



Oregon

Theodore R. Kulongoski, 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

4/27/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Astoria Plan Amendment
DLCD File Number 003-09

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: Thursday, May 13, 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: Rosemary Johnson, City of Astoria
Gloria Gardiner, DLCD Urban Planning Specialist
Matt Spangler, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

APR 23 2010

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For Office Use Only

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 Astoria**

Local file number: **A09-05**

Date of Adoption: **4-19-10**

Date Mailed: **4-22-10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11-5-09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Amend Development Code Sections relevant to permit time limits and extensions, including 1.400 definitions; 3.240 temporary use permits; 9.100 administrative procedures; delete 13.100, 13.200, 13.300 procedures for subdividing property; add 13.750 subdividing property procedures. The changes make permits valid for two years and identify procedures on how permit extensions are processed.

Does the Adoption differ from proposal? **yes**

Section 13.030.D exempting administrative decisions was not included; "granting authority" definition added; added reference to criteria for temporary use permit extensions; added limitations on permit validity after expiration date (9.100.A.1); added a limit of five years total for a permit to be valid with extensions, and with no possibility for variance; removed Section 9.100.B.2.c on exception to permit extension; added Section 9.100.C on Amendments to Existing Permits; added definitions to 13.040 on Subdivisions; reformatted 13.750 as 13.680; added 13.680.C on recording of final plat and extension; made the ordinance applicable to existing permits for extensions; removed Section 13.750.A.7.c on exception to permit extension; some rewording of sections for clarity; ordinance adopted on an emergency basis and effective immediately.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **City wide**

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. 003-09 (17939) [16100]

DLCD file No. _____

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

Local Contact: **Rosemary Johnson**

Phone: (503) 338-5183 Extension: 27

Address: **1095 Duane Street**

Fax Number: **503-338-6538**

City: **Astoria**

Zip: **97103**

E-mail Address: **rjohnson@astoria.or.us**

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.

BEFORE THE ASTORIA CITY COUNCIL
OF THE CITY OF ASTORIA

IN THE MATTER OF AN AMENDMENT REQUEST)
)
FOR THE FOLLOWING PROPERTY: CITY-WIDE WITHIN)
ASTORIA, OREGON 97103) ORDER NO. A09-05
)
ZONE: ALL ZONES CITY WIDE)
)
APPLICANT: COMMUNITY DEVELOPMENT DIRECTOR,)
CITY OF ASTORIA, 1095 DUANE STREET, ASTORIA,)
OREGON 97103)

The above named applicant filed a request to amend the text of the City of Astoria Development Code concerning permit time lines and extensions in all zones within the City limits of Astoria, Oregon.

A public hearing on the above entitled matter was held before the Planning Commission on December 22, 2009; and the Planning Commission closed the public hearing and rendered a decision at the December 22, 2009 meeting. The Planning Commission found the proposed amendment to be necessary and recommends to the Astoria City Council that the proposed amendment be approved.

A public hearing on the above entitled matter was held before the Astoria City Council and the public hearing was closed at the April 5, 2010 meeting; and the Astoria City Council rendered a decision at the April 19, 2010 meeting.

The City Council found the proposed amendment to be necessary and orders that this application for an Amendment A09-05 is approved and adopts the findings and conclusions of law attached hereto. A copy of the application, all documents and evidence relied upon by the applicant, the staff report, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

The effective date of this approval is the date of the signing of this Order.

This decision may be appealed to the Land Use Board of Appeals (LUBA) by the Applicant, party to the hearing, or a party who responded in writing, by filing a Notice of Intent to Appeal with LUBA within 21 days of the date this Order is signed.

DATE SIGNED: APRIL 19, 2010

DATE MAILED:

ASTORIA CITY COUNCIL

Mayor

Commissioner

Commissioner

Commissioner

Commissioner



April 13, 2010

TO: ASTORIA CITY COUNCIL

FROM: PAUL BENOIT, CITY MANAGER

SUBJECT: REQUEST (A09-05) TO AMEND THE ASTORIA DEVELOPMENT CODE
CONCERNING PERMIT TIME LINES AND EXTENSIONS

BACKGROUND

Over the past year, the Astoria Planning Commission and Historic Landmarks Commission held work sessions to develop new code language regarding the time frame in which permits are valid and for extensions of existing permits. The Commissions were responding to recent challenges to the City's Code on this matter and to direction from the City Council that new language be developed. The current Code language does not provide a procedure or criteria to use for consideration of permit extensions. Furthermore, Development Code permits are currently valid for one year. In order to allow more time for projects to be initiated, the Commissions wished to extend the time in which permit approvals were valid.

