

CITY OF GARIBALDI
ORDINANCE NO. 248

AN ORDINANCE ESTABLISHING A PROCEDURE FOR
SUBMITTING AND RESOLVING CLAIMS ARISING UNDER THE
PROVISIONS OF SECTION 18, ARTICLE I OF THE OREGON
CONSTITUTION, AS AMENDED BY BALLOT MEASURE NO. 7,
ADOPTED NOVEMBER 7, 2000; AND DECLARING AN EMERGENCY.

SECTIONS

- 1 *Application for Compensation Required*
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WHEREAS, Ballot Measure No. 7, amending Article 1, Section 18, of the Oregon Constitution, was approved by qualified electors of the State of Oregon on November 7, 2000, and becomes effective December 7, 2000; and

WHEREAS, the provisions of said Measure require a regulating entity, including the City of Garibaldi, under certain circumstances, if said City "passes or enforces a regulation that restricts the use of private real property, and the restriction has the effect of reducing the value of a property upon which the restriction is imposed," to pay to the property owner just compensation equal to the reduction of the fair market value of the property or release the restriction on said property; and

WHEREAS, in order to do so, it is necessary that the City of Garibaldi shall have and receive from any such claimant full and adequate information by means of which the said City can evaluate and determine the validity and value of such claim; NOW, THEREFORE

THE CITY OF GARIBALDI ORDAINS AS FOLLOWS:

Section 1. APPLICATION FOR COMPENSATION REQUIRED: Any person desiring to make or assert a claim or claims against the City of Garibaldi under the provisions of Ballot Measure 7, as incorporated into Section 18, Article 1, of the Oregon Constitution, shall, within the time limit provided by any applicable statute of limitations, submit to the City Administrator a written application on a form provided

by the City Administrator. An application so given shall include, but shall separately state, all claims which have arisen and which exist and are outstanding with respect to the property therein described on the date the application is tendered to the City. No application shall set forth claims which do not affect all of the property described in the application and where multiple claims are sought to be asserted for more than one parcel of real property, the claims shall be stated in separate applications unless all of the claims set forth affect all of the parcels described in the application.

Section 2. APPLICATION FEE: The application shall be accompanied by an application fee in an amount established by a separate fee resolution of the Garibaldi City Council.

Section 3. APPLICATION CONTENTS: The application shall be subscribed by all of the owner(s) of the subject property, as claimant(s), or shall be subscribed by at least one of the property owner(s), and accompanied by the written consents of the other owners to the submission of the application or, if not all owners shall subscribe or consent to the submission of the application, shall contain a statement identifying the owners who have not subscribed or consented to the application, and stating that such owners were provided with a copy of the application and refused to subscribe or consent thereto. The application shall contain or have attached thereto the following information and materials:

- (a) A description, sufficient for identification, of the regulation asserted by the applicant to have restricted the use of the applicant's private real property.
- (b) The street address, and a description in compliance with the provisions of ORS 93.600, sufficient to identify and permit location of the private real property, the use of which is alleged to have been restricted by such regulation.
- (c) The true and correct names, mailing addresses and telephone numbers of all of the owner(s) of the property (including all interests therein), accompanied by a copy of a policy of title insurance, deed of conveyance or other sufficient proof of such ownership.
- (d) The date on which the owner(s) acquired the subject property.
- (e) Whether the claim is alleged to arise on account of (1) the adoption of a regulation; (2) the enforcement or application of a regulation; and (3) the date when the regulation was either adopted, or enforced or applied.
- (f) A description of the effect of the regulation on said property, including a statement of the manner in which the use of the property is thereby restricted.

- (g) A copy of a written appraisal by an appraiser, qualified as such in the state of Oregon, indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after application of the regulation.
- (h) A statement of the manner in which the fair market value of the property has been reduced, and a statement setting forth the net cost of any affirmative obligation to protect, provide or preserve wildlife habitat, natural areas, wetlands, ecosystems, scenery, open space, historical, archaeological or cultural resources, or low income housing, imposed on the owner which are part of the reduction in fair market value compensable under Section 18, Article 1, as amended by Measure 7.
- (i) Whether or not applicant believes the restriction to be related to the prohibition of a historically and commonly recognized nuisance, or to implement a requirement of Federal law.
- (j) Any additional information which would aid in the determination of the validity and value of the claim, or any decision to release the restriction.

Section 4. COMPLETENESS REVIEW: Within five (5) business days of the receipt of a preliminary application for compensation, the City Administrator or his/her designee shall review the application and determine its completeness. If the application is deemed complete, it will be deemed filed on the date that it was actually received. In the event that the application is determined to be incomplete, the applicant will be notified of the application deficiencies and the preliminary application shall not be deemed filed until such time as the deficiencies have been corrected. Upon correction of the deficiencies, the application shall be deemed filed on the date that the deficiencies were corrected. In either event, the application shall have noted upon it the date when it was deemed complete and filed. Any notice to be given to an applicant pursuant to this Section shall be mailed to the applicant by first class mail. If the City Administrator or his/her designee fails to advise an applicant of any deficiencies within the time required, the application shall be deemed complete on the date of its original filing with the City.

Section 5. NATURE OF HEARING: If a decision will result in a land use decision as defined by ORS 197.015, the hearing by the City Council shall comply with the minimal requirements of ORS Chapter 197 as to notice and hearing for a quasi-judicial land use hearing. All other hearings will be a public hearing which shall be held not earlier than 10 days following publication of the notice of such hearing in a newspaper of general circulation in the City of Garibaldi. The decision of the City Council will be the final decision of the City.

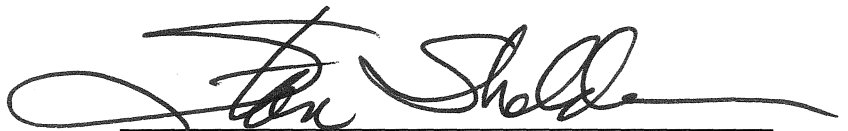
Section 6. COMPENSATION: The City Council shall, within 90 days of the filing

of a complete application, upon determining that a claim is valid under Section 18, Article I of the Oregon Constitution, pay just compensation to the owner or release the restriction(s).

Section 7. EFFECT OF RELEASE DECISION: No compensation shall be due if a release is granted by the City Council within ninety (90) days of the filing of a completed application for compensation. A release is expressly limited to the minimum release necessary to avoid the need to pay compensation pursuant to the amendments to Oregon Constitution Article 1, Section 18, adopted by Measure 7. The release shall be automatically rescinded or limited in scope, without the need for any action by the City of Garibaldi, to comply with any subsequent modifications to Oregon Constitution Article 1, Section 18.

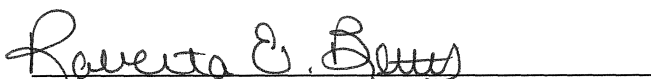
Section 8. EFFECTIVE DATE: It is hereby adjudged and decreed that this Ordinance is immediately necessary for the preservation of the peace, health, safety and general welfare of the people of Garibaldi, and therefore an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the council and approval by the Mayor.

Passed by the Common Council and approved by the Mayor of the City of Garibaldi, this 4th day of December, 2000.



Mayor

ATTEST:



City Recorder

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