



BOARD OF COUNTY COMMISSIONERS

KLAMATH COUNTY, OREGON

IN THE MATTER OF)
AMENDING THE LAND)
DEVELOPMENT CODE TEXT)
TO MAKE CHANGES TO)
ARTICLES 42.060, 14.090,)
62.060, 64.030, AND 46 TO)
MODIFY VARIOUS)
REGULATIONS.)

ORDINANCE 45.91

Return to Commissioner's Journal

WHEREAS, the Klamath County Board of Commissioners has the authority and desires to amend the Land Development Code text; and

WHEREAS, the Klamath County Planning Department provided written notice of the public hearing as required in Klamath County Land Development Code Article 31; and

WHEREAS, a public hearing was held on January 23, 2018, and public testimony was considered before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS the Klamath County Planning Commission forwarded a recommendation of approval; and

WHEREAS, based on testimony entered and in consideration of the whole record, the Klamath County Board of Commissioners voted unanimously to approve the request in File No. CLUP 14-17.

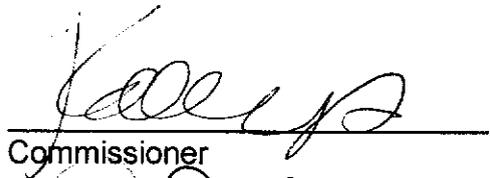
NOW, THEREFORE, the Klamath County Board of Commissioners ordains that the amendments to the adopted Klamath County Land Development Code text, attached as Exhibit "1," and incorporated herein by reference are hereby adopted.

DATED this 25 day of January 2018.

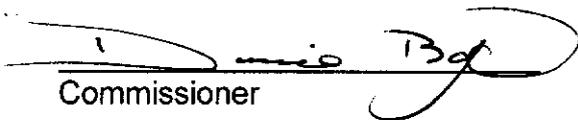
FOR THE BOARD OF COMMISSIONERS



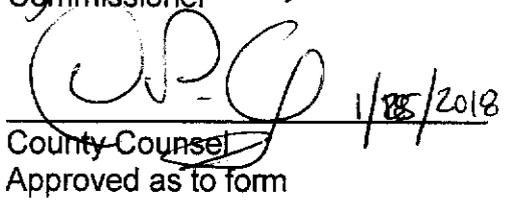
Chair



Commissioner



Commissioner


1/25/2018

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 by 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 1

LAND DEVELOPMENT CODE AMENDMENT SERIES

File No. CLUP 14-17

Language to be removed shows ~~strikeout~~, language to be added is in **bold**, all other language is existing code language. Skipped sections of code language is indicated by ...

Amendment No. 1

ARTICLE 42

BI-ANNUAL RENEWAL OF TEMPORARY USE PERMITS FOR MEDICAL HARDSHIPS

Introduction

Medical hardship temporary use permits are now required to have an annual renewal with a \$146 fee that is a Type II review, which is the same as a Conditional Use Permit. Every year we send notices to nearby property owners, some of whom wish we would quit bothering them with these.

State law (OAR 60-033-0130(10)) now allows medical hardship permits to be renewed every 2 years, so that is what the amendment proposes and changes the type of review from a Type II to a Type I, which is similar to time extension reviews in the Land Development Code.

Amendment Language

42.060 – BI-ANNUAL REVIEW

- A. Temporary Use Permits shall be subject to **bi-annual reviews** in accordance with the ~~Type II~~ **Type I** Administrative Review Procedure.
- B. The Planning Director or ~~appropriate review body~~ **designee** person shall review the temporary use ~~against any original conditions of approval~~ to determine continued compliance with this code or conditions of approval. **For medical hardship cases, the applicant shall provide a signed doctor's statement indicating that the circumstances of the medical hardship continue to exist.**
- C. The ~~review body~~ **Planning Director** may revoke a Temporary Use Permit upon a finding that the temporary nature of the use has expired or that the applicant has not complied with this code or conditions of approval.

Amendment No. 2

PENALTIES

Introduction

Changing the current \$500 fine to \$720 would make this amount match the amount in Klamath County Nuisance Control Code Chapter 401.

Amendment Language

14.090 – PENALTIES

Any person, firm, corporation or other entity who has been found to have violated any of the provisions of this code shall be punished by a fine not exceeding ~~\$500~~ **720** per occurrence, to a maximum of \$1,000, if the violation is found to be a continuing or repeat circumstance. Circuit Court and Justice Court shall have concurrent jurisdiction over prosecutions for violations of this Code.

Amendment No. 3

62.050 - MINIMUM STRUCTURE HEIGHT AND SETBACK REQUIREMENTS

Introduction

Changing the front yard fence height to 4 feet would match the City of Klamath Falls front yard fence height.

