

CITY OF GARIBALDI
ORDINANCE NO. 278

**AN ORDINANCE TO ESTABLISH A REVIEW OF DEMANDS FOR
COMPENSATION UNDER OREGON REVISED STATUTES CHAPTER
197 AS AMENDED BY BALLOT MEASURE 37 PASSED NOVEMBER 2,
2004, AND DECLARING AN EMERGENCY.**

WHEREAS, on November 2, 2004 the voters of the State of Oregon approved Ballot Measure 37 amending Oregon Revised Statutes Chapter 197; and

WHEREAS, Ballot Measure 37 provides that a City may adopt or apply procedures for the processing of a “demand for compensation” claim under Ballot Measure 37; and

WHEREAS, it is appropriate for the City of Garibaldi to establish a procedure for the review and action upon “demands for compensation” under Ballot Measure 37; and

WHEREAS, Ballot Measure takes effect on December 2, 2004; now, therefore,

SECTIONS

- 1 *Purpose*
- 2 *Definition*
- 3 *Filing a Demand*
- 4 *Demand Review Process*
- 5 *Council Authority*
- 6 *Emergency Clause*

THE CITY OF GARIBALDI DOES ORDAIN AS FOLLOWS:

Section 1. PUROSE: The purpose of this section is to establish a process for consideration and action on demands for compensation under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37.

Section 2. DEFINITIONS: For the purposes of this Ordinance, the following definitions shall apply:

Demand: Means the “written demand for compensation” required to be made by an “owner” of “real property” under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004.

1 - AN ORDINANCE TO ESTABLISH A REVIEW OF DEMANDS FOR COMPENSATION UNDER OREGON REVISED STATUTES CHAPTER 197 AS AMENDED BY BALLOT MEASURE 37 PASSED NOVEMBER 2, 2004, AND DECLARING AN EMERGENCY.

Family Member: Means 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: Means any comprehensive plan, zoning ordinance, land division ordinance, or transportation ordinance of the City of Garibaldi.

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

Section 3. FILING A DEMAND:

- A. A demand should be filed by an owner on forms provided by the City.
- B. The demand that is filed by the owner with the City will in part form the factual basis for the City's action on the demand. Therefore, the demand should include the information necessary for the City to act on the demand pursuant to Section 4(d) of this Ordinance. The following information should be provided by the owner:
1. The name(s), address(es) and telephone number(s) of all other owners of the property and anyone with an interest in the property such as trustees, lien holder and lessees, and a description of the ownership interest of each;
 2. A legal description of the property, including the address;
 3. Proof of ownership of the property;
 4. Where the property is not in the exclusive fee simple ownership of the person filing the demand, consent of all other owners in the property;
 5. A title report, including the title history, a statement of the date the owner acquired ownership of the property, and the ownership interests of all owners. If the demand is based on ownership by a family member, the title history back to the specified family member;
 6. Copies of any leases, Covenants, Conditions and Restrictions (CCRs), or other private restrictions applicable to the property;
 7. The current land use regulation(s) that restricts the use of the property;
 8. The amount of the demand for compensation, supported by an appraisal by an appraiser qualified as such in the State of Oregon; and
 9. A statement as to the preferred resolution of the demand: (a) a monetary payment in a specific amount; (b) waiver of the applicable regulation; or (c) modification of the applicable regulations, including a description of the desired modification.

C. Notwithstanding the failure of the owner to provide the information specified in subsection B above, the City will review and act on the demand pursuant to Section 4 of this Ordinance.

The submission requirements are optional. The objective is to try and have an applicant provide as much of this material as possible.

Section 4. DEMAND REVIEW PROCESS:

A. The Council shall hold a public hearing on the demand. The public hearing shall be conducted in conformance with Section 10.080 through Section 11.040 (1)-(7) of Ordinance 107.

B. Notice of the hearing, conforming to the requirements of Section 11.020 of Ordinance 107 shall be mailed to property owners within 250 feet of the exterior boundary of the property.

C. The City Administrator shall prepare a report on the demand and may make a recommendation to the Council. In preparing that report, the City Administrator may obtain such information as is deemed necessary to assist the Council in reviewing and acting on the request.

D. At the conclusion of the hearing, the City Council may take, but is not limited to taking, one or more of the following actions on the demand,

1. Grant the request for compensation in the amount requested by the applicant; or
2. Grant the request for compensation in an amount it has determined appropriate based on the evidence it has reviewed; or
3. Remove the regulation it has found restricts the use of the property in a manner that has the effect of reducing the value of the property; or
4. Modify the regulation it has found restricts the use of the property in a manner that has the effect of reducing the value of the property; or
5. Deny the demand.

E. Final Council action shall be taken within 180 days of the filing of the demand.

Section 5. COUNCIL AUTHORITY: The Council is hereby authorized to remove, or modify the application of any land use regulation that is determined by the Council to entitle an owner to compensation pursuant to the provisions of this Ordinance.


Section 6. EMERGENCY CLAUSE: This Ordinance, being necessary for the preservation of the health, safety and general welfare of the City, and more specifically,

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the necessity to have a procedure in place for review and action on demands for compensation under Ballot Measure 37, which became effective on December 2, 2004, an emergency is declared and this ordinance shall take effect upon its adoption.

PASSED READING BY TITLE ONLY by the Council this 20th day of December, 2004.

APPROVED by the Mayor this 20th day of December, 2004.


Ev Brown, Mayor

ATTEST:


John O'Leary, Recorder