

CHAPTER 2

GOVERNMENT AND ADMINISTRATION

FOREST GROVE CODE
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CHAPTER 2

GOVERNMENT AND ADMINISTRATION

ELECTIONS

(Ord. 2009-10, 07/13/09)

2.000

State Law.

Pursuant to City Charter, Section 26, City elections must conform to State law, except as the Charter or ordinances provide otherwise. All elections for City offices must be nonpartisan. ORS Chapters 249 and 254 govern the manner of nominating and electing candidates for City offices. ORS 246 to 260 govern the conduct of City elections.

2.005

Definitions.

As used in Sections 2.000 to 2.080, the following words and terms mean as follows:

Business days. Regular work days (calendar days, excluding weekends and legal holidays of the City).

Candidate. An individual whose name appears or is expected to appear on an official ballot.

City Elections Officer. The City Recorder for the City of Forest Grove is the person with whom the candidate files appropriate forms.

Completed Petition. A candidate petition containing 100 percent of the certified signatures necessary to obtain ballot access.

County Elections. The county official in charge of City elections.

Elective City Office. The office of mayor or councilor which may be voted on only by the registered voters of the City.

Elector. An individual eligible under State and City law to vote in a City election.

Nonpartisan Office. An office for which the candidate does not run under the name of any political party.

OAR. Oregon Administrative Rules.

ORS. Oregon Revised Statutes.

Prospective Petition. The information and filing forms, except signatures and other identification of petition signers, required to be contained in a completed petition.

Registered Voter. A resident of the State of Oregon who is a U. S. citizen; 18 years of age; and is registered more than 20 calendar days before the election.

Term of Office. The term of office of the last person elected to the office.

NOMINATION PROCEDURES

(Ord. 2009-10, 07/13/09)

2.010 Candidate Qualifications.

- A) Pursuant to City Charter, Section 27(a), the Mayor and each Councilor must be a qualified elector under State law, and reside in the City for at least one year immediately before the election or appointment to office.
- B) Pursuant to City Charter, Section 27(b), no person may be a candidate at a single election for more than one City office.
- C) Pursuant to City Charter, Section 27(c), neither the Mayor nor a Councilor may be employed by the City.
- D) Pursuant to City Charter, Section 27(d), the Council is the final judge of the election and qualifications of its members.

2.015 Terms and Oath.

- A) Pursuant to City Charter, Section 24, at each General Election, three Councilors will be elected for four-year terms. Pursuant to City Charter, Section 25, at every other General Election, a Mayor will be elected for a four-year term. Pursuant to City Charter, Section 29, the term begins at the first Council meeting immediately after the election is certified by Washington County Elections Official, and continues until the successor qualifies and assumes the office.
- B) Pursuant to City Charter, Section 30, the Mayor and Councilors must swear or affirm to faithfully perform the duties of the office and support the constitutions and laws of the United States, State of Oregon, and City of Forest Grove Charter, ordinances and resolutions.

2.020 Filing Period.

A **completed** nomination petition for candidacy must be filed with the City Recorder no earlier than 120 days and no later than 70 days before the election.

2.025 Candidate Filing Forms.

The City Recorder shall provide the candidate with the applicable filing forms as prescribed by the Oregon Secretary of State for an elective City office. The City Recorder shall date and time stamp immediately each prospective petition, completed petition, withdrawal, or other documents required to be filed.

2.030 **Filing Prospective Petition.**

Before circulating a nomination petition, the candidate must file a **prospective** petition (SEI 120), with the required proposed signature sheet (SEI 121), and the statement one or more circulators will or will not be paid (SEL 300) (ORS 249.020), with the City Recorder no earlier than 120 days and no later than 70 days before the election pursuant to City Code 2.020.

2.035 **Circulating Petition.**

If the prospective petition meets all legal requirements, the City Recorder shall notify the candidate within five (5) business days after filing, certifying that the petition may be circulated among City electors and advise the candidate of the number of signatures required pursuant to Code Section 2.040.

2.040 **Required Signatures.**

The prospective candidate must collect twenty-five (25) signatures from active City registered voters. No elector may sign more than one petition. The circulator must certify on each signature sheet that the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet and attest that each individual is believed to be qualified to sign (ORS 249.061). Failure to comply with the legal requirements and guidelines will result in the rejection of those signature sheets (OAR 165-014-0270).

The prospective candidate circulates the nominating petition by:

- 1) Obtaining more than the required number of signatures to ensure the petition contains a sufficient number of valid signatures; and
- 2) Ensuring each signature sheet certification is signed and dated by the circulator; and
- 3) Submitting the signature sheets directly to County Elections for signature verification. The candidate must allow sufficient time to have the signatures verified by County Elections before the City's filing deadline. Failure to do so will result in the rejection of those signature sheets.
- 4) The County Elections Official reviews the signature sheets for sufficient circulator certification, verifies the original signatures against the voters' current registration card, and returns the certified signature sheets directly to the candidate.

2.045

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2.065

2.045

Filing Completed Petition.

After the candidate certifies the signature sheets with County Elections, the candidate must file for candidacy by **completed** petition (SEI 120), along with the signature sheets with the sufficient number of signatures certified by County Elections, with the City Recorder no earlier than 120 days and no later than 70 days before the election pursuant to City Code 2.020.

2.050

Deficient Petition.

If at any time a petition is found to be deficient, the City Recorder shall return the petition to the candidate and notify the candidate within five (5) business days after filing, certifying in writing the reason(s) the petition is insufficient. A deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the required timeline for filing pursuant to Code Section 2.020.

2.055

Withdrawal of Candidacy.

To withdraw from candidacy or nomination, a candidate must file a withdrawal of candidacy or nomination form (SEL150) with the City Recorder no later than 67 days before the election. The candidate must provide the reason for the withdrawal and must attest the information provided is accurate.

2.060

Certification of Candidates.

The City Recorder must file with County Elections, in accordance with the time requirements of State law, a statement of the City offices to be filled and the names of the qualified candidates to be printed on the ballots for the election.

2.065

Certificate of Nomination.

The City Recorder must certify the nominations to County Elections, in accordance with the time requirements of State law, stating the name of each candidate nominated, office for which the candidate was nominated, and term of office for each qualified candidate nominated. The City Recorder shall prepare and deliver a Certificate of Nomination to each qualified candidate nominated. If any individual is nominated or elected by write-in votes, the City Recorder shall deliver a write-in acceptance form to the individual (Form SEL141). The individual must sign and file the write-in acceptance form with the City Recorder in accordance with the time requirements of State law. Upon receipt of the write-in acceptance form, the City Recorder shall prepare and deliver a Certificate of Nomination to the individual.

