

DRAFT ZONING ORDINANCE REVISIONS

Article 1 – Introductory Provisions

Section 1.130 – Extensions, Enforcement / Revocation

- A. ~~Approval Period: & Time Extension:~~ Except as provided for land use permits in the EFU and Forest zones, **per Section 3.16 and Section 4.11 of the Ordinance**, any permit issued by the Planning Department ~~County~~ shall automatically become null and void **remain valid for two-years from the date of the final decision**, after the date on which it was granted unless a building permit has been issued or construction has commenced except as otherwise allowed by State statute, State Administrative Rule or a separate section of the Hood River County Zoning Ordinance. If a building permit is not required all applicable conditions of approval shall have been met within two years after approval of the permit.

In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the County issues its final decision on remand.

//Staff comment: The above modifications are proposed for three primary reasons: (1) to clarify what needs to occur before the permit expires; (2) to be consistent with current practice; and (3) to clarify when the appeal period begins in the case of an appeal. Item 3 is intended to resolve the current issue related to the Apollo Land Holding/Thrive appeal where the amount of time it takes to get through the appeal's process, especially those going to LUBA (9 to 12+ months), prevents reasonable completion of a project with a pending appeal. The proposed language should help eliminate this type of ongoing appeal cycle.

- B. **Time Extensions (Initial): Except as provided in Section 3.16 and Section 4.11 of the Ordinance, ~~A~~ an initial two-year extension may shall be granted by the Planning Director where all of the following standards are met when an applicant submits to the Planning Director a written request for an extension of the development approval period, along with the appropriate fee, prior to the expiration date.**

- ~~1. An extension request is filed prior to the applicable expiration date or within 30-days after that date;~~
- ~~2. The extension request is filed in written form and includes all exhibits and fees required by the County. Extension requests filed up to 30-days after the expiration date are subject to double fees;~~
- ~~3. The provisions of this Ordinance or State law do not prohibit the extension;~~
- ~~4. The approval criteria for the original decision found in a state goal, policy, statute or administrative rule, the Comprehensive Plan or this Ordinance have not changed; and~~

A decision involving an initial two-year extension under this Section is a ministerial (Type I) action, is not a land use decision as described in ORS 197.015, and is not appealable as a land use decision.

//Staff comment: The new language is intended to make it clear that the first extension of a permit is automatic if submitted in writing and on time. The above language aligns with similar language from OAR 660-033-0140(2).

PC Question: If the first extension is essentially automatic, is there any reason to require it? Is the public better served by just allowing an initial 4 year approval period and then proceed into the extension process described under Section 1.130(C) below?

It should be noted that during the August 12th work session there was no consensus on which of the two options to pursue and so they are being presented again as part of this process.

Staff Recommendation: Maintain the proposed language and keep the current system of an initial two year extension period followed by additional one year extensions under certain circumstances; although staff is equally as comfortable with the alternative option as well.

C. **Time Extensions (Additional): Except as provided in Section 3.16 and Section 4.11 of the Ordinance, up to two** ~~Additional one-year extensions~~ may be authorized where the applicable standards for an extension set out in **Subsection (B)(1) through (4)** above are met ~~and are subject to double fees,~~ **and:**

1. **The request includes a statement indicating the reasons that prevented the applicant from beginning or continuing development during the approval period;**
2. **The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible; and**
3. **Applicable criteria used to approve the decision have not changed.**

~~Authority to grant extensions of time will rest with the Director and is a Type I decision. Such decisions are not subject to appeal and are not land use decisions. A decision involving additional one-year extensions under this Section shall be processed as a Type I decision, although, pursuant to ORS 215.416(11)(a)(A), a notice of the decision shall be sent to adjacent property owners, affected public agencies, parties who participated in the initial application, and community organizations recognized by the County with the opportunity to appeal as prescribed in Section 72.40(B) of the Ordinance.~~

In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the County issues its final decision on remand.

//Staff comment: The new language is intended to make it clear that additional extensions beyond the first will involve discretionary approval criteria, be subject to appeal, and will be

limited to two. The above language generally aligns with similar language from OAR 660-033-0140(2) and ORS 215.417(2).

