

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING A)
PROCESS FOR TREATMENT OF CLAIMS) Ordinance No. 05-1087A
AGAINST METRO UNDER BALLOT)
MEASURE 37 BY ADDING CHAPTER 2.21 TO)
TITLE II OF THE METRO CODE)
(ADMINISTRATION AND PROCEDURE)) Introduced by Councilor Robert Liberty

WHEREAS, the voters of Oregon enacted Ballot Measure 37 (Chapter 1 Oregon Laws 2005), which requires Metro under specified circumstances to provide relief to a property owner whose property is reduced in value as the result of a Metro land use regulation; and

WHEREAS, claims have been filed under Measure 37 contending that provisions of Metro's Urban Growth Management Functional Plan have had the effect of reducing the value of the claimant's property; and

WHEREAS, the Metro Council wishes to implement Measure 37 faithfully and according to law; and

WHEREAS, the Council has responsibility under its Charter and state law to protect the livability of the metropolitan region, and wishes to implement Measure 37 in a manner that, to the extent possible, protects the livability of the region; and

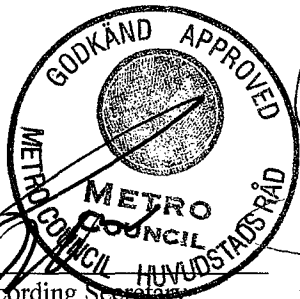
WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the claims process enacted by the ordinance and recommends the Council adopt it; and

WHEREAS, the Council held a public hearing on the ordinance and the claims process on September 13, 2005, and has considered the public testimony; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

- 1. Chapter 2.21, Claims Under Ballot Measure 37, attached and incorporated into this ordinance as Exhibit A, is hereby added to Title II, Administration and Procedures, of the Metro Code.
- 2. The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit B, explain how the claims process complies with the Regional Framework Plan and state law.

ADOPTED by the Metro Council this 22nd day of September, 2005.



[Signature]
David Bragdon, Council President

Attest:
[Signature]
Christina Billington, Recording Secretary

Approved as to form:
[Signature]
Daniel B. Cooper, Metro Attorney

CHAPTER 2.21

CLAIMS UNDER BALLOT MEASURE 37

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing a Claim
2.21.040	Review of Claim by Chief Operating Officer and Recommendation
2.21.050	Hearing on Claim before Metro Council
2.21.060	Action on Claim by Metro Council
2.21.070	Conditions on Compensation or Waiver
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 37. Metro adopts this chapter in order to afford property owners the relief guaranteed them by Ballot Measure 37 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement Measure 37 faithfully and in concert with its other responsibilities, including its charter mandate to protect the environment and livability of the region for current and future generations.

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS chapter 674. In the case of commercial or industrial property, "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by a written certificate.

(b) "Family member" means the wife, husband, son, daughter, father, brother, brother-in-law, sister, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner of

the real 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 real property.

(c) "Land use regulation" means a provision of a Metro functional plan or a land use regulation adopted by a city or county to comply with a Metro functional plan.

(d) "Owner" means the owner of the property, or any interest therein. "Owner" includes all persons or entities who share ownership of a property.

(e) "Reduction in value" means a reduction in the fair market value of real property, or any interest therein, resulting from enactment or enforcement of a land use regulation as of the date the owner makes a written claim for compensation.

(f) "Waiver" means action by the Metro Council to modify, remove or not apply the land use regulation resulting in a reduction in value.

2.21.030 Filing a Claim

(a) A person may file a claim with Metro for compensation under Measure 37 without following the process set forth in this chapter. Metro will give priority to a claim filed under this chapter over claims filed without compliance with this chapter.

(b) A person filing a claim under this chapter must be the owner of the property that is the subject of the claim at the time the claim is submitted to Metro. The person must simultaneously file with Metro all claims against Metro under Measure 37 that involve the property. The person shall submit the claim or claims to the Chief Operating Officer (COO) and shall include, at a minimum, the following information:

- (1) The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;
- (2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the

location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;

- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
- (4) A copy of any and all specific, existing land use regulation the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the land use regulation that applied to the property at the time the claimant acquired the property;
- (6) An appraisal that shows the reduction in value of the property that the claimant believes resulted from the land use regulation that restricts the use of the property and the methodology used in the appraisal, such as comparable sales data;
- (7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and
- (8) A statement whether the claimant is filing claims with other public entities involving the same property.