VACANCIES IN OFFICE

(Ord. 2009-10, 07/13/09)

2.070 **Vacancy in Office.**

A City elective office becomes vacant as provided by City Charter, Section 31.

2.075 **Filling Vacancies.**

- A) City Charter, Section 32, requires the remaining Council members to fill by appointment any vacancy in an elective office.
- B) The appointee holds office until the term of office of the vacancy has expired.
- C) The applicant must be a qualified elector under State law, and reside in the City for at least one year before appointment to office.

2.080 **Appointment by Council.**

- A) The City Council shall use the following procedures in the appointment process:
 - 1) At the request of City Council, the City Recorder shall provide public notice to appropriate neighborhood organizations, civic groups, a newspaper of general circulation, and other recognized groups.
 - 2) The Council shall set the deadline date for submitting applications after the notice is published.
 - 3) Applicants must file the required application with the City Recorder by the filing deadline date set by the Council.
 - 4) The City Recorder shall make copies of all applications received and distribute to Council as one packet.
 - 5) The Council shall conduct the interviews at a meeting open to the public.
 - 6) Each applicant shall make an oral presentation to Council at a meeting open to the public.
 - 7) An applicant who receives a majority of the votes by the current Council members will be appointed to fill the vacant seat.
 - 8) The applicant appointed shall formally assume the office no later than 20 business days following the appointment by the Council.

- B) The application shall include the following:
- 1) Full name and residence address.
 - 2) A current resume.
 - 3) A written statement explaining the applicant's reason for wishing to be appointed to the office.

INITIATIVE AND REFERENDUM

(Ord. 1993-13, 10/25/1993)

2.105**Definitions.**

As used in Sections 2.105 to 2.250, the following words and terms mean as follows:

Business days. Regular work days (calendar days excluding weekends and legal holidays of the City). (Ord. 2009-10, 07/13/2009)

City Elections Officer. The City Recorder for the City of Forest Grove is the person with whom the candidate files appropriate forms. (Ord. 2009-10, 07/13/09)

City Legislation. An ordinance or proposed ordinance, or a proposed amendment revision or repeal of the City Charter. (Ord. 2009-10, 07/13/2009)

Completed Petition. A candidate petition containing 100 percent of the certified signatures necessary to obtain ballot access or the prospective initiative or referendum petition where the chief petitioners have submitted 100 percent of the signatures required for verification. (Ord. 1993-13, 10/25/1993; Ord. 2009-10, 07/13/2009)

County Elections. The county official in charge of City elections. (Ord. 2009-10, 07/13/2009)

Elector. An individual eligible under State and City law to vote in a City election. (Ord. 2009-10, 07/13/2009)

Initiative Petition. An initiative petition, including complete text, cover and signature sheet, which has received written approval to circulate from the filing officer but has not yet qualified for the ballot. (Ord. 1993-13, 10/25/1993; Ord. 2009-10, 07/13/2009)

Measure. City legislation, or a proposition or question submitted to City electors for approval or rejection at an election. (Ord. 2009-10, 07/13/2009)

OAR. Oregon Administrative Rules. (Ord. 2009-10, 07/13/2009)

ORS. Oregon Revised Statutes. (Ord. 2009-10, 07/13/2009)

Prospective Petition. The information and filing forms, except ballot title information, signatures, and other identification of petition signers, required to be contained in a completed petition. (Ord. 2009-10, 07/13/2009)

Referendum Petition. A petition by electors to approve or reject legislation adopted by the governing body of the City. (Ord. 1993-13, 10/25/1993; Ord. 2009-10, 07/13/2009)

Regular Election. A City election held at the same time as a general biennial election for electing federal, state or county officers. (Ord. 2009-10, 07/13/2009)

Registered Voter. A resident of the State of Oregon who is a U.S. citizen; 18 years of age; and is registered more than 20 calendar days before the election. (Ord. 2009-10, 07/13/2009)

Special Election. A City election held on a date other than a regular election. (Ord. 2009-10, 07/13/2009)

2.110**Complete Procedure.**

Sections 2.105 to 2.250 provides a complete procedure for the electors to exercise initiative and referendum powers.

2.115**Initiative Proposal.**

An initiative measure shall be proposed by filing with the City Elections Officer a completed petition that meets the requirements of Sections 2.105 to 2.250 and orders the measure to be submitted to the electors.

2.120**Referendum Procedure.**

A measure shall be referred by:

- (1) Filing with the city elections officer a completed referendum petition that meets the requirements of Sections 2.105 to 2.250; or
- (2) Submission of the measure to the electors by the Council.

2.125**Time for Referring Measure by Petition.**

A completed referendum petition for a measure, including the required signatures, must be filed with the City Elections Officer within 30 days after the Council enacts the measure.

2.130**Time for Referral by Council.**

The Council may refer a measure only at the session at which it enacts the measure. Proposed amendments to the City Charter may be proposed and submitted to the electors by the Council, with or without an initiative petition.

2.135

Prospective Petition.

- (1) A prospective petition shall be in the form prescribed by the Secretary of State.
- (2) Prior to its circulation, a copy of the prospective petition shall be deposited with the City Elections Officer with a correct copy of the measure and a signed statement on the face of the petition stating the name and address of the person or persons, not to exceed three, under whose authority and sponsorship the petition was prepared and is to be circulated or, if the sponsor is an organization, its name and address and the name and address of each of the principal officers of the organization.

2.140

Elections Officer Duties.

When a copy of a prospective petition is deposited with the City Elections Officer, the Officer shall:

- (1) Check the form for compliance with Section 2.135;
- (2) Advise the person depositing it whether it complies with Section 2.135 and, if it does not, how to make it comply;
- (3) Provide a sample petition form prescribed by the Secretary of State, if one has not already been obtained; and
- (4) Stamp the date and time on the prospective petition, if it complies with Section 2.135, and send a copy to the City Attorney for preparation of the ballot title.

2.145

Ballot Title Preparation.

- (1) The ballot title for a measure ordered by the Council or proposed to be ordered by petition shall be prepared and in the hands of the City Elections Officer within five working days after the Council orders the submission or after a copy of the prospective petition is deposited with the Officer.
- (2) When the Council orders submission of a measure to the electors or when a prospective petition is deposited with the City Elections Officer, the Officer shall send a copy of the measure to the City Attorney, who shall prepare the ballot title and return it to the Officer. If the City has no attorney or the City Attorney is unable to prepare the ballot title within the time required, the Officer shall prepare the ballot title.