Section 9.100 of the Astoria Development Code states that *"Authorization of a permit shall be void after one year unless substantial construction or use pursuant thereto has taken place. However, the Commission may, at its discretion, extend authorization for an addition period up to one year on request."* In the past, the Planning Commission and the City Council have interpreted the Code to mean that an extension may be granted for a "period up to one year" but that each permit, by request, may be considered for subsequent extensions in increments limited to one year. They have determined that the Code allows an applicant to file an extension request prior to the time a permit, or a previously approved extension, expires. Each extension is processed as a land use decision with notification to the public, public hearing, adopted Findings of Fact, and right of appeal. In a recent Land Use Board of Appeals (LUBA) decision concerning a permit extension in Astoria, LUBA found that the Code only allows one extension and not extensions over multiple years.

The proposed amendment language addresses several issues as follows:

1. Expands the initial permit approval to two years with administrative review of the first one year extension. Subsequent extensions would be reviewed by the applicable reviewing entity (Planning Commission, Landmarks Commission, etc.).
2. Defines "substantial construction", identifies the time limit to start after all appeals are decided, and identifies how long a use may cease before a permit becomes invalid.

3. Creates criteria and process for review of extensions.
4. Addresses how a phased permit is reviewed; stating when the next phase must begin relevant to the previous phase or request an extension.
5. Establishes that a maximum of three permit extensions could be granted (this would allow for a maximum possible number of five years for a valid permit with original permit approval time frame plus three one-year extensions.)

The existing language contained in Development Code Section 9.100 and associated definitions contained in Development Code Section 1.400 would be replaced with the language identified in Sections 1 through 4 of the attached Ordinance. This code language would be directly applicable to planning related permits, including but not limited to, conditional use permits, design review, and variances. Furthermore, Section 13 of the Development Code deals with subdivision and partition issues. Also identified in the draft Ordinance is new language specific to land divisions as identified in Sections 5 through 15.

At its December 22, 2009 meeting, the Astoria Planning Commission held a public hearing and recommended that the City Council adopt the proposed amendments.

The City Council held a public hearing at its April 5, 2010 meeting and conducted a first reading of the proposed ordinance amending the Astoria Development Code. It was proposed that the ordinance be adopted on an emergency basis which would make the amendments effective immediately upon adoption rather than enactment 30 days after adoption. Since that meeting, the Council has raised a few questions concerning the draft language. Staff, working with the City Attorney, has adjusted the draft ordinance to address and clarify these issues. The changes are tracked with ~~strikeout~~ for deletions and underline for new text. City Attorney Jeanyse Snow has reviewed these changes and found that they are minor and would not require a new public hearing. Findings of Fact for approval of the request are attached for Council consideration and adoption.

RECOMMENDATION

It is recommended that the Council adopt the ordinance as recommended by the Planning Commission. If the Council is in agreement with the recommendation of the Planning Commission, it would be in order for Council to hold a second reading, adopt the Findings of Fact, and adopt the Ordinance with the emergency clause.

The following is sample language for a motion for adoption of the Findings of Fact:

"I move that the Astoria City Council suspend the rules and adopt the findings and conclusions contained in the staff report, and adopt the Ordinance amending the Astoria Development Code under emergency procedure."

By:



Rosemary Johnson, Planner

STAFF REPORT AND FINDINGS OF FACT

April 13, 2010

SUBJECT: AMENDMENT (A09-05) TO THE DEVELOPMENT CODE CONCERNING PERMIT TIME LINES AND EXTENSIONS

I. BACKGROUND SUMMARY

- A. Applicant: Brett Estes
Community Development Director
City of Astoria
1095 Duane
Astoria OR 97103
- B. Request: Amend the Development Code by amending and adding sections concerning time lines for permit validity and the process and criteria for permit extensions including temporary use permits, land use permits, and subdivision requests
- C. Location: City wide
- D. Zone: All Zones

II. BACKGROUND

Section 9.100 of the Astoria Development Code states that *"Authorization of a permit shall be void after one year unless substantial construction or use pursuant thereto has taken place. However, the Commission may, at its discretion, extend authorization for an addition period up to one year on request."* The Planning Commission and the City Council have continuously interpreted the Code to mean that extension may be granted for a "period up to one year" but that each permit and/or extension is a separate issue. They have determined that it does allow for a one year extension on the permit from the previous expiration date whether that is the original permit or approval of an extension. Each extension is processed as a land use decision with notification to the public, public hearing, adopted Findings of Fact, and right of appeal. Therefore each request is a separate decision.

