

**City of Prineville**

**ORDINANCE NO. 1166**

**AN ORDINANCE AMENDING CHAPTER 153, SECTION 259 OF THE CITY OF PRINEVILLE CODE OF ORDINANCES**

WHEREAS, the current Prineville Code limits land use approvals to three one-year extensions beyond the original approval; and

WHEREAS, there are times when general economic conditions are such that additional extensions may be necessary to allow projects to be completed without an unnecessary burden being placed on a developer to re-apply for a previously approved land use; and

WHEREAS, there is currently a development (Tom McCall Subdivision, Phase II) which has a third extension that expires December 15, necessitating this ordinance to be passed by emergency, with two readings by Council but making it effective immediately upon the second reading;

THEREFORE, BY EMERGENCY, THE PEOPLE OF THE CITY OF PRINEVILLE ORDAIN AS FOLLOWS:

**Chapter 153, Section 259 of the Code of Prineville is amended to read as follows:**

**§153.259 LIMITATIONS ON APPROVALS**

- 153.259.010** Expiration of approval
- 153.259.020** Initiation of use
- 153.259.030** Modification of approval
- 153.259.040** Transfer of permit
- 153.259.050** Revocation of approvals

(Ord. 1057, passed 3-24-98; Am. Ord. 1104, passed 5-13-03, Am. Ord. 1137, passed 11-26-2006)

**§153.259.010. Expiration of approval.**

A. Scope.

1. Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under the City of Prineville Land Development Ordinance and the various zoning ordinances administered by City of Prineville.

2. 153.259.010 does not apply to:

a. Those determinations made by declaratory ruling or expiration determinations, that involve a determination of the legal status of a property, land use or land use permit rather than whether a particular application for a specific land use meets the applicable standards of the zoning ordinance. Such determinations, whether favorable or not to the

applicant or landowner, shall be final, unless appealed, and shall not be subject to any time limits.

b. Quasi-judicial map changes.

B. Duration of Approvals.

1. Except as otherwise provided under this section or under applicable zoning ordinance provisions, a land use permit is void one year after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period.

2. Except as otherwise provided under applicable ordinance provisions, preliminary approval of plats or master plans shall be void after one year from the date of preliminary approval, unless the final plat has been submitted to the Planning Department for final approval within that time period, or an extension is sought under 153.259.010(C), or the preliminary plat or master plan approval has been initiated as defined herein.

3. In cases of a land use approval authorized under applicable approval criteria to be completed in phases, each phase must be initiated within one year of completion of the prior phase, if no timetable is specified.

C. Extensions.

1. The Planning Director may grant one extension of up to one year for a land use approval or a phase of a land use approval, regardless of whether the applicable criteria have changed, if:

a. An applicant makes a written request for an extension of the development approval period;

b. The request, along with the appropriate fee, is submitted to the City prior to the expiration of the approval period;

c. The applicant states reasons that prevented the applicant from beginning or continuing development or meeting conditions of approval within the approval period; and

d. The City determines that the applicant was unable to begin or continue development or meet conditions of approval during the approval period for reasons for which the applicant was not responsible, including, but not limited to, delay by a state or federal agency in issuing a required permit.

e. All fees charged to the project have been paid.

2. Up to two additional one-year extensions, may be granted under the above criteria by the Planning Director or his/her designees with the condition that all plans be brought up to current city standards, including Land Use and Zoning Code requirements and Standards and Specifications.

3. Any additional extensions beyond the three allowed under 1 and 2 above may only be approved by City Council. Such extensions shall be based on the following:

a. All requirements listed for extensions under 1 (a), (b), (c), (e) and 2 above are met.

b. Council determines that, due to unforeseen general economic conditions, reasonable expectations for developing the project in a given timeframe have changed since the date of the original approval. General economic conditions refer to citywide (or broader) conditions, not the specific economic situation of the applicant.

c. The applicant demonstrates that a substantial effort has been made to move the project forward. Evidence of substantial effort shall be evaluated at the discretion of the Council and may include planning, engineering, architectural design, bonding for or construction of public improvements, or other similar demonstrations of economic commitment.

D. Procedures.

1. A determination of whether a land use has been initiated shall be processed as a declaratory ruling.

2. Approval of an extension granted under DCC 153.259.010(c) is an administrative decision, is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision and shall be processed under 153.250 as a development action, except to the extent it is necessary to determine whether the use has been initiated.

E. Effect of Appeals. The time period set forth in 153.259.010(B) shall be tolled upon filing of an appeal to LUBA until all appeals are resolved.

APPROVED BY THE CITY COUNCIL ON THE 8<sup>th</sup> DAY OF December, 2009.

APPROVED BY THE MAYOR ON THE 8<sup>th</sup> DAY OF December, 2009.

  
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Mike Wendel, Mayor

Attest: 12/8/09  
Date

  
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Steve Forester, City Manager