2.150 Captions and Statements.

- (1) The ballot title shall consist of:
 - (i) A caption not exceeding 10 words which identifies the subject matter of the measure;
 - (ii) A question not exceeding 20 words that plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and
 - (iii) A concise and impartial statement, not exceeding 175 words summarizing the measure and its effect. (Ord. 1995-13, 11/13/1995; Ord. 2006-16, 08/14/2006)
- (2) The City is authorized to submit an explanatory statement not exceeding 500 words which is impartial explaining the measure and its effect. (Ord. 2006-16, 08/14/2006)

2.155 Ballot Title Appeals.

An elector who is dissatisfied with the ballot title may, within five days after it is prepared and deposited with the City Elections Officer, appeal to the Council by a written appeal deposited with the Officer asking for a different ballot title for the measure and stating why the title is unsatisfactory. Within five business days after deposit of the appeal with the Officer, the Council shall provide the appellant a hearing and either approve the title or prescribe another ballot title for the measure.

2.160 Petition Requirements.

Prior to circulation, a petition must:

- (1) Be in the form prescribed by the Secretary of State; a sample of the form is available in the office of the City Elections Officer;
- (2) Contain the name and address of the sponsor or sponsors of the petition; and
- (3) Have written in the foot margin of each signature sheet and on the cover:
 - (a) On an initiative petition, the caption that is part of the ballot title. The cover sheet shall contain the entire ballot title.
 - (b) On a referendum petition, the number and title, if any, of the measure to be referred and the date it was enacted by the Council.
- (4) Be approved by the City Elections Officer with the date of approval shown on the petition. (Ord. 1993-13, 10/25/1993)

2.165 **Initiative Petition Circulation.**

Prior to circulation of an initiative petition, the sponsor must certify in writing to the City Elections Officer the date that circulation of the petition will begin, which date shall not be later than thirty (30) days after approval of petition by the City Elections Officer. (Ord. 1993-13, 10/25/1993)

2.170 **Number of Signatures.**

- (1) The number of signatures required for an initiative petition is 15 percent of the electors registered in the City on the date the petition is filed. (Ord. 1995-13, 11/13/1995)
- (2) The number of signatures required for a referendum petition is 10 percent of the electors registered in the City on the date the petition is filed. (Ord. 1995-13, 11/13/1995)

2.175 **Filing of Petition.**

- (1) A completed initiative petition shall be filed with the City Elections Officer within 60 days of the date certified as the beginning date for circulation of the petition. (Ord. 1993-13, 10/25/1993)
- (2) A completed initiative petition shall be filed at one time; no additional or late petitions can be accepted after this filing. (Ord. 1993-13, 10/25/1993)

2.180 **Attachment of Measure to Sheets.**

A signature on a petition sheet shall not be counted unless a copy of the measure to which the petition refers is attached to the sheet at the time of signing and filing.

2.185 **Signature Limits.**

Only the first 20 names on a page of a petition shall be considered in computing the number of valid signatures on the petition.

2.190 **Verification of Signatures.**

- (1) A signature on a petition sheet shall not be counted unless the person who circulated the sheet verifies by a signed statement on its face that the individuals signed the sheet in the presence of the circulator and the circulator believes that each individual who signed is a qualified elector.
- (2) After a completed petition is submitted for signature verification, no elector who signed the petition may remove the signature of the elector from the petition. (Ord. 1993-13, 10/25/1993)

2.195**Certification of Signatures.**

Within 15 days after a completed petition is offered for filing with the City Elections Officer, the Officer shall verify the number and genuineness of the signatures and the voting qualifications of the persons who signed such petition by reference to the voter registration records in the office of the Washington County Clerk. If a sufficient number of electors signed the petition, the Officer shall certify and file the petition. If the Officer determines that there is an insufficient number of signatures, the petition does not qualify for placement on the ballot and the petition process is ended. Petitions shall be kept on file with the City. (Ord. 1993-13, 10/25/1993)

2.200**Presentation to Council.**

At the next regular meeting of the Council after the proposal of a completed initiative measure, the City Elections Officer shall present the measure to the Council.

2.205**Submission to Electors.**

- (1) The City Elections Officer shall cause a Charter or Charter amendment proposed by the initiative, and any other initiative measure not adopted within 30 days after its filing, to be submitted to the electors at the time provided by Section 2.210.
- (2) The City Elections Officer shall cause a referred measure to be submitted to the electors at the time fixed by Section 2.210.

2.210**Voting on Measures.**

- (1) Except as provided by subsection (2) or unless an earlier special election is approved by the Council, the time for voting on a measure shall be the next available regular election date more than 90 days after the verification and filing of a petition by the City Elections Officer.
- (2) The Council may call an emergency election for a measure and set the date for it as provided by ORS 221.230.

2.215

Designating and Numbering Measures.

Measures shall appear on a ballot by ballot title only, and initiative measures shall be distinguished from referred measures. The sequence of measures to be voted on shall be the sequence in which the respective measures are ordered to be submitted to the electors, with the first measure to be numbered "51" in numerals, and the succeeding measures to be numbered consecutively "52," "53," "54," and so on.

2.220

Election Notice.

The City Elections Officer shall give notice of all elections in accordance with the requirements of State law.

2.225

Information to County Clerk.

When a measure is to be voted on at an election, the City Elections Officer shall furnish a certified copy of the ballot title and the number of each measure to be voted on to the Washington County Clerk in accordance with the time limits established by State law.

2.230

Election Returns.

The votes on a measure shall be counted, canvassed and returned by the County Clerk as provided by State law.

2.235

Proclamation of Election Results.

- (1) Immediately after completion of the canvass of the votes on a measure, the Mayor shall issue a proclamation:
 - (a) Stating the vote on the measure;
 - (b) Declaring whether the vote shows a majority to be in favor of it; and
 - (c) If a majority of electors favor the measure, declaring it to be effective from the date of the vote.
- (2) The proclamation shall be filed with the measure.

2.240

Effective Date of Measures.

- (1) A measure submitted to the electors shall take effect when approved by a majority of the electors voting on it, unless it specifies a later effective date.
- (2) A measure adopted by the Council but subject to a pending referendum for which a completed petition has been timely filed shall have no effect unless and until it is approved by a majority of the electors voting upon it.

2.245**Conflicting Measures.**

When conflicting measures are approved by the electors at an election, the one receiving the greater number of affirmative votes shall be paramount.

