

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

**ORDINANCE NO. 2010-001**

**AN ORDINANCE AMENDING THE TEXT OF THE JOSEPHINE COUNTY RURAL  
LAND DEVELOPMENT CODE (ORDINANCE 94-4) REGARDING THE MODIFICA-  
TION, EXPIRATION AND EXTENSION OF LAND USE PERMITS.**

WHEREAS, the Planning Director initiated a public hearing before the Josephine County Planning Commission, after consultation with the Board of County Commissioners, and also pursuant to Section 31.030.A.3 of the Josephine County Rural Land Development Code (RLDC) to consider certain amendments regarding the modification, expiration and extension of land use permits; and

WHEREAS, the Planning Commission, pursuant to the review authority granted in Section 46.020 of the RLDC, conducted a public hearing on November 9, 2009 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 voted 6-0 to approve the amendments; 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 text amendments advance the policies and purposes of the Josephine County Comprehensive Plan, and

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

**Section 1. Text Amendment**

Amend the Josephine County Rural Land Development Code by making the following four amendments:

[1] 50.120 - MODIFICATIONS OF CONDITIONS OF APPROVAL

~~A. During the course of development of an approved tentative plan or final plat the Directors authorized to modify one or more of the conditions of approval when all of the following exist: The property owner or the owner's representative may request the modification of a condition or conditions of approval for a tentative~~

plan before or after final plat. The request must be in writing and shall identify the specific condition or conditions to be modified and explain the reasons or circumstances giving cause for modification.

~~1. A complication exists in the performance of a condition of the approval resulting from an unanticipated circumstance arising from a physical condition on or off site; and~~

~~2. The complication prevents performance of the condition.~~

~~B The developer shall file a request for a modification with the Director. The request shall be in writing and shall set forth in detail the complication necessitating modification or change, why the complication was unanticipated, identify the condition to be modified, and demonstrate why performance of the condition is prevented. The request shall be accompanied by a pre-application fee. Requests for modification of conditions of approval for tentative plans, except tentative plans for property line adjustments approved using ministerial procedures, shall be processed using quasi-judicial review procedures as set forth in Section 22.040 of this code. The Planning Director shall be the review body in all cases. Requests for modification of conditions for property line adjustments shall be processed using ministerial review procedures as set forth in Section 22.030 of this code and shall be accompanied by a pre-application fee. Requests for modification using quasi-judicial procedures shall be accompanied by fees for standards only site plan review and re-noticing.~~

~~C A decision by the Director to modify or not modify a condition or conditions shall be processed using ministerial review procedures as set forth in Article 22. Notwithstanding subsection B. above, the Planning Director is authorized to refer any request for modification of a condition of approval to a hearing body for decision. Requests referred to a public hearing shall require a fee equivalent to the original application fee.~~

~~D. The applicant may appeal the Director's decision not to allow a modification of a condition of the tentative plan, subject to the rules and procedures for the appeal of planning director decisions as set forth in Article 33.070.~~

## [2] 50 130 - TIME LIMITS & EXTENSIONS

A. An approved tentative plan is valid for 2 years from the date of approval. During this time improvements must either be completed or suitably guaranteed, and a final plat and final plat review fee must be submitted. If the improvements are not completed or suitably guaranteed, and a final plat and final plat review fee is not submitted for approval, the tentative plan approval shall be become null and void, unless an extension or extensions are obtained as provided in subsection B. below

E An extension of the tentative plan approval shall may be granted for an additional 2 year period by the Planning Director in accordance with Section 41.030. A

second 2 year extension may also be granted for tentative plans approved between January 1, 2006 and January 1, 2011, also in accord with Section 41.030, except total permit life may exceed 4 years, but in no case more than 6 years

- C. A decision by the Planning Director to grant or not grant an extension shall be processed using ministerial review procedures as set forth in Article 22. The Planning Director is authorized to refer any request for an extension to a hearing body for a decision. Requests referred to a public hearing shall require a fee equivalent to the original application fee.
- D. The applicant may appeal the Planning Director's decision not to allow an extension subject to the rules and procedures for the appeal of planning director decisions as set forth in Article 33.070.

[3] 56 030 - APPLICATION REQUIREMENTS

An application for final plat approval shall be required for all land divisions. The application shall be filed with the Planning Director and shall include up to 5 copies of the final plat drawing that conforms to the conditions of tentative approval and the procedural and mapping requirements of this Article and Article 57 regarding monumentation and applicable Oregon Revised Statutes. The Planning Director is authorized to reduce the number of copies of the final plat when fewer than 5 copies are needed to accomplish review. Applications for final plats shall be submitted to the Planning Director within two years from the date of tentative approval, together with the required fee. Failure to submit a final plat application within this time limit shall render the tentative approval null and void the time limit and extension periods as provided in Sections 50.130 and 41.030 of this code, together with the required review fee for final plats.

[4] 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 ~~as defined in Section 11.030.~~
- B. If substantial development does not occur within the life of the permit, the permit holder may request a one-time 2 year extension of the permit ~~from the Director~~ subject to all of the following findings requirements
  - 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 or any subsequent extension expires, or, if the request is made after the original permit expires, the 2 year extension shall include the time between expiration and extension so total permit life does not exceed 4 years; and

3. There have been No changes in the circumstances, applicable criteria-based state laws or rules or county land development regulations have occurred since the date of criteria of standards of approval used to support the original approval or subsequent extension. The Planning 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 definitions of "Substantial Development," "Criterion of Approval" and "Standards of Approval."

~~C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22-~~

D. 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.

E. Time limits, extensions and expiration of land use permits for dwellings within the Farm and Forest Zones shall be governed separately by Sections 64.070 C and 65.070.G of this code.

**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.

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**Section 3. Effective Date:**

First reading by the Board of County Commissioners this 27<sup>th</sup> day of January 2010.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 10<sup>th</sup> day of ~~January~~ February 2010. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

**JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS:**

**Absent at Signing**

\_\_\_\_\_  
Dwight F Ellis, Chair

S. Cassanelli  
\_\_\_\_\_  
Sandi Cassanelli, Vice-Chair

Dave Toler  
\_\_\_\_\_  
Dave Toler, Commissioner

**ATTEST:**

J. McEnerry  
\_\_\_\_\_  
Recording Secretary

**APPROVED AS TO FORM:**

Steven E. Rich  
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Steven E. Rich, Legal Counsel