

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1037

Amending MCC Chapter 37, Land Use Code, Administration and Procedures, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding the Expiration of Certain Land Use Approvals on Lands Zoned Exclusive Farm Use and Commercial Forest Use

(Language ~~stricken~~ is deleted; double-underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Under the Oregon Statewide Land Use Planning Program, protection of farm and forest lands for resource use is based upon regulation of land uses found in state statute and Oregon Administrative Rules. Multnomah County then administers those farm and forest regulations from the County's own adopted zoning code.
- b. Periodically, the State Legislature and the State Land Conservation and Development Commission modify and amend the statutes and rules. Thereafter, mandated sections of those amended state regulations are required to be administered by counties directly from the state codes if they are not adopted into county codes. Timely integration of those state amendments into the County zoning code is desirable for land owners to have available all land use regulations that apply to their property in one set of regulations.
- c. The Planning Commission is authorized by MCC 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was mailed to all property owners of lands zoned Exclusive Farm Use (EFU) and Commercial Forest Use (CFU). At that hearing the Planning Commission approved the code amendments for recommendation to the Board.
- d. The amendments in this ordinance are found by the Board to be needed updates to the zoning code to comply with changed state statutes and administrative rules.

Multnomah County Ordains as follows:

Section 1. § 37.0670 is amended as follows:

§ 37.0670 Recording of Decision.

The County may impose as a condition of final approval of a Type II, Type III, or Type IV decision, the requirement that the applicant record with the County the Notice of Decision. The Notice of Decision shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant's expense. ~~Any recording required under this section shall be properly signed and executed within 30 days after the decision becomes final; provided, however, that the Planning director may grant reasonable extensions, not to exceed an additional 30 days, in cases of practical difficulty. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision.~~

Section 2. § 37.0690 is amended as follows:

§ 37.0690 Expiration And Extension Of A Type II Or Type III Decision in EFU and CFU Zones.

(A) Except for approval of residential developments as specified in (B) below, a Type II or III decision approving development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is void two years from the date of the final decision if the development action is not initiated in that period. The Planning Director may grant one extension period of up to 12 months if:

- (1) An applicant makes a written request for an extension of the development approval period;
- (2) The request is submitted to the county prior to the expiration of the approval period;
- (3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
- (4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
- (5) Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.
- (6) Additional one year extensions may be authorized where applicable criteria for the decision have not changed.

(B) A Type II or III decision approving residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is void four years from the date of the final decision if the development action is not initiated in that period.

(1) For the purposes of this section, the expiration dates in (B) and (C) shall also apply to all other Type II or III decisions associated with approval of the residential development, such as SEC or HDP permits.

(2) The provisions in (B) and (C) shall only apply to residential development for which a decision of approval:

(a) Was valid (not expired) on January 1, 2002, or

(b) Was issued after January 1, 2002 (the effective date of Senate Bill 724, 2001).

(3) For the purposes of this section, “residential development” only includes dwellings as provided for under:

(a) ORS 215.283(1)(s) – alteration, restoration or replacement of a lawfully established dwelling in the EFU zones as provided in MCC 33.2620(J), (L)&(M); 34.2620(J), (L)&(M); 35.2620(J), (L)&(M); 36.2620(J), (L)&(M); and

(b) ORS 215.284 – dwelling not in conjunction with farm use in the EFU zones (not currently provided for in any MCC Chapter); and

(c) ORS 215.705(1) to (3) – “Heritage Tract Dwelling” in the EFU zones as provided for in MCC 33.2625(F); 33.2630(O)&(P); 34.2625(F); 34.2630(O)&(P); 35.2625(F); 35.2630(O)&(P); 36.2625(F); 36.2630(J)&(K); and

(d) ORS 215.720 – “Heritage Tract Dwelling” in the CFU zones as provided in MCC 33.2230(C); and 35.2230(C); 36.2030(C); and

(e) ORS 215.740 – “Large Acreage Dwelling” in the CFU zones as provided for in MCC 33.2030(A); 33.2230(A); 35.2230(A); 36.2030(A); and

(f) ORS 215.750 – “Template Dwelling” in the CFU zones as provided for in MCC 33.2230(B); 33.2430(A); 35.2230(B); 36.2030(B); and

(g) ORS 215.755(1) – alteration, restoration or replacement of a lawfully established dwelling in the CFU zones as provided in MCC 33.2020(D)&(E); 33.2025(A)&(B); 33.2220(D)&(E); 33.2225(A)&(B); 33.2420(D)&(E); 33.2425(A)&(B); 35.2020(D)&(E); 35.2025(A)&(B); 35.2220(D)&(E); 36.2020(D); 36.2025(A)&(B); and

(h) ORS 215.755(3) a caretaker residence for a public park or public fish hatchery in the CFU zones as provided for in MCC 33.2020(H); 33.2220(H); 33.2420(H); 35.2020(H); 35.2220(H); and 36.2020(G).

(C) The Planning Director shall grant one extension period of 24 months for approvals of dwellings listed in (B) above if:

- (1) An applicant makes a written request for an extension of the development approval period;
- (2) The request is submitted to the county prior to the expiration of the approval period;
- (3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
- (4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
- (5) Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

(B)(D) New application required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.

(C)(E) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the County. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).

Section 3. § 37.0750 is amended as follows:

§ 37.0750 Expiration of Prior Land Use Decisions.

All land use decisions authorized prior to January 1, 2001 (Ord. 953 & Ord. 997) shall expire on January 1, 2003, unless:

(A) a different timeframe was specifically included in the decision, or

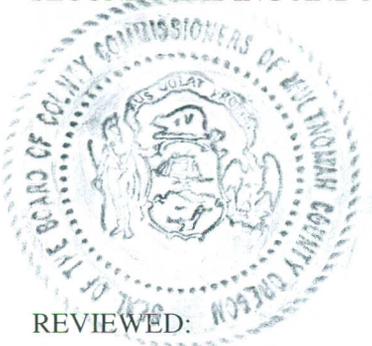
(B) The decision was for "residential development," as specified in MCC 37.0690(B)(3), which have the expiration timeframes of MCC 37.0690(B) and (C).

FIRST READING:

_____ May 6, 2004 _____

SECOND READING AND ADOPTION:

_____ May 13, 2004 _____



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn

_____ Diane M. Linn, Chair _____

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Sandra N. Duffy*
Sandra N. Duffy, Assistant County Attorney