2.250**Unlawful Acts.**

- (1) No person other than a registered elector shall sign a petition.
- (2) No person shall sign a petition with a name not his or her own.
- (3) No person shall knowingly sign a petition more than once.
- (4) No person shall knowingly circulate, file or attempt to file with the Elections Officer a petition that contains a signature signed in violation of this ordinance.
- (5) No person shall procure or attempt to procure a signature on a petition by fraud.
- (6) No person shall knowingly make a false statement concerning a petition.
- (7) No person shall make a document required or provided for by this ordinance that contains a false statement.
- (8) No officer shall willfully violate a provision of this ordinance.

LIENS: RECORDING

(Ord. 2000-07, 08/14/2000)

2.300 Liens: Recording of Liens and Other Instruments Affecting Real Property.

- (1) The following shall be presented for recording in the appropriate County property records:
 - (A) Assessment liens;
 - (B) Local Improvement District (LID) liens;
 - (C) Development agreements;
 - (D) Utility and access easements;
 - (E) Utility billing liens;
 - (F) Liens for unpaid fees for City services;
 - (G) Waivers of Remonstrance;
 - (H) Instruments for the reservation and maintenance of required open spaces areas, under City of Forest Grove Zoning Ord. Sec. 9.803;
 - (I) Assessed costs in excess of posted security for the installation of parking lots, under City of Forest Grove Zoning Ord. Sec. 9.828;
 - (J) Assessed costs in excess of posted security for the installation of landscaping, under City of Forest Grove Zoning Ord. Sec. 9.859(5);
 - (K) Deeds, easements, leases or contracts establishing joint use of access and egress for two or more uses, structures, or parcels of land, under City of Forest Grove Zoning Ord. Sec. 9.830(3);
 - (L) Instruments establishing joint access and the provision of reciprocal easements, required as a condition of issuing a building permit in the Community Commercial (CC) Zone, under City of Forest Grove Zoning Ord. Sec. 9.834(2);
 - (M) Site plans demonstrating compliance with public facility standards under City of Forest Grove Zoning Ord. Sec. 9.855;
 - (N) Any other instrument that affects the title to or an interest in real property that is required or permitted to be recorded by state or federal statute, rule or regulation, or by any ordinance of the City of Forest Grove.
- (2) Any other instrument that affects or could affect the title to or an interest in real property may be presented for recording in the appropriate County property records.

- (3) This ordinance shall apply to all instruments submitted for recordation by the City of Forest Grove that affect the title to or an interest in real property, whether filed before or after the enactment of this ordinance. (Ord. 2000-07, 8/14/2000)

LIEN SEARCH

2.305

Lien Search Fee.

A fee, in an amount fixed by Council resolution, shall be charged for each search of the City's lien docket or Bancroft Bond Docket. The fee shall be charged for each lot, tract or parcel of real property searched or examined, and shall be paid to the City Recorder. The fee shall accompany the request to the Recorder for the search, unless the Recorder determines it is appropriate to bill for the service at the time the lien or non-lien certificate is delivered. All fees derived from the lien and bond docket searches shall be general fund revenues of the City and shall be deposited and accounted for as such.

CRIMINAL RECORDS CHECK

(Ord. 2010-04, 06/14/2010)

2.400**Purpose.**

The purpose of this Code Section is to authorize the Forest Grove Police Department to access the Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) to conduct criminal and/or driver records check on certain applicants for City employment, certain existing employees, volunteers, vendors, permit holders, liquor licenses applicants, and other certain individuals.

2.405**Procedure.**

The procedure shall be conducted in accordance with Oregon Revised Statute (ORS) 181.555 and Oregon Administrative Rule (OAR) 257-010-0025, which establishes procedures for access to criminal record information possessed by the Oregon State Police (OSP) through Law Enforcement Data System (LEDS).

2.410**Criminal Records Check Authorization.**

Certain applicants for City employment, certain existing employees, volunteers, vendors, permit holders, liquor license applicants, and other certain individuals subjected to a criminal records check, through notification process, will be required to authorize the City to conduct criminal and/or driver records check through LEDS. The City Manager is authorized to designate the types of individuals who are subjected to a criminal records check.

2.415**Criminal Records Check Performed.**

The Police Chief, or designee who is authorized to perform criminal records checks through LEDS, is authorized, upon receipt of signed notification from the individual, to conduct a criminal and/or driver records check through LEDS on certain applicants for City employment, certain existing employees, volunteers, vendors, permit holders, liquor licenses applicants, and other certain individuals. The City Manager is authorized to designate the types of individuals who are subjected to a criminal records check.

2.420**Criminal Records Check Results Reported.**

If the Chief of Police, or designee who is authorized to perform criminal records checks through LEDS, finds that a criminal record exists, the City shall, pursuant to ORS and OAR, request a written criminal history report from OSP Identification Services Section and pay the applicable fee for this service.

2.425**Criminal Records Check Retention; Destruction; Disclosure; Policy.**

The City Recorder, or designee, shall administer the retention and destruction of confidential criminal and/or driver records checks in accordance with the Oregon retention and destruction laws (pursuant to OAR 166). The information contained in a criminal records check shall be kept confidential in accordance with Oregon public records laws (pursuant to OAR 192). All secondary dissemination of criminal records check information is strictly prohibited unless court ordered or otherwise provided by State law.

PUBLIC CONTRACT REVIEW BOARD

(Ord. 2000-11, 10/23/2000, Repealed; Ord. 2005-14, 02/28/2005)

2.500 Creation of Board.

The Council is designated as the City Contract Review Board. The Board shall have all the powers granted it by ORS 279.055.

2.501 Public Contracting.

- (1) The City adopts as its public contracting rules the Attorney General's Model Public Contracting Rules [OAR Chapter 137, Division 30 (Public Procurement) and Division 40 (Public Improvement)] and Public Contract Exemptions [OAR Chapter 125, Division 300] as of March 1, 2005, and any subsequent modifications to these rules, subject to the requirements of Section 41 of the Forest Grove City Charter.
- (2) The City adopts OAR Chapter 137, Division 35 [Contracts with Architects, Engineers and Land Surveyors] and OAR Chapter 125, Division 20 [Personal Services Contracts], as of March 1, 2005, and any subsequent modifications to these rules. (Ord. 2000-11, 10/23/2000) (Ord. 2005-14, 02/28/2005)

2.505 – 2.550, Public Contracting. *Repealed in its entirety (Ord 2000-11, 10/23/2000)*

ANNUAL FEES ADJUSTMENT

(Ord. 1989-04, 02/13/1989)

2.600 Adjustment of Fees and Charges.

The intent of Sections 2.600 and 2.605 is to provide the City Council with a rational process for setting fees and charges. The philosophy is to base user fees on cost-of-service so the City will be able to recover the costs associated with delivering a service to an individual or group. By recovering the cost of providing a service, the rest of the community is not subsidizing services benefiting individuals. (Ord. 1989-04, 02/13/89)

2.601 Licenses, Permits, Fees and Charges.

Licenses, permits, fees and charges will be adjusted by Council resolution in July each year.

