



# Oregon

Theodore R. Kubongoski, 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

3/25/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Ashland Plan Amendment  
DLCD File Number 005-09

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: Tuesday, April 06, 2010

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: Brandon Goldman, City of Ashland  
Gloria Gardiner, DLCD Urban Planning Specialist  
John Renz, DLCD Regional Representative

<paa> YA





FORM 2

DLCD

# Notice of Adoption

DEPT OF

MAR 18 2010

LAND CONSERVATION  
AND DEVELOPMENT

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

Jurisdiction: **City of Ashland**

Local file number: **PA2009-01610**

Date of Adoption: **3/2/2010**

Date Mailed: **3/16/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: **12/23/2009**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Land Use Procedures**

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Ordinance revision concerning a 'Recession' timetable extension allowance for development activity that was unable to proceed due to the national recession.

Ordinance revision allowing the timetable to be suspended for appeals of approved Planning Actions so long as an application is still within an appeal process to the Land Use Board of Appeals, Oregon Circuit Court, or Oregon Supreme Court.

Both ordinances modified sections 18.108 and 18.112 of the Ashland Land Use Ordinance

Does the Adoption differ from proposal? Yes, Please explain below:

The final version changed the term of the allowable one-time recession extension from 18 months as proposed to 12 months. The final version modified the eligibility period for those applicants eligible for the recession extension.

No substantial changes were made to the Timetable Tolling ordinance.

Plan Map Changed from:

to:

Zone Map Changed from:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-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. 005-09 (18026) [16057]



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

None

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Local Contact: **Brandon Goldman**

Phone: (541) 552-2076 Extension:

Address: 20 East Main St.

Fax Number: 541-552-2076

City: Ashland

Zip: 97520

E-mail Address: [goldmanb@ashland.or.us](mailto:goldmanb@ashland.or.us)

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## ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 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, please print this Form 2 on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp. (for submittal instructions, also see # 5)] MAIL the PAPER COPY and CD of the Adopted Amendment to:

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

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE NO. 3005

AN ORDINANCE AMENDING AMC 18.108.070 AND AMC 18.112,  
CONCERNING TIMETABLE TOLLING

Annotated to show deletions and additions to the code sections being modified.  
Deletions are **bold lined through** and additions are **bold underlined**.

**WHEREAS**, Article 9. Section 1, of the Ashland City Charter provides:

Violation of Charter, Ordinance and Laws The Council, at any regular or adjourned meeting, shall have the power within the limits of the City of Ashland to enact laws, ordinances and pass resolutions not in conflict or inconsistent with the laws of the United States, the State of Oregon, or the provisions of this Charter; and to provide for punishment of any person or persons found guilty by a competent tribunal of the violation of any such laws, ordinances, or any of the provisions of this Charter, by fine or imprisonment of such offender, until such fine and costs are paid; and

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293, 531 P 2d 730, 734 (1975); and

**WHEREAS**, the Ashland Municipal Code does not expressly toll or suspend development timetables in the event the project is subject to a LUBA or Circuit Court proceeding; and

**WHEREAS**, the City of Ashland, acting by and through the City Council, desires to expressly provide for timetable tolling during pending appeals and proceedings; and

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

**SECTION 1: Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2: Amendment.** AMC 18.108.070 [Effective Date of Decision and Appeals]

is hereby amended to add a new subsection D:

