

# Josephine County 2011 Ordinances

No.	Date Signed	Effective Date	Description
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2011-001	02/2/2011	05/03/2011	An Ordinance amending the Comprehensive Plan Map of Josephine County (Ordinance 81-11, as amended) from Forest to Residential and amending the Zoning Map of Josephine County (Ordinance 85-1, as amended) from Woodlot Resource (WR) to Rural Residential 5 Acre minimum (RR-5). The subject property is identified in the Josephine County Assessor's Records as <b>Map 37-05-17, Tax Lot 300</b> . The property owners are <b>Bryon and Bobbie Swanson</b> .
2011-002	04/20/2011	07/19/2011	<del>An Ordinance amending the Comprehensive Plan Map of Josephine County (Ordinance 81-11, as amended) from Forest to Residential and amending the Zoning Map of Josephine County (Ordinance 85-1, as amended) from Woodlot Resource (WR) to Rural Residential 5 Acre minimum (RR-5). The subject property is identified in the Josephine County Assessor's Records as <b>Map 37-05-20, Tax Lot 2001</b>. The property owners are <b>Richard and Christine Whitaker</b>.</del>
	<b>REPEALED BY ORD 2013-001</b>		
2011-004	08/31/2011	11/29/2011	A new text amendment to the Josephine County Rural Land Development Code (Ord 94-4), Article 101.5 (Public Use Airport & Safety Overlay Zones), as it relates to the Grants Pass Airport located within the Merlin/North Valley Unincorporated Boundary. This section is to implement ORS 836.600 through 836.630 and policies of the comprehensive Plan as they relate to the Grants Pass Airport.
2011-005	09/07/2011	12/06/2011	An Ordinance amending the text of the Josephine County Rural Land Development Code (Ord 94-4) regarding the extension of land use permit approvals by [1] amending Section 41.030 regarding time limits, extension and expiration of land use permits by adding the opportunity for an additional two year extension of land use permit approvals; and [2] amending Section 11.030 terms defined by adding and clarifying language for the definition of substantial development

**BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY  
STATE OF OREGON**

**ORDINANCE NO. 2011-001**

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP OF JOSEPHINE COUNTY (ORDINANCE 81-11, AS AMENDED) FROM FOREST TO RESIDENTIAL AND AMENDING THE ZONING MAP OF JOSEPHINE COUNTY (ORDINANCE 85-1, AS AMENDED) FROM WOODLOT RESOURCE (WR) TO RURAL RESIDENTIAL 5 ACRE MINIMUM (RR-5). THE SUBJECT PROPERTY IS IDENTIFIED IN THE JOSEPHINE COUNTY ASSESSOR'S RECORDS AS: MAP 37-05-17, TL 300. THE PROPERTY OWNERS ARE BRYON AND BOBBI SWANSON.

WHEREAS, the Josephine County Board of Commissioners held a public hearing on December 1, 2010 to consider the request as described above; and

WHEREAS, the Josephine County Rural Planning Commission previously held a public hearing on September 27, 2010, and made a recommended decision to the Board of Commissioners as required by the county's comprehensive plan; and

WHEREAS, the Board of Commissioners received testimony and evidence from the planning staff, the applicant and other land use participants, both for and against the request, and concluded that the applicants met their burden of proof, and that the Comprehensive Plan Map and Zone Map changes as requested comply with the requirements of Josephine County and State Law pertaining to such matters; and

WHEREAS, the Board of Commissioners, concurrent with this Ordinance, adopts written findings of fact in support of its decision to approve the comprehensive plan and zone map changes described herein, and those findings are contained in the land use hearing record at the planning office;

NOW, THEREFORE, based on the foregoing, the Board of Commissioners for Josephine County, Oregon, hereby ordains as follows:

**SECTION 1: COMPREHENSIVE PLAN MAP AMENDMENT**

The Josephine County Comprehensive Plan Map is hereby amended from Forest to Residential for the property identified as Assessor's Map: Township 37, Range 05, Section 17, Tax Lot 300.

**SECTION 2: ZONE MAP AMENDMENT**

The Josephine County Zoning Map is hereby amended from Woodlot Resource (WR) to Rural Residential 5 Acre minimum (RR-5) for the property identified as Assessor's Map: Township 37, Range 05, Section 17, Tax Lot 300.