(c) A claim shall not be considered complete for purposes of ~~paragraphs~~ subsections (4) and (6) of ~~subsection 2 of~~ Ballot Measure 37 until the claimant has submitted the information required by this section.

2.21.040 Review of Claim by Chief Operating Officer and Recommendation

(a) The COO shall review the claim to ensure that it provides the information required by section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the

COO does not notify the owner that the claim is incomplete within the prescribed 15 days, the claim shall be considered complete on the date it was filed with the COO.

(b) If the COO receives a completed claim, the COO shall conduct a preliminary review to determine whether the claim satisfies all of the following prerequisites for full evaluation of the claim:

- (1) The property lies within Metro's jurisdictional boundary;
- (2) The land use regulation that is the basis for the claim is a provision of a functional plan or was adopted by a city or county to comply with a functional plan; and
- (3) The claimant acquired the property before the effective date of the land use regulation.

(c) If the claim fails to satisfy one or more of the prerequisites in subsection (b) of this section, the COO shall prepare a report to that effect and recommend to the Metro Council that it dismiss the claim as provided in section 2.21.060(a)(1).

(d) If the claim satisfies each of the prerequisites in subsection (b) of this section, the COO shall complete the review of the claim to determine whether:

- (1) The claimant owns an interest in the property and has owned an interest in the property without interruption since the claimant acquired the interest and prior to the effective date of the land use regulation that is the basis for the claim;
- (2) The land use regulation that applied to the property at the time the claimant acquired the property allowed the claimant's proposed use and, if so, what criteria or conditions applied to the proposed use under the regulation;

- (3) The specific, existing land use regulation that allegedly reduced the value of the property allows the proposed use and, if so, what criteria or conditions apply to the proposed use under the regulation;
- (4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from Ballot Measure 37 under subsection 3 of the measure; and
- (5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt from Ballot Measure 37, the regulation restricts the proposed use and the restriction has reduced the value of the property.

(e) The COO may commission an appraisal or direct other research in aid of the ~~recommendation~~ determination whether a claim meets the requirements of Ballot Measure 37, and to assist in the development of a recommendation regarding appropriate relief if the claim is found to be valid.

(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (b) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.

(g) The COO shall provide the report to the Council, the owner and other persons who request a copy. If the COO determines that the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

2.21.050 Hearing on Claim before Metro Council

(a) The Metro Council shall hold a public hearing on the claim before taking final action. The COO shall schedule the

hearing for a date prior to the expiration of 180 days after the filing of a completed claim under section 2.21.030.

(b) The COO shall provide notification of the date, time and location of the public hearing at least 25 days before the hearing to the claimant, owners and occupants of property within 500 feet of the subject property, the local government with land use planning responsibility for the property and any person who requests notification. The notification shall indicate that a copy of the COO's recommendation under section 2.21.040 is available upon request.

2.21.060 Action on Claim by Metro Council

(a) After the public hearing, but not later than 180 days after the filing of a claim under section 2.21.030, the Metro Council shall consider the COO's recommendation and:

- (1) Determine that the claim does not qualify for compensation;
- (2) Determine that the claim qualifies for compensation and provide relief in the form of compensation or enhancement of the value of the property or decide not to apply the land use regulation; or
- (3) Determine that the claim qualifies for compensation and resolve to modify or remove the land use regulation.

(b) The Council shall take the action that is most consistent with the purpose of this chapter and the Regional Framework Plan.

(c) The Council shall issue an order with its decision and direct the COO to send the order to the claimant, persons who participated at the hearing held under section 2.21.050, other persons who request a copy, and the Oregon Department of Administrative Services if the Council adopted the land use regulation to comply with state law.

2.21.070 Conditions on Compensation or Waiver

(a) The Metro Council may place any conditions on its action under section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the

purposes of this chapter. The Council shall place a condition on a decision under section 2.21.060(a)(~~1~~2) or (~~2~~3) that the decision constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.

(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under section ~~under section~~ 2.21.060(a)(2) or (3).