In addition, the existing code does not set specific criteria for review but leaves approval or denial to the discretion of the Commission. Absent specific criteria in the Development Code for extensions, the Commissions have applied the same standards for every request. Those criteria include: there have been no changes in the proposal; and the facts upon which the approval was based have not changed to an extent sufficient to warrant refiling of the application.

With recent challenges concerning the City's Code language for extensions, this issue needs clarification. Staff has been working on a draft code revision for the past year. The Astoria Planning Commission (APC) has held work sessions to draft new code language concerning Permit Time Limits & Extensions. The proposed draft was presented to the Historic Landmarks Commission (HLC) for their review and input as amendments on this subject would be relevant to all Commissions including the HLC and Design Review Committee.

The APC directed staff to draft a code amendment that would address the following:

1. Expand the time limit to two years on permits with administrative review of the first one year extension. Subsequent extensions would be reviewed by the Commission.
2. Define "substantial construction", identify the time limit to start after all appeals are decided, and identify how long a use may cease before a permit becomes invalid.
3. Create criteria for review of extensions.
4. Put a time limit on subsequent phases of a Phased Permit stating when the next phase must begin relevant to the previous phase or request an extension.

Additional issues were addressed in the draft code language during the process to allow some flexibility in the code for extenuating circumstances. The draft code states that existing permits approved prior to this code amendment are subject to the revised time lines and extension requirements, and limits the number of extensions to a five year maximum.

The APC recommendation on the proposed amendment was forwarded to the City Council for consideration at their January 19, 2010 meeting.

III. PUBLIC REVIEW AND COMMENT

A. Planning Commission

A public notice was mailed to Neighborhood Associations on November 25, 2009. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on December 15, 2009. The proposed amendments are legislative as they apply City-wide. Any comments received were made available at the Planning Commission meeting.

B. City Council

In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on January 11, 2010 and March 29, 2010. Any comments received were made available at the City Council meeting.

IV. FINDINGS OF FACT

- A. Development Code Section 10.020(A) states that *“an amendment to the text of the Development Code or the Comprehensive Plan may be initiated by the City Council, Planning Commission, the Community Development Director, or the owner or owners of the property for which the change is proposed.”*

Finding: The proposed amendment to the Development Code is being initiated by the Community Development Director.

- B. Section 10.050(A) states that *“The following amendment actions are considered legislative under this Code:*

1. *An amendment to the text of the Development Code or Comprehensive Plan.*
2. *A zone change action that the Community Development Director has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that processing the request as a quasi-judicial action would be inappropriate.”*

Finding: The proposed amendment is to amend the text of the Astoria Development Code concerning permit time limits and extensions. The Code is applicable City-wide. Processing as a quasi-judicial action would be inappropriate.

- C. Section 10.070(A)(1) requires that *“The amendment is consistent with the Comprehensive Plan.”*

1. CP.005(5) concerning General Plan Philosophy and Policy Statement states that local comprehensive plans *“Shall be regularly reviewed, and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.”*

Finding: The Comprehensive Plan and Development Code establish procedures for land use reviews. The specific language concerning permit extensions is similar to many other cities in the State that have been challenged in appeals to LUBA and have not withstood the

appeals. The initial permit time frame needed to bring a project to construction stage has increased from the time current code language was written to address other local permits, State, and Federal permit reviews, site reviews and technical studies, and financing of various stages of projects. Several City permit extensions have been challenged by the public due to the ambiguous existing code language.

With the need for clear, defensible code language for land use permit reviews, it has become necessary to amend the existing language to protect both the applicants and the citizens when reviewing permit extensions, and to reduce staff and Commission time in reviewing the requests. Therefore, with the proposed code amendment would help satisfy the needs and desires of the public.

Finding: The request is consistent with the Comprehensive Plan as a result of the findings stated above.

- C. Section 10.070(A)(2) requires that *"The amendment will not adversely affect the ability of the City to satisfy land and water use needs."*

Finding: The proposed amendment would clarify the permit extension process and allow for some flexibility in granting extensions. The amendment would give developers the time necessary to obtain various City, State, and Federal permits, and perform any necessary site investigations to assure that the project is completed in the best interest of the community. The proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. The City Council approves the proposed amendment.

