

ORDINANCE NO. 1215

INTRODUCED BY ALL COMMISSIONERS

TO AMEND TITLE 3 OF THE MUNICIPAL CODE TO ADD A NEW CHAPTER 3.40 TO
IMPLEMENT MEASURE 4-181

WHEREAS, the electors of the City of Warrenton enacted Measure 4-181, which amended the City charter to require voter approval before the City could transfer or dispose of large tangible assets with a value of \$100,000 or more in 2014 dollars; and

WHEREAS, Measure 4-181 contains certain ambiguities that makes the measure difficult to implement and could lead to future confusion and possibly litigation; and

WHEREAS, the City Commission has worked with the drafters and proponents of Measure 4-181 to clarify such ambiguities in a manner consistent with their intent; and

WHEREAS, the City Commission finds it is in the public interest to clarify these ambiguities.

NOW, THEREFORE, the City of Warrenton ordains as follows:

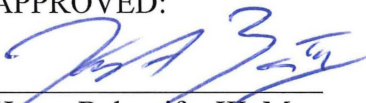
Section 1: Chapter 3.40 is added to Title 3 of the Warrenton Municipal Code as set forth in Exhibit A.

Section 2: This ordinance will take effect 30 days after its adoption by the Warrenton City Commission.

ADOPTED by the City Commission of the City of Warrenton this 26th day of September, 2017.

First Reading: Sept. 12, 2017
Second Reading: Sept. 26, 2017

APPROVED:


Henry Balensifer III, Mayor

ATTEST:


Dawne Shaw, Deputy City Recorder

Exhibit A

3.40.010 Purpose.

The purpose of this Chapter is to implement Charter Chapter XI, which was enacted by the voters via the initiative process. Because the language added to the Charter contains certain ambiguities, the City Commission, in consultation with the proponents and drafters of the initiative, adopts the following provisions to clarify how Charter Chapter XI is to be implemented.

3.40.020 Definitions.

For purposes of this chapter and Charter Chapter XI, unless the context requires otherwise, the following definitions apply:

“City or any of its agencies” means the City of Warrenton and any of its constituent departments, boards, or commissions but it does not include separate legal entities such as the Warrenton Urban Renewal Agency.

“Combined tangible asset value” means the amount of money that a City owned system, operation or infrastructure would bring if offered for sale by the City and was bought by another who desired but was not obliged to buy the system, operation or infrastructure. The Commission may determine this amount through the use of appraisals or other commonly used valuation methods.

“Contractual right or interest” means a legally enforceable claim that arises from a contract or agreement.

“Gross value of any income stream” means the total amount of money the City generates on an annual basis in exchange for providing a service to the public through the use of a system, operation or infrastructure.

“Leasehold interest” means any temporary right to exclusive possession of City owned real property for a stated and definite period of time that the City provides to another person or entity through a lease, provided that for the purposes of Charter Chapter XI, a leasehold interest does not include:

1. Any lease of a term less than 25 years;
2. Any lease which includes an option or similar provision, or any combination thereof, which, if exercised, would cause the overall term to be less than 25 years; or
3. Any lease containing a renewal provision or provisions, which, if exercised, would cause the overall term of the lease to be less than 25 years.

“Real market value” means:

1. For real property, the real market value is equal to the amount of money that the property would bring if offered for sale by one who desired but was not obligated to sell, and was bought by one willing but not obliged to buy. The Commission may

determine this amount through the use of appraisals or other commonly used real property valuation methods such as the expert opinion of a realtor. Real property the City may not sell due to statutory or other restrictions, such as a street vacation or real property with a title that contains a reversion clause if no longer used for a public purpose has no real market value.

2. For leasehold interests, the real market value is equal to the amount of money that the City as lessor could acquire for the leasing of City-owned real property to another who desired but was not obliged to lease the real property. This amount will be calculated by multiplying the dollar value of the monetary payments the lessee is obligated to pay per term by the number of terms in the lease.

“Sell, trade, divest or otherwise dispose of” means to exchange for valuable consideration or give away control over an Asset belonging to the City or any of its agencies.

“System, operation, or infrastructure” means the combined parts of a total and complete framework of either personal property or improvements to real property when such personal property or improvements to real property are owned and used by the City to supply a public service. Examples of a system, operation or infrastructure include but are not limited to bridges, roadways, water and sewer systems, electrical systems, dams and sanitation equipment. A system, operation or infrastructure does not include any individual or distinct parts of a system, operation or infrastructure such as a single garbage truck that is part of the City’s sanitation system or a pump or pipe that is part of the City’s water or sewer systems. Such individual or distinct parts would constitute tangible physical assets.

“Tangible physical asset” means City owned personal property but does not include real property or any system, operation or infrastructure.

“Value” means:

1. For any tangible physical asset, the value is equal to the amount of money that a City owned tangible physical asset would bring if offered for sale by the City and was bought by another who desired but was not obliged to buy the tangible physical asset. The Commission may determine this amount through the use of appraisals or other commonly used valuation methods.
2. For any contractual right or interest, the value is equal to the amount of money that the contractual right or interest would bring if offered for sale by the City and was bought by another who desired by was not obliged to buy the contractual right or interest. The Commission may determine this amount through the use of appraisals or other commonly used valuation methods.

3.40.030 Calculation of 2014 Dollars

For the purposes of calculating the value of \$100,000 in 2014 dollars, the City shall increase \$100,000 by three percent (3%) annually until the applicable year in question.

3.40.040 Appeals of Valuation Determinations

- A. The Commission may, but is not required to, declare by resolution that the value of any Asset the City seeks to sell, trade, divest or otherwise dispose of is less than the amount that would require voter approval under Charter Chapter XI.
- B. The City Recorder must publish notice of the Commission's resolution adopted pursuant to subsection (A) of this section on the City's web site by the next business day and in a newspaper of general circulation in the City as soon as reasonably possible.
- C. Thereafter, any elector who disagrees with the Commission's determination may appeal the determination to the City's municipal court by filing a notice of appeal with the City Recorder on a form provided by the Recorder within 10 business days after notice has been published on the City's web site pursuant to subsection (B) of this section.
- D. Within thirty days of the date the completed notice of appeal is filed with the City Recorder, the Municipal Court shall hold a hearing on the matter, unless the appellant agrees to an extension. At the hearing, the Municipal Court may take testimonial and other evidence, if any, offered by appellant as well as include in the record any material offered by the City supporting the Commission's determination.
- E. After reviewing the material and evidence offered and received, the Municipal Court Judge shall make a written decision and either uphold or reverse the Commission's determination. The decision of the Municipal Court Judge shall be final.
- F. An appeal of the Municipal Court Judge's decision may be taken by way of writ of review (ORS 34.010 to ORS 34.100) and not otherwise.

3.40.050 Severability.

The invalidity of a section or subsection of this chapter shall not affect the validity of the remaining sections or subsections.