**SECTION 3: AFFIRMATION**

Except as otherwise provided herein, Josephine County Ordinances 81-11 and 85-1 are hereby affirmed as originally adopted and previously amended.

**SECTION 4: EFFECTIVE DATE**

The first reading of this Ordinance by the Board of County Commissioners occurred this 19 day of January, 2011.

The second reading and adoption of this Ordinance by the Board of County Commissioners occurred on this 2 day of February, 2011, at least 13 days from the first reading. This Ordinance shall take effect ninety days from the date of this second reading

**JOSEPHINE COUNTY BOARD OF  
COUNTY COMMISSIONERS**

S. Cassanelli  
Sandi Cassanelli, Chair

Simon G. Hare  
Simon G. Hare, Vice Chair

Dwight F. Ellis  
Dwight F. Ellis Commissioner

**ATTEST:**

J. McHenry  
Recording Secretary

**APPROVED AS TO FORM:**

Steven E. Rich  
Steven E. Rich, Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY  
STATE OF OREGON

ORDINANCE NO. 2011-002

*Repealed By  
URC 2013-001  
3/6/13*

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP OF JOSEPHINE COUNTY (ORDINANCE 81-11, AS AMENDED) FROM FOREST TO RESIDENTIAL AND AMENDING THE ZONING MAP OF JOSEPHINE COUNTY (ORDINANCE 85-1, AS AMENDED) FROM WOODLOT RESOURCE (WR) TO RURAL RESIDENTIAL 5 ACRE MINIMUM (RR-5). THE SUBJECT PROPERTY IS IDENTIFIED IN THE JOSEPHINE COUNTY ASSESSOR'S RECORDS AS: MAP 37-05-20, TL 2001. THE PROPERTY OWNERS ARE RICHARD AND CHRISTINE WHITAKER.

WHEREAS, the Josephine County Board of Commissioners held public hearings on December 15, 2010, February 9, 2011, and February 28, 2011 to consider the request as described above; and

WHEREAS, the Josephine County Rural Planning Commission previously held public hearings on August 23, 2010, October 4, 2010, and October 25, 2010, and recommended a decision of approval to the Board of Commissioners as required by the county's comprehensive plan; and

WHEREAS, the Board of Commissioners received testimony and evidence from the planning staff, the applicant and other land use participants, both for and against the request, and concluded that the applicants met their burden of proof, and that the Comprehensive Plan Map and Zone Map changes as requested comply with the requirements of Josephine County and State Law pertaining to such matters; and

WHEREAS, the Board of Commissioners, concurrent with this Ordinance, adopts written findings of fact in support of its decision to approve the comprehensive plan and zone map changes described herein, and those findings are contained in the land use hearing record at the planning office;

NOW, THEREFORE, based on the foregoing, the Board of Commissioners for Josephine County, Oregon, hereby ordains as follows:

**SECTION 1: COMPREHENSIVE PLAN MAP AMENDMENT**

The Josephine County Comprehensive Plan Map is hereby amended from Forest to Residential for the property identified as Assessor's Map: Township 37, Range 05, Section 20, Tax Lot 2001.

**SECTION 2: ZONE MAP AMENDMENT**

The Josephine County Zoning Map is hereby amended from Woodlot Resource (WR) to Rural Residential 5 Acre minimum (RR-5) for the property identified as Assessor's Map: Map 37-05-20, Tax Lot 2001.

**SECTION 3: AFFIRMATION**

Except as otherwise provided herein, Josephine County Ordinances 81-11 and 85-1 are here-

by affirmed as originally adopted and previously amended.

**SECTION 4: EFFECTIVE DATE**

The first reading of this Ordinance by the Board of County Commissioners occurred this 4<sup>th</sup> day of April, 2011.

