

ORDINANCE NO. 454

AN ORDINANCE AMENDING SECTION 4.139(3) WC TO REAFFIRM THE PREVIOUSLY ESTABLISHED EXPIRATION DATE FOR STAGE TWO SITE DEVELOPMENT PLANS, IF SUBSTANTIAL DEVELOPMENT HAS NOT YET OCCURRED; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Wilsonville is a home rule city under the laws of the State of Oregon and has a duly acknowledged Comprehensive Land Use Plan and implementing ordinances; and

WHEREAS, the City has an acknowledged Urban Growth Boundary (UGB) which is supported by policies and objectives which call for a coordinated and balanced approach to allow development to proceed only when it is demonstrated that all services and utilities are available or are immediately planned; and

WHEREAS, the City Council adopted Ordinance #431 which took effect on August 17, 1994, specifying that previous Stage II approvals would expire two years from that date and that all subsequent Stage II approvals would expire two years after their respective approval dates unless time extensions have been granted; and

WHEREAS, the growth management provisions of Ordinance #431 were subsequently overturned by the State Land Use Board of Appeals (LUBA) because those provisions were deemed to constitute an "illegal moratorium;" and

WHEREAS, LUBA, in reaching its decision on the growth management provisions of Ordinance #431, did not address severing the provisions of that Ordinance which established the expiration dates for Stage II development approvals; and

WHEREAS, the City Council of the City of Wilsonville believes that those project expiration provisions of Ordinance #431 continue to apply, but the City Council wishes to avoid any confusion or misunderstanding about those provisions.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section I: DETERMINATION AND FINDINGS:

- A. The City Council adopts the above recitals as findings and incorporates them by reference in support of this Ordinance.

Section II. AMENDMENT OF SECTION 4.139(3) "FINAL APPROVAL (STAGE TWO)" of the WILSONVILLE CODE

- A. The following amendment regarding the expiration of Stage Two (AKA Stage II) Site Development plans shall be made to subsection (i) to Section 4.139(3) of the Code:

"(i) All Stage II Site Development plan approvals granted prior to August 17, 1994, shall expire on August 18, 1996; and all Stage II Site Development Plans approved after August 17, 1994, shall expire two years after their approval date, if substantial development has not occurred on the property prior to that time. Provided, however, that the Planning Commission may extend these expiration times for up to three (3) additional periods of not more than one (1) year each. Applicants seeking time extensions shall make their requests in writing at least thirty (30) days in advance of the expiration date. Requests for time extensions shall only be granted upon a showing that the applicant has in good faith attempted to develop or market the property in the preceding year or that development can be expected to occur within the next year and, if applicable, that: 1) the Zone Change has not expired, or 2) the Zone Change has been extended in accordance with Section 4.190 of the Code. For purposes of this Ordinance, "substantial development" is deemed to have occurred if the required building permits or public works permits have been issued for the development."

- B. Section 4.187 of the Wilsonville Code requires that the Planning Commission and City Council make findings for Zone Text amendments. The City Council has already adopted, and hereby reaffirms, the following findings, as recommended by the Planning Commission, for the Wilsonville Code amendment noted above:

Section 4.187(1)(b)(1) - That the application was submitted in compliance with the procedure set forth in Section 4.008:

"This application was submitted to the Planning Commission by the Planning Director and it does not require a Site Development Permit that affects a specific parcel. This is a legislative action that proposes to amend the text of the Zone Code (Chapter 4 of the Wilsonville Code) so that Stage II Site Development applications will expire within two (2) years if no development occurs. This application has been processed in accordance with Section 4.008 and state law. Public notice of both the City Council's and the Planning Commission's hearing has been duly published and posted."

Section 4.187(1)(b)(2) - The amendment substantially complies with all applicable goals, policies and objectives set forth in the Comprehensive Plan:

"The Council finds that Comprehensive Plan Policy 2.2.3 requires that site plan approvals shall carry an expiration date and that substantial progress is required in order to preserve the approval. The proposed two year time limit is exactly the same as the time limit imposed on Zone Map amendments and may be extended, if necessary, by request of the applicant/developer."

Section 4.187(1)(b)(3) - The amendment does not materially conflict with, nor endanger, other provisions of the zone text:

"The Council finds that there are reasonable time limits imposed on Zone Changes, Design Review approvals, land partitions, and Conditional Use permits. The Zone Code is not clear on whether Stage II permits expire if no development occurs; however, the Comprehensive Plan is very clear on this subject. The Council has not found any actual or substantial conflict with any other provision of the Zone Code."

Section 4.187(1)(b)(4) - The amendment is necessary to insure that the City's Zone Code complies with mandated requirements of State or Federal laws and /or statutes:

"The City Council finds that this change is not mandated by any requirement of State or Federal law and that this criteria is inapplicable to this amendment. This change is mandated by Comprehensive Plan Policy 2.2.3 which requires that time limits be imposed on site plan approvals."

Section III. VALIDITY

The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other provision of this Ordinance which can be given effect without reference to the invalid part or parts.

Section IV. EMERGENCY DECLARED

The matters contained herein concern the public health, welfare and safety, and in view of the need to avoid confusion or misunderstanding on the parts of property owners and

developers, and the need to continue to implement the Comprehensive Plan this Ordinance shall become immediately effective upon its passage by the City Council.


SUBMITTED to the Wilsonville City Council and read the first time at a regular meeting thereof on the **1st** day of **April**, 1996, and scheduled for second reading at a regular meeting on the **15th** day of **April**, 1996, commencing at the hour of 7:00 p.m. at the Wilsonville City Hall Annex, Community Development Hearings Room.


Sandra C. King, City Recorder

ENACTED by the Wilsonville City Council on the **15th** day of **April**, 1996, by the following vote:

AYE: 5

NAY: 0


Sandra C. King, City Recorder

DATED and signed by the Mayor this 15th day of April, 1996.


GERALD A. KRUMMEL, Mayor

SUMMARY of Votes:

Mayor Krummel	Yes
Councilor Lehan	Yes
Councilor Leo	Yes
Councilor Hawkins	Yes
Councilor Leahy	Yes