

110 TRANSITION TO DEVELOPMENT CODE

110-1 Intent and Purpose

110-1.1 The purpose of this Section is to provide an orderly transition:

- A. From Article II of the 1973 Community Development Ordinance, Relating to Zoning, Article III, Relating to Subdivision and Land Partitioning, and the 1982 Rural Plan and implementing Ordinance to this Code and the Comprehensive Plan;
- B. In transit oriented districts, from the Community Development Code Element of the Comprehensive Plan (Volume IV), adopted by Ordinance No. 308 and last amended by Ordinance No. 479 on August 5, 1997, to this Code, which includes amendments made by Ordinance No. 486 on October 28, 1997; and
- C. In the Bull Mountain and West Tigard Community Plan areas, from Ordinance No. 487 (Article VIII), as amended, and Ordinance No. 488 (Article IX), to this Code, which includes amendments made by Ordinance No. 659.

110-2.1 This Section is intended to protect the interests of those who have received and acted upon previous requests under those former Ordinances, while furthering the public interest, by ensuring that future development occurs pursuant to the provisions of this Code.

110-2 Pending Land Use Applications

110-2.1 All applications filed under Ordinance Nos. 263, 264, 265, 278, 279, and 280 shall continue to be processed pursuant to the provisions of the former Ordinance, except procedures, until a final decision is rendered by the County or the application is withdrawn. If approved, the development shall obtain any further approvals required by the former Ordinance and commence development within the time periods specified in that Ordinance.

110-2.2 All applications filed under Ordinance No. 308, as amended, prior to the effective date of Ordinance No. 486, that are for development located in a transit oriented district, shall continue to be processed pursuant to the provisions of this Code that were in effect prior to the effective date of Ordinance No. 486, except procedures, until a final decision is rendered by the County or any appellant body or the application is withdrawn. If approved, the development shall obtain any further approvals required by the former Code provisions and commence development within the time periods specified in the former Code provisions.

110-3 Transition Provisions for Approval Granted Under Article III of the 1973 Community Development Ordinance and Article VI, Subdivision and Partitioning

The following shall govern land use approvals granted pursuant to Article II of the 1973 Community Development Ordinance and Article VI, Subdivision and Partitioning prior to the effective date of this Code:

- 110-3.1 Preliminary land division plan approvals shall be valid for two (2) years from September 26, 1983 for those areas except for Raleigh Hills, Garden Home, Metzger-Progress, Sunset West and the Rural Natural Resource Area. Said areas to have two (2) years from March 26, 1984, except that an approval for a phased development shall be valid in accordance with the time table approved but not to exceed five (5) years total. Final approval shall be determined in accordance with the standards of the former Ordinances and former Comprehensive Plan and shall be valid for one (1) year. All further approvals, such as design review, must be obtained and the development commenced as defined in Section 201-6, within that period. No extensions shall be granted.
- 110-3.2 Final PUD master plan approvals shall be valid for two (2) years from the effective dates set forth in 110-3.1. Further approvals shall be obtained and commencement of development, as defined in Section 201-6, shall occur within that time and no further extensions shall be granted.
- 110-3.3 All rezonings to the provisions of Sections 251 through 265, Planned Residential District, of former Article II of the Community Development Ordinance which have not been commenced on the effective date of this Code hereby are void and of no further effect. The conditions of approval of any constructed or commenced P-R development shall continue unless in direct conflict with this Code or the Comprehensive Plan. P-R phases not yet commenced, as defined in Section 201-6, on the effective dates set forth in 110-3.1 are void. Nothing in this paragraph shall be deemed to void a valid nonconforming use or vested right.
- 110-3.4 Prior final design review approvals shall be valid for a period of two (2) years the dates set forth in 110-3.1. Administrative actions approved under the former Ordinances which have not obtained a required design review approval, and are not provided for above, shall have one (1) year from the dates set forth in 110-3.1 to obtain such approval under the former standards. All administrative actions not receiving such approval within one (1) year shall be subject to the Development Review Standards of this Code. If those standards cannot be met, a variance or hardship relief must be obtained or the prior approval shall be reversed and the development denied.
- 110-3.5 Notwithstanding any other provision, conditional use permits shall continue to be valid for a period of five (5) years from the dates set forth in 110-3.1, except for home occupations which shall be valid for one (1) year. Holders of conditional use permits may seek a Development Permit if the use is permitted, or continue beyond expiration as a nonconforming use. Nonconforming conditional uses shall continue to be subject to all conditions imposed at the time of approval. This provision shall not apply to the Mineral and Aggregate Overlay District, which shall be governed by Section 379.
- 110-3.6 Prior final land division approvals shall be void if not recorded within one (1) year of the dates set forth in 110-3.1.
- 110-3.7 All conditions of approval imposed under the former Ordinance shall continue in full force and effect, unless the condition directly contradicts a specific and more restrictive provision of this Code, or is otherwise provided in the applicable Community Plan. All land required under prior approvals to be utilized as Open

