

TIGARD MUNICIPAL CODE

Chapter 1.21 PROCESSING CLAIMS FOR COMPENSATION PURSUANT TO ORS 195.300 – 195.336

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1.21.010 Purpose.

The purpose of this chapter is to implement the provisions of ORS 195.300-195.336, (Ballot Measure 49) enacted by the voters on November 6, 2007. These provisions are intended to establish a prompt, open, thorough and consistent process that provides Claimants an adequate and fair opportunity to present their Claims for compensation to the City.

1.21.020 Definitions.

The definitions set forth in ORS 195.300, are by this reference, incorporated herein. As used in this process, the following words and phrases mean:

- A. “Ballot Measure 49” means the measure enacted by the voters at the November, 2007, general election and codified at ORS 195.300-195.336.
- B. “City Council” means the City Council of the City of Tigard.
- C. “Claimant” means the person or persons who have filed a Claim or demand for

compensation pursuant to ORS 195.312 (7) and (8).

D. “Department” means the Community Development Department of the City of Tigard.

E. “Director” means the Community Development Director for the City of Tigard.

F. “Person” includes a public or private entity.

1.21.030 Claim for Compensation.

A person seeking to file a Claim for compensation shall do so by delivery of said claim to the Department. The minimum requirements for making a Claim are specified in ORS 195.310.

1.21.040 Director’s Decision and Recommendation.

The Director shall review and evaluate all Claims received and shall process the Claims consistent with ORS 195.312 and 195.314, supplemented by Tigard Municipal Code (“TMC”) 18.390.040, subsections D - H, except that appeal of the Director’s decision shall be to the City Council. Following review and evaluation of the Claim, the Director shall:

- A. Determine that the Claim is not eligible for compensation pursuant to ORS 195.300 – 195.336, and deny the Claim; or
- B. Adopt an order determining that the Claim is valid and direct that the Claimant be compensated for the reduction in the fair market value of the property; or
- C. Authorize the Claimant to use the property without application of the subject land use regulation to the extent necessary to offset the reduction in the fair market value of the property.

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The decision to allow the Claimant to use the property without application of the subject land use regulation or to compensate the Claimant shall be based on a determination of whether the public interest would be better served by compensating Claimant or by allowing the use without application of the subject land use regulation.

1.21.050 Processing Fee.

The fee for processing a Claim for compensation shall be in an amount not to exceed the actual and reasonable cost of reviewing the Claim and shall be payable as follows:

A. Upon filing the Claim for compensation, the Claimant shall also deposit with the City the amount of not less than \$1,000.00 dollars as a deposit on the fee for review of the Claim.

B. The City shall keep a record of all time, materials and expenditures spent processing the Claim. If the costs involved in processing the Claim do not exceed the deposit, the City shall return the unused portion of the deposit to the Claimant. If the costs of processing the Claim exceed the amount of the deposit, Claimant will receive an invoice for the excess costs, and shall be responsible to reimburse the City for all amounts in excess of the deposit prior to issuance of a final decision by the City on the Claim.

1.21.060 Burden of Proof.

Claimants shall have the burden of proof on all matters under this chapter and under ORS 195.300 - 195.336. The Claimant bears sole responsibility for ensuring that the record before the City contains all information and evidence necessary to support the Claim.

1.21.070 Judicial Review.

Judicial review of the City's decision shall be

as provided in ORS 195.318. (Ord. 08-09)■