
CHAPTER 1229
MEASURE 37 CLAIMS

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1229.01 PURPOSE.

This Ordinance is intended to implement the provisions added to Chapter 197 of the Oregon Revised Statutes by Ballot Measure 37 (November 2, 2004).

(E.Ord 2005-10. Passed 4-27-05; P.Ord. 2005-9. Passed 5-5-05.)

1229.02 DEFINITIONS

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

- (a) County Administrator - The County Administrator of Jackson County, Oregon.
- (b) Claim - A claim filed under Ballot Measure 37.
- (c) Exempt Land Use Regulation - A land use regulation that:
 - (1) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
 - (2) 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;
 - (3) Is required in order to comply with federal law;
 - (4) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
 - (5) 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.

(d) 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.

(e) Land Use Regulation - Includes:

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

(f) Owner - The present owner of the property, or any interest therein.

(g) Valid Claim - A claim submitted by the owner of real property that is subject to a land use regulation adopted or enforced by the County that restricts the use of the private real property in a manner that reduces the fair market value of the real property.

(E.Ord 2005-10. Passed 4-27-05; P.Ord. 2005-9. Passed 5-5-05.)

1229.03 CLAIM FILING PROCEDURES

(a) A person seeking to file a claim under this Ordinance must be the 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 County Administrator's office.

(b) A claim shall be submitted using the county's most recent claim form filled out in its entirety. Information shall include, but is not limited to:

- (1) The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property;

- (2) A report prepared by a title insurance company licensed to do business in the State of Oregon identifying the person(s) holding title to the property, a legal description of the property, all conveyances of title to the property from the date the property was first acquired by a Family Member to present (including copies of all conveyance documents), and any exceptions to title to the property;
 - (3) The amount of the claim, based on the alleged reduction in value (diminished value) of the real property;
 - (4) The current land use regulation(s) that allegedly restricts the use (diminished the value) of the real property and allegedly causes a reduction in the fair market value of the subject property;
 - (5) The zoning map and comprehensive plan designations on the date on which the property was acquired;
 - (6) The desired use of the property; and
 - (7) Copies of any leases or Covenants, Conditions and Restrictions (ACCR's) applicable to the real property, if any, that impose restrictions on the use of the property.
- (c) Notwithstanding an owner's failure to provide all of the information required by subsection (2) of this section, the County may review and act on a claim.
- (d) For claims received for real property located within the urban growth boundary of a city, the County Administrator shall provide to the city a copy of the claim. A notice shall accompany the copy of the claim advising that if the claim is declared to be valid, the Board of Commissioners may modify, remove or not apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property, and that the city has 30 days to respond to the claim with written comments and/or a written offer to pay just compensation to the owner in lieu of any modification, removal or nonapplication of a land use regulation or land use regulations.
- (E.Ord 2005-10. Passed 4-27-05; P.Ord. 2005-9. Passed 5-5-05. E. Ord 2005-16. Passed 09-14-05. P.Ord. 2005-17. Passed 09-28-05.)

1229.04 COUNTY ADMINISTRATOR INVESTIGATION AND RECOMMENDATION

Following an investigation of a claim, the County Administrator shall forward a recommendation to the Board of Commissioners that the claim be:

- (a) Denied;
- (b) Investigated further; or
- (c) Declared valid, and that either: (i) compensation be paid to the owner upon completion of an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, or (ii) the Board of Commissioners modify, remove or not apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property.

(E.Ord 2005-10. Passed 4-27-05; P.Ord. 2005-9. Passed 5-5-05.)

1229.05 BOARD OF COMMISSIONERS DECISION

The Board of Commissioners shall consider the recommendation of the County Administrator and any written comments it receives, and shall take final action on the recommendation by adoption of an Order. The Board of Commissioners may, in its discretion, hold a public hearing before adoption of an Order.

(E.Ord 2005-10. Passed 4-27-05; P.Ord. 2005-9. Passed 5-5-05.)

1229.06 (Ord. 2005-2. Passed 2-16-05; E. Ord 2005-16. Passed 09-14-05; REPEALED Ord 2005-17. Passed 09-28-05.)