Licenses, permits, fees and charges subject to Section 2.600 to 2.605 shall be reviewed with a cost-of-service study every five years. Following completion of each cost-of-service study and its review and/or amendment by the Council, the Council shall designate by resolution the cost of all licenses, permits, fees and charges subject to Section 2.600 through 2.605. Subsequent adjustments prior to completion of the next required cost-of-service study shall be made in accordance with Section 2.605. Unless specifically exempted, all City licenses, permits, fees and charges are subject to Section 2.605. (Ord. 1989-04, 02/13/1989)

2.605 Basis for Annual Adjustment.

Adjustments to fees and charges shall be based on the Consumer Price Index (CPI) or the percentage of the general wage adjustment for City employees. Fees and charges may be adjusted by the Portland Area Consumer Price Index (CPI) for All Urban Consumers, as compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics. If the CPI is used for the annual adjustment, changes will be equal to the percentage change in the Portland Area CPI for All Urban Consumers in one 12-month period. The comparison month will be January of each year. Fees and charges may be adjusted by the fiscal year general wage adjustment. The amount will be equal to the percentage adjustment in wages for the same fiscal year of the fee increase. (Ord. 1989-04, 02/13/89)

2.610 **Size of Adjustment:** *Repealed in its entirety (Ord. 1989-04, 02/13/1989)*

2.615 **Municipal Utility Billings; Prioritization of Payment;**
Suspension/Termination of Utility Service.
(Ord. 2013-07, 08/13/2013)

- (1) Fees, taxes, rates and other charges imposed or collected by the City designed to pay costs associated with delivery (either by the City or other governmental unit) of services may be made part of and included with any billing statement(s) issued by the City for its municipal water and electricity utilities.
- (2) Payments received by the City as part of its municipal utility billing process shall be prioritized so charges imposed for the City's water and electricity utilities are, in that order, deemed the last to be paid.
- (3) In the event the City receives less than full payment of the fees, taxes rates and other charges listed on City utility billing statement(s), the City shall have the right but not the obligation to terminate or suspend delivery of either or both of its utility services to the affected property or structure until the City receives (or is assured of) payment in full. Notwithstanding the foregoing, prior to termination or suspension of City utility service(s) for non-payment of fees, taxes rates or other charges, the City shall provide the person responsible for payment with written notice of the proposed suspension or termination which notice shall describe the manner and time in which the person may contest said suspension or termination.

ADMINISTRATIVE FEES AND CHARGES

(Ord. 1989-04, 02/13/1989; 1991-09, 09/09/1991)

2.650 Administrative Imposition of Fees, Charges.

- (1) The City Manager is authorized to set and collect fees and charges for administrative services and for the use of city property when such fees and charges have not been otherwise set by a City Council resolution. The City Manager shall also have the authority to determine the amount of reimbursement to be paid for loss of, or damage to, city property.
- (2) Fees for administrative purposes shall include the cost of materials, equipment and personnel time.
- (3) Fees set by the City Manager for administrative services shall not exceed \$100 for each provision of service.
- (4) The City Manager may adjust charges for service under this section as actual costs change, but charges for services may not be increased automatically except as provided in Sections 2.600 to 2.605. (Ord. 1989-04, 02/13/89; Ord. 1991-09, 09/09/91)

FORFEITURE ORDINANCE

(Ord. 1987-03, 02/09/1987)

2.700 Adoption of Forfeiture Ordinance.

- (1) The Forfeiture Ordinance of Washington County, Ordinance No. 300, enacted February 19, 1985, by the Board of County Commissioners, and as now or hereafter amended, is by this reference incorporated into this ordinance and made a part hereof as the Forfeiture Ordinance of the City of Forest Grove, Oregon, except as hereinafter specifically amended, modified or deleted, and shall be known and pled as the "City Forfeiture Ordinance." (Ord. 1987-03, 02/09/87)
- (2) One copy of Ordinance No. 300, and any amendments, shall be kept on file in the office of the City Recorder.

EXCISE TAX

(Ord. 1990-05, 05/14/1990)

2.800**Adoption of Excise Tax.**

- (1) An excise tax shall be imposed upon all utility customers within the Forest Grove City Limits. Use of the excise tax revenue shall be limited to funding the Public Safety and Support Services programs within the City's Capital Improvements Program.
- (2) The excise tax shall be reviewed on an annual basis by the Budget Committee. Upon review of the Capital Improvements Excise Tax, the Budget Committee shall make recommendations to the City Council on the amount of the excise tax. No annual increase in the excise tax can exceed 5%, and no series of annual increases added together can exceed 20% over a five-year period.
- (3) The City Council shall approve the amount of the Capital Improvements Excise Tax by resolution prior to July 1 each year.
- (4) The Capital Improvements Excise Tax is not covered by the annual fee adjustment. (Ord. 1990-05, 05/14/1990; Ord. 1991-09, 09/09/1991)

2.850

Delinquent Excise Tax Program. *Repealed in its entirety Ord. 1990-05, 05/14/1990; Ord. 1991-09, 09/09/1991)*

REGULATORY MEASURE 37 CLAIMS PROCEDURE

(Ord. 2004-08, 02/01/2004)

2.900**Short Title.**

Forest Grove Code Section 2.900 to 2.980 shall be known and may be cited as the "Regulatory Claims Procedure Ordinance" and may also be referred to herein as "this Ordinance".

2.905**Purpose and Applicability.**

A. The purpose of Section 2.900 to 2.980 is to:

1. Establish a process whereby claims under Oregon Revised Statute, Chapter 197 (November 2, 2004, amendment, hereafter "Measure 37") may be properly submitted by claimants and evaluated by the City quickly, openly, thoroughly and consistently;
2. Enable persons with legitimate claims an adequate and fair opportunity to present such claims to the City, while preserving and protecting limited public funds;
3. Authorize, where appropriate, limitations on the applicability of City regulations, which are shown to cause a reduction in property value;
4. Provide a record of decision capable of judicial review.

B. It is not the purpose of this ordinance to amend, repeal or enforce the Comprehensive Plan, Development Code, Statewide Land Use Plan or any other land use statute, regulation or policy.

