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Fee: NO FEE

BEFORE THE KLAMATH COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF FILE NUMBER CLUP 7-22**FINAL ORDER**

WHEREAS, Klamath County, applicant, proposed language amendments to Land Development Code Articles: Article 42.060 – Temporary Use Permits Time Limits, Article 22.044 Type II Time Limits, Article 44.050 (E) Time limits on Conditional Use Permit Approval; and

WHEREAS, the Klamath County Planning Department provided proper notice of a public hearing held on October 25, 2022 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 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 7-20.

Finding of Facts

Land Development Code Article 49.030 Review Criteria

- A. An amendment to the Comprehensive Plan or Land Development Code may only be approved if it meets all applicable review criteria.***
- B. An amendment to the Comprehensive Plan or Land Development Code shall be reviewed against the following criteria:***
 - 1. The proposed amendment is supported by specific studies or other factual information, which documents the public need for the change;***

Finding

The proposed changes to the Land Development Code addresses unintended issues that occurred from the adoption of other code amendments. The proposed changes will provide clarity within the Land development Code for Developers, Citizens of Klamath County, and Staff.

2. The proposed amendment complies with policies of the Comprehensive Plan and policies and standards of the Urban Area Transportation System Plan;

None of the Goals and Policies of the Klamath County Comprehensive Plan speak to time limits on certain applications.

Goal 1: Citizen Involvement

Finding

The amendment has followed the public hearing procedures for a legislative code amendment, which provides an opportunity for citizen input.

Goals Not Applicable

Finding

It has been determined that Goals 2 thru 14 in the Klamath County Comprehensive Plan are not applicable to the proposed amendment.

Statewide Planning Goals

Finding

The application is found to be consistent with Goal 1 and not inconsistent with any of the applicable Statewide Planning Goals 2-14.

State Statutes

Finding

The state statutes do not regulate validity period for different type of application. therefore they are not applicable to this amendment.

Oregon Administrative Rules

Finding

There are no Administrative Rules that specifically address the proposed amendments, including OAR 660-012-0060 - Transportation Planning Rule, therefore they are not applicable to this amendment.

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, B, and C.

Dated this 29 day of November, 2022

FOR THE BOARD OF COMMISSIONERS


Chair


Commissioner


Commissioner

Out of Office Today

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
Article 42 – Temporary Use Permits Time Limits

42.060 – TIME LIMIT ON TEMPORARY USE PERMIT APPROVAL.

A. Temporary Use Permits for Medical Hardships shall be subject to biennial (every two years) review in accordance with the Type II administrative review procedure

B1. The Planning Director or designee shall review the temporary use 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.

B2. The 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.

B. Temporary Use Permits for the use of a Manufactured Home or Recreational Vehicle during construction or development of a site shall be subject to annual reviews (every year) in accordance with the Type II Administrative Review Procedure.

1. The Planning Director or designee shall review the temporary use to determine continued compliance with this code or conditions of approval.

2. The Planning Director may revoke a Temporary Use Permit upon a finding that a septic system has not been constructed on the site with the first year of the Temporary Use Permit Approval.

C. The time limits for any other Temporary Use Permit shall be determined by the review body.

EXHIBIT B
Article 22.040 – Type II Time Limits

22.040 - TYPE II REVIEW (ORS 215.416 and ORS 215.427)

A. Public Hearing and Notice.

1. Unless referred to public hearing by the Planning Director in accordance with this Section, Type II Review shall be conducted without a public hearing.
2. Notice shall be provided prior to the review in accordance with Article 32 and ORS 215.416.

B. Review and Decision.

1. The Planning Director or his/her designee shall review the application within 30 days of receipt of a land use permit application and determine whether the application is complete as submitted. Noncompliance with applicable provisions of this Code shall be identified in writing and incorporated into the official application file (ORS 215.427(2)).
2. In accordance with Section 31.120, the Planning Director shall reduce a tentative decision to writing within 90 days of the application being deemed complete.
3. The Planning Director, at his/her discretion, or if requested by a person receiving a request for comment notice or otherwise demonstrably affected by the proposed action, may refer review of the application to an appropriate Review Body for a quasi-judicial hearing.

C. Time Limit on TYPE II Review Approval for any type of Farm or Forest Dwelling

- 1. A Type II review shall be void after 4 years if a Land Capability Statement has not been issued or has expired.**
- 2. Requests for an extension of time for an approved and final TYPE II Review shall be reviewed in accordance with the Type I Administrative Review Procedure.**
- 3. Requests for an extension of time based on substantial development of an approved and final Type II Review shall be reviewed against the following criteria:**
 - a. The nature of the project and original conditions;**
 - b. The acts of the property owner must arise beyond mere contemplated use.**
 - c. Development is unable to occur due to circumstances beyond the control of the owner.**
 - d. A Type II Review will be limited to two (2) one-year time extensions.**

GD. Appeal.

A decision reached under the Type II Review procedure may be appealed to the Board of County Commissioners within 12 days of the mailing of notification of the tentative decision as set forth in Article 33.

EXHIBIT C

Article 44 – Conditional Use Permit Time Limits.

44.050 - TIME LIMIT ON CONDITIONAL USE PERMIT APPROVAL

- A. A Conditional Use Permit shall be void after 2 years if a development permit has not been issued or has expired, except as noted in part E of this section.
- B. A Conditional Use Permit is considered void if the use is discontinued for a period of 1 year.
- C. Requests for an extension of time for an approved and final Conditional Use Permit shall be reviewed in accordance with the Type I Administrative Review Procedure.
- D. Requests for an extension of time based on substantial development of an approved and final Conditional Use Permit shall be reviewed against the following criteria:
 - 1. The nature of the project and original conditions;
 - 2. The acts of the property owner must arise beyond mere contemplated use.
 - 3. Development is unable to occur due to circumstances beyond the control of the owner.
 - 4. A Conditional Use Permit will be limited to three (3) one-year time extensions.
- ~~E. For non farm dwellings pursuant to sections 54.070 & 54.080 and forest dwellings pursuant to 55.070, 55.080 & 55.090 the following (1-2) apply:~~
 - ~~1. A Conditional Use Permit shall be void after 4 years if a development permit has not been issued or has expired.~~
 - ~~2. Only one time extension shall be allowed. This time extension is valid for 2 years.~~