

CHAPTER 1. GENERAL PROVISIONS

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CHAPTER 1¹. GENERAL PROVISIONS

1.1 TITLE; EFFECTIVE DATE

This Ordinance will be officially known as the “Land Development Ordinance of Jackson County, Oregon.” It also may be called the “LDO” and is referred to throughout this document as “this Ordinance.” This Ordinance will FIRST become effective on March 12, 2004.

1.2 AUTHORITY

This Ordinance is adopted pursuant to authority granted to Jackson County by the Oregon Revised Statutes (ORS), Chapters 92 (Subdivisions and Partitions), 197 (Comprehensive Land Use and Planning Coordination), and 215 (County Planning; Zoning; Housing Codes).

1.3 GENERAL PURPOSES

The provisions of this Ordinance are intended to protect the public health, safety, and general welfare, and to implement the policies of the Jackson County Comprehensive Plan and the Statewide Planning Goals.

1.4 JURISDICTION AND APPLICABILITY²

The provisions of this Ordinance apply to all land, buildings, structures, and uses thereof within the unincorporated area of Jackson County to the extent allowed by Federal, State and local laws, including land owned by local, state, or federal agencies (see Section 6.3.6(B)). Except for Federal activities on federally-owned land, any activity the State regulates or controls and which occurs upon federally-owned land must apply for a local land use permit when such permit would be required to initiate similar private activities on private land. If a decision is not rendered within 60 days of receipt of the application for State-regulated activities on federally-owned land, the application will be considered approved. [ORS 197.395]

1.5 SCOPE OF DECISION

County land use decisions made under this Ordinance are limited to the County’s review of applicable zoning rules and land use law, as outlined in the Jackson County Comprehensive Plan, this Ordinance, and the Oregon Administrative Rules and Revised Statutes relating to land use. Other County, State, and Federal agencies may have regulatory review authority for development projects. County land use decisions neither imply nor guarantee compliance with the requirements of any other regulatory agency. Property owners are responsible for compliance with the requirements of any other regulatory agency or provisions of law prior to initiating development.

1.5.1 Conflict with Other Laws, Ordinances, Regulations, or Permits

This Ordinance is not intended to abrogate any other law, ordinance, regulation, or permit requirement. Where conditions, standards, or requirements imposed by any provision of this Ordinance are more restrictive than comparable standards imposed by any other law, ordinance, or regulation, the provisions of this Ordinance will govern. Wherever the provisions of any other statute, ordinance, or regulation impose other standards which are more restrictive than those set forth in this Ordinance, then the provisions of such statute, ordinance, or regulation will govern.

However, standards imposed by other permitting agencies will be implemented and enforced by those agencies.

¹Ordinance 2006-10, effective 2-18-2007

²Ordinance 2004-12, effective 2-6-2005

1.5.2 Conflict with Private Agreements

This Ordinance is not intended to abrogate any easement, deed declaration, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, deed declaration, or other private agreement, then the requirements of this Ordinance will govern. Nothing in this Ordinance will modify or repeal any private deed declaration or deed restriction, but such deed declaration or restriction will not excuse any failure to comply with this Ordinance. The County is not obligated to enforce the provisions of any easements, deed declaration, or agreements between private parties unless directly stipulated as conditions in a land use decision.

1.6 SEVERABILITY

The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision will not invalidate the remaining portions of this Ordinance.

1.7 TRANSITIONAL RULES

1.7.1 Prior Regulations³

For purposes of this Ordinance, the following ordinances and actions became effective on the dates specified below:

- A) Jackson County Subdivision Ordinance, effective May 1, 1959.
- B) Countywide Zoning Ordinance, effective September 1, 1973.
- C) Building permits required, July 1, 1974.
- D) Private Road Ordinance (“creation of way” originally part of the Subdivision Ordinance) effective September 24, 1975.
- E) Mobile home permits required, July 1, 1977.
- F) Major land partitions and subdivision requests reviewed against Statewide Planning Goals 3 and 4 pursuant to Board Order 344-78 effective September 6, 1978.
- G) Minor Land Partition Ordinance recorded at Vol. 109, Page 394, effective January 31, 1979.
- H) Major Land Partition Ordinance, effective June 3, 1980 to October 27, 1980.
- I) Land Division Ordinance and Zoning Ordinance, effective October 18, 1980.
- J) Order 66-82 establishing interim criteria for determining conformance of partitions with Goal 3 and ORS 215.143, effective February 10, 1982.
- K) Ordinance changing administrative procedures for the division of agricultural lands (Emergency Ordinance 81-71), effective October 7, 1981, Permanent Ordinance 81-86, effective February 21, 1982.
- L) Ordinance 82-28, Land Development Ordinance, effective November 10, 1982.

³Ordinance 2004-2RM, effective 1-30-2005; Ordinance 2004-13, effective 2-6-2005

1.7.2 Preexisting Development Approvals

A preexisting approval is a project that received a valid land use approval from the County prior to the effective date of this Ordinance. See also Chapter 11 for regulations pertaining to nonconformities.

