

Exhibit 1
(MC15-01) Permit Expirations

From: Carol Tobin <ctobin@mrsc.org>
Sent: Wednesday, January 14, 2015 5:07 PM
To: Sarah Fox
Subject: RE: limiting the validity of development applications if decisions are not issued

Hi Sarah,

This is in response to your request for examples and guidance regarding limiting the time that a complete application may be on hold.

I'm sure you are aware of [RCW 36.70B.070](#) regarding the determination of completeness for permit project applications. Since the statutes do not provide specific direction regarding what constitutes a complete application or procedures associated with this, it is up to the city to establish procedures regarding complete applications, including any time limit on the expiration of a complete application.

I found a few examples of codes that address the expiration of complete applications:

- Renton Municipal Code [sec. 4-8-100](#) APPLICATION AND DECISION – GENERAL: (C)(4) Expiration of Complete Land Use Applications and (C) (5) Extension of Complete Application:
- Shoreline Municipal Code, [sec. 20.30.100](#) (D) Expiration, [20.30.140](#) – Permit processing time limits, [20.30.160](#) - Expiration of vested status of land use permits and approvals, and [20.30.165](#)
- Chelan Municipal Code [sec. 19.18.110](#) - Expiration of applications.

I discussed the retroactive application of this concept with one of MRSC's legal consultants. He indicated that this should be OK if the city starts the time limit now for applications currently on hold and notifies the applicant of the new expiration deadline. In other words, if, for example, the city imposes a one-year limit and an existing application has been on hold for one year, that application could stay on hold for one year more. The same approach would apply to an application that has been on hold for many years. If the city decides on a one-year limit, that application could also stay on hold for one year more.

Most codes address expiration when the city requests additional information from the applicant to make a determination that an application is complete rather than the situation you mention where an application has been determined to be complete, but the applicant requests an extension (for example, see Gig Harbor Municipal Code [sec. 19.02.006](#) - Expiration of complete applications).

I hope this information is helpful. Please let me know if you have further questions.

Thank you for contacting MRSC. Help us improve our services by taking our five-question survey [here](#).

Carol

Carol Tobin

Planning Consultant

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Sarah Fox

From: Phil Bourquin
Sent: Wednesday, January 14, 2015 2:18 PM
To: Sarah Fox
Subject: Expiration of Vested Rights

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Excerpt from Blaine Municipal Code:

F. 1. Above and beyond the requirements of subsections (A) through (E) of this section, all permit applications shall be valid for one year from the date of the written notice that the application is complete. If a final decision by the review authority is not made within this time, the application shall become null and void unless an extension is granted. The review authority may grant a maximum of two one-year extensions at the timely request of the applicant upon the determination by the city that the applicant can establish that a reasonable good faith effort to complete the project application was undertaken during the time that the application was pending. Each one-year extension shall be considered independently.

2. In determining the number of days that have elapsed after an application is determined to be complete for the purposes of subsection (F)(1) of this section, any time period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and Chapter 17.80 BMC shall be excluded. (Ord. 2811 § 2 (Exh. A), 2012; Ord. 2728 § 2 (Exh. A), 2009; Ord. 2673 § 2, 2007; Ord. 2554 § 3, 2003)

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Live, Work, Recreate and Educate

From: macphersonlaw@comcast.net
Sent: Tuesday, January 20, 2015 3:35 PM
To: Sarah Fox
Cc: Phil Bourquin; MacPherson, shawn
Subject: Re: code amendment assistance
Attachments: Erickson v McLerran.pdf; Bellevue Code.pdf

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In reference to CMC18.55.130(D), I do not read the code as allowing a developer to unilaterally request an indefinite hold. The reference to extensions of time requires that both the applicant and the City agree to it. In such a circumstance, the City could reasonably impose time limitations. Bellevue has a code section 20.40.510, which deals with "cancellation of land use applications." I have attached a copy. For clarity, we could include an amendment which indicates that any extensions of time have a time limit, and, following this period of inactivity, the City would have the discretion to cancel the land use application.

I have also attached a Supreme Court case, *Erickson & Associates, Inc v McLerran*, 123 Wn 2d 864 (1994). Essentially, the Supreme Court has ruled that local jurisdictions have the right to adopt vesting rules which "suit their particular local needs." There is a discussion on the top of page 874 which discusses the balancing act between the interests of the developer and the interests of the local jurisdiction.

Upon review, if you want to meet and more fully discuss this matter, please let me know. Thank you.

From: "Sarah Fox" <SFox@cityofcamas.us>
To: "MacPherson Law <macphersonlaw@comcast.net>" <macphersonlaw@comcast.net>
Cc: "Phil Bourquin" <PBourquin@cityofcamas.us>
Sent: Wednesday, January 14, 2015 11:08:54 AM
Subject: code amendment assistance

Hi Shawn,

Phil asked that I find a solution, and propose a code amendment that will impose a time limitations on pending applications. Particularly those where an applicant has requested that they are placed on hold. I have searched MRSC and Planning.org, and the web in general and have not found any guidance or examples. Perhaps I am using the wrong search terms?

I attached the draft staff report summary, which is an attempt to explain the problem that we would like to solve. Do you have any suggestions?

Thanks!

SUMMARY

There is an understanding that development applications may progress at the discretion of applicant, aside from the city's requirements to respond and issue decisions. Some applicants request that their development application, after being determined "technically complete", be placed on hold, essentially stopping the regulatory time clock for decision making. The reasons vary, although it is typically requested when ownership of a project changes hands, or there are technical studies that must be conducted in order to proceed. The city is concerned about the effect to the community when a development application is on hold indefinitely, and the vested codes are not consistent with current regulations, particularly current environmental regulations.