D. Permit Validity: To maintain a permit beyond the initial or extended approval period, the following shall occur:

1. Land Use Approval Involving a Structure(s)

- a. **All specified conditions of the permit shall be met;**
- b. **A building permit application for the approved development or use shall be submitted to the County Planning Department for final approval and to the County Building Department for building plan review and approval; and**
- c. **An issued building permit shall be maintained, and all permit timelines of the Building Code met.**

2. Land Use Approval Not Involving a Structure(s)

- a. **All specified conditions of the permit shall be met; and**
- b. **The approved use shall be established by initiating activities authorized under the permit.**

//Staff comment: The new language is intended to make clear how a permit can be maintained after the initial or extended approval period expires.

Clarifying language in orange was added as suggested during the August 12, 2020 work session.

Article 3 – Exclusive Farm Use (EFU) Zone

Section 3.16 Approval Period & Time Extensions

A. Except as provided for in Section (C) below and for land divisions, a discretionary decision approving a proposed development **or use** on EFU zoned land ~~outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto~~ shall be valid two-years from the date of the final decision. **In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the County issues its final decision on remand.**

1. An initial extension period of up to one year shall be granted if:

- a. **The applicant makes a written request for the extension prior to the expiration date;**

- b. The applicant states reasons that prevented them from beginning or continuing development within the approval period; and
 - c. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
2. Up to two additional one-year extensions may be authorized where the criteria from Section (A)(1) above are met and applicable criteria for the decision have not changed.
 3. Pursuant to OAR 660-033-0140(3), approval of an extension granted under this Section is a ministerial decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.

//Staff comment: The above language comes directly from OAR 660-033-0140(2), which effects land zoned EFU and Forest.

It is also important to note that, although the applicable criteria have some discretionary elements, decisions made pursuant to the administrative rule involving a permit extension are explicitly ministerial actions and not appealable per the OAR.//

PC Question: The OAR does not limit the number of extensions that may be granted. The County can be more restrictive in this case. The Planning Commission has the option of either (a) placing no limits on the number of extensions allowed, as long as the applicable criteria are met, or (b) limiting the number additional one year extensions to, say, two in order to be consistent with those outside of the EFU zone.

During the August 12th work session, there was no clear consensus on this question, although most of the Commission generally supported the idea of providing consistency, which the recommended language limiting the number of additional one year extensions to two would provide. For these reasons, staff's recommendation below remains the same.

Staff Recommendation: Limit the number of additional one-year extension to two in order to provide greater consistency throughout the Ordinance.

- B. Pursuant to ORS 215.417, ~~W~~when a permit is approved for a proposed residential development (except for primary farm dwellings, accessory farm dwellings, and relative farm help dwellings) and on EFU zoned land outside of an urban growth boundary, the permit shall be valid for four-years from the date of the final decision. In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the County issues its final decision on remand.
1. An extension of a residential development permit shall be valid for two-years, when an applicant submits to the County a written request for an extension of the development approval period, along with the appropriate fee, prior to the expiration date.

2. **Up to five two** ~~A~~ additional one-year extensions may be authorized where applicable criteria for the decision have not changed **if:**
 - a. **The applicant makes a written request for the additional extension prior to the expiration date;**
 - b. **The applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by section 1, chapter 433, Oregon Laws 2019; and**
 - c. **An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the County, which may require that the applicant comply with the amended rule or land use regulation.**

PC Question: ORS 215.417(2) allows a total of five additional one year extensions related to dwellings in a resource zone. However, per County Land Use Counsel, the County can be more restrictive and allow fewer than five additional extensions. The Planning Commission has the option of either (a) keeping the Statutory language and limit the number of additional extensions involving certain homes in the EFU to five or (b) limiting the number additional one-year extensions to, say, two in order to be consistent with those involving other uses outside of the EFU zone.

During the August 12th work session, the Commission generally supported limiting the number of one-year extensions to two, instead of five, although the discussions on this particular question were not overly extensive.