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under section 2.21.060 the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

Exhibit B to Ordinance No. 05-1087
Findings of Fact and Conclusions of Law

Measure 37 requires Metro, under specified circumstances, to provide relief to a property owner whose property is reduced in value as the result of a Metro land use regulation. If Metro concludes that a claim brought against it entitles the claimant to relief under the measure, Metro must make a choice: compensate for the reduction in value or modify, repeal or not apply the land use regulation that caused the reduction in value.

The claims process adopted by this ordinance provides a way for Metro to determine whether a claim against Metro is valid, and whether the specific circumstances require Metro to provide relief under the measure.

If Metro chooses to compensate the property owner for the reduction in value, there is no “land use decision” to which the policies in Metro’s Regional Framework Plan (“RFP”) or state planning law would apply. Further, the compensation would prevent any land use that is contrary to the regulation, itself in compliance with state and regional land use laws.

If Metro chooses to modify or repeal the land use regulation, Metro will have to demonstrate at the time it adopts an ordinance to modify or repeal the regulation that its action is consistent with the RFP and state planning laws.

If Metro chooses not to apply the land use regulation to the claimant’s property, Metro may be authorizing a use that does not comply with the RFP or with state planning laws. Measure 37, however, expressly allows Metro to take that action, RFP and state planning laws notwithstanding. In short, if there are no funds for compensation, Metro must take action to allow a use that may violate the RFP and state planning laws if Metro is presented with a valid claim that meets the requirements of the measure.

In conclusion, Ordinance No. 05-1087 and the claims process it adopts are consistent with the RFP and state planning laws.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING A) Ordinance No. 05-1087
PROCESS FOR TREATMENT OF CLAIMS)
AGAINST METRO UNDER BALLOT) Introduced by Councilor Robert Liberty
MEASURE 37)

WHEREAS, the voters of Oregon enacted Ballot Measure 37 (Chapter 1 Oregon Laws 2005), which requires Metro under specified circumstances to provide relief to a property owner whose property is reduced in value as the result of a Metro land use regulation; and

WHEREAS, claims have been filed under Measure 37 contending that provisions of Metro's Urban Growth Management Functional Plan have had the effect of reducing the value of the claimant's property; and

WHEREAS, the Metro Council wishes to implement Measure 37 faithfully and according to law; and

WHEREAS, the Council has responsibility under its Charter and state law to protect the livability of the metropolitan region, and wishes to implement Measure 37 in a manner that, to the extent possible, protects the livability of the region; and

WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the claims process enacted by the ordinance and recommends the Council adopt it; and

WHEREAS, the Council held a public hearing on the ordinance and the claims process on September 13, 2005, and has considered the public testimony; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

- 1. Chapter 2.21, Claims Under Ballot Measure 37, attached and incorporated into this ordinance as Exhibit A, is hereby added to Title II, Administration and Procedures, of the Metro Code.
- 2. The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit B, explain how the claims process complies with the Regional Framework Plan and state law.

ADOPTED by the Metro Council this _____ day of _____, 2005.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 05-1087

CHAPTER 2.21

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This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 37. Metro adopts this chapter in order to afford property owners the relief guaranteed them by Ballot Measure 37 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement Measure 37 faithfully and in concert with its other responsibilities, including its charter mandate to protect the environment and livability of the region for current and future generations.

2.21.020 Definitions

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the real 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 real property.

(c) "Land use regulation" means a provision of a Metro functional plan or a land use regulation adopted by a city or county to comply with a Metro functional plan.

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2.21.030 Filing a Claim

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(b) A person filing a claim under this chapter must be the owner of the property that is the subject of the claim at the time the claim is submitted to Metro. The person must simultaneously file with Metro all claims against Metro under Measure 37 that involve the property. The person shall submit the claim or claims to the Chief Operating Officer (COO) and shall include, at a minimum, the following information:

- (1) The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;
- (2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the

location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;

- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
- (4) A copy of any and all specific, existing land use regulation the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the land use regulation that applied to the property at the time the claimant acquired the property;
- (6) An appraisal that shows the reduction in value of the property that the claimant believes resulted from the land use regulation that restricts the use of the property and the methodology used in the appraisal, such as comparable sales data;
- (7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and
- (8) A statement whether the claimant is filing claims with other public entities involving the same property.

