

ORDINANCE 033 - 2009

**AN ORDINANCE BY THE MONROE COUNTY BOARD OF
COUNTY COMMISSIONERS AMENDING MONROE
COUNTY SECTION 110-72 CONCERNING RECORDING OF
CONDITIONAL USES; AMENDING SECTION 110-73
REGARDING EXTENSIONS OF CONDITIONAL USES AND
PROVIDING CONSISTENCY WITH SECTION 110-72 TIME
PERIODS; PROVIDING FOR SEVERABILITY; PROVIDING
FOR REPEAL OF INCONSISTENT PROVISIONS;
PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT
OF COMMUNITY AFFAIRS AND THE SECRETARY OF
STATE; PROVIDING FOR CODIFICATION; PROVIDING
FOR AN EFFECTIVE DATE**

WHEREAS, the position of development review coordinator has been eliminated in the Planning & Environmental Resources Department. All responsibilities of the position have been assumed by the Director of Planning & Environmental Resources and the Principal Current Planner. Therefore, Section 110-72(a) and Section 110-73(a) need to be amended to remove mention of this position; and

WHEREAS, during Board Discussion at public hearings in which conditional use permit time extension applications were considered, members of the Monroe County Planning Commission requested that Planning & Environmental Resources Department staff review Section 110-73(a) and determine if a two (2)-year timeframe would be more appropriate for a time extension period for conditional use permits, as opposed to the one (1)-year maximum currently permitted, and suggested that staff clarify the language of the section, particularly that relating to whether or not multiple extensions can be granted; and

WHEREAS, upon review of the Section 110-73(a), staff found that the current timeframe of conditional use permits is difficult to administer and recommended that the timeframe period be modified to provide a more practical timeframe for conditional use permits that is easier to administer and that important dates be clarified; and

WHEREAS, upon review of the Section 110-73(a), staff found that only the Planning Commission has the authority to grant extensions to all conditional use permits. In that the Planning Commission grants major conditional use permits, they are the appropriate entity to grant extensions to major conditional use permits. However, the Planning Director grants minor conditional use permits. Since these applications are granted by the Planning Director, staff recommended that the Planning Director, not the Planning Commission, hold the authority to grant extensions to minor conditional use permits; and

WHEREAS, this ordinance was recommended for approval to the Board of County Commissioners by the Planning Commission at its meeting of September 23, 2009;

NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Section 110-72(a) shall be amended as follows:

(a) All conditional use approvals shall be recorded with the clerk of the circuit court in the official records of the county, including the terms and conditions upon which such approval is given, prior to the issuance of a building permit. The requirement contained in section 110-73(a) that a conditional use permit not be transferred to a successive owner without notification to the Planning Director within 15 days of the transfer must be included on the document which is recorded pursuant to this section.

Section 2. Section 110-73(a) shall be amended as follows:

(a) Effect of issuance of a conditional use approval. Approval for a conditional use shall be deemed to authorize only the particular use for which it is issued. A conditional use approval shall not be transferred to a successive owner without notification to the Planning Director within fifteen (15) days of the transfer.

(1) Unless otherwise specified in a major conditional use approval, all required building permits and certificates of occupancy shall be procured within three (3) years of the date on which the major conditional use approval is recorded and filed in the official records of Monroe County, or the major conditional use approval shall become null and void with no further action required by the county. Approval time frames do not change with successive owners. Extensions of time to a major conditional use approval may be granted only by the planning commission for periods not to exceed two (2) years. There may be no more than two (2) extensions. Applications for extensions shall be made prior to the expiration dates. Extensions to expired major conditional use approvals shall be accomplished only by re-application for the major conditional uses. When a hearing officer has ordered a conditional use approval initially denied by the planning commission, the planning commission shall nonetheless have the authority to grant or deny a time extension under this section. If the planning commission denies a time extension, the holder of the conditional use may request an appeal of that decision under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days of the written denial of the planning commission.

(2) Unless otherwise specified in a minor conditional use approval, all required building permits and certificates of occupancy shall be procured within three (3) years of the date on which the minor conditional use approval is recorded and filed in the official records

of Monroe County, or the minor conditional use approval shall become null and void with no further action required by the county. Approval time frames do not change with successive owners. Extensions of time to a minor conditional use approval may be granted only by the Planning Director for periods not to exceed one (1) year. Applications for extensions shall be made prior to the expiration dates. Extensions to expired minor conditional use approvals shall be accomplished only by re-application for the minor conditional uses. When a hearing officer has ordered a conditional use approval initially denied by the Planning Director, the Planning Director shall nonetheless have the authority to grant or deny a time extension under this section. If the Planning Director denies a time extension, the holder of the conditional use may request an appeal of that decision under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days of the written denial of the Planning Director.

(3) Development of the use shall not be carried out until the applicant has secured all other permits and approvals required by this chapter, this Code, or regional, state and federal agencies and until the approved conditional use is recorded in accordance with section 110-72.

Section 3. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 4. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall apply.

Section 5. Transmittal.

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs as required by F.S. 380.05 (11) and F.S. 380.0552(9).

(REMAINDER OF PAGE LEFT INTENTIONALLY BLANK)

Section 6. Filing.

This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 7. Inclusion in the Monroe County Code.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform marking system of the Code.

Section 8. Effective Date.

This ordinance shall become effective as provided by law and stated above.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 21st day of October, 2009.

Mayor George Neugent
Mayor *pro tem* Sylvia Murphy
Commissioner Kim Wigington
Commissioner Heather Carruthers
Commissioner Mario Di Gennaro

Yes

Yes

Yes

Yes

Yes

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

Attest: DANNY L. KOLHAGE, CLERK

By *Danny L. Kolhage*
Deputy Clerk

By *George E. Neugent*
Mayor George Neugent

FILED FOR RECORD

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DANNY L. KOLHAGE
CLERK CIR. CT.
MONROE COUNTY, FL