2.910**Definitions.**

As used in Section 2.900 to 2.980, the following words and terms mean as follows:

Application. The material submitted to the City by the claimant or applicant for a claim of compensation and includes a completed application form and supplemental information.

Appraisal. An examination of and opinion about the fair market value of real property issued by a certified general appraiser, licensed by the Oregon Appraiser Certification and Licensure Board.

Claimant or Applicant. The property owner for which a claim is made pursuant to this ordinance.

Community Development Director or Director. The person designated by the City Manager as Community Development Director or such other person or persons as authorized to act in that capacity.

Exempt Regulation. A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law; a regulation restricting or prohibiting activities for the protection of public health and safety; a regulation to implement a requirement of federal law to the extent required; a regulation enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, which ever occurred first; or a regulation that prohibits selling pornography or performing nude dancing.

Fair Market Value. The price stated in terms of dollars that a willing buyer would pay for the property without any obligation to buy from a willing seller without any obligation to sell.

"Reduction in fair market value" means the difference in the fair market value of the property before and after application of the regulation.

Family Member. Shall include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one of a combination of these family members or the owner of the property.

Federal Requirement. Any statute, code or regulation adopted by the U. S. Congress or any federal agency or state agency delegated to act in the name of a federal agency, which imposes upon the states or local governments or both an obligation to enact or enforce regulations over the use of real property.

Land Use Regulation. Shall include Forest Grove's comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

Measure 37. The amendment to Oregon Revised Statute 197, as approved by the Oregon electorate on November 2, 2004.

Nuisance. Any act, omission, structure or condition on property, which unreasonably interferes with a right common to members of the general public and not necessarily related to the use and enjoyment of land by any person other than the owner of property that is the situs of the nuisance. A "historically and commonly recognized nuisance" shall have the meaning contained in Measure 37, and as construed by the Oregon appellate courts. Without limiting the foregoing, the City may consider whether a use of property is declared by the Forest Grove Code or the Forest Grove Zoning Code to be a nuisance.

Owner. Is the present owner of the property, or any interest therein.

Ownership Interest. A legally recognized interest in the proceeds of any sale of an interest in the property in question.

Real Property. All lots, parcels or tracts, or any combination thereof, that are owned by the Claimant, including structures built or located on the property. Real property does not include public property, personal property or easements over, above or below public property. Real property does not include a franchise issued by the City to place or erect public or private utility facilities within or along public right of way.

Restricts the Use. A regulation that restricts the type of use of private real property, but does not include a regulation that effects either the extent of a use or a regulation that governs development or construction.

Title Report. A document prepared by a property title insurance company authorized to conduct business within the State of Oregon that names all persons with legal, equitable and security interests in the property and the date and instrument showing the time and manner in which such property interest or interests were established.

Use of Property. Any activity that a private property owner can undertake on their property without creating a nuisance, without violating federal law or any local ordinance designed to the minimum extent possible to implement requirements of federal law and without violating any city or county regulation in effect at the time the owner became owner of the property.

Waiver of Enforcement of a Regulation or License. A license issued by the City, pursuant to Section 2.900, suspending City enforcement of the requirements of a City regulation as to a particular property and its owner, which is determined to restrict the owner's use of property, is not exempt from Oregon Revised Statutes Chapter 197, and for which the City has elected not to pay compensation pursuant to Measure 37.

2.915

Pre-Application Conference.

- A. Before submitting an application for a claim pursuant to this ordinance, the claimant may schedule and attend a pre-application conference with the Director to discuss the application. The pre-application conference shall follow the procedure set forth by the Director.
- B. To schedule a pre-application conference, the claimant must contact the Director. The pre-application conference is for the claimant to provide a summary of the claimant's application for a claim and for the Director to provide information to the claimant about regulations that may effect the application, including this ordinance. The Director shall also identify information needed to process a claim based on the provisions of Section 2.920 Director may provide the claimant with a written summary of the pre-application conference within 10 days after it is held.
- C. The Director is not authorized to settle any claim at a pre-application conference. Any omission or failure by staff to recite to a claimant all relevant applicable land use regulations will not constitute a waiver or admission by the City.

2.920

Application.

- A. The following is the process for filing a claim:
 - 1. The owner or the owner's authorized agent shall file a claim with the Director. The claim shall be filed on an application form as approved by the Director, accompanied by relevant documentation in support of the claim, as listed in this section.
 - 2. Within 10 days following tender of an application the Director shall review the application to determine whether it is complete and ready for filing.
 - a. If the Director determines the application is not complete, the Director shall, within that 10-day period, notify the applying owner by sending via first-class mail, of exactly what additional information is necessary to make the application complete and ready for filing.

- b. If the Director believes there is doubt, under Measure 37, as to whether the additional information can be required as a condition of acceptance of filing of the application, the Director also may notify the claimant in writing that although the Director considers the application not complete and ready for filing, the Director nevertheless will proceed to process the application if the additional information is not supplied by a date set by the Director, not to exceed 20 days after the date of the notification.
 - c. The application shall be deemed complete and filed as of the date of receipt of the additional information, except that if the applying owner does not supply the additional information by the date set by the Director, then the application shall be deemed complete and filed as of the date the application was received.
 - B. The application shall be signed by the Property Owner(s), including without limitation each person having an ownership interest (as defined herein) in the private real property.
 - C. Unless waived by the Director as part of the pre-application conference, an application shall include the following information:
 - 1. A description by street address, if any, and by Washington County Assessment and Taxation map and tax lot number of the property upon which the regulation is imposed;
 - 2. A description by street address, if any, and by the county property tax assessor's map and tax lot number of each parcel of land owned by the owner or owners that is either directly contiguous to the property described in paragraph 1 of this subsection, or is indirectly contiguous through contiguity with another parcel under the same ownership.

