



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

**IN THE MATTER OF FILE NUMBER CLUP/ZC 2-14**

**FINAL ORDER**

WHEREAS, Klamath County, applicant, proposed language amendments to Article 11-Definitions and Article 45.5 – Property Line Adjustment of the Klamath County Land Development Code; and

WHEREAS, the Klamath County Planning Department provided proper notice of a public hearing held on May 27, 2014 before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS, the applicant submitted said request for the Land Development Code text amendment in due form for consideration; and

WHEREAS, based on testimony entered and consideration of the whole record, and making the proposed findings of fact in the application submittal and Staff Report their own, the Planning Commission forwarded a recommendation for approval to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners concluded the application was in conformance with State Law, Klamath County Comprehensive Plan and Land Development Code, and acting within their authority unanimously APPROVED the request of Planning File CLUP/ZC 2-14.

**NOW, THEREFORE, THE KLAMATH COUNTY BOARD OF COMMISSIONERS  
ORDER AS FOLLOWS:**

**The Klamath County Planning Director shall prepare for adoption by the Board of County Commissioners an ordinance amending the Klamath County Land Development Code text to reflect the proposed revisions as shown on attached Exhibit A.**

Dated this 28<sup>th</sup> day of May, 2014

**FOR THE BOARD OF COMMISSIONERS**

James Bellet  
Chairman

Al Brathwaite  
Commissioner

Tom Mclarn  
Commissioner

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County Counsel  
Approved as to form

**NOTICE OF APPEAL RIGHTS**

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal (LUBA by phone 1-503-373-1265 or mail at 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.

## EXHIBIT "A"

### Proposed Code Language Changes for Property Line Adjustments

Language to be removed shows ~~strikeout~~, language to be added is in **bold**, all other language is existing code language.

#### ARTICLE 11 DEFINITIONS

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##### PROPERTY LINE:

A property line shall be a division line between two ~~units of land that~~ **abutting properties which** are in separate ownership.

##### PROPERTY LINE ADJUSTMENT:

A relocation of the division line between ~~two~~ **abutting units of land properties** which are in separate ownership.

...

#### ARTICLE 45.5 PROPERTY LINE ADJUSTMENT

##### 45.510 – PURPOSE

The purpose of this article is to standardize property line adjustment procedures and ensure that the requirements of this code are met. A property line shall be a division line between two ~~units of land~~ **abutting properties**, which are in separate ownership.

##### 45.5320 – REVIEW PROCEDURE

A. ~~Initiation—An application for a property line adjustment shall be initiated by the owners, or agent of the owner, of the subject property. An agent's application shall be authorized in writing by the owner.~~

B. ~~Filing Fee—An application for a property line adjustment shall be accompanied by a filing fee set by the Board of County Commissioners to defray cost incidental to the review process.~~

C. A property line adjustment shall be processed according to a Type I administrative review procedure.

D. ~~Applicant shall submit the materials described in Section 45.550.~~

E. ~~A property line adjustment shall be approved if all criteria in Section 45.540 are met.~~

F. ~~Following approval by the Planning Department, the applicant shall:~~

- ~~1. Record the appropriate document with the County Clerk which implements the adjustment shown on the map submitted to the Planning Department;~~

- ~~2. When required, file a survey of the adjusted line, with the County Surveyor; and~~
- ~~3. Provide a copy of the map, and legal description or survey to the County Assessor, County Surveyor and the County Planning Department.~~

#### **45.5430 – REVIEW CRITERIA**

**A property line adjustment may only be approved if it meets all applicable standards and review criteria.**

- A. No property line adjustment will be approved unless both contiguous parcels are lawfully created **and have legal access**;
- B. A property line adjustment shall not result in the creation of a new parcel;
- C. The parcels resulting from the property line adjustment conform to zoning regulation in terms of size, shape and setback requirements;
- D. Adjustments to nonconforming lots or parcels shall not result in greater nonconformity or render substantially conformed lots or parcel more nonconforming. A reduction in the size of a nonconforming lot or parcel may be approved if it contributes substantially to bringing an adjacent nonconforming parcel closer into conformance;
- E. The property line adjustment will not interfere with any public or private easement; and
- F. **A proposed property line adjustment of lots or parcels shall only be a minor change in the existing common boundary.** Proposed property line adjustments, which have the net result of physically relocating a lot or parcel to a new location, **or the elimination of a lot or parcel**, shall be reviewed as a land partition.

#### **45.540 – PROCESSING**

- A. Initiation - An application for a property line adjustment shall be initiated by the owners, or agent of the owners, of the subject properties. An agent's application shall be authorized in writing by the owners.
- B. Filing Fee - An application for a property line adjustment shall be accompanied by a filing fee set by the Board of County Commissioners to defray cost incidental to the review process.
- C. Two copies of the site plan conforming to Section 41.060 and showing the proposed property line relocation and the resulting lot or parcel sizes.

#### **45.550 – ~~SUBMITTAL REQUIREMENTS TO~~ FINALIZING THE PROPERTY LINE ADJUSTMENT**

**Applicants are required to** ~~shall submit to the Planning Department~~ **do the following within two (2) years of approval of the property line adjustment or the approval is null and void:**

- A. ~~Two copies of the site plan conforming to Section 41.060 and showing the lot or parcel sizes;~~  
and

**BA.** ~~A File with the County Surveyor a map of~~ survey of the adjusted line prepared in accordance with ORS 209.250 if either or both parcels affected are 10 acres or less. ~~No survey is required of the relocation of a common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary; or~~

**CB.** ~~When no survey is required,~~ **Provide the following for Planning Department review and approval:**

- ~~a~~**A legal description of the proposed adjustment shall be submitted to the County Surveyor area(s) being conveyed or received.**
- **Draft deeds of each of the properties as adjusted.**

**DC.** ~~Record the following New deeds need to be recorded with the County Clerk and provide copies to the Planning Department:~~

- **A deed transferring the adjustment area from one property owner to the other.**
- **A new deed for each property which describes it as adjusted.**