Changing the maximum height of a fence from 6 feet to 7 feet would match the new requirements in both the Building Code and the City of Klamath Falls requirements.

Amendment Language

62.060 - VISION CLEARANCE

No structure or other visual obstruction shall be created, placed, maintained or allowed to grow between ~~3~~ **4** and 10 feet in height within 25 feet of the intersection of the right-of-way lines of two streets, a public street and a private street, or a street and a railroad property line. Height shall be measured from the edge of the improved roadway surface. In accordance with the Type I Administrative Review Procedure, the Planning Director may order the removal or modification of such sight obstructions which conflict with this section. The Planning Director's Order may be appealed pursuant to Article 33.

ARTICLE 64 FENCES, WALLS AND SCREENING

64.010 - PURPOSE

The purpose of establishing and maintaining standards for fences, walls and screening are to protect certain uses from intrusion, to protect the public from uses which may be hazardous, and to increase compatibility of different land uses.

64.020 - VISION CLEARANCE

No fence, wall, hedge, or other visual obstruction shall be created, placed, maintained or allowed to exceed 3 4 feet in height within 25 feet of the intersection of the right-of-way lines of two streets, a public street and a private street, or a street and a railroad property line. Height shall be measured from the edge of the improved roadway surface. In accordance with the Type I Administrative Review Procedure the Planning Director may order the removal or modification of such sight obstructions which conflict with this section. The Planning Director's order may be appealed pursuant to Article 33.

64.030 - PERMITTED FENCES, WALLS AND HEDGES

A. Fences, walls, and hedges not greater than 3 4 feet in height shall be permitted on or within front property lines and building setback, provided they do not obscure vision, except that fences may be 6 7 feet in height if they are constructed of open mesh.

B. Fences, walls and hedges not greater than 6 7 feet in height may be permitted on or inside any property line, unless otherwise specified in the code.

C. Fences, walls and hedges located on or inside front property lines shall not obscure vision from a public street, road or access to the dwelling or other primary structure on the property, unless otherwise specified in this code.

D. Fences, walls and hedges shall be maintained with public safety and a neat and orderly appearance in mind.

Amendment No. 4

**ARTICLE 46
LAND SUBDIVISION PHASING**

Introduction

The Land Development Code does not currently contain any language about phasing of subdivisions and does not have an expiration time period for phased projects. There is at least one subdivision that was granted tentative plan approval approximately 20 years ago that included multiple phases and not all of the phases have been constructed to date. It is good to have approvals eventually expire as new code standards may be periodically adopted that would not apply. This amendment would allow phases to be carried forward for a maximum of 10 years before expiring.

Amendment Language

46.050 – PRELIMINARY SUBDIVISION PLAT REQUIREMENTS

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D. Required Information - All preliminary subdivision plats shall show the following information:

1. Existing Conditions:
 - a. The location, width, and names of all existing or platted streets, ways or other public ways within or adjacent to the proposed subdivision, easements, railroad rights-of-way,

- and other important features, including but not limited to section lines and corners, city and school district boundaries;
- b. For subdivision within urban growth boundaries, contour lines shall be shown at the following minimum intervals, and shall be related to some established bench mark or other datum as approved by the Director of Public Works:
 - 1) 2 foot contour intervals for ground slopes between 0 percent and 10 percent; or
 - 2) 5 foot contour intervals for ground slopes exceeding 10 percent.
 - c. For subdivisions outside urban growth boundaries, contour lines shall be shown at intervals necessary to properly indicate the ground contour and to design the street pattern and lot layout, and shall be related to some established bench mark or other datum as approved by the Director of Public Works;
 - d. The location and direction of all watercourses including a delineation of the high water mark;
 - e. Natural features such as rock outcroppings, wetlands, wooded areas, preservable trees; and
 - f. Existing uses of the property, including the location of all existing structures to remain on the property after platting.
2. Proposed Development:
- a. All streets showing the location, widths, names, approximate grades, and approximate radii of curves and the relationship of all streets to any projected streets. This shall include any walkways and pedestrian connections as required by Article 71, Vehicular and Non-Vehicular Access and Circulation;
 - ~~b. The location and width of all existing and proposed easements, including the purpose of such easement;~~
 - b. The location and width of all existing and proposed easements, including the purpose of such easement;
 - c. Lot layout showing approximate dimensions, minimum lot size, and proposed lot numbers. A subdivision submitted for final approval shall not use block numbers or letters; and
 - d. All land proposed to be reserved by the subdivider for public purposes, showing the location, size and proposed uses.
 - e. For subdivision of rural residential lands, a fifty (50)-foot structural setback shall be indicated from those residential property lines that are contiguous to resource lands.
 - f. **Indicate any proposed phasing, in chronological order by phase number.**

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46.080 – TIME EXTENSION

Prior to the expiration date of approval of the preliminary subdivision plat, **or any phase thereof**, an applicant may apply for a time extension.