Staff Recommendation: Limit the number of additional one-year extension to two in order to provide greater consistency throughout the Ordinance.

3. **Pursuant to ORS 215.417(3), approval of an extension granted under this Section is a ministerial decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.**

//Staff comment: The above language is proposed to provide clarity and to be consistent with applicable sections of the Oregon Administrative Rule and Revised Statutes.

Article 4 – Forest (F-1) and Primary Forest (F-2) Zone

Section 4.11 Approval Period & Time Extensions

- A. Except as provided for in Section (~~C~~**B**) below and for land divisions, a ~~discretionary~~ decision approving a ~~proposed~~ development **or use** on F-1 and F-2 zoned land ~~outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto~~ shall be valid ~~two-years~~ from the date of the final decision. **In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the**

County issues its final decision on remand.

1. **An initial extension period of up to one year shall be granted if:**
 - a. **The applicant makes a written request for the extension prior to the expiration date;**
 - b. **The applicant states reasons that prevented them from beginning or continuing development within the approval period; and**
 - c. **The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.**
2. **Up to two additional one-year extensions may be authorized where the criteria from Section (A)(1) above are met and applicable criteria for the decision have not changed.**
3. **Pursuant to OAR 660-033-0140(3), approval of an extension granted under this Section is a ministerial decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.**

//Staff comment: The above language comes directly from OAR 660-033-0140(2), which effects land zoned EFU and Forest.

It is also important to note that, although the applicable criteria have some discretionary elements, decisions made pursuant to the administrative rule involving a permit extension are explicitly ministerial actions and not appealable per the OAR.//

PC Question: The OAR does not limit the number of extensions that may be granted. The County can be more restrictive in this case. The Planning Commission has the option of either (a) placing no limits on the number of extensions allowed, as long as the applicable criteria are met, or (b) limiting the number additional one year extensions to, say, two in order to be consistent with those outside of the forest zones.

During the August 12th work session, there was no clear consensus on this question, although most of the Commission generally supported the idea of providing consistency, which the recommended language limiting the number of additional one year extensions to two would provide. For these reasons, staff's recommendation below remains the same.

Staff Recommendation: Limit the number of additional one-year extension to two in order to provide greater consistency throughout the Ordinance.

- B. **Pursuant to ORS 215.417, ~~W~~when a permit is approved for a proposed residential development and on F-1 and F-2 zoned land ~~outside of an urban growth boundary~~, the permit shall be valid for four-years from the date of the final decision. In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the County issues its final decision on remand.**

1. An extension of a residential development permit shall be valid for two-years, when an applicant submits to the County a written request for an extension of the development approval period, along with the appropriate fee, prior to the expiration date.
2. Up to five two Additional one-year extensions may be authorized where applicable criteria for the decision have not changed if:
 - a. The applicant makes a written request for the additional extension prior to the expiration date;
 - b. The applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by section 1, chapter 433, Oregon Laws 2019; and
 - c. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the County, which may require that the applicant comply with the amended rule or land use regulation.

PC Question: ORS 215.417(2) allows a total of five additional one year extensions related to dwellings in a resource zone. However, per County Land Use Counsel, the County can be more restrictive and allow fewer than five additional extensions. The Planning Commission has the option of either (a) keeping the Statutory language and limit the number of additional extensions involving certain homes in the F-1 and F-2 zones to five or (b) limiting the number additional one-year extensions to, say, two in order to be consistent with those involving other uses outside of the forest zones.

During the August 12th work session, the Commission generally supported limiting the number of one-year extensions to two, instead of five, although the discussions on this particular question were not overly extensive.

Staff Recommendation: Limit the number of additional one-year extension to two in order to provide greater consistency throughout the Ordinance.

3. Pursuant to ORS 215.417(3), approval of an extension granted under this Section is a ministerial decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.

//Staff comment: The above language is proposed to provide clarity and to be consistent with applicable sections of the Oregon Administrative Rule and Revised Statutes, as well as other sections of the zoning ordinance applicable to lands outside of the farm and forest zones.

