

ORDINANCE NO. 1074-A

Introduced by Commissioner: Jeff Hazen

**AN ORDINANCE CONCERNING REAL PROPERTY COMPENSATION;
ADOPTING PROCEDURES FOR PROCESSING CLAIMS; DECLARING AN
EMERGENCY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.**

THE CITY OF WARRENTON ORDAINS AS FOLLOWS:

Section 1. - Purpose.

This Real Property Compensation Ordinance is intended to implement the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 (November 2, 2004). These provisions establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city's decision capable of circuit court review.

Section 2 – Definitions.

As used in this Ordinance, the following words and phrases mean:

City Manager. The City Manager of the City of Warrenton, or his or her designee.

Claim. A claim filed under Ballot Measure 37.

Exempt Land Use Regulation. A land use regulation that:

- (a) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
- (b) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
- (c) Is required in order to comply with federal law;
- (d) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
- (e) Was enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

Family Member. Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

Land Use Regulation. Includes:

- (a) Any statute regulating the use of land or any interest therein;
- (b) Administrative rules and goals of the Land Conservation and Development Commission;
- (c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;
- (d) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and
- (e) Statutes and administrative rules regulating farming and forest practices.

Owner. The present owner of the property, or any interest therein.

Section 3 – Claim Filing Procedures.

(1) A person seeking to file a claim under Sections 1 - 7 of this Ordinance must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the City Manager's office, or another city office if so designated by the City Manager.

(2) A claim shall include:

- (a) The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;
- (b) The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting ownership of the property by the claimant, and the date the property was acquired;
- (c) The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;
- (d) The amount of the claim, based on the alleged reduction in value of the real property; and

(e) Copies of any leases or Covenants, Conditions and Restrictions (“CCR’s) applicable to the real property, if any, that impose restrictions on the use of the property.

(f) A statement of the preferred resolution of the claim:

(1) Monetary payment in a specific amount;

(2) Waiver or modification of the applicable regulations to allow a use of the property permitted at the time the owner acquired the property, including a description of the proposed use.

(3) Notwithstanding a claimant’s failure to provide all of the information required by subsection (2) of this section, the city may review and act on a claim.

Section 4 – City Manager’s Investigation and Recommendation.

(1) Following an investigation of a claim, the City Manager shall forward a recommendation to the City Commission that the claim be:

(a) Denied;

(b) Investigated further;

(c) Declared valid, and compensate the claimant upon completion of an appraisal; or remove, modify or direct that land use regulations not be applied to the property to allow the owner to use the property for a use permitted at the time the owner acquired the property;

(d) Evaluated with the expectation of the city acquiring the property by condemnation.

Section 5 -- City Commission Public Hearing.

The City Commission shall conduct a public hearing before taking final action on a recommendation from the City Manager. Notice of the public hearing shall be provided to the claimant, to owners and occupants of property within 300 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially recognized by the City Commission whose boundaries include the subject property.

Section 6 – City Commission Action on Claim.

(1) Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was filed, the City Commission shall:

(a) Determine that the claim does not meet the requirements of Measure 37 and this Ordinance, and deny the claim; or

(b) Adopt a Resolution with findings therein that supports a determination that the claim is valid and either direct that the claimant be compensated in an amount set forth in the Resolution for the reduction in value of the property, or remove, modify or direct that the challenged land use regulation not be applied to the property to allow the owner to use the property for a use permitted at the time the owner acquired the property.

Section 7 – Processing Fee.

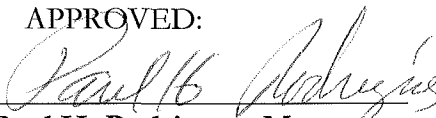
(1) The processing fee shall be \$100 per claim.

Section 8 – Emergency

Due to the passage of Measure 37 at the General Election on November 2, 2004 with an effective date 30 days thereafter, the City Commission declares it is necessary for the preservation of the public health, welfare and safety for this Ordinance to have immediate effect. Therefore, this Ordinance shall become effective immediately upon its passage.

PASSED by the City Commission of the City of Warrenton this 1st day of December 2004.

APPROVED:


Paul H. Rodriguez, Mayor

ATTEST:


Linda Engbretson, City Recorder



CITY OF WARRENTON

Demand for Compensation – Measure 37 Claim Form

CLAIMANT INFORMATION:

(Note - Claimant must be the Present Owner of the Subject Property)

Name of Claimant

Street Address

Mailing Address

Telephone Number

Claimant's Representative (if any)

Representative's Mailing Address

Representative's Telephone Number

PROPERTY OWNER(S) INFORMATION (attach additional sheets, as necessary):

Name of Property Owner(s) (Please include all owners of interest in the subject property, such as trustees, lien holders and lessees)

Street Address(es)

Mailing Address(es)

Telephone Number(s)

SUBJECT PROPERTY INFORMATION:

Street Address (or nearest cross streets if none is assigned)

Legal Description (attach additional sheet(s) as necessary)

Assessor Parcel Number(s) (Twp., Range, Section, Tax Lot)

STATEMENT OF PREFERRED RESOLUTION TO THE CLAIM (check one):

- Monetary Payment in the amount of \$_____.
- Waiver or Modification of the applicable Regulation(s) to allow a use of the property permitted at the time the owner acquired the property, including a description of the proposed use:

OTHER REQUIRED INFORMATION (please check respective boxes to confirm submittals):

- Copy of Deed transferring ownership to claimant.
- Title Report issued not more than 30 days prior to the claim submittal.
- The current land use regulation(s) that allegedly causes a reduction in the fair market value of the subject property.
- Copies of any leases or Covenants, Conditions, and Restrictions (CC&R's) applicable to the real property, if any, that impose restrictions on the use of the property.
- If a claim is based on ownership by a family member, please enclose suitable documentation showing the chain of title back to the original family member.
- \$100 Processing Fee.

Claimant Signature

Date

Property Owner Signature

Date

Property Owner Signature

Date

(Please attach additional property owner signature sheets, as necessary.)

FOR OFFICE USE ONLY:

DATE CLAIM FORM RECEIVED:_____

BY:_____

FILE NO.:_____