

**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.

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:

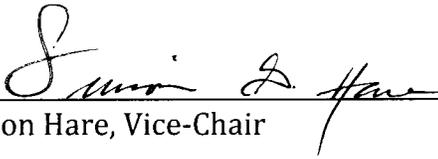
The first reading of this Ordinance by the Board of County Commissioners occurred this 11 day of August, 2011.

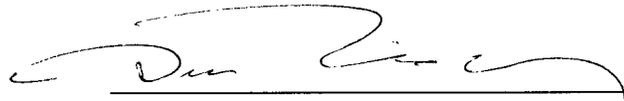
The second reading and adoption of this Ordinance by the Board of County Commissioners occurred on this 7 day of September, 2011, at least thirteen (13) days from the first reading. This Ordinance shall take effect ninety (90) days from the date of this second reading.

JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS:



Sandi Cassanelli, Chair


Simon Hare, Vice-Chair


Don Reedy, Commissioner

ATTEST:


Recording Secretary

APPROVED AS TO FORM:


Steven E. Rich, Legal Counsel