provisions of this Chapter shall upon conviction be punished by a fine not exceeding One Hundred Dollars (\$100) for each day the person or persons is in violation of this Code. (Ord. 56 – 5, 1957; amended by Ord. 269, 1995)

8.16.060 Exception. Any plant material that is categorized by the City, State of Oregon, and/or United States of America as ‘threatened or endangered’ shall not be subject to the provisions of this chapter.



Map Symbols		
SB360 Rating		
	High	
	Extreme	
	High Density Extreme	
		Residential Structure
		City Boundary
		Sections
		Tax Lot

Fire Risk Map of Greater Sisters Area