



CITY OF CHICO
OFFICIAL PLANNING DIRECTOR INTERPRETATION

Authority: Chico Municipal Code Section 19.02.030 (Procedures for interpretations)

Applicable Code Sections: **Section 19.08.070, Previous use permits in effect, Section 19.30.050, Time limits and extensions, and Section 19.78.130, Term of permits.**

Discussion: The Chico Municipal Code currently specifies that use permits shall automatically expire under certain circumstances. The City Attorney's office has determined that these automatic expirations, with limited exceptions, are a violation of due process -- see *Cnty. Dev. Comm'n v. City of Fort Bragg*, 204 Cal. App. 3d 1124, 1131-32 (1988).

In those situations where an applicant has relied upon the entitlement, generally via commencement of construction or other substantial property improvements, a fundamental vested property right has been created. Therefore, any revocation of a use permit which has been relied upon is subject to due process, including adoption of formal findings by the relevant revocation authority after conducting a duly noticed public hearing. Those sections of the Chico Municipal Code which provide for automatic expiration of vested use permits no longer have any legal force or effect. Staff anticipates that these code provisions will be modified to comply with applicable law during the Title 19 update, currently scheduled for adoption in 2011.

This interpretation does not affect the automatic expiration of use permits which have not been vested, such as when an applicant obtains a use permit and then does not begin construction within the time period specified in either the code or in the use permit.

Interpretation:

Those sections of the Chico Municipal Code which allow for automatic expiration of a vested use permits, including but not limited to portions of 19.08.070, 19.30.050, and 19.78.130, are to be considered null and void.

This Official Interpretation is effective immediately and will require an amendment to Title 19 Land Use and Development Regulations.



Mark Wolfe, Interim Planning Services Director

Date: July 6, 2010