### **18.108.070 Effective Date of Decision and Appeals**

- A. Ministerial actions are effective on the date of the decision of the Staff Advisor and are not subject to appeal.
- B. Actions subject to appeal:
  - 1. **Expedited Land Divisions.** Unless appealed within 14 days of mailing a notice of decision, the Staff Advisor decision becomes final on the 15<sup>th</sup> day. Appeals shall be considered as set forth in ALUO 18.108.030(C) and ORS 197.375.
  - 2. **Type I Planning Actions.**
    - a. **Effective Date of Decision.** The final decision of the City for planning actions resulting from the Type I Planning Procedure shall be the Staff Advisor decision, effective on the 13<sup>th</sup> day after notice of the decision is mailed unless reconsideration of the action is approved by the Staff Advisor or appealed to the Commission as provided in section 18.108.070(B)(2)(c).
    - b. **Reconsideration.** The Staff Advisor may reconsider Type I planning actions as set forth below.
      - i. Any party entitled to notice of the planning action, or any City Agency may request reconsideration of the action after the decision has been made by providing evidence to the Staff Advisor that a factual error occurred through no fault of the party asking for reconsideration, which in the opinion of the staff advisor, might affect the decision. Reconsideration requests are limited to factual errors and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
      - ii. Reconsideration requests shall be received within five (5) days of mailing. The Staff Advisor shall decide within three (3) days whether to reconsider the matter.
      - iii. If the Planning Staff Advisor is satisfied that an error occurred crucial to the decision, the Staff Advisor shall withdraw the decision for purposes of reconsideration. The Staff Advisor shall decide within ten (10) days to affirm, modify, or reverse the original decision. The Staff Advisor shall send notice of the reconsideration decision to affirm, modify, or reverse to any party entitled to notice of the planning action.
      - iv. If the Staff Advisor is not satisfied that an error occurred crucial to the decision, the Staff Advisor shall deny the reconsideration request. Notice of denial shall be sent to those parties that requested reconsideration.
    - c. **Appeal.**



- i. Within twelve (12) days of the date of the mailing of the Staff Advisor's final decision, including any approved reconsideration request, the decision may be appealed to the Planning Commission by any party entitled to receive notice of the planning action. The appeal shall be submitted to the Planning Commission Secretary on a form approved by the City Administrator, be accompanied by a fee established pursuant to City Council action, and be received by the city no later than 4:30 p.m. on the 12<sup>th</sup> day after the notice of decision is mailed.
    - ii. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee required in this section shall not apply to appeals made by neighborhood or community organizations recognized by the city and whose boundaries include the site.
    - iii. The appeal shall be considered at the next regular Planning Commission or Hearings Board meeting. The appeal shall be a de novo hearing and shall be considered the initial evidentiary hearing required under ALUO 18.108.050 and ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. The Planning Commission or Hearings Board decision on appeal shall be effective 13 days after the findings adopted by the Commission or Board are signed by the Chair of the Commission or Board and mailed to the parties.
    - iv. The appeal requirements of this section must be fully met or the appeal will be considered by the city as a jurisdictional defect and will not be heard or considered.
  - d. **Final Decision of City.** The decision of the Commission shall be the final decision of the City on appeals heard by the Commission on Type I Planning actions, effective the day the findings adopted by the Commission are signed by the Chair and mailed to the parties.
3. **Type II Planning Actions.**
- a. **Effective Date of Decision.** The decision of the Commission is the final decision of the City resulting from the Type II Planning Procedure, effective 13 days after the findings adopted by the Commission are signed by the Chair of the Commission and mailed to the parties, unless reconsideration of the action is authorized as provided in Section (b) below or appealed to the Council as provided in section 18.108.110.A.
  - b. **Reconsideration.**
    - i. The Staff Advisor on his/her own motion, or any party entitled to notice of the planning action may request reconsideration of the action after the Planning Commission final decision has been made by providing evidence to the Staff Advisor addressing one or more of the following: (1) new evidence material to the decision exists which was unavailable, through no fault of the requesting party, when the record