The second reading and adoption of this Ordinance by the Board of County Commissioners occurred on this 20<sup>th</sup> day of April, 2011, at least 13 days from the first reading. This Ordinance shall take effect ninety days from the date of this second reading

**JOSEPHINE COUNTY BOARD OF  
COUNTY COMMISSIONERS**

S. Cassanelli  
Sandi Cassanelli, Chair

Simon B. Hare  
Simon Hare, Vice Chair

Dwight F. Ellis  
Dwight F. Ellis, Commissioner

**ATTEST:**

Jenni Wharton  
Recording Secretary

**APPROVED AS TO FORM:**

Steven E. Rich  
Steven E. Rich, Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR JOSEPHINE COUNTY  
STATE OF OREGON

ORDINANCE NO. 2011-004

AN ORDINANCE AMENDING THE TEXT OF THE JOSEPHINE COUNTY RURAL LAND  
DEVELOPMENT CODE (ORDINANCE 94-4) REGARDING COMPLIANCE WITH THE  
AIRPORT PLANNING RULE, OAR 660-013 FOR THE GRANTS PASS AIRPORT

WHEREAS, the Planning Director initiated a public hearing before the Josephine County Planning Commission, after consultation with the Board of County Commissioners (Board), and also pursuant to Section 31.030.A.3 of the Josephine County Rural Land Development Code (RLDC) to consider an ordinance regarding compliance with the Airport Planning Rule for the Grants Pass Airport; and

WHEREAS, the Planning Commission, pursuant to the review authority granted in Section 46.020 of the RLDC, conducted a public hearing on June 27, 2011 regarding the proposed text amendment after required notice by publication, community advertisement, and mailing to interested persons, agencies and organizations; and

WHEREAS, the Planning Commission found that the proposed ordinance complies with the Airport Planning Rule, OAR 660-013, and entered findings supporting their decision into the official record of the proceedings kept by the Planning Director; and

WHEREAS, after due consideration of the proposed ordinance and the testimony and evidence from those participating at the hearing, the Planning Commission voted 5-0 to approve the amendment; and

WHEREAS, written findings of approval were approved by the Planning Commission and entered into the official record of the proceedings kept by the Planning Director; and

WHEREAS, notice of the Planning Commission's decision was given as required by law, and the decision having now become final without appeal; and

WHEREAS, this Board, having reviewed the record of the foregoing matters, and after discussion of these matters with the county's Planning Director, find the approved ordinance advances the policies and purposes of the Josephine County Comprehensive Plan;

NOW, THEREFORE, based upon all of the foregoing recitals, the Board does hereby adopt the following amendment to the text of the Josephine County Rural Land Development Code:

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## SECTION 1: TEXT AMENDMENT

### ARTICLE 101.5 – PUBLIC USE AIRPORT & SAFETY ORVERLAY ZONE

#### 101.510 – PURPOSE

This section is adopted to implement ORS 836.600 through 836.630 and policies of the Comprehensive Plan as they relate to the Grants Pass Airport. It permits the airport's continued operation and vitality consistent with state law by allowing certain compatible airport related commercial and recreational uses. It also includes safety standards to promote air navigational safety and to reduce the potential for safety hazards for property and for persons living, working or recreating on lands near the airport.

#### 101.520 – APPLICATION OF OVERLAY

This special use zoning district is limited to the Grants Pass Airport and its safety overlay zones. The boundaries of the overlay shall be designated on the official zoning maps for Josephine County. The boundaries of safety overlay zones radiate from points at the ends of the airport's primary surface as described in Oregon Administrative Rules 660-013-0070(1)(a) and Exhibits 1 and 4 that accompany that Rule.

- A. In any zone where an airport overlay is combined with a primary zone and any conflict in regulations or procedure occurs between the zone and the overlay, the most restrictive shall govern.
- B. Height and land use limitations shall be imposed within the overlay and shall be consistent with the requirements of the Federal Aviation Administration (FAA), the Oregon Department of Aviation (ODA), and the Josephine County Airport Master Plan.

#### 101.525 – USE RESTRICTIONS

The following use restrictions shall apply within the areas designated as airport overlay on the official zoning map:

- A. Runway Protection Zone– Only the following uses are permitted:
  - 1. Agriculture, excluding the commercial raising of animals which would be adversely affected by aircraft passing overhead.
  - 2. Airports and heliports, subject to the approval of a master plan by the Board of County Commissioners, providing that FAA permits have been obtained, and lines, towers, structures or poles do not penetrate the air space of a clear zone approach or transitional surface of an airport.