ORDINANCE NO. 10-06

AN ORDINANCE AMENDING THE ASTORIA DEVELOPMENT CODE SECTIONS CONCERNING PERMIT TIME LINES AND EXTENSIONS AND DECLARING AN EMERGENCY

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria Development Code Section 1.400, Definitions, is amended by the addition of the following definitions:

"FINAL DECISION: The date upon which a decision has been rendered and the Order is signed, or the final resolution of all City, State, and Federal appeals, whichever is later."

"GRANTING AUTHORITY: The Community Development Director, Astoria Planning Commission, Historic Landmarks Commission, and/or the Design Review Committee who review and approve land use requests.

"PHASED PROJECT: Project involving construction of buildings and/or sites that are not completed all at the same time. All phases of a phased project are reviewed and approved under one permit with a time line for phased completion."

"SUBSTANTIAL CONSTRUCTION: Physical alteration of the land and/or building to an extent that there is obvious progress toward completion of the project as follows: For new construction, it shall include walls extending up from grade level; for existing buildings, it shall include issuance of a building permit with inspections for work equal to or greater than 25% of the value of the project as indicated on the building permit; and if no building permit is required, proof that site work equal to or greater than 25% of the value of the project has been completed. Land value and permit costs shall not be included in the calculation for value of construction completed."

"USE, START OF: Use shall be considered as begun when the applicant has physically moved into the site or is in the process of physically moving into the site in preparation of beginning occupation and/or operation. Actual operation and/or business open to the public need not occur to consider a use as begun."

"USE, CEASE OF: Use shall be considered as ceased when the site and/or building is no longer used or available for occupancy by the specific use. A building or site vacant while being continuously marketed, repaired, or otherwise similarly unavailable for use is not considered to be a cessation of use. A building or site that is occupied by a different use shall be considered as a cessation of the former use."

Section 2. Astoria Development Code Section 3.240(A), Temporary Use Provisions, is deleted in its entirety and amended to read as follows:

"A. Duration of Permits.

1. Time Limit.

A temporary use permit shall expire one year from the date of Final Decision unless an extension has been granted.

2. Permit Extensions.

Prior to permit expiration, the applicant may request extensions in accordance with Section 9.100(B.2.a & b) and 9.100(B.3 & 4). A permit remains valid, if a timely request for extension has been filed, until an extension is granted or denied.”

Section 3. Astoria Development Code Section 3.240(C), Temporary Use Provisions, is deleted in its entirety.

Section 4. Astoria Development Code Section 9.100, Time Limit on a Permit, is deleted in its entirety and amended to read as follows:

“9.100 TIME LIMITS ON PERMITS.

A. Duration of Permits.

1. Except as otherwise provided in this Code, a permit shall expire two years from the date of Final Decision unless substantial construction has taken place or use has begun. However, extensions for permits may be granted as provided in this section. A permit remains valid, if a timely request for extension has been filed, until an extension is granted or denied with the following limitations:

- a. Any work completed by the applicant after the date the permit would have expired, but for the extension request, is at the applicant’s own risk; and
- b. Any work completed after the date the permit would have expired shall not be considered in determining if substantial construction has been completed until a permit extension has been granted; and
- c. No additional building and/or use permits associated with the permit may be issued until an extension has been granted.

2. Phased Permits.

- a. The initial phase of a phased permit and/or project shall expire two years from the date of Final Decision unless substantial construction or use has begun.
- b. Additional phases of an approved phased permit and/or project shall expire two years from the date of completion of construction for the previous phase, unless substantial construction or use has begun on that subsequent phase. Completion of construction of a phase shall be

determined by issuance of a temporary and/or final Certificate of Occupancy from the Building Official.

B. Permit Extensions.

One year extensions may be granted in accordance with the requirements of this Section as follows:

1. Permit Extension Time Limit.

- a. The Community Development Director may grant the first one-year permit extension.
- b. Following the first one-year permit extension by the Community Development Director, the original granting authority may grant subsequent one-year extensions.
- c. No more than three permit extensions may be granted. No variances may be granted from this provision. Temporary Use Permit extensions are exempt from this requirement and may exceed the three extensions limitation.
- d. This Ordinance shall apply to all permit extensions requested after the date of enactment regardless of the date of the original permit Final Decision. If a permit has been granted extensions prior to adoption of this Ordinance, subsequent extension requests shall be reviewed by the granting authority. Three additional extensions may be granted.