- of the proceeding was open; (2) a factual error occurred through no fault of the requesting party which is relevant to an approval criterion and material to the decision; (3) a procedural error occurred, through no fault of the requesting party, that prejudiced the requesting party's substantial rights and remanding the matter will correct the error. Reconsideration requests are limited to errors identified above and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
- ii. Reconsideration requests shall be received within seven (7) days of mailing. The Staff Advisor shall promptly decide whether to reconsider the matter.
  - iii. If the Staff Advisor is satisfied that an error occurred as identified above and is crucial to the decision, the Staff Advisor shall schedule reconsideration with notice to participants of the matter before the Planning Commission. Reconsideration shall be scheduled before the Planning Commission at the next regularly scheduled meeting. Reconsideration shall be limited to the portion of the decision affected by the alleged errors identified in paragraph 3.b.i above.
  - iv. The Planning Commission shall decide to affirm, modify, or reverse the original decision. The Planning Commission Secretary shall send notice of the reconsideration decision to any party entitled to notice of the planning action.
- c. **Final Decision of City.** Unless the decision is remanded to the Planning Commission, the decision of the City Council shall be the final decision of the City on appeals heard by the Council, on Type II Planning actions, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.
4. **Type III Planning Actions.** For planning actions described in section 18.108.060.A.1 thru 4, the decision of the Council shall be the final decision of the City, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.
  5. **Council Call Up.** The City Council may call up any planning action for a decision upon motion and majority vote, provided such vote takes place in the required appeal period. Unless the planning action is appealed and a public hearing is required, the City Council review of the Planning Action is limited to the record and public testimony is not allowed. The City Council may affirm, modify or reverse the decision of the Planning Commission, or may remand the decision to the Planning Commission for additional consideration if sufficient time is permitted for making a final decision of the city. The City Council shall make findings and conclusions and cause copies of a final order to be sent to all parties of the planning action.
- C. No building or zoning permit shall be issued for any action under this Title until the decision is final, as defined in this section.

- D. Notwithstanding any other provision of this Chapter, in the event a LUBA appeal or a Circuit Court proceeding is filed concerning a final land use decision of the City, the timetable of development is deemed tolled or suspended from the date of the final decision of the City until final resolution of all appeals or final action on remand, whichever is later, not to exceed 24 months. After resolution of all such appeals or remands, timetables shall be adjusted in writing by the Staff Advisor to reflect this automatic tolling, regardless of the approval authority.

SECTION 3: **Amendment.** Section 18.112.030 [Revocation- permit expiration] is hereby amended to read as follows:

**18.112.030 Revocation--permit expiration** Any zoning permit, or planning action granted in accordance with the terms of this Title shall be deemed revoked if not used within one year from date of approval, unless another time period is specified in another section of this Title. Said permit shall not be deemed used until the permittee has actually obtained a building permit, and commenced construction thereunder, or has actually commenced the permitted use of the premises. If an application for extension is deemed complete for processing prior to the timetable expiration date, the permit or action shall not expire by operation of this section unless the application is abandoned or not approved or denied within 90 days. The Staff Advisor may grant an extension of the approval under the following conditions:

- ~~1. One time extension no longer than eighteen (18) months is allowed.~~
- ~~2. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completed the development within the original time limitation.~~
- ~~3. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and the applicant agrees to comply with any such changes.~~

SECTION 4: **Amendment.** A new Section 18.112.035 [Timetable Extension] is hereby added to read as follows:

#### **18.112.035 Timetable Extension**

A. The Staff Advisor shall grant a timetable extension of any zoning permit or planning action approval under demonstrated compliance with the following conditions:

1. One time extension no longer than eighteen (18) months is allowed.



**2. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completing the development within the original time limitation.**

**3. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and there is no material effect upon the original approval, and the applicant agrees to comply with any new requirements, as a condition the extension.**

SECTION 5. **Amendment.** Section 18.112.090 is hereby amended to read as follows:

**18.112.090 Penalties** Any person, firm or corporation, whether as principal, agent employee, or otherwise, violating or causing the violation of any of the provisions of this Title has committed **a Class A violation offense**, ~~an infraction~~, and upon conviction thereof is punishable as prescribed in Section 1.08.020 of the Ashland Municipal Code, **subject to the limitations of the Ashland City Charter**. Such person, firm, or corporation is guilty of a separate violation for each and every day during any portion of which any violation of this Title is committed or continued by such person, firm or corporation.