- A. Requests for time extension shall be filed on forms provided by the Planning Department, and accompanied by the established fee.
- B. Review of a request for time extension shall be reviewed according to the Planning Director Review Procedure.
- C. Review Criteria - In order to approve a request for time extension, the Planning Director must find that:

1. The facts upon which the approval of the preliminary subdivision plat was based have not been changed to an extent sufficient to warrant re-submittal of the preliminary subdivision plat;
2. No other development approvals would be adversely affected by the time extension; and
3. The subdivider is unable to file the final plat due to circumstances beyond his or her control.

D. The initial tentative plan approval shall be good for one year and a maximum of 3 one-year time extensions may be subsequently granted. ~~following the date of approval of the preliminary subdivision plat~~ If the final plat for the initial phase is not recorded within four (4) years of the date of the tentative plan approval, the project will become null and void.

For project phases after the initial phase is final platted, additional one-year time extensions are allowed, but any remaining phases that are not final platted within 10 years from the date of the initial tentative plan approval, will become null and void.

E. If a request for time extension is denied and the time period for submitting the final plat expires, a new subdivision application must be filed.

46.090 – FINAL PLAT REQUIREMENTS

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E. Supplemental Information to be filed with Final Plat:

1. A preliminary title report or subdivision guarantee issued by a title insurance company, **prepared within 30 days prior to submittal of the final plat**, in the name of the owner of the land showing all parties having any record title interest in the premises and what interest they have;
2. The computation sheets showing the bearings, distances, and error of closure, if any, and the curve data of each lot in the subdivision, and of the outside boundary;
3. If applicable, a good and sufficient bargain and sale deed, executed to Klamath County, free from all restrictions, outstanding liens and encumbrances, conveying property other than streets, alleys or walkways for public use;
4. A copy of any existing or proposed deed restrictions applicable to the subdivision; and
5. Plans, profiles and specifications, prepared by the engineer showing proposed construction design and standards for all improvements. One reproducible copy of plans, profiles and specifications, prepared by the project's engineer to be submitted to and retained by the Director of Public Works showing proposed construction design and standards for all improvements. After approval by the Director of Public Works, any changes in the design work shall be submitted to, and approved by, the Director of Public Works before construction begins. Approval of the completed improvements shall be made by the Director of Public Works or his authorized representative before the improvements are accepted and performance assurance released.
6. A completed and approved "Evaluation Report for Methods of On-Site Sewage Disposal for a Subdivision" described in ORS 454.755(1)(b); from the Environmental Health Department, if applicable.
7. For subdivision of rural residential lands, a fifty (50)-foot structural setback shall be indicated from those residential property lines that are contiguous to resource lands.

46.100 – FINAL PLAT REVIEW

A. Approval of the County Planning Director - The Planning Director shall thoroughly review the final plat and supplementary information upon its submission within the required time frame. The final plat shall be signed by the Planning Director if it is in conformance with the preliminary subdivision plat, requirements of this code, and any conditions of approval for the preliminary subdivision plat set by the Planning Commission.

B. Approval of the County Assessor and County Tax Collector - The County Assessor shall review the subdivision proposal and shall sign the final plat if all required assessments, fees, and charges have been made current. The Tax Collector shall sign the final plat if all required assessments, fees, and charges have been paid.

C. Approval of the County Surveyor - The County Surveyor shall thoroughly review the final plat and supplemental information to determine that the plat complies with all applicable statutes and provisions, and that the plat is technically correct and within the allowable limits of error prescribed by statutes. The final plat shall be signed by the County Surveyor if the final plat is correct and in full conformance with this code and State Law. The statutory fee for approval shall be submitted to the County Surveyor before certification of the final plat is made.

D. Approval of the Director of Public Works - The Director of Public Works shall review and sign the final plat if all of the requirements of Section 46.070 and 46.090(E)(5) have been met.

E. Approval of the Board of County Commissioners - After review of the final plat by the Planning Director, County Assessor, County Tax Collector, County Surveyor, and Public Works Director, the final plat shall be submitted to the Board of County Commissioners. The Board of County Commissioners shall sign the plat and accept it for recordation if the final plat meets all requirements of this code and state statutes.

F. Filing of Final Plat - After obtaining all required approvals and signatures, the applicant shall record the original plat with the County Clerk and file an exact copy with the County Surveyor. Approval of the final plat shall be null and void if the plat is not recorded within ~~2-years of the final decision on the preliminary plat~~ **the time frames contained in Section 46.080(D)**. The applicant shall furnish 1 print of the final plat to the County Assessor, the Director of Public Works, and the County Planning Director.