3. Landscape nursery, cemetery, or recreation areas which do not include buildings or structures.
  4. Pipeline.
  5. Roadways, parking areas, and storage yards, while allowed, shall not be located so that the lighting will make it difficult for pilots to distinguish between landing lights and other lights, result in glare, or in any other way impair visibility in the vicinity of the landing approach.
  6. Underground utility line.
- B. Airport Overlay Zone – Any use listed in the primary zone, subject to the requirements of this Article, may be permitted.

### 101.530 - DEFINITIONS

- A. Aircraft. Any contrivance used or designed for navigation of or flight in the air, but does not mean a one-person glider that is launched from the earth's surface solely by the operator's power.
- B. Airport. An area of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.
- C. Airport hazard. Any structure, object of natural growth, or use of land, that obstructs airspace required for the flight of aircraft in landing or taking off at an airport, or is otherwise hazardous to such landing or taking off.
- D. Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.
- E. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.
1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 2,000 feet.
  2. The approach surface extends for a horizontal distance of 10,000 feet at a slope of thirty-four (34) feet outward for each foot upward for all non-precision instrument runways, other than utility.

3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- F. Conical Surface. A surface extending outward and upward from the horizontal surface at a slope of 20:1 (one foot change in elevation for each 20 feet in distance from the starting point) for a horizontal distance of 4,000 feet.
- G. Department of Aviation. State of Oregon Department of Aviation.
- H. FAA. The Federal Aviation Administration.
- I. Heliports. A heliport is an area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft. The heliport overlay zone applies the following imaginary surfaces. The Heliport Approach Surfaces begin at each end of the heliport primary surface and have the same width as the primary surface. They extend outward and upward for a horizontal distance of 4,000 feet where their width is 500 feet. The slope of the approach surfaces is 8 to 1 for civilian heliports and 10 to 1 for military heliports. The Heliport Primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. The heliport primary surface is a horizontal plane at the established heliport elevation. The heliport transitional surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.
- J. Horizontal Surface. A flat, elliptical surface at an elevation 150 feet above the established airport elevation. The extent of the horizontal surface is determined by swinging arcs of a 10,000-foot radius from the center of each end of the primary surface.
- K. Non-precision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach has been approved, or planned, and for which no precision approach facilities are planned or indicated on an FAA-approved airport layout plan or other FAA planning document.
- L. Other than Utility Runway. A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.
- M. Primary Surface. The primary surface is rectangular, centered on the runway, extends 300 feet beyond each end of the runway, and has a width that varies according to airport-specific criteria. The elevation of the primary surface corresponds to the

elevation of the nearest point of the runway centerline. The width of the primary surface is 500 feet.

- N. Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.
- O. Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,700 feet. A subset of the Airport Approach Surface.
- P. Transitional Surface. A sloping 7:1 surface that extends outward and upward at right angles to the runway centerline from the sides of the primary surface and the approach surfaces.
- Q. Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.
- R. Water Impoundment. Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of this ordinance.

### 101.535 - USES PERMITTED OUTRIGHT

The following uses and activities are permitted outright in the Public Use Airport special use zoning district. They are described in fuller detail in Oregon Administrative Rule 660-013-0100. [http://arcweb.sos.state.or.us/rules/OARS\\_600/OAR\\_660/660\\_013.html](http://arcweb.sos.state.or.us/rules/OARS_600/OAR_660/660_013.html).

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed-base operator facilities and other activities incidental to the normal operation of an airport.

- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services.
- D. Law enforcement, military, and firefighting activities.
- E. Flight instruction.
- F. Aircraft service, maintenance and training.
- G. Aircraft rental.
- H. Aircraft sales and the sale of aeronautic equipment and supplies.
- I. Crop dusting services and other agricultural activities.
- J. Aviation recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational use of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Such activities shall be subject to the approval of the airport sponsor.

**101.540 - CONDITIONAL USES**

The uses listed as Conditional Uses within the primary zone shall be subject to Sections 101.525, 101.555, and 101.565, in addition to the requirements of the primary zone.

**101.545 - IMAGINARY SURFACE AND NOISE IMPACT BOUNDARY DELINEATION**

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface, direct and secondary impact boundaries shall be delineated and shall be made part of the Official Zoning Map. All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this zone.

**101.550 - NOTICE OF LAND USE AND PERMIT APPLICATIONS WITHIN SAFETY OVERLAY ZONES**

Except as otherwise provided herein, the County Planning Department shall provide written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within the largest of these safety zones, to the airport sponsor and the Department of Aviation in the same manner as notice is provided

to property owners entitled by law to written notice of land use or limited land use applications.