2. Permit Extension Criteria.

The granting authority may grant a permit extension upon written findings that the request complies with the following:

- a. The project proposal has not been modified in such a manner as to conflict with the original findings of fact for approval; and
- b. The proposed project does not conflict with any changes to the Comprehensive Plan or Development Code which were adopted since the last permit expiration date; and
- c. The applicant has demonstrated that progress has been made on the project since the date of the original decision on the permit with regard to items such as, but not limited to:
 - 1) Submittal of permit applications to City, State and Federal agencies;

- 2) Contracts for geologic or other site specific reports have been signed and are in effect;
 - 3) Project site and/or building engineering, architectural design, or construction has begun.
- d. In lieu of compliance with Section 2.c above, the applicant may demonstrate that poor economic conditions exist in the market that would advise against proceeding with the project.

3. Permit Extension Procedures.

- a. Applications for permit extensions shall be submitted in accordance with the Administrative Procedures in Article 9. Permit extension requests shall be submitted to the Community Development Department prior to permit expiration.
- b. Public notice and procedures on applications for permit extension requests shall be in accordance with the Administrative Procedures in Article 9. However, in addition to mailed notice as required in Article 9, notice shall be provided also to those on the record for the original permit, associated appeals, and associated extensions.
- c. The Administrative decision, public hearing, and/or Commission/Committee decision concerning a permit extension may occur after the permit would have expired but for a timely filed request for a permit extension.

4. Appeals.

The decision concerning a permit extension may be appealed. Appeals shall be made in accordance with Administrative Procedures in Article 9. Appeals on permit extensions shall be limited to the issues relevant to the permit extension criteria only and not to issues relevant to the original permit approval.

C. Amendments to Existing Permits.

When an approved permit is amended, the following shall apply concerning the Final Decision date for the permit:

1. If the amendment requires public notice as a land use decision, the Final Decision date of the amendment shall apply to the entire permit; or
2. If the amendment is a minor administrative decision and does not require public notice as a land use decision, the Final Decision date of the original permit, including any extensions, shall continue as the Final Decision date for the entire permit.”

Section 5. Astoria Development Code Section 13.040, Definitions, is amended by the addition of the following definitions:

“FINAL DECISION: The date upon which a decision has been rendered and the Order is signed, or the final resolution of all City, State, and Federal appeals, whichever is later.”

“PHASED PROJECT: Project involving construction of buildings and/or sites that are not completed all at the same time. All phases of a phased project are reviewed and approved under one preliminary plat review with a time line for phased completion.”

Section 6. Astoria Development Code Section 13.100(H), Time Limit on Preliminary Plat. - Procedures for Subdividing Property is deleted in its entirety.

Section 7. Astoria Development Code Section 13.100(I), Submittal of Final Plat. - Procedures for Subdividing Property is deleted in its entirety.

Section 8. Astoria Development Code Section 13.120(A.1), Subdivision, Final Plat. - Procedures for Review, Survey Required, is deleted in its entirety and replaced to read as follows:

“The subdivider shall cause the proposed subdivision, or any part thereof, to be surveyed and a plat thereof prepared in conformance with the preliminary plat as approved or conditionally approved.”

Section 9. Astoria Development Code Section 13.210(G), Time Limit on Preliminary Plat. - Major Land Partition is deleted in its entirety.

Section 10. Astoria Development Code Section 13.210(H), Submittal of Final Plat. - Major Land Partition is deleted in its entirety.

Section 11. Astoria Development Code Section 13.230(A.1), Major Land Partition, Final Plat. - Procedures for Review, is deleted in its entirety and replaced to read as follows:

“The partitioner shall cause the proposed partition to be surveyed and a plat thereof prepared in conformance with the preliminary plat as approved or conditionally approved.”

Section 12. Astoria Development Code Section 13.310(G), Time Limit on Preliminary Plat. - Minor Land Partition is deleted in its entirety.

Section 13. Astoria Development Code Section 13.310(H), Submittal of Final Plat. - Minor Land Partition is deleted in its entirety.

Section 14. Astoria Development Code Section 13.330(A.1), Minor Land Partition, Final Plat. - Procedures for Review, is deleted in its entirety and replaced to read as follows:

“The partitioner shall cause the proposed partition to be surveyed and a plat thereof prepared in conformance with the preliminary plat as approved or conditionally approved.”

