

IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

IN THE MATTER OF ADOPTING)
PROCEDURES TO ADMINISTER)
BALLOT MEASURE 37)

RESOLUTION #2005-09

WHEREAS, Ballot Measure 37 was approved by Oregon voters on November 2, 2004 and was effective on December 2, 2004; and

WHEREAS, Ballot Measure 37 allows Harney County to adopt or apply procedures for the processing of applications under Ballot Measure 37.

NOW THEREFORE, THE HARNEY COUNTY COURT RESOLVES TO APPLY THE FOLLOWING PROCEDURES WHEN PROCESSING BALLOT MEASURE 37 APPLICATIONS:

SECTION 1. PURPOSE

This Resolution is intended to identify application and review processes by Harney County to implement the provisions of Ballot Measure 37 approved by Oregon voters on November 2, 2004.

SECTION 2. APPLICATION FILING PROCEDURES

- (1) An applicant applying to file a claim or waive a land use regulation under Ballot Measure 37 must be the present owner of the property that is the subject of the claim or waiver request at the time such application is submitted. The application shall be filed with the Harney County Planning Department including information necessary to evaluate the claim or waiver request and accompanied by an application/review fee.
- (2) An application shall include the following information:
 - (a) The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;
 - (b) The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership

- interest in the property, or other documentation reflecting ownership of the property by the claimant, and the date the property was acquired;
- (c) The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;
 - (d) If the applicant is requesting compensation, the application shall include the amount of the claim, based on the alleged reduction in value of the real property supported by an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon; and
 - (e) Copies of any leases or Covenants, Conditions and Restrictions (CCR's) applicable to the real property, if any, that impose restrictions on the use of the property.
- (3) Notwithstanding an applicant's failure to provide all of the information required in subsection (2) of this section, Harney County may review and act on an application.

SECTION 3. HARNEY COUNTY INVESTIGATION & EVALUATION

- (1) The Harney County Planning Department shall accept, date stamp and schedule application review.
- (2) The Harney County Planning Department shall review the application within 30 days for completeness. An applicant will be notified of an incomplete application and given 30 days to provide any missing information. If the applicant does not submit the missing information at the end of the 30 day period, the Harney County Planning Department shall deem the application complete for processing, resume application processing and so note the deficiencies.
- (3) The Harney County Planning Department shall investigate the application and within 30 days of a complete application prepare a staff report that evaluates the application and outlines the alternatives available to the Harney County Court.

SECTION 4. HARNEY COUNTY COURT PUBLIC HEARING

- (1) The Harney County Court shall schedule a public hearing within 30 days of receiving a complete application and staff report.
- (2) Public hearing notice shall be provided to the applicant, to adjacent property owners within 500 feet of the subject property perimeter, and any party officially requesting notice of such applications from the Harney County Court.
- (3) The Harney County Court shall hold a public hearing to review the application and staff report, accept testimony in support and opposition to the application, deliberate and make a final decision within 180 days from the date the application was accepted and date stamped.

SECTION 5. HARNEY COUNTY COURT DECISION

- (1) The Harney County Court shall decide by a majority vote with supporting findings one of the following:
 - (a) Determine the application meets the Ballot Measure 37 requirements; and remove, modify or direct that the challenged land use regulation not be applied to the use permitted at the time the current owner acquired the property; or
 - (b) Determine the application meet the Ballot Measure 37 requirements; and compensate the current owner for the reduced fair market value as prescribed by Ballot Measure 37; or
 - (c) Determine the application does not meet the Ballot Measure 37 requirements, and deny the application.
- (2) The Harney County Court decision shall be reduced to writing and mailed to all participating parties within 10 days of the decision but no later than 180 days from the date the application was accepted and stamped.
- (3) The Harney County Court decision under this resolution shall not be considered a land use decision as defined in ORS 197.015(10).

SECTION 6. APPLICATION FEE

- (1) A \$250 application fee shall accompany an application to partially pay for application processing costs. No application shall be complete without the application fee.
- (2) If an applicant withdraws an application within the application completeness check period, \$100 of the application fee shall be reimbursed to the applicant.

SECTION 7. DEFINITIONS

- (1) Terms defined in Ballot Measure 37 are adopted by reference here.

SECTION 8. SEVERABILITY

This resolution's provisions are severable, and if any clause shall be deemed illegal, void or unenforceable, it shall not affect the validity, legality or enforceability of any other clause or portion of this resolution.

SECTION 9. EFFECTIVE DATE

This resolution is necessary to comply with the Ballot Measure 37 requirements (approved on November 2, 2004), the provisions which took effect on December 2, 2004; therefore, this resolution's affective date is the date signed below.

PASSED AND ADOPTED this the 1st day of June 2005 by a vote of the following members of the Harney County Court:

HARNEY COUNTY COURT

Steven E. Grasty, Judge

Dan Nichols, Commissioner

Jack Drinkwater, Commissioner