Space shall remain in that status and shall be unbuildable. No density transfer or bonuses shall be granted for said land except as provided in the prior approval.

110-3.8 Notwithstanding any other provision, the applicant and owner of a property or their successor(s) may void all prior approvals and seek a development permit under this Code on development which has been approved but has not yet commenced.

110-4 All development permits issued pursuant to Ordinance Nos. 263, 264, 265, 278, 279, and 280 shall expire two (2) years from issuance. Extensions may be granted only if the Review Authority determines that this Ordinance imposes no substantive changes on the development.

110-5 Transition Provisions in Transit Oriented Districts

The following shall govern land use approvals granted pursuant to Ordinance No. 308, as amended, prior to the effective date of Ordinance No. 486 that are for development located in a transit oriented district:

110-5.1 All preliminary approvals shall be valid for two (2) years from the date of preliminary approval of a development application. All preliminary approvals shall expire two (2) years from the date of approval unless final approval has been granted. Final approval shall be determined in accordance with the former standards of Ordinance No. 308, as amended, and former requirements of the Comprehensive Plan. All final approvals shall be valid for one (1) year, except that a final approval of a phased development shall be valid in accordance with the time table approved but shall not exceed five (5) years total. No extensions to a preliminary or final approval shall be granted.

110-5.2 Special uses, approved prior to the effective date of Ordinance No. 486 which have not obtained a required design approval, shall have one (1) year from approval to obtain the required design review approval under the former standards. If those standards cannot be met or if the approval is not obtained within one (1) year of special use approval, the special use approval shall expire.

110-5.3 Under an application that has not received final approval prior to the effective date of Ordinance No. 486, an applicant shall not be allowed to use any of the provisions adopted by Ordinance Nos. 483, 484, 485, and 486 on any portion of the subject site. In order to use any of the provisions adopted by Ordinance Nos. 483, 484, 485, and 486, the application shall be withdrawn and a new application for the subject site shall be submitted which is consistent with this Code as amended by Ordinance No. 486 and the applicable provisions of Ordinance Nos. 483, 484, and 485.

110-6 Transition Provisions in the Bull Mountain and West Tigard Community Plan Areas

The following shall govern land use applications submitted or approved pursuant to Ordinance No. 487 (Article VIII), as amended, and Ordinance No. 488 (Article IX) prior to the effective date of Ordinance No. 659. The subject area is described in Exhibit 1 to Ordinance No. 659.

- 110-6.1 Approval of all land use applications shall be determined in accordance with the former standards of Ordinance No. 487, as amended, and Ordinance No. 488 consistent with ORS 215.427(3)(a).
- 110-6.2 All preliminary approvals shall be valid for eighteen (18) months from the date of preliminary approval of a development application. All preliminary approvals shall expire (18) months from the date of approval unless final approval has been granted. No extensions to a preliminary approval shall be granted.
- 110-6.3 All final approvals shall be valid for eighteen (18) months, except that a final approval of a phased development shall be valid in accordance with the timetable approved, but shall not exceed five (5) years total. No extensions to a final approval shall be granted. All final approvals shall expire unless commencement of development has occurred in accordance with the provisions of Section 201-6, except as provided otherwise by Section 110-6.4.
- 110-6.4 Final land division approvals shall be void if not recorded with eighteen (18) months of final approval. Development of a recorded land division is not required to commence development within eighteen (18) months of recording.
- 110-6.5 Prior approvals shall be developed in accordance with the conditions and standards of the approval. All land required under prior approvals to be utilized as Open Space shall remain in that status and shall be unbuildable. No density transfer or bonuses shall be granted for said land except as provided in the prior approval.
- 110-6.6 Notwithstanding any other provision, the applicant and owner of a property or their successor(s) may void all prior approvals and seek a development permit under this Code on development which has been approved, but has not yet commenced.