3. The following information be provided for each property included pursuant to paragraphs 1 and 2:
 - a. The date of acquisition of the property and each contiguous parcel;
 - b. Information showing the extent to which the owner has treated the private real property, as to which the owner is applying for compensation, and the directly or indirectly contiguous parcels as a unified use or as a single economic unit, for example in the purchase and financing of the land and in the owner's or owners' development of and economic planning for the land;
 - c. The extent to which application of the subject regulation that is being challenged enhances the value of the property and each contiguous parcels; and
 - d. The amount of any compensation previously paid by any unit of government under Measure 37 in relation to each parcel.
4. The names and street addresses of the record owners of property on the most recent property tax assessment roll and within 300 feet of the property described in paragraphs 1 and 2 of this subsection;
5. Proof of Ownership. A title report issued within 30 days of the date of the application that insures to the City that the claimant is the Property Owner of the Real Property. Claimant shall also submit a complete list of all other interests or encumbrances, including without limitation leases and encroachments, of which the claimant is aware or has reason to think may exist;

6. Identification of the Regulation.
 - a. A reference to each regulation that the claimant asserts will restrict the use of property and has the effect of reducing the value of the property. The reference shall identify by number or section the law, rule, ordinance, resolution, goal or other enforceable enactment, or a copy of the regulation for which claim is submitted; and
 - b. A statement whether the claim is based on adoption, first enforcement, or application of the regulation. If based on adoption of the regulation, the date of adoption of the regulation. If based on first enforcement of the regulation, the date and manner of first enforcement and any documentation establishing the date and manner of first enforcement. If based on application of the regulation, the date and manner of application and any documentation establishing the date and manner of application.
 - c. A copy of the land use regulation(s) applicable to the property, when the owner became owner of the property or having interest herein.
7. A written description addressing the approval criteria, including without limitation the impact of the applicable City regulation(s) on the subject property and the reason(s) why under Measure 37 such regulation restricts the use of the property and impacts the value of the property. The claimant shall describe the greatest degree of development that would be permitted if the identified regulation were waived by the City;

8. Amount of Claim.
 - a. A statement of the amount of the claim in dollars based on Claimant's alleged reduction in fair market value resulting from application of the land use regulation; and
 - b. An appraisal of the subject property showing the reduction in the fair market value of the property as that reduction is defined under Measure 37. To the extent practicable, the opinion of compensable reduction in fair market value shall be apportioned among each regulation such that the City may separately consider the alleged impact on fair market value of each regulation. The appraisal shall be prepared and signed by a certified general appraiser, licensed by the Oregon Appraiser Certification and Licensing Board and shall conform with Uniform Standards for Professional Appraisal Practice. The appraisal shall address the market feasibility of the use for which compensation is sought, taking into account all relevant factors, including, but not limited to market factors, the potential impact of Measure 37 on other properties, the availability of necessary public services, probability of obtaining necessary approvals from other governmental bodies and other constraints;
 - c. An itemization of any prior payments made to the Property Owner relating to a claim on the property, including any contiguous parcels under substantially the same ownership;
 - d. Any other relief sought by the claimant from other governments for the same property;

- e. Copies of all appraisals, market studies, economic feasibility studies, development schemes, environmental assessments or similar studies related to the property prepared within the 2-year period prior to submittal of the claim.
9. A waiver of any claims for regulations not identified;
10. Exemptions. A statement, including analysis, as to why the regulations are not exempt from application for compensation under Measure 37, including:
 - a. Adoption or enforcement of a nuisance;
 - b. Imposition to the extent required, of a regulation to implement a federal requirement;
 - c. Regulation prohibiting the use of the Property for the purpose of selling pornography or performing nude dancing;
 - d. Protection of health and safety;
11. A copy of all enforcement actions taken by any governmental body as regards the property;
12. A site plan and drawings related to the expected use of the property should the land use regulation be modified, removed or not applied as a result of the claim. The site plan and drawing shall be in a format acceptable by the Director.
13. All other documents, information or argument to be relied upon by the claimant in support of the application;

14. An Application Fee as established by resolution and amended from time to time by the City Council. The City shall refund the application fee if it is determined that the City cannot make payment of an application fee a condition of acceptance of filing of an application under Measure 37. If the applicant refuses to submit a fee and the claim is processed by the City and it is determined that claim is not valid the City may submit a bill for the cost to the claimant. If the bill is not paid within 30 days, the City may pursue collection efforts, including filing a lien on the property;
15. A sworn statement that the information submitted is true and complete to the best knowledge and belief of the claimant.

2.925

Notice of Application for Claim.

- A. Upon receipt of a complete application, the Director shall notice the filing of the claim to be given as follows, within seven (7) days from the date of determination of completeness.
- B. Notice of the hearing under this ordinance shall be made by regular first-class mail to:
 1. The Applicant and to owners of record of property on the most recent property tax assessment roll within 300 feet of where such property is located;
 2. The Directors of the following Departments of Washington County: Land Use and Transportation and Assessment and Taxation;
 3. The Director of Metro's Growth Management Services;
 4. The Director of the Oregon Department of Land Conservation and Development;
 5. Such other persons or entities who have expressed an interest in or requested notice of possible waiver of enforcement of regulations under Measure 37; and
 6. Any local, state or federal agency, which the Director believes would be affected by a waiver of the regulation from the property.

The failure of the Director to give notice as provided in this subsection, or the failure of any person to receive notice given under this subsection, shall not invalidate any action of the City Council under this ordinance. The notice provisions of this subsection shall not restrict the giving of notice by other means, including the posting in public places, newspaper publication or by posting on the City's web site.

- C. The notice provided by this subsection shall:
1. Explain the nature of the application, including the name of the Claimant and the amount of the Claim;
 2. List the applicable criteria from this ordinance;
 3. List the regulation(s) that is the subject of the claim;
 4. Location of the claimant's property by tax lot and by street address or other geographical reference;
 5. State the date, time and location of the hearing;
 6. Be mailed at least 20 days before the hearing unless the Director determines that a shorter notice period is required in order to assure that the City Council may make a written decision upon the claim and provide for adequate time for payment of any determined just compensation or license waiving enforcement of a City regulation(s) within the 180-day period required by Measure 37;
 7. Include the name of the City staff to contact and the telephone number where additional information may be obtained;
 8. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;
 9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing (unless reduced in time pursuant to paragraph 7 of this subsection), and will be provided at a reasonable cost;
 10. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

- D. All documents or evidence relied upon by the applicant shall be submitted to the City and be made available to the public. Any staff report shall be made available at least seven (7) days in advance of the hearing (unless reduced in time pursuant to paragraph 7 of subsection C), except that any appraisal prepared on behalf of the City, which may be submitted at the hearing.
- E. The claimant may request an extension for filing a complete application, for a continuance of the City's review of such application. A request for extension or continuance shall be deemed a waiver of the 180-day time frame for responding to the application by the amount of any requested extension or continuance.

2.930**Review of Application.**

- A. The Director, following filing of a complete application under this ordinance, and following consideration of the information included in the application and any other evidence:
 - 1. Shall determine:
 - a. The extent of waiving the enforcement of the regulation necessary to avoid the owner or owners being entitled to compensation under Measure 37 and
 - b. The amount of compensation to which the owner or owners would be entitled without a waiver.
 - 2. If the Director determines that a waiver of enforcement of the regulation is or may be needed to avoid the owner being entitled to compensation, the Director, under the advice of the Finance Director and City Manager, shall compare the public benefits of not applying the regulation to the owner's private real property to the public burden of paying the required compensation if a waiver of enforcement of the regulation is not granted, taking into consideration the financial resources of the City for the payment of such claims.

