



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/08/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Klamath County Plan Amendment
DLCD File Number 006-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, June 22, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Bill Adams, Klamath County
Jon Jinings, DLCD Community Services Specialist
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE STAMP

DEPT OF
JUN 04 2012
LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

Jurisdiction: **KLAMATH**

Local file number: **ORDINANCE 45.82**

Date of Adoption: **5/24/2012**

Date Mailed: **6/1/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached". Amend the Land Development Code to clarify Article 59.8 "Limited Use Overlay" - to allow it to be used to limit uses and to remove the time limit provisions, among other minor edits.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **NA**

to:

Zone Map Changed from: **NA**

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 006-10 (18576) [17067]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Bill Adams, Planning Director**
Address: **305 Main Street**
City: **Klamath Falls** Zip: **97601-**

Phone: **(541) 883-5121** Extension: **3079**
Fax Number: **541-885-3644**
E-mail Address: **badams@co.klamath.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011



**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

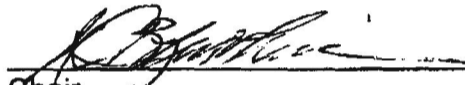
The County Counsel and the Community Development Department – Planning Division, hereafter known as the Planning Department are authorized to prepare planning documents to reflect the changes adopted under Section 2 of this Ordinance, including deleting and adding textual material and maps, renumbering 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.



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05/30/2012 03:32:11 PM

Fee: NO FEE

**BEFORE THE KLAMATH COUNTY
BOARD OF COMMISSIONERS**

IN THE MATTER OF FILE NUMBER CLUP/ZC 4-11 FINAL ORDER

WHEREAS, Perkins-Coie LLP on behalf of JWTR LLC, hereafter known as Applicant, requested approval of a Legislative Amendment to the Land Development Code for the purpose of amending Article 59.8 Limited Use Overlay; and

WHEREAS, the request is a legislative amendment and applies to all lands within unincorporated Klamath County; and

WHEREAS, the Klamath County Planning Department provided proper notice prescribed by law for a public hearing held on February 28, 2012, including required notice to the Oregon Department of Land Conservation and Development prior to the initial evidentiary hearing and coordinated with affected governmental entities by providing notice of the hearing and an opportunity to review the application, an opportunity to comment on the application and considering received comments for inclusion in the decision before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS, the Planning Commission and the Board of Commissioners held a public hearing on February 28, 2012; and continued said hearing on May 22, 2012 for final deliberations and a decision; 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 of the Klamath County Land Development Code and Comprehensive Plan; including Oregon State Statutes and Administrative Rules; adopted said Findings of Fact as their own; and, forwarded a positive recommendation of Approval to amend Article 59.8 of the Land Development Code as referenced in Planning File CLUP/ZC 4-11 to the Board of County Commissioners; and

WHEREAS, based on testimony entered and consideration of the whole record, including the Planning Commission adopted Findings of Fact identified in the Staff Report and Supplemental Staff Report, the Board of County Commissioners APPROVED Planning File CLUP/ZC 4-11, adopting amendments to Article 59.8 of the Land Development Code, as described in the adopting Ordinance 45.82.

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

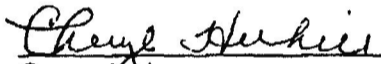
The Klamath County Planning Director shall prepare an Ordinance for Board signature amending the Land Development Code to:

Amend Article 59.8 of the Land Development Code to implement the requested amendments listed in the application file CLUP/ZC 4-11 and listed in Ordinance 45.82

Dated this 24 day of May, 2012

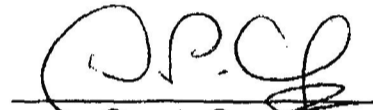
FOR THE BOARD OF COMMISSIONERS


Chairman


Commissioner

Not Present

Commissioner


County Counsel
Approved as to form

lamath County
Planning Department
05 Main Street
lamath Falls, OR 97601



DEPT OF

JUN 01 2012

LAND CONSERVATION
AND DEVELOPMENT

DLCD
PLAN AMENDMENT SPECIALIST
635 CAPITOL STREET, NE, SUITE 150
SALEM, OR 97301-2540