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**BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF KLAMATH**

ORDINANCE 45.82

IN THE MATTER OF AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE TO AMEND ARTICLE 59.8 LIMITED USE OVERLAY TO CORRECT INCONSISTENCIES AND BETTER CARRY OUT THE INTENT OF THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE.

WHEREAS, the Klamath County Board of Commissioners has the authority to create, amend, modify, or repeal county law or code by Ordinance; and

WHEREAS, the Klamath County Board of Commissioners desires to amend the Land Development Code to amend Article 59.8 Limited Use Overlay to foster better planning practices; and

WHEREAS, the Klamath County Planning Department submitted no request for an exception to Statewide Planning Goals and presented the request in due form for consideration; and

WHEREAS, the Klamath County Planning Department published proper public and agency hearing notice as required by County Code and State Law; and

WHEREAS, the Klamath County Planning Commission held a joint public hearing on February 28, 2012 and May 22, 2012 before the County Board of Commissioners; and

WHEREAS, based on testimony entered and consideration of the whole record, including the proposed Findings of Fact identified in the Staff Report and Supplemental Staff Report, the Klamath County Planning Commission concluded the application was in conformance with Article 49, a legislative amendment, of the Klamath County Land Development Code, and forwarded a recommendation of Approval for Planning File CLUP 4-11 (ORDINANCE 45.82) to the County Board of Commissioners; and

WHEREAS, based on testimony entered and consideration of the whole record, including the proposed Findings of Fact identified in the Staff Report and Supplemental Staff Report and recommendation by the Planning Commission, the Board of County Commissioners, on May 22, 2012 APPROVED amending the Klamath County Land Development Code by adoption of Ordinance 45.82.

NOW, THEREFORE, THE BOARD OF COMMISSONERS OF KLAMATH COUNTY ORDAINS AS FOLLOWS:

SECTION 1

1. The Board takes note that from time to time changes to the Land Development Code are necessary for the benefit of the residents of Klamath County, Oregon.
2. Under provisions of the Klamath County Land Development Code and the state of Oregon legal responsibilities for public notification, the Planning Commission has conducted one or more public hearings on the proposed amendments and has submitted its recommendation to the Board. The Board finds that this Ordinance is based on that recommendation and any modifications made by the Board, as a result of the public hearing process.
3. The Board finds and takes public notice that it is in receipt of all matters and information necessary to consider this Ordinance in an adequate manner, and that this Ordinance complies with the Statewide Planning goals and other relevant standards and criteria set forth in Chapters 195, 197, and 215 of the Oregon Revised Statutes, and the Klamath County Land Development Code.

SECTION 2

The following exhibit, attached hereto and incorporated herein by reference, is hereby adopted as follows:

1. Exhibit A, amending Article 59.8 of the Land Development Code - Articles and Sections as specified in the Exhibit.

SECTION 3

All applications received prior to the effective date shall be processed in accordance with ORS 215.427 (2011 Edition).

SECTION 4

If any portion of this Ordinance, including the exhibits, shall for any reason be held invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect, and any provision of a prior land use ordinance amended or repealed by the stricken portion of this Ordinance shall be revived and again be considered in full force and effect.

SECTION 5

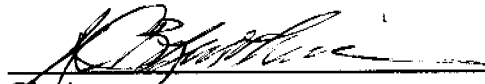
The County Counsel and the Community Development Department – Planning Division, hereafter known as the Planning Department are authorized to prepare planning documents to reflect the changes adopted under Section 2 of this Ordinance, including deleting and adding textual material and maps, renumbering pages or sections, and making any technical changes not affecting the substance of these amendments as necessary to conform to the Klamath County Comprehensive Plan and Land Development Code format.


SECTION 6

This Ordinance shall take effect thirty (30) days after adoption.

Approved on: May 24 2012

FOR THE BOARD OF COMMISSIONERS


Chair


Commissioner

Not Present


Commissioner

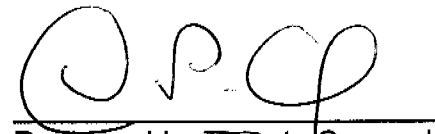

Reviewed by ~~County~~ Counsel

EXHIBIT A (Ordinance 45.82)

Amendments to Article 59.8 of the (LAND DEVELOPMENT CODE)

(Deleted text is shown in ~~strike-through~~ and new text is shown in **bold and underline**)

ARTICLE 59.8 LIMITED USE OVERLAY (LU)

59.810 – PURPOSE

The purpose of the Limited Use Overlay is to limit permitted uses allowed in the underlying zone to only those uses which are justified in a required "exception statement" or, in the case where a statement is not required, testimony and evidence gathered in the review process, **or to prohibit certain uses until allowed by a subsequent post-acknowledgment amendment to remove the Limited Use Overlay.**

59.820 – APPLICATION

- A. When an "exception" is taken to the Statewide Planning Goals for a comprehensive plan change, the Limited Use Overlay shall apply to the property in question.
- B. If an "exception" is not required, the Limited Use Overlay may be applied to the property in question if the review body finds the overlay will further the purpose and intent of the Planning process.
- C. Uses permitted in the underlying zone shall be limited to those uses specifically referenced in the comprehensive plan amendment/zone change and the accompanying exception statement, **or certain uses shall be prohibited until allowed by a subsequent post-acknowledgment to remove the Limited Use Overlay.**
- D. The Limited Use Overlay shall not be used to authorize uses not expressly provided for in the underlying zone.
- E. The Limited Use Overlay shall apply to the property until it is specifically removed via a subsequent comprehensive plan amendment and zone change.
- F. **Review Process for** ~~Time limit on~~ Limited Use Overlay approval.

The Review Body may always require a Post Acknowledgement Plan Amendment be reviewed periodically to determine if it conforms with the specific purposes of the Limited Use Overlay.

- ~~1. A Limited Use Overlay and associated CLUP/ZC shall be void after two (2) years of approval if development permits have not been obtained or have expired.~~
- ~~2. Requests for an extension of time for an approved Limited Use Overlay shall be reviewed in accordance with Type I Administrative Review procedure.~~
- ~~3. Such requests shall not exceed three (3) consecutive one-year time extensions.~~

59.830 – PROCEDURE

- A. The Limited Use Overlay may be applied through the plan amendment process at the time the underlying plan and zone designation is changed.
- B. The Limited Use Overlay may be applied through a zone change process at the time the underlying zone is changed.
- C. The order adopting the comprehensive plan amendment/zone change shall specify the permitted use(s) approved, **or the uses prohibited**, and shall specify the application of the Limited Use Overlay.
- D. The permitted uses, **or prohibited uses** or description thereof, may be qualified as necessary to achieve the intent of the Limited Use Overlay.

59.840 - OFFICIAL PLAN/ZONING MAP

The official plan/zoning map shall be amended to note the application of the Limited Use Overlay to any applicable parcel.

59.850 - SITE PLAN REQUIREMENT

- A. In addition to limiting the uses permitted through a comprehensive plan amendment, site plan approval may be required to ensure compatibility of the use(s) allowed with other existing uses in the area.
- B. Site plan requirements may be added by specific reference to the adopting order.
- C. All other requirements of the underlying zone remain in effect unless specifically altered by site plan approval incorporated in the adopting order.