

ORDINANCE NO. 1954

MILWAUKIE OREGON

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE ZONING ORDINANCE BY ADDING A NEW SECTION LIMITING THE RESUBMISSION OF ZONING INTERPRETATIONS AND LAND USE APPLICATIONS WHEN DENIED AND NOT APPEALED

WHEREAS, the City Council desires to amend the Milwaukie Zoning Ordinance to limit the resubmission of requests or applications when denied and not appealed to improve overall certainty about the land use and zoning process and to reduce the potential waste of city resources; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, on November 22, 2005, the Milwaukie Planning Commission conducted a public hearing as required by Zoning Ordinance Section 1011.5 and adopted a motion in support of the amendment; and

WHEREAS, on December 20, 2005, the Milwaukie City Council conducted a public hearing as required by law, heard and considered all testimony, and found that the proposal is consistent with applicable sections of Zoning Ordinance Sections 900 and 100; and

WHEREAS, the Milwaukie City Council finds that the proposed amendment is in the public interest of the City of Milwaukie,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

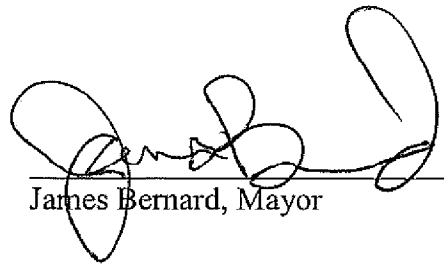
Section 1: Milwaukie Zoning Ordinance Section 1000 is hereby amended by creating the new "Section 1004 Limitations" as shown in Attachment 1, effective February 19, 2006.

Read the first time on December 20, 2005, and moved to second reading by

4 - 0 vote of the City Council.


Read the second time and adopted by the City Council on December 20, 2005.

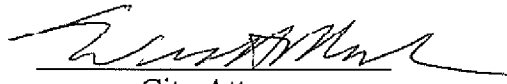
Signed by the Mayor on December 21, 2005.


James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, Corrigan LLP


Pat Duval, City Recorder


City Attorney

Ordinance No. 1954

Attachment 1

**Milwaukie Zoning Ordinance
Text Amendment
File ZA-05-01**

Section 19.1004 Limitations.

- A. Purpose. The purpose of this section is to promote efficient practices for the review of zoning and land use decisions while recognizing the appeal rights of property owners and applicants. Prohibitions on repeat submissions of denied applications fosters a greater sense of certainty on behalf of the community, property owners, and applicants in preparing and responding to city decisions on zoning and development proposals.
- B. Applicability. This section applies to decisions, determinations, and interpretations made under Title 19 Zoning Ordinance, Title 17 Land Division Ordinance, and Title 14 Sign Ordinance.
- C. Variance provisions not applicable. Relief from provisions of this section may not be granted under Zoning Ordinance Section 700.
- D. Planning Director Determinations. An interpretation or determination made by the Planning Director in accordance with Sections 19.809 Determination of Nonconforming Situations, 19.1001.1 Authority, and 1001.4 Planning Director Determinations is final if not appealed. The Planning Director's decision to reject a request for a repeat determination or interpretation is not subject to appeal.
- E. Resubmission Prohibited. If an application for a land use approval has been denied, an application for the same or similar project on the same property may not be resubmitted unless one or more of the following occurs:
 - 1. Two years have passed since the denial became final.
 - 2. Substantial changes are made to the application. Substantial changes to an application have occurred only if the changes resolve all findings for denial of the original application.
 - 3. Standards and criteria relative to the findings of the original denial have changed and now support the application.
 - 4. For legislative and major quasi-judicial decisions, there has been a substantial change in the composition of the Council and the City Council was the final decision-maker. A substantial change in the composition of the City Council occurs if fewer than three Council members who voted to deny the original application remain on the Council.

- F. Meaning of denial. For purposes of this section, a land use approval is denied when the City's final decision of denial is not appealed or is upheld on appeal.
- G. Procedural denials exempt. An application that was denied solely on procedural grounds, or which was expressly denied without prejudice, is not subject to this section.

~end~