

ORDINANCE NO. 1945

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING SECTION 1.20.095 AUTHORIZING A CAUSE OF ACTION IN CIRCUIT COURT BY A PROPERTY OWNER ADVERSELY AFFECTED BY A WAIVER GRANTED PURSUANT TO A BALLOT MEASURE 37 CLAIM.

WHEREAS, the voters of the State adopted Ballot Measure 37 in the November 2004 general election, adding a new section to ORS Chapter 197, which provides that local governments may pay compensation to property owners for reductions in property values resulting from land use regulations that restrict uses of property; and

WHEREAS, Ballot Measure 37 became effective on December 2, 2004; and

WHEREAS, the City Council implemented the provisions of Ballot Measure 37 by adopting Ordinance No. 1940 on November 16, 2004; and

WHEREAS, the said Ordinance does not make provision for adverse impacts on surrounding property owners in the event of a waiver granted pursuant to a Ballot Measure 37 claim;

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

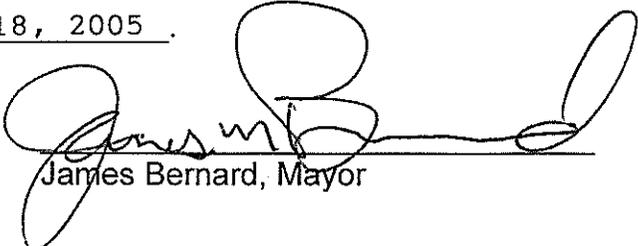
Section 1: The Milwaukie Municipal Code is amended by adding a new Section 1.20-095 in the form of Exhibit A attached hereto and incorporated by this reference.

Section 2: Because this ordinance is necessary for the preservation of the health, safety, and welfare of the City and is needed to provide a timely process to protect the rights of property owners in the event of a Ballot Measure 37 claim, an emergency is declared to exist, and this ordinance shall be in full force and effect upon its adoption.

Read the first time on 01/18/05 and moved to second reading by 5 vote of the City Council.

Read the second time and adopted by the Council on January 18, 2005.

Signed by the Mayor on January 18, 2005.


James Bernard, Mayor

ATTEST:

Pat DuVal
Pat DuVal, City Recorder

Approved as to form:

Lay Frestone
City Attorney

1/18/05
Date

EXHIBIT A
To Milwaukie Ordinance No. 1945

1.20.95 Cause of Action by Other Property Owners

If a claim results in a waiver of enforcement of a regulation and the development allowed by the waiver causes a reduction in value of other property located in the vicinity of the claimant, those property owners shall have the right to maintain an action against the claimant in state circuit court to recover the amount of the reduction. A property owner filing a successful claim pursuant to this section shall be entitled to an award of reasonable attorney fees. This section does not create a right of action against the city.