Article 18 – Hood River County Subdivision Ordinance

Section 18.24 – Time of Preparing a Final Plat, Failure to File Within Time Limits; Tentative Plan Pre-Requisite to Recording; Filing Fees

- A. Within a period of ~~twelve months~~ **two (2) years** after approval or conditional approval of the tentative plan or plans, the subdivider ~~may~~ **shall** cause the subdivision, or any part thereof, to be surveyed and a final plat to be prepared in accordance with the tentative plan as approved **and recorded, unless an extension of time is granted**. Upon application of the subdivider, an extension of not exceeding three years may be authorized by the Planning Commission. In the event the Planning Commission denies a subdivider's application for an extension, the subdivider may appeal to the Board of Commissioners. **A permit extension(s) shall be processed in compliance with the requirements of Section 1.130(B) or (C) of the Ordinance. Failure to record a final plat within the initial or extended approval period shall cause the permit to expire.**
- B. Any such request for extension by the subdivider to file his final plat shall be made ~~thirty days~~ prior to the expiration date of the twelve month period following approval of the tentative plan. The request for extension shall be made by the subdivider in writing to the Planning Commission which must act upon such request prior to the expiration of the thirty days.

//Staff comment: The proposed modifications are intended to make the approval period and time extension timelines and process consistent with other sections of the zoning ordinance.

Section 18.66 – Time Limit to Comply with Conditions (Major Partitions)

Within ~~180 days~~ **two years** from the approval of the tentative plan, the partitioner shall comply with the tentative plan conditions, and the requirements of ORS 92.010 through ORS 92.160. The partitioner may bond for any or all improvements required by ordinance or conditions pursuant to Section 18.52 of the ordinance. ~~A six month extension may be granted by the Planning Director.~~ **A permit extension(s) shall be processed in compliance with the requirements of Section 1.130(B) or (C) of the Ordinance. Failure to record a final plat within the initial or extended approval period shall cause the permit to expire.**

//Staff comment: The proposed modifications are intended to make the approval period and time extension timelines and process consistent with other sections of the zoning ordinance.

Section 18.90 – Time Limit to Comply with Conditions (Minor Partitions)

Within two years from the approval of the tentative plan, the partitioner shall comply with the tentative plan conditions, and the requirements of ORS 92.010 through ORS 92.160. A permit extension(s) shall be processed in compliance with the requirements of Section 1.130(B) or (C) of the Ordinance. Failure to record a final plat within the initial or extended approval period shall cause the permit to expire.

//Staff comment: This is a new section. The proposed modifications are intended to make the approval period and time extension timelines and process consistent with other sections of the zoning ordinance.

Section 18.92 – PLA Approval Process

- B. The approval for a property line adjustment shall be effective for a period of ~~one (1) year~~ **two (2) years**. An extension(s) of time may be allowed subject to the provisions of Section 18.95, below **1.130(B) or (C) of the Ordinance**. Within this time frame, at minimum, the **all required conditions of the decision** requirements of Section 18.94 below shall be completed.

Section 18.95 – PLA Extensions:

- A. ~~The County shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period, not to exceed one (1) year, provided that:~~
1. ~~No changes are made on the original plan as approved by the Planning Director, except as provided in Section 18.96, below;~~
 2. ~~The applicant is making progress on meeting the requirements of the approval; and~~
 3. ~~The extension request is made before the expiration of the original approval.~~

//Staff comment: The proposed modifications are intended to make the approval period and time extension timelines and process consistent with other sections of the zoning ordinance.

Article 56 – Bed and Breakfast Facilities

Section 56.50 – Bed and Breakfast Approval Criteria:

- M. If an approved facility is not established within ~~one~~ **two** years of the approval date, or if the use is discontinued for a year **or more**, the approval automatically expires, and a new application is required. **A permit extension(s) shall be processed in compliance with the requirements of Section 1.130(B) or (C) of the Ordinance.**

//Staff comment: This modification is proposed to provide consistency with Section 1.130.