- A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 10,000 feet of the sides or ends of the runway.
- B. Notice of land use and limited land use applications shall be provided within the following timelines:
  - 1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to such notice.
  - 2. Notice of land use or limited land use applications not involving public hearings shall be provided at least twenty (20) days prior to the initial decision on the land use or limited land use application.
- C. Notice of the decision on the land use or limited land use application shall be provided to the airport sponsor within the same timelines that notice is provided to parties to the proceeding.
- D. Notices required under Paragraphs A-C of this Section need not be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:
  - 1. Restricts structures to a height of less than thirty-five (35) feet. (Height of Building is defined in Article 11);
  - 2. Involves property located entirely outside the approach surface;
  - 3. Does not involve industrial uses, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and
  - 4. Does not involve wetland mitigation, creation, enhancement or restoration.

**101.555 - HEIGHT LIMITATIONS ON ALLOWED USES WITHIN SAFETY OVERLAY ZONES**

- A. The allowable height of any building, structure, or tree within the airport overlay shall conform to the following: the ground level elevation above sea level plus the height of any structure, building, use, or tree at its proposed elevation shall not penetrate any approach, transitional, horizontal, or conical surface of airport as indi-

cated on the Josephine County Airport Master Plan and/or County document, unless specifically allowed by the FAA and Josephine County as part of a Conditional Use Permit.

- B. Height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall be subject to the procedures and standards in Article 44 of the RLDC, and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.

#### **101.560 - PROCEDURES**

An applicant seeking a land use or limited land use approval or a building permit in an area within safety overlay zones enacted by this ordinance shall provide the following information to the County Planning Department, in addition to any other information required in the permit application:

- A. The property development standards in the underlying zone shall apply to all development in this overlay. The standards contained in this Article shall be in addition to the standards in the underlying zone.
- B. If a height variance is requested, letters of support from the airport sponsor, the Department of Aviation and the FAA shall be submitted with the application.

#### **101.565 - LAND USE COMPATIBILITY REQUIREMENTS**

Applications for land use or building permits for properties within the boundaries of these safety overlay zones shall demonstrate that the proposed use will not:

- A. Create electrical interference with radio communications between the airport and aircraft;
- B. Make it difficult for flyers to distinguish between airport lights and other lights;
- C. Result in glare in the eyes of flyers using the airport;
- D. Impair visibility in the vicinity of the airport; or
- E. Otherwise endanger the landing, taking off, or maneuvering of aircraft.

#### **101.570 - WATER IMPOUNDMENTS WITHIN SAFETY OVERLAY ZONES**

No new water impoundments of one-quarter acre or larger shall be allowed:

- A. Within an approach corridor and within 5,000 feet from the end of a runway, or

- B. On land owned by the airport or airport sponsor where the land is necessary for airport operations.

**101.575 - NONCONFORMING USES**

A. These regulations shall not be construed to require the removal, lowering or alteration of any existing structure or vegetation not conforming to these regulations. These regulations shall not require any change in the construction or alteration of the intended use of any structure, the construction or alteration of which was begun or completed prior to the effective date of this safety overlay zone.

B. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of the overlay zone.