(c) A claim shall not be considered complete for purposes of paragraphs (4) and (6) of subsection 2 of Ballot Measure 37 until the claimant has submitted the information required by this section.

2.21.040 Review of Claim by Chief Operating Officer and Recommendation

(a) The COO shall review the claim to ensure that it provides the information required by section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the

COO does not notify the owner that the claim is incomplete within the prescribed 15 days, the claim shall be considered complete on the date it was filed with the COO.

(b) If the COO receives a completed claim, the COO shall conduct a preliminary review to determine whether the claim satisfies all of the following prerequisites for full evaluation of the claim:

- (1) The property lies within Metro's jurisdictional boundary;
- (2) The land use regulation that is the basis for the claim is a provision of a functional plan or was adopted by a city or county to comply with a functional plan; and
- (3) The claimant acquired the property before the effective date of the land use regulation.

(c) If the claim fails to satisfy one or more of the prerequisites in subsection (b) of this section, the COO shall prepare a report to that effect and recommend to the Metro Council that it dismiss the claim as provided in section 2.21.060(a)(1).

(d) If the claim satisfies each of the prerequisites in subsection (b) of this section, the COO shall complete the review of the claim to determine whether:

- (1) The claimant owns an interest in the property and has owned an interest in the property without interruption since the claimant acquired the interest and prior to the effective date of the land use regulation that is the basis for the claim;
- (2) The land use regulation that applied to the property at the time the claimant acquired the property allowed the claimant's proposed use and, if so, what criteria or conditions applied to the proposed use under the regulation;

- (3) The specific, existing land use regulation that allegedly reduced the value of the property allows the proposed use and, if so, what criteria or conditions apply to the proposed use under the regulation;
- (4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from Ballot Measure 37 under subsection 3 of the measure; and
- (5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt from Ballot Measure 37, the regulation restricts the proposed use and the restriction has reduced the value of the property.

(e) The COO may commission an appraisal or direct other research in aid of the recommendation whether a claim meets the requirements of Ballot Measure 37.

(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (b) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.

(g) The COO shall provide the report to the Council, the owner and other persons who request a copy. If the COO determines that the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

2.21.050 Hearing on Claim before Metro Council

(a) The Metro Council shall hold a public hearing on the claim before taking final action. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim under section 2.21.030.

(b) The COO shall provide notification of the date, time and location of the public hearing at least 25 days before the hearing to the claimant, owners and occupants of property within 500 feet of the subject property, the local government with land use planning responsibility for the property and any person who requests notification. The notification shall indicate that a copy of the COO's recommendation under section 2.21.040 is available upon request.

2.21.060 Action on Claim by Metro Council

(a) After the public hearing, but not later than 180 after the filing of a claim under section 2.21.030, the Metro Council shall consider the COO's recommendation and:

- (1) Determine that the claim does not qualify for compensation;
- (2) Determine that the claim qualifies for compensation and provide relief in the form of compensation or enhancement of the value of the property or decide not to apply the land use regulation; or
- (3) Determine that the claim qualifies for compensation and resolve to modify or remove the land use regulation.

(b) The Council shall take the action that is most consistent with the purpose of this chapter and the Regional Framework Plan.

(c) The Council shall issue an order with its decision and direct the COO to send the order to the claimant, persons who participated at the hearing held under section 2.21.050, other persons who request a copy, and the Oregon Department of Administrative Services if the Council adopted the land use regulation to comply with state law.

2.21.070 Conditions on Compensation or Waiver

(a) The Metro Council may place any conditions on its action under section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the purposes of this chapter. The Council shall place a condition a decision under section 2.21.060(a)(1) or (2) that the decision

constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.

(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under section under section 2.21.060(a)(2).

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under section 2.21.060 the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

Exhibit B to Ordinance No. 05-1087
Findings of Fact and Conclusions of Law

Measure 37 requires Metro, under specified circumstances, to provide relief to a property owner whose property is reduced in value as the result of a Metro land use regulation. If Metro concludes that a claim brought against it entitles the claimant to relief under the measure, Metro must make a choice: compensate for the reduction in value or modify, repeal or not apply the land use regulation that caused the reduction in value.

