



## CITY OF STAYTON CLAIM FOR COMPENSATION

### CLAIM AND DECISION MAKING PROCEDURES

#### 1. SUBMISSION OF CLAIM

This Claim Form shall be filed with the City Administrator's office. The submittal of this Claim Form shall be accompanied by the additional information required by Stayton Municipal Code (SMC) Section 3.10.030.2. The additional information required by SMC 3.10.030.2 is summarized in the checklist that is part of this package. It is the Claimant's responsibility to review the complete language in the Municipal Code and submit all of the required information with the Claim Form.

#### 2. APPLICATION FEE

Submission of a completed Claim Form, with the require attachments, and payment of the Claim fee is required before the review process begins. The Claim Form and fees shall be submitted to the City Administrator's office during regular business hours. **In accordance with SMC 3.10.030.2.r, the fee for this application is \$1,300.** If the cost to the City does not reach the amount of the fee paid, the excess fee will be refunded to the Claimant after a determination on the claim is reached. If the cost to the City exceeds the amount of the fee paid, the City shall bill the Claimant for the total actual costs, including staff and legal costs, incurred by the City in reviewing and acting on the claim. See SMC 3.10.070 for more detail.

#### 3. REVIEW FOR COMPLETENESS AND SCHEDULING A HEARING

The City Administrator will review the submitted request for compensation for completeness and, within 60 days from the date of submittal, determine if the Claimant has provided all required information. If the request for compensation is incomplete, the City Administrator will notify the Claimant of the items which need to be submitted. Once the request for compensation is deemed complete, the City Administrator will schedule a hearing before the Stayton City Council.

#### 4. STAFF REPORT

Once a hearing date is set, the City Administrator will prepare a staff report and forward a recommendation to the City Council. A copy of the staff report and will be provided to the Claimant no less than 14 days prior to the public hearing. The staff report will address whether the claim is complete and include a recommendation as to whether and how much to pay in compensation or the specific land use regulations that should be waived.

#### 5. PUBLIC HEARING BEFORE THE STAYTON CITY COUNCIL

Prior to the public hearing, notice is required to be sent to all property owners within 300 feet of the property 30 days before the hearing. Therefore, the hearing will be scheduled at the first regular meeting following the notice period. The hearing is to give all interested parties an opportunity to comment on the application. The hearing is conducted by the Mayor in accordance with the Stayton Rules of Procedure for Public Hearings on Land Use Issues. These rules are available at Planning and Development Department.

At the conclusion of the hearing and deliberation, the City Council will adopt a resolution stating the City Council's findings of fact, conclusions whether the Claim meets requirements for relief and the City Council's decision.

#### 6. APPEALS

A person that is adversely affected by a final determination of the City Council may obtain judicial review as provided for in ORS 195.318.

### CHECKLIST FOR CLAIM FOR COMPENSATION

This checklist has been prepared to assist Claimants in submitting an Claim that includes all the submission requirements in SMC Section 3.10.030.2. Please note that this checklist may paraphrase the requirements from the Code. It is the Claimant's responsibility to read and understand the requirements of the Code. Review of a Claim will not begin until a complete request for a Claim has been submitted.

- Identification of Ownership: Provide the names and contact information for all individuals or entities with any interest in the property. This shall include the owner, all lien holders, trustees, renters, lessees or easement holders, with a description of the ownership interest of each party.
- The address, tax lot, and legal description of the real property that is the subject of the claim
- A copy of the instrument conveying the property to the claimant
- A title report issued by a title company no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by the claimant, and the date the property was acquired by the present owner.
- The specific current land use regulation(s) enacted after January 1, 2007, cited by reference to the Stayton Municipal Code number, that Claimant alleges restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property.
- The amount of reduction in fair market value alleged for each regulation at issue plus interest.
- An appraisal providing the fair market value of the property one year before the enactment of each land use regulation and the fair market value of the property one year after the enactment.
- Copies of any leases or Covenants, Conditions and Restrictions (CCRs) applicable to the real property, if any, that impose restrictions on the use of the property, or which would affect its valuation.
- Identification of the particular use that is proposed for the real property and proof that the requested use was allowed as proposed at the time the owner acquired the real property.
- Whether a previous permit was issued for development of the property including a description of the use and case file number.
- Whether a claim was filed for the subject property with the state or any other government.
- A statement that any and all claims under this Chapter are included in this claim, or that if overlapping claims for the same property with other governmental entities (such as the state) exist, that they are being filed with the appropriate entity contemporaneously with the claim filed with the City.
- Evidence the City has enforced current land use regulations against claimant's real property in such a way as to restrict the use of that real property with the effect of reducing the fair market value of that real property.
- A list of names of property owners, certified by either a title company or the Marion County Assessor, for all current owners of record of all properties that lie within 300 feet of the perimeter boundary of the real property subject to the claim. Two copies of the list prepared on mailing labels shall be submitted.
- A narrative statement that provides information about the history of the property and its ownership as well as explanation and justification for why the claim is valid, and stating precisely what remedy is being requested from the City.
- A list of any and all overlay or special Ordinances that apply to the subject property, as well as any special designations that may apply to the subject property.
- Copies of any prior land use decisions or land use or building permits issued for or relating to the subject property.