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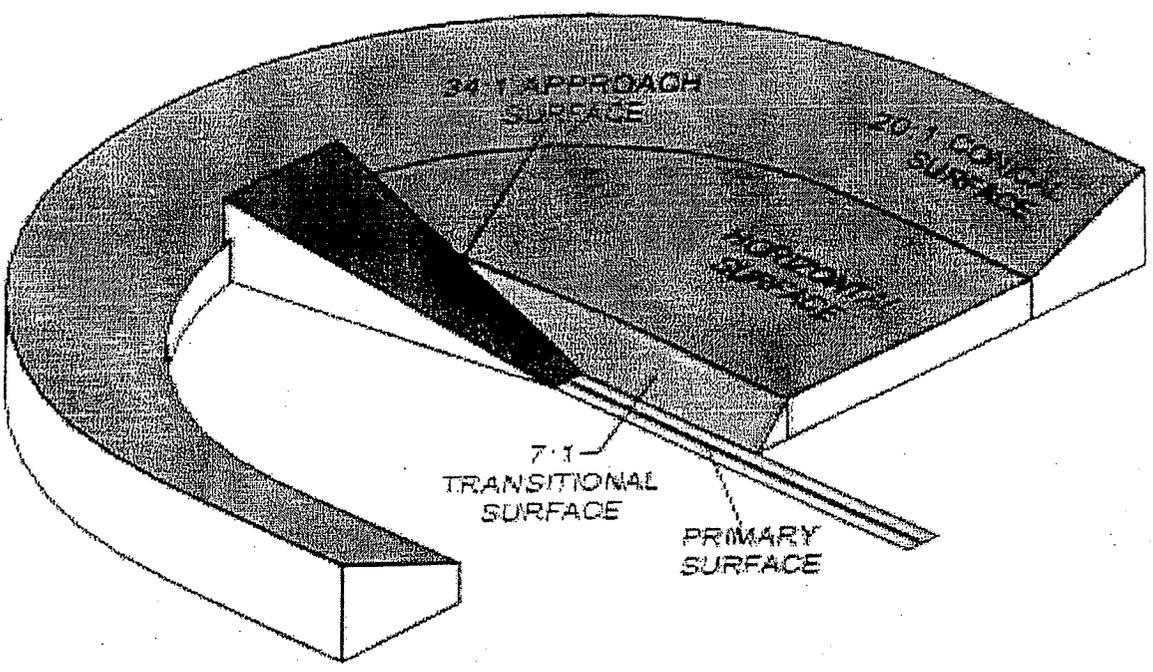
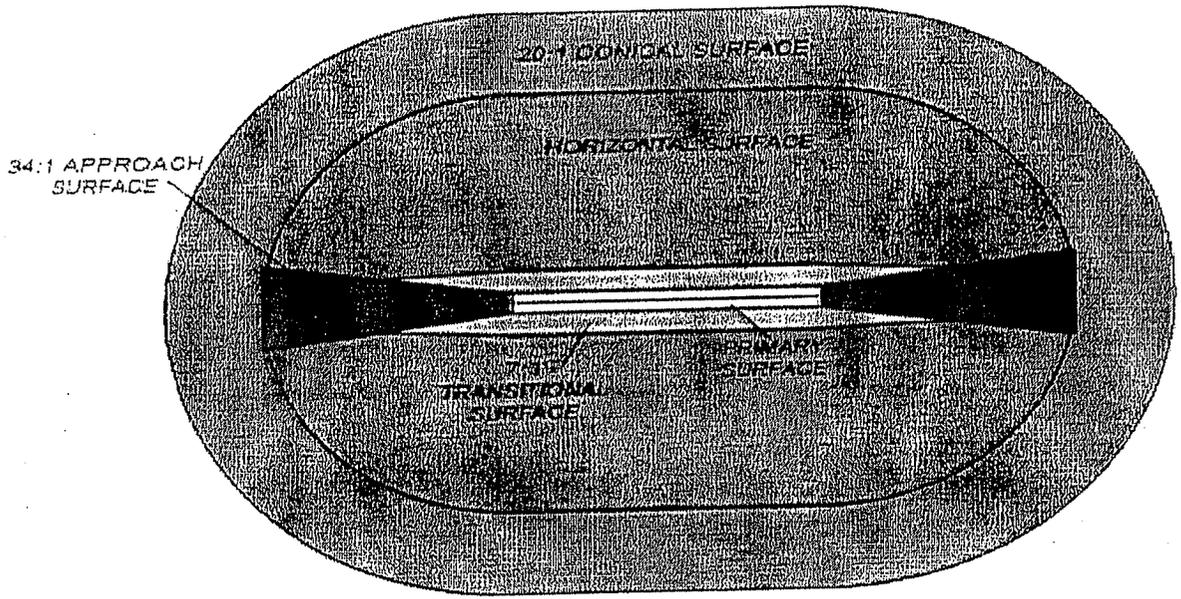
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**SECTION 2: AFFIRMATION**

Except as otherwise provided herein, Josephine County Ordinances 81-11 and 85-1 are hereby affirmed as originally adopted and previously amended.

**SECTION 3: EFFECTIVE DATE**

The first reading of this Ordinance by the Board of County Commissioners occurred this 17 day of August, 2011.