The claims process adopted by this ordinance provides a way for Metro to determine whether a claim against Metro is valid, and whether the specific circumstances require Metro to provide relief under the measure.

If Metro chooses to compensate the property owner for the reduction in value, there is no “land use decision” to which the policies in Metro’s Regional Framework Plan (“RFP”) or state planning law would apply. Further, the compensation would prevent any land use that is contrary to the regulation, itself in compliance with state and regional land use laws.

If Metro chooses to modify or repeal the land use regulation, Metro will have to demonstrate at the time it adopts an ordinance to modify or repeal the regulation that its action is consistent with the RFP and state planning laws.

If Metro chooses not to apply the land use regulation to the claimant’s property, Metro may be authorizing a use that does not comply with the RFP or with state planning laws. Measure 37, however, expressly allows Metro to take that action, RFP and state planning laws notwithstanding. In short, if there are no funds for compensation, Metro must take action to allow a use that may violate the RFP and state planning laws if Metro is presented with a valid claim that meets the requirements of the measure.

In conclusion, Ordinance No. 05-1087 and the claims process it adopts are consistent with the RFP and state planning laws.

STAFF REPORT

ORDINANCE NO. 05-1087, FOR THE PURPOSE OF ADOPTING A PROCESS FOR TREATMENT OF CLAIMS AGAINST METRO UNDER BALLOT MEASURE 37

Date: July 27, 2005

Prepared by: Lydia Neill

INTRODUCTION

Measure 37 was passed by the voters in 2004 and allows property owners to receive compensation for diminished property values as a result of the application of land use regulations. Metro has begun to receive applications from property owners requesting payment or waiver of land use regulations. Metro has received approximately 20 claims as of July 2005. The majority of the claims that have been filed have been reviewed by Metro's attorney and deemed invalid. Measure 37 specifies that local governments must process applications within 180 days of receipt. The proposed ordinance provides a process for the review, notice and resolution of claims that have been filed with Metro.

BACKGROUND

Measure 37 potentially applies to Metro for requirements that have been adopted in the Functional Plan. The major areas in the Functional Plan that could generate claims include: Title 3- Water Quality, Flood management and Fish and Wildlife Conservation; Title 13- Nature and Neighborhoods that protect habitat and water quality; Title 4- Industrial and Other Employment Areas that restrict uses on industrial and employment lands and new urban area planning requirements in Title 11- Planning For New Urban Areas.

Measure 37 requires property owners to demonstrate ownership of the property prior to when the land use regulation was adopted and to substantiate that the value of the property was diminished by the regulation. To evaluate these threshold issues the proposed ordinance requires that the property owner submit title and appraisal reports, copies of land use regulations and a description of the proposed use of the property if a waiver were to be granted. The proposed ordinance requires public hearings and notice for all applications to all property owners and local governments within 500 feet at least 25 days before the hearing by the Metro Council. A fee is recommended to offset the staff costs to evaluate and process the application.

KNOWN OPPOSITION

There is no known opposition to this proposed ordinance.

LEGAL ANTECEDENTS

Ballot Measure 37.

ANTICIPATED EFFECTS

Adoption of Ordinance No. 05-1087 allows Metro to process claims arising from Ballot Measure 37. Decisions on claims may have policy and monetary effects depending if the land use regulations are waived to satisfy the claims or if the owner receives monetary compensation. Claims filed with Metro may also require claims to be filed with both the County and the State.

BUDGET IMPACTS

If claims are received they will require staff time to analyze the application, prepare notice and prepare a staff recommendation for review by the Metro Council. If the applicant pays the fee in the form of a deposit then this action will technically be budget neutral. If the applicant chooses not to pay the required fee or provide adequate documentation of the ownership of the parcel of the diminution of value then

there may be a budget impact that could range from approximately \$500 to several thousand dollars per application. The measure does not require the property owner to pay a fee to file an application for relief. The proposed ordinance gives priority to those applicants that have submitted a fee for processing expenses. Title reports to research ownership and transfers in addition to property appraisals to substantiate a diminution of value.

DECISION

Adopt or amend the proposed Ordinance No. 05-1087.

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