Submittal of all materials in an electronic format is encouraged.

#### BURDEN OF PROOF

This is a quasi-judicial application in which the applicant has the burden of proof. According to law, the applicant must present to the decision maker facts, evidence, analysis, and justification for each and every decisional criteria in order to carry out that burden of proof. It is important to remember that there is no assumption that the applicant is entitled to this approval. The burden of proof lies with the applicant to prove how the proposal complies with the land use ordinances, not with the City of Stayton.



# CITY OF STAYTON CLAIM FOR COMPENSATION

PROPERTY OWNER(S): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email: \_\_\_\_\_

LIEN HOLDER: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email: \_\_\_\_\_

APPLICANT'S REPRESENTATIVE: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email: \_\_\_\_\_

Select one of the above as the principal contact to whom correspondence from the Planning Department should be addressed:

- Owner  Applicant's Representative

LOCATION OF PROPERTY FOR CLAIM IS FILED:

Street Address: \_\_\_\_\_

Assessor's Tax Lot Number and Tax Map Number: \_\_\_\_\_

Closest Intersecting Streets: \_\_\_\_\_

COMPREHENSIVE PLAN DESIGNATION:  Residential  Commercial  Downtown  Industrial  Public

ZONE MAP DESIGNATION:  LD  MD  HD  DMD  CR  CG  ID  CCMU  DCMU

DRMU  IL  IA  IC  P

DATE OF OWNERSHIP: \_\_\_\_\_

STAYTON MUNICIPAL CODE SECTION FOR WHICH CLAIM IS FILED: \_\_\_\_\_

DATE LAND USE RESTRICTION EFFECTIVE: \_\_\_\_\_

AMOUNT OF REDUCTION IN FAIR MARKET VALUE CLAIMED: \_\_\_\_\_

REMEDY SOUGHT:  Compensation  Waiver of Regulation

SIGNATURE OF CLAIMANT: \_\_\_\_\_

Attach to this claim separate forms with the Signatures of all others claiming ownership of the subject property.

DO NOT WRITE BELOW THIS LINE

Application received by: \_\_\_\_\_ Date: \_\_\_\_\_ Fee Paid: \$ \_\_\_\_\_ Receipt No. \_\_\_\_\_

### QUESTIONS TO BE ADDRESSED IN NARRATIVE STATEMENT

The Stayton City Council will use the information provided by the Claimant to analyze the merits of this Claim. A decision to approve or deny the Claim is made based on how well the Claimant presents information to show the Claim meets the standards and criteria set forth in ORS 195.305(5) and in the Stayton Municipal Code Chapter 3.10. Please provide the following information in full and attach to the Claim Form.

1. **QUALIFICATION TO FILE CLAIM** Provide a brief explanation of how the Claimant qualifies to file a claim as provided in ORS 195.310(1).
2. **PROPOSAL:** What is the proposed use of the property that is not permitted by the Stayton Land Use and Development Code (SMC Title 17)?
3. **HISTORY OF PROPERTY:** What is the current use of the property? What were previous uses of the property? When did the use of the property change? When were land use applications filed and acted on? What uses or development were sought or authorized by these land use applications filed? When were building permits issued? What activity was authorized by these permits?
4. **DIMINUTION IN VALUE:** Using the accompanying appraisal reports, explain how the Land Use Regulation cited has restricted the use of and devalued the property.