Section 15. Astoria Development Code Section 13.680, Time Limits and Extensions, is added to read as follows:

"TIME LIMITS AND EXTENSIONS

13.680 TIME LIMITS AND EXTENSIONS.

A. Time Limit on Preliminary Plat.

The preliminary plat for a subdivision or land partition shall be valid for two years from the date of Final Decision. For phased projects, recordation of a final plat for an earlier phase shall constitute the Final Decision date of preliminary plat approval for all subsequent phases.

B. Submittal of Final Plat.

The applicant shall submit a final plat to the City prior to the expiration of the preliminary plat and/or any extension(s). If the final plat is not approved, the preliminary plat shall be void.

C. Recording of Final Plat.

The applicant shall record the final plat within six months from the date of Final Decision of the final plat approval, unless an extension is approved by the granting authority on a showing of good cause. If the final plat is not recorded within six months, the final plat shall be null and void.

D. Extension Time Limit.

1. The Community Development Director may grant the first one-year extension of a preliminary plat.
2. Following the first one-year extension of a preliminary plat by the Community Development Director, the following shall apply:
 - a. The Community Development Director may grant subsequent one-year extensions of a preliminary plat, which was initially approved by the Community Development Director; or
 - b. The Astoria Planning Commission may grant subsequent one-year extensions of a preliminary plat which they initially approved.
3. A preliminary plat remains valid, if a timely request for extension has been filed, until an extension is granted or denied.

4. No more than three extensions may be granted. No variances may be granted from this provision.
5. This Ordinance shall apply to all preliminary plat extensions requested after the date of enactment regardless of the date of the original Final Decision. If a preliminary plat has been granted extensions prior to adoption of this Ordinance, subsequent extension requests shall be reviewed by the granting authority. Three additional extensions may be granted..

E. Extension Criteria.

Before an extension is approved, written findings will be made that the extension request complies with the following:

1. The project proposal has not been modified in such a manner as to conflict with the original findings of fact for approval; and
2. The proposed project does not conflict with any changes to the Comprehensive Plan, Development Code, or other land use codes which were adopted since the last expiration date of the preliminary plat; and
3. The applicant has demonstrated that progress has been made on the project since the date of the original decision on the preliminary plat with regard to items such as, but not limited to:
 - a. Submittal of permit applications to City, State, and Federal agencies;
 - b. Contracts for geologic or other site specific reports have been signed and are in effect;
 - c. Project site and/or building engineering, architectural design, or construction has begun.
4. In lieu of compliance with Section 3.c above, the applicant may demonstrate that poor economic conditions exist in the market that would advise against proceeding with the project.

F. Extension Procedures.

1. Applications for extensions shall be submitted in accordance with the Administrative Procedures in Article 9, except as noted in this Section. Extension requests shall be submitted to the Community Development Department prior to expiration.
2. Public notice and procedures on applications for extension requests shall be in accordance with the Administrative Procedures in Article 9. However, in addition

to mailed notice as required in Article 9, notice shall be provided also to those on the record for the original request, associated appeals, and associated extensions.

3. The administrative decision, public hearing, and/or Planning Commission decision concerning an extension may occur after the preliminary plat would have expired but for a timely filed request for an extension.

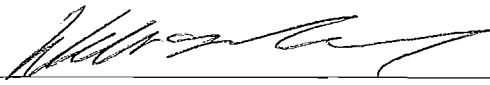
4. Appeals.

The decision concerning an extension may be appealed. Appeals shall be made in accordance with Administrative Procedures in Article 9. Appeals on extensions shall be limited to the issues relevant to the extension criteria only and not to issues relevant to the original preliminary plat decision."

Section 16. Effective Date. The City Councils finds that an emergency exists in that this Ordinance Amendment would benefit the economic health of the City. Therefore, the City Council declares that an emergency exists and this ordinance will take effect immediately upon its adoption.

ADOPTED BY THE COMMON COUNCIL THIS 19th DAY OF April, 2010.

APPROVED BY THE MAYOR THIS 19th DAY OF April, 2010.



Mayor

ATTEST:



Paul Benoit, City Manager

ROLL CALL ON ADOPTION:		YEA	NAY	ABSENT
Commissioner	LaMear	X		
	Roscoe	X		
	Henningsgaard	X		
	Warr	X		
Mayor Van Dusen		X		