SECTION 6. **Amendment.** Section 18.112.100 is hereby amended to read as follows:

**18.112.100 Complaints.** Complaints concerning violations to this Title can be initiated **only as provided in AMC Chapter 1.08.** ~~by: (1) written complaint filed by an affected citizen; (2) any City departmental official responsible for the enforcement of this code; or (3) the City Administrator or City Attorney.~~

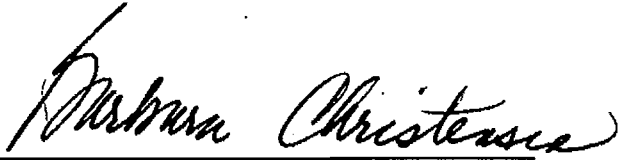
SECTION 7. **Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 8. **Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the time said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 9. **Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1,

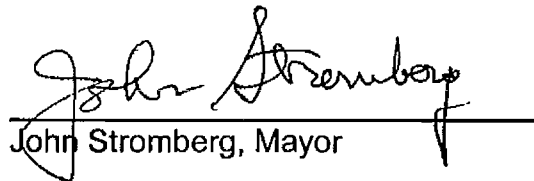
7-9) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors, and to combine in the codification multiple ordinances amending the same section.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 16 day of February, 2010 and duly PASSED and ADOPTED this 2 day of March, 2010.



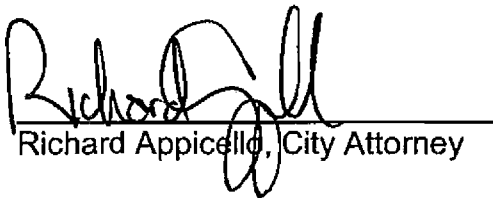
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this 3 day of March, 2010



John Stromberg, Mayor

Reviewed as to form:



Richard Appicello, City Attorney

ORDINANCE NO. 3007

AN ORDINANCE AMENDING AMC 18.108.070 AND AMC 18.112,  
CONCERNING TIMETABLE EXTENSIONS

Annotated to show deletions and additions to the code sections being modified. Deletions are **bold lined through** and additions are **bold underlined**.

**WHEREAS**, Article 9. Section 1, of the Ashland City Charter provides:

Violation of Charter, Ordinance and Laws The Council, at any regular or adjourned meeting, shall have the power within the limits of the City of Ashland to enact laws, ordinances and pass resolutions not in conflict or inconsistent with the laws of the United States, the State of Oregon, or the provisions of this Charter; and to provide for punishment of any person or persons found guilty by a competent tribunal of the violation of any such laws, ordinances, or any of the provisions of this Charter, by fine or imprisonment of such offender, until such fine and costs are paid; and

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293, 531 P 2d 730, 734 (1975); and

**WHEREAS**, the economic downturn occurring since early 2006 has caused a severe slow down in all aspects of land development and building activity; and

**WHEREAS**, while financing for new development and building activity is constrained, it is important to the continuing economic health of the community to extend the validity of existing development approvals so that such developments may more readily attain a shovel-ready status contributing to economic recovery; and

**WHEREAS**, the City of Ashland, acting by and through the City Council, desires to provide for a uniform twelve (12) month timetable extension for all development approvals due to the recent economic downturn; and

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

**SECTION 1: Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2: Amendment.** AMC 18.108.070 [Effective Date of Decision and Appeals] is hereby amended to add a new subsection D:



## 18.108.070 Effective Date of Decision and Appeals

- A. Ministerial actions are effective on the date of the decision of the Staff Advisor and are not subject to appeal.
- B. Actions subject to appeal:
  - 1. **Expedited Land Divisions.** Unless appealed within 14 days of mailing a notice of decision, the Staff Advisor decision becomes final on the 15<sup>th</sup> day. Appeals shall be considered as set forth in ALUO 18.108.030(C) and ORS 197.375.
  - 2. **Type I Planning Actions.**
    - a. **Effective Date of Decision.** The final decision of the City for planning actions resulting from the Type I Planning Procedure shall be the Staff Advisor decision, effective on the 13<sup>th</sup> day after notice of the decision is mailed unless reconsideration of the action is approved by the Staff Advisor or appealed to the Commission as provided in section 18.108.070(B)(2)(c).
    - b. **Reconsideration.** The Staff Advisor may reconsider Type I planning actions as set forth below.
      - i. Any party entitled to notice of the planning action, or any City Agency may request reconsideration of the action after the decision has been made by providing evidence to the Staff Advisor that a factual error occurred through no fault of the party asking for reconsideration, which in the opinion of the staff advisor, might affect the decision. Reconsideration requests are limited to factual errors and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
      - ii. Reconsideration requests shall be received within five (5) days of mailing. The Staff Advisor shall decide within three (3) days whether to reconsider the matter.
      - iii. If the Planning Staff Advisor is satisfied that an error occurred crucial to the decision, the Staff Advisor shall withdraw the decision for purposes of reconsideration. The Staff Advisor shall decide within ten (10) days to affirm, modify, or reverse the original decision. The Staff Advisor shall send notice of the reconsideration decision to affirm, modify, or reverse to any party entitled to notice of the planning action.
      - iv. If the Staff Advisor is not satisfied that an error occurred crucial to the decision, the Staff Advisor shall deny the reconsideration request. Notice of denial shall be sent to those parties that requested reconsideration.
    - c. **Appeal.**
      - i. Within twelve (12) days of the date of the mailing of the Staff Advisor's final decision, including any approved reconsideration request, the decision may be appealed to the Planning Commission by any party entitled to receive notice of the planning action. The appeal shall be submitted to the Planning Commission Secretary on a form approved by the City Administrator, be accompanied by a fee established pursuant to City Council action, and be received by the city no later than 4:30 p.m. on the 12<sup>th</sup> day after the notice of decision is mailed.
      - ii. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee required in this section shall not apply to appeals made by neighborhood or community organizations recognized by the city and whose boundaries include the site.

- iii. The appeal shall be considered at the next regular Planning Commission or Hearings Board meeting. The appeal shall be a de novo hearing and shall be considered the initial evidentiary hearing required under ALUO 18.108.050 and ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. The Planning Commission or Hearings Board decision on appeal shall be effective 13 days after the findings adopted by the Commission or Board are signed by the Chair of the Commission or Board and mailed to the parties.
  - iv. The appeal requirements of this section must be fully met or the appeal will be considered by the city as a jurisdictional defect and will not be heard or considered.
  - d. **Final Decision of City.** The decision of the Commission shall be the final decision of the City on appeals heard by the Commission on Type I Planning actions, effective the day the findings adopted by the Commission are signed by the Chair and mailed to the parties.
3. **Type II Planning Actions.**
- a. **Effective Date of Decision.** The decision of the Commission is the final decision of the City resulting from the Type II Planning Procedure, effective 13 days after the findings adopted by the Commission are signed by the Chair of the Commission and mailed to the parties, unless reconsideration of the action is authorized as provided in Section (b) below or appealed to the Council as provided in section 18.108.110.A.
  - b. **Reconsideration.**
    - i. The Staff Advisor on his/her own motion, or any party entitled to notice of the planning action may request reconsideration of the action after the Planning Commission final decision has been made by providing evidence to the Staff Advisor addressing one or more of the following: (1) new evidence material to the decision exists which was unavailable, through no fault of the requesting party, when the record of the proceeding was open; (2) a factual error occurred through no fault of the requesting party which is relevant to an approval criterion and material to the decision; (3) a procedural error occurred, through no fault of the requesting party, that prejudiced the requesting party's substantial rights and remanding the matter will correct the error. Reconsideration requests are limited to errors identified above and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
    - ii. Reconsideration requests shall be received within seven (7) days of mailing. The Staff Advisor shall promptly decide whether to reconsider the matter.
    - iii. If the Staff Advisor is satisfied that an error occurred as identified above and is crucial to the decision, the Staff Advisor shall schedule reconsideration with notice to participants of the matter before the Planning Commission. Reconsideration shall be scheduled before the Planning Commission at the next regularly scheduled meeting. Reconsideration shall be limited to the portion of the decision affected by the alleged errors identified in paragraph 3.b.i above.
    - iv. The Planning Commission shall decide to affirm, modify, or reverse the original decision. The Planning Commission Secretary shall send notice of the reconsideration decision to any party entitled to notice of the planning action.
  - c. **Final Decision of City.** Unless the decision is remanded to the Planning Commission, the decision of the City Council shall be the final decision of the City on appeals heard by the Council, on Type II Planning actions, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.

