

ORDINANCE NO. 761

AN ORDINANCE ADOPTING PROCEDURES TO IMPLEMENT BALLOT MEASURE 37 AND DECLARING AN EMERGENCY.

The City of Scappoose ordains as follows:

- Section 1. Purpose.** The purpose of this ordinance is to adopt policies and procedures for the City's implementation of Ballot Measure 37 (the "Measure"), which is effective December 2, 2004.
- Section 2. Policy.** It is unlikely that the City will have adequate financial resources to pay claims filed with the City pursuant to the Measure, although the City reserves the right to do so in particular cases. It is the City's policy that such claims be negotiated with claimants to achieve resolution suitable to the City, claimants, and, if possible, other affected property owners. It is also the policy of the City that the resolution of Ballot Measure 37 claims be public to assure public understanding of the requirements and consequences of the Measure.
- Section 3. Procedure.** In processing a claim filed pursuant to the Measure, the City will follow the following procedures:
- (a) **Form of Claims.** A claim pursuant to the Measure may be filed in any form. A standard form shall be prepared and provided to claimants by the City Manager, which, if used, will facilitate and expedite consideration of claims. For purposes of this ordinance, a claim shall apply only to a single parcel of real property.
 - (b) **Fees.** If a claimant seeks consideration of a claim pursuant to this ordinance, the claim must be accompanied by an application fee adopted by Resolution 04-18 of the Council to reimburse the City for the cost of processing the claim. If the fee is not paid, the procedures established by this resolution shall not apply to the claim unless determined otherwise by the City Manager.
 - (c) **Filing Official.** Claims authorized by the Measure shall be filed with the City Manager.
 - (d) **Supporting Information.** Processing a claim will be facilitated and expedited by submission by claimant to the City of the following information:
 - i. Identification of the affected parcel of property, including a legal description.

- ii. Evidence of property ownership, including prior ownership by family members.
- iii. Evidence of current fair market value of the affected parcel of property.
- iv. Evidence of decrease of fair market value of the affected parcel of property due to a land use restriction adopted or enforced by the City and applying to the affected parcel of property. Submission to the City from claimant of an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon will be necessary before the City can determine if compensation under the Measure is justified.
- v. The amount of the claim.
- vi. The specific land use regulation or restriction which causes a decrease in fair market value of the property.
- vii. Names and addresses of surrounding property owners within 300 feet of the property, which is the subject of the claim, who might be affected by development of the property for which the claim is filed.
- viii. Copies of any leases or Covenants, Conditions and Restrictions (CCRs), if any, applicable to the affected property.

(e) Eligibility of Claim. Upon receipt of a claim, the City Manager shall determine if the claim complies with the eligibility criteria prescribed in Ballot Measure 37. If the claim is eligible, the claimant shall be invited to participate in the negotiation process described herein. If the claim is determined ineligible, the claimant shall be notified thereof, and no negotiation process shall commence unless determined otherwise by the City Manager.

(f) Negotiation. Upon receipt of a claim and prescribed fee, and determination of claim eligibility, the City Manager shall arrange with the claimant a meeting(s) to gather additional information from the claimant, discuss alternatives and negotiate a mutually acceptable resolution of the claim. If the claimant declines to participate in such negotiations or to provide requested supporting information, the City Manager may terminate negotiations and report such termination to the Council.

(g) Settlement Proposal. The objective of negotiations shall be agreement between the claimant and the City Manager on a Settlement Proposal. Such proposal shall be reduced to written form and initialed by the parties. The proposal shall be submitted to the City Council for its consideration. The proposal may contain conditions for waiver or modification of land

use regulations, payment of compensation, acquisition of the property, or any combination thereof, and may include other terms and conditions agreed to by the claimant and City Manager. The Settlement Proposal shall not be binding on the City or claimant until Council approval.

- (h) **Failure to Settle.** In the event that a Settlement Proposal is not agreed to between the City Manager and the claimant, pursuant to Section 3(g) of this ordinance, within 120 days from the date the claim was filed, or in the event that the claimant declines to participate in negotiations or provide supporting information pursuant to Section 3 of this ordinance, the City Manager shall report that fact to the Council together with a recommendation for further processing of and response to the claim as required by the Measure.
- (i) **Council Consideration.** Upon submission of a Settlement Proposal to the City Council, a public hearing shall be scheduled before the Council to consider the proposal. Notice shall be given to surrounding affected property owners by mail, but failure of such notice shall not invalidate or otherwise affect a settlement of the claim. Public notice shall also be given as determined by the City Manager. The hearing shall be legislative in nature and any interested person may participate subject to regulations determined by the Mayor. Upon conclusion of the hearing, the Council may approve, deny or adopt alterations to the proposal. Nothing in this section shall preclude the Council from holding an executive session to consider a Settlement Proposal or other matter regarding a claim filed pursuant to this ordinance.
- (j) **Criteria.** In determining whether to enter into a Settlement Agreement granting compensation and/or waiving or modifying land use regulations, or in determining a claim in absence of a Settlement Agreement, the criteria for such determination shall be whether the public interest would be better served by compensating the claimant or waiving or modifying an applicable land use regulation.

Section 4. Settlement. Settlement of a claim shall be a Settlement Agreement in writing in a form approved by the City Attorney, and shall be executed by the claimant, the City Manager on behalf of the Council, and any other necessary parties. A settlement shall be conclusive of all Ballot Measure 37 claims pertaining to the parcel of property subject to the claim, and the Settlement Agreement shall so provide.

Section 5. Code Amendment. This ordinance shall be added to Chapter 17 of the Scappoose Municipal Code.

Section 6. Recordation. Upon approval of a settlement by the Council and execution of the Settlement Agreement by the City, the claimant and any other necessary parties, the Settlement Agreement or memorandum

thereof shall be recorded by the City in the county deed records, including a legal description.

Section 7. Emergency. Because the Measure takes effect December 2, 2004 and it is necessary that this ordinance be in effect on that date, an emergency is declared to exist, and this ordinance shall take effect upon its adoption.

Adopted this 29th day of November, 2004.

Glenn E. Dorschler, Mayor

Attest:

Susan M Pentecost, City Recorder