- A) Jackson County's Comprehensive Plan and Land Development Ordinances were acknowledged by the Land Conservation and Development Commission on April 22, 1983. Non-expiring land use permits for dwellings on resource lands issued by the County prior to November 10, 1982 remain valid if development was initiated in reliance on the permit prior to April 22, 1983. If no development was initiated however, the approval became void on that date.
- B) Non-expiring land use permits for dwellings on resource lands where the approved permit was requested between November 10, 1982 and December 13, 1992 are valid and, if not already developed, may be developed subject to the original conditions of approval in addition to all applicable development standards of this Ordinance.⁴
- C) Effective December 14, 1992 dwelling approvals in resource zones expired after a statutorily established period of time if development was not initiated. Effective November 4, 1993 such approvals were eligible for extensions of time. If no extension of time was granted, and development was not initiated, the approval is void. [*Butori v. Clatsop County, LUBA No. 2003-064*]
- D) Any prior land use approval or development permit valid on the effective date of this Ordinance will remain valid until the expiration date specified in the County's written decision or as specified by ORS 215.417, if applicable. Projects with valid approvals or permits may be carried out under the development standards in effect at the time of approval, provided the permit or approval has not lapsed. In cases where the development standards of this Ordinance are less restrictive than those in effect at the time of approval, the standards of this Ordinance may be substituted.
- E) Any request for an extension of a valid permit following adoption of this Ordinance will be subject to Section 2.6.8, whether or not the original approval stipulates the duration of any time extension.
- F) Any re-application for an expired project approval will meet the standards in effect at the time of re-application.

1.7.3 Pending Applications

Except for Comprehensive Plan amendments, a land use application or development permit submitted prior to the effective date of this Ordinance, and deemed complete within 180 days of the submittal date, will be subject to the terms of the prior Land Development Ordinance and any State rules in effect at the time the application or permit was first submitted. Any land use or development permit application submitted after the effective date of this Ordinance is subject to the terms of this Ordinance. In all cases, a decision on a Comprehensive Plan amendment is subject to the laws in effect on the date of the decision.

⁴Ordinance 2004-12, effective 2-6-2005

In order to avoid undue hardship, nothing in this Ordinance requires any change in the location, plans, construction, size, or designated use of any building, structure or part thereof for which a required building permit has been granted prior to the effective date of this Ordinance. If no construction is initiated in reliance on a building permit that is later revoked or for any reason becomes void, all rights granted by this subsection are extinguished and the project will thereafter be required to conform to the provisions of this Ordinance.

1.7.4 Lawfully Established [Preexisting] Nonconformities Under Prior Ordinance

Any use, structure, or lot deemed a lawfully established [preexisting] nonconformity under the previous Land Development Ordinance is also considered a lawfully established [preexisting] nonconformity under this Ordinance, unless the use, structure or lot is rendered conforming by this Ordinance. (See Chapter 11.)

1.7.5 Preexisting Uses and Lots⁵

- A) A lawfully established preexisting use that would require a Type 2-4 Permit under this Ordinance if being established as a new use, but that has not received a permit, may be altered or expanded subject to approval of the most closely applicable current permit type and development standards of this Ordinance. Such alterations or expansions are not subject to the limitations applicable to nonconformities found in Chapter 11.
- B) The County may approve an application for a Type 2-4 Permit under this Ordinance, or a permit under the applicable state or local building code, for the continued use of a dwelling or other building on a unit of land that was not lawfully established if:
 - 1) The dwelling or other building was lawfully established prior to January 1, 2007; and
 - 2) The permit does not change or intensify the use of the dwelling or other building. [ORS 92.176(3).]
- C) Except where contrary to specific provisions in Chapter 4, lots and parcels that were lawfully created before the effective date of this Ordinance that do not meet the acreage, lot width or access requirements set forth herein will be entitled to the same development rights as conforming lots or parcels, once access is provided. (See Section 10.2.1)

1.7.6 Violations Continue

Any documented violation of previous land development ordinances related to permissible activities or structures on land that also violate this Ordinance will continue to be a violation subject to all penalties and enforcement under this Ordinance. Likewise, previous judgments rendered under past ordinances remain enforceable. Except as provided for in Chapter 10, when a violation of this Ordinance exists on a property, the County will not approve any application for building or land use permits on that property unless such application addresses the remedy for the violation. Where a violation of any other local ordinance, state, or federal law has been documented on property to the satisfaction of the County, such violation must be corrected prior to application for a land use or development permit on that property, unless the violation can be remedied as part of the development application.

⁵Ordinance 2008-11, effective 11-16-2008

1.8 ENFORCEMENT AND PENALTIES

Enforcement of a violation of this Ordinance is processed in accordance with the provisions of the *Jackson County Codified Ordinance Chapters 202 and 203*, as applicable.

1.8.1 Violations

It is a violation of County Law for any person or other entity to violate this Ordinance. Specifically, it is a violation to:

- A) Intentionally make false statements of material fact on any application.
- B) Use land, construct, occupy, or place improvements, sell or transfer land by an instrument of conveyance, or conduct any activity on land, in any manner not in accordance with the standards set forth in this Ordinance, or with any special permit or order of the Development Services Department, Hearings Officer, Planning Commission, or Board of Commissioners issued hereunder.
- C) Conduct, without a permit, any activity for which a permit is required by this Ordinance.

1.8.2 General Enforcement Provisions and Penalties

- A) When a violation of this Ordinance is documented to exist on a property, the County will deny any and all development permits, unless such application addresses the remedy for the violation, or the violation has otherwise been corrected.
- B) The County will not approve any application for a land use permit when a local, state, or federal land use enforcement action has been initiated on property, or other reliable evidence of such pending action exists. Such violations must be corrected prior to application for a land use or development permit on that property, unless the violation can be remedied as part of the development action.
- C) A violation of any provision of this Ordinance will be deemed a nuisance. Nothing in this ordinance shall affect the ability of the County to pursue any action, suit, and/or remedy as otherwise provided under Oregon and County law, including but not limited to injunction, mandamus, abatement, fines, damages, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove unlawful location of development, construction, maintenance, repair, alteration, use, or land division.
- D) Justice court, circuit court and the County Code Enforcement Hearings Officer have concurrent jurisdiction over prosecutions.