The second reading and adoption of this Ordinance by the Board of County Commissioners occurred on this 31 day of August, 2011, at least 13 days from the first reading. This Ordinance shall take effect ninety (90) days from the date of this second reading.

**JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS**

S. Cassanelli  
Sandi Cassanelli, Chair

Simon Hare  
Simon Hare, Vice Chair

Dwight F. Ellis  
Dwight F Ellis, Commissioner

**ATTEST:**

J. McElmurry  
Recording Secretary

**APPROVED AS TO FORM:**

Steven E. Rich  
Steven E. Rich, Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR JOSEPHINE COUNTY  
STATE OF OREGON

ORDINANCE NO. 2011-005

AN ORDINANCE AMENDING THE TEXT OF THE JOSEPHINE COUNTY RURAL LAND DEVELOPMENT CODE REGARDING THE EXTENSION OF LAND USE PERMIT APPROVALS BY [1] AMENDING SECTION 41.030 REGARDING TIME LIMITS, EXTENSION AND EXPIRATION OF LAND USE PERMITS BY ADDING THE OPPORTUNITY FOR AN ADDITIONAL TWO YEAR EXTENSION OF LAND USE PERMIT APPROVALS; AND [2] AMENDING SECTION 11.030 TERMS DEFINED BY ADDING AND CLARIFYING LANGUAGE FOR THE DEFINITION OF SUBSTANTIAL DEVELOPMENT

WHEREAS, the planning office realizes conditions or circumstances can and do change for applicants during the land use permit process and the proposed new language expands opportunities for changes; and

WHEREAS, Section 41.130 of the Rural Land Development Code (RLDC), *Time Limit, Extension & Expiration of Permits*, currently states land use permits expire after 2 years unless a one-time 2 year extension is obtained prior to expiration of the original 2 years; and

WHEREAS, due to the current downturn in local real estate markets, the lack of market activity, and the resulting difficulties in obtaining or continuing financing for development, a local Developer and a Land Use Consultant of Josephine County had petitioned the Board of County Commissioners to change the code to allow an additional 2 year time extension for land use permit approvals; and

WHEREAS, new language is added to clarify the definition of substantial development so that it provides clear and objective language to apply to land use matters; and

WHEREAS, the Josephine County Planning Director proposed amendments to the Josephine County Rural Land Development Code relating to the item captioned above for consideration by the Josephine County Planning Commission; and

WHEREAS, the Planning Commission, pursuant to the review authority granted in Section 46.020 of the RLDC, and Goal 11, Policy 1, of the Josephine County Goals and Policies of the Comprehensive Plan, conducted a public hearing on June 27, 2011 regarding the proposed text amendments, after required notice by publication, community advertisement, and mailing to interested persons, agencies and organizations; and

WHEREAS, after due consideration of the proposed amendments and the testimony and evidence from those participating at the hearing, the Planning Commission concluded by a vote of 3-2 to approve the amendments; and

WHEREAS, written findings of approval were prepared, approved, and signed by the Planning Commission Chair on July 5, 2011, which findings have been entered into the official record of the proceedings kept by the Planning Director; and

WHEREAS, notice of the Planning Commission's decision was given as required by law, and the decision having now become final without appeal; and

WHEREAS, the Josephine County Board of Commissioners, upon review of the record of the Planning Commission proceedings and the written Findings of Approval, and after discussing these matters with the Josephine County Planning Director, find the approved text amendments advance the policies and purposes of the Josephine County Comprehensive Plan; and

WHEREAS, the authority to implement legislative amendments to the county's comprehensive plan by ordinance resides solely with the Board of Commissioners, as specified in Goal 11, Policy 1.D[2], and the RLDC, Section 46.020.B.2;

NOW, THEREFORE, based on the foregoing, the Board of County Commissioners of Josephine County Oregon, hereby ordain the following amendments to the text of the Josephine County Rural Land Development Code:

#### Section 1. Text Amendment

##### 41.030 - TIME LIMIT, EXTENSION & EXPIRATION OF PERMITS

- A. All land use permits, except development permits and permits which have special conditions relating to expiration and/or renewal attached to them, shall expire 2 years after the date findings of approval are executed unless substantial development occurs.
- B. If substantial development does not occur within the life of the permit, the permit holder may be granted a 2 year extension of the permit. A second 2 year extension may also be granted, so that total permit life may exceed 4 years, but in no case more than 6 years subject to the following findings:
  1. The request is made by filing a request for an extension on forms provided by the planning office, together with a pre-application fee; and
  2. The request is made before the original permit expires, or, if the request is made after the original permit expires, the extension(s) shall include the time between expiration and extension so total permit life does not exceed 6 years; and
  3. No changes in applicable criteria-based state laws or rules or county land development regulations have occurred since the date of original approval. The Director may apply conditions to the extension as needed to implement changes in standards of approval only, using the Ministerial Review Procedures as set forth in Article 22.

4. In the event changes in applicable criteria-based laws, rules or regulations occur, a new application and application fee shall be required. The application shall be processed using quasi-judicial review procedures per Article 22.040.
  5. See, Article 11.030 for the definitions of "Substantial Development," "Criterion of Approval" and "Standards of Approval."
- C. When the permit involves the establishment of a specific use or activity and the use or activity actually commences, but then discontinues for any continuous period of 2 years, the permit shall expire, and the use shall be considered abandoned, unless an extension is obtained in conformance with requirements of subsection B. of this Section.
- D. Time limits, extension and expiration of land use permits for dwellings within the Farm and Forest Zones shall be governed separately by Sections 64.070.D and 65.070.G of this code.

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## DEFINITIONS

### 11.030 - TERMS DEFINED

**Substantial Development.** Actions taken by the permit holder which encompass more than simple site preparation and grading. When actual site and/or physical improvements that constitute a considerable part of the whole project have been lawfully undertaken, such improvements must encompass more than simple site preparation or surveying, and must include physical site, structure and/or facility development:

- A. For individual home site approvals, substantial development shall mean:
1. A development permit as required by the land use approval has been issued; and
  2. Evidence the following site improvements have been installed:
    - a. A septic system, or approved connection to a sewerage system provided for the property; or,
    - b. A system of delivering an approved source of water supply to the property (i.e. well report and registration approved by the Water Resources Department of Oregon); verified for domestic use by a water quality report that confirms standards for potable water are met.

B. For Industrial/Commercial site development approvals, substantial development shall mean:

1. A development permit as required by the land use approval has been issued; and
2. Evidence the following site improvements have been installed:
  - a. A septic system, or approved connection to a sewerage system provided for the property; or
  - b. A system delivering an approved source of water supply to the property (i.e. well report and registration approved by the Water Resources Department of Oregon) adequate to support the approved use; and,

One of the following:

- a. An approved foundation has been constructed for the use subject to land use approval; or
- b. Final engineering plans have been reviewed and approved by the County for site development.

### Section 2. Affirmation

Except as specifically amended by the provisions of this Ordinance, the Comprehensive Plan (Ordinance 81-11) is hereby affirmed in all other respects.

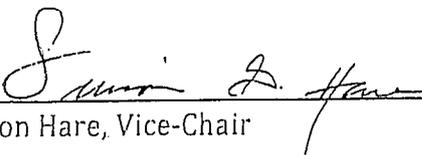
### Section 3. Effective Date:

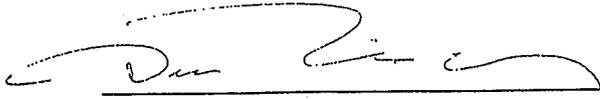
The first reading of this Ordinance by the Board of County Commissioners occurred this 11 day of August, 2011.

The second reading and adoption of this Ordinance by the Board of County Commissioners occurred on this 7 day of September, 2011, at least thirteen (13) days from the first reading. This Ordinance shall take effect ninety (90) days from the date of this second reading.

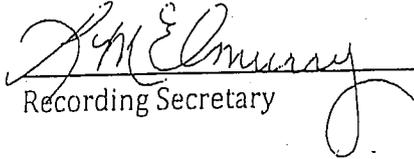
**JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS:**

S. Cassanelli  
Sandi Cassanelli, Chair

  
Simon Hare, Vice-Chair

  
Don Reedy, Commissioner

ATTEST:

  
Recording Secretary

APPROVED AS TO FORM:

  
Steven E. Rich, Legal Counsel