4. **Type III Planning Actions.** For planning actions described in section 18.108.060.A.1 thru 4, the decision of the Council shall be the final decision of the City, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.
  5. **Council Call Up.** The City Council may call up any planning action for a decision upon motion and majority vote, provided such vote takes place in the required appeal period. Unless the planning action is appealed and a public hearing is required, the City Council review of the Planning Action is limited to the record and public testimony is not allowed. The City Council may affirm, modify or reverse the decision of the Planning Commission, or may remand the decision to the Planning Commission for additional consideration if sufficient time is permitted for making a final decision of the city. The City Council shall make findings and conclusions and cause copies of a final order to be sent to all parties of the planning action.
- C. No building or zoning permit shall be issued for any action under this Title until the decision is final, as defined in this section.

SECTION 3: **Amendment.** Section 18.112.030 [Revocation- permit expiration] is hereby amended to read as follows:

**18.112.030 Revocation--permit expiration.** Any zoning permit, or planning action granted in accordance with the terms of this Title shall be deemed revoked if not used within one year from date of approval, unless another time period is specified in another section of this Title. Said permit shall not be deemed used until the permittee has actually obtained a building permit, and commenced construction thereunder, or has actually commenced the permitted use of the premises. **If an application for extension is deemed complete for processing prior to the timetable expiration date, the permit or action shall not expire by operation of this section unless the application is abandoned or not approved or denied within 90 days. The Staff Advisor may grant an extension of the approval under the following conditions:**

- ~~1. One time extension no longer than eighteen (18) months is allowed.~~
- ~~2. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completed the development within the original time limitation.~~
- ~~3. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and the applicant agrees to comply with any such changes.~~

SECTION 4: **Amendment.** A new Section 18.112.035 [Timetable Extension] is hereby added to read as follows:

**18.112.035 Timetable Extension**

**A. The Staff Advisor shall grant a timetable extension of any zoning permit or planning action approval under demonstrated compliance with the following conditions:**

- 1. One time extension no longer than eighteen (18) months is allowed.**



**2. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completing the development within the original time limitation.**

**3. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and there is no material effect upon the original approval, and the applicant agrees to comply with any new requirements, as a condition of the extension.**

**B. Notwithstanding any other provision of this Chapter, any zoning permit or planning action approval having received approval prior to July 1, 2009, and current as of January 1, 2010, shall be granted an additional twelve (12) month extension of time, upon application to the Staff Advisor. This extension is in addition to any other time extension previously granted or that may be granted. The Staff Advisor shall make the timetable adjustment regardless of the original approval authority.**

SECTION 5. **Amendment.** Section 18.112.090 is hereby amended to read as follows:

**18.112.090 Penalties** Any person, firm or corporation, whether as principal, agent employee, or otherwise, violating or causing the violation of any of the provisions of this Title has committed **a Class A violation offense, an infraction,** and upon conviction thereof is punishable as prescribed in Section 1.08.020 of the Ashland Municipal Code, **subject to the limitations of the Ashland City Charter.** Such person, firm, or corporation is guilty of a separate violation for each and every day during any portion of which any violation of this Title is committed or continued by such person, firm or corporation.

SECTION 6. **Amendment.** Section 18.112.100 is hereby amended to read as follows:

**18.112.100 Complaints.** Complaints concerning violations to this Title can be initiated **only as provided in AMC Chapter 1.08. by: (1) written complaint filed by an affected citizen; (2) any City departmental official responsible for the enforcement of this code; or (3) the City Administrator or City Attorney.**

SECTION 7. **Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

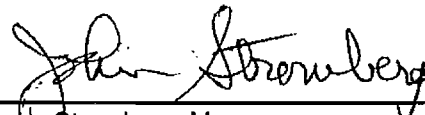
SECTION 8. **Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the time said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 9. **Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1, 7-9) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors and to combine in the codification multiple ordinances amending the same section.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the 16 day of February, 2010 and duly PASSED and ADOPTED this 2 day of March, 2010.

  
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this 3 day of March, 2010

  
John Stromberg, Mayor

Reviewed as to form:

  
Richard Appicello, City Attorney



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MAR 18 2010



CITY HALL  
20 EAST MAIN STREET  
ASHLAND, OR 97520

CITY OF  
ASHLAND

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