3. Based on this comparison, the Director shall prepare a written report stating the result of its comparison. If the Director has determined that a waiver of enforcement of the regulation may be needed, the report also shall make a recommendation either to:
 - a. Grant a license waiving enforcement of the regulation that will avoid compensation;
 - b. Grant a license to modify the regulation for the claimant on the subject site so that it does not give rise to a claim for compensation;
 - c. Grant a license waiving enforcement of less than all the regulations under consideration to not avoid compensation but to reduce the compensation to which the owner is entitled and pay the amount of reduced compensation to which the Director believes the owner is entitled;
 - d. Deny a waiver of enforcement of the regulation and pay the amount of compensation to which the Director believes the owner is entitled; or
 - e. Take some other appropriate action, such as acquiring the entire private real property or any portion thereof by condemnation.
- B. As part of the review, the Director may request a separate, independent appraisal be conducted by an appraiser as selected by the City. An independent appraisal shall be required when the claim equals or exceeds \$30,000. Said appraisal shall not be required for claims of \$10,000 or less.
- C. If a value cannot be agreed upon by the claimant and the City based on prior appraisals, a third appraisal shall be conducted by an appraiser mutually agreed upon by the claimant and City. This third appraisal shall determine the final value of the claim.

2.935**City Council Hearing.**

- A. Except as otherwise provided in this subsection, the hearing shall be conducted by the City Council in accordance with the Council rules for conduct of administrative and quasi-judicial hearings.

- B. At the beginning of the public hearing under this ordinance, the presiding officer or a member of City staff shall state:
1. The applicable substantive criteria;
 2. That the hearing will proceed in the following general order:
 - staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, deliberation, decision;
 3. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The presiding officer may reasonably limit oral presentations in length or content depending upon time constraints. Either the City or the claimant may require that the appraiser or other person relied on by the other party attend the hearing with all relevant materials and be available for questioning by the Council. If the person is not available, the Council may strike from the record any information provided by the person at any stage. Any party may submit written materials of any length while the public record is open;
 4. Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue, may preclude appeal on that issue to the appropriate appellate tribunal;
 5. Any party wishing a continuance or to keep open the record must make that request while the record is still open;
 6. The City Council and Mayor must disclose any ex parte contacts, conflicts of interest or bias before the beginning of each hearing item and provide an opportunity for challenge. Advised parties must raise challenges to the procedures of the hearing at the hearing and raise any issue relative to ex parte contacts, conflicts of interest or bias, prior to the start of the hearing.

- C. Any request made for an opportunity to continue the hearing to present additional evidence or testimony or to make final written argument may be limited or eliminated by the City Council to assure that a written decision is made and sufficient administrative time remains there after to cause payment of compensation or waiving enforcement of the regulation within the required 180 days from the date of filing a claim. The Council shall have sole discretion as to whether to admit evidence, but material required to be submitted as part of the application or that the Director should have received and considered at the time of making its review and recommendation shall not be admitted unless the Council finds that extraordinary circumstances beyond the control of the offering party prevented earlier submittal. The Council may condition receipt of new information from the claimant on the claimant stipulating to an extension of time for consideration of the material and a waiver of the 180-day deadline provided for under Measure 37.
- D. The City Council shall determine whether the following criteria have been met:
1. The Application is complete;
 2. The claimant is a qualifying Property Owner under Measure 37 as follows:
 - a. The subject property is located within the City and is subject to the ordinance or regulation, which is the basis of the application for claim;
 - b. The use which the claimant alleges is restricted under a City regulation and does not constitute a nuisance;
 - c. The City regulation is not required as part of any federal requirement and is not an exempt regulation;
 - d. The owner of the property as shown on the application was the owner of the property prior to the date the regulation was adopted, first enforced or applied;
 - e. There is substantial evidence to support the claim of reduction in the fair market value of the subject property;
 - f. The amount of compensation potentially due has been based on substantial evidence;

2. If the City Council finds that the public benefit from application of the regulation to the owner's or owners' private real property is greater than the public burden of paying the required compensation, taking into consideration the City's financial resources for the payment of such claims, the City Council may deny a license waiving enforcement of the regulation and identify a specified amount of compensation to be paid;
3. The City Council may find that the public benefit from application of the regulation to the owner's private real property is greater than the public burden of paying some of the required compensation, taking into consideration the City's financial resources for the payment of such claims, but that other of the public benefits are not sufficient to justify the public burden of paying the balance of the required compensation. If so, the City Council may grant a license waiving enforcement of the regulation to the limited extent necessary to avoid the owner being entitled to compensation as to that part of the specified regulation providing public benefit and identify a specified amount of compensation to be paid as to that part of the regulation as to which a waiver from enforcement is not granted; or
4. The City Council may take some other appropriate action, including a resolution of intent to acquire an interest in the property by condemnation;
5. The City Council, in its discretion, may impose a condition that its decision will be effective only if the owner or owners of the private real property sign an agreement, in a form acceptable to the City, that waives any further claims in relation to application of the subject regulation to the private real property as to which a license or compensation is sought;

6. The City Council may take other appropriate action conditional on the City receiving a defined amount of contributions from others, such as persons who believe they would be negatively affected by an exemption, by a specified date. In the event the City Council makes such a conditional decision, then the Finance Department shall establish an account into which it shall deposit all contributions the City has received for the payment of compensation. On the date specified for receipt of the defined amount of contributions, the Finance Department shall certify whether the defined amount of contributions has been received. If the defined amount of contributions has been certified as received, then the compensation shall be paid and the license deemed denied or granted only to the limited extent approved by the City Council, as of the payment date. If the defined amount of contributions has been certified as not received, then the license shall be deemed granted as of the certification date and all contributions received by the City shall be returned to the persons who made the contributions.
- F. If the Council finds the criteria set forth in subsection 2.935 (d) have been met, the Council shall adopt a written Order (which may be combined with the written findings and conclusion) either directing that payment of just compensation be made to the Property Owner and to any other persons holding an interest in the Property, in such manner as approved by the City Attorney, or issuing a license waiving enforcement of the regulation in accordance with subsection 2.950 of this ordinance. The City Council may delay, withhold or condition the entry of its written Order (including placement of just compensation funds in escrow) depending upon whether and at what time Measure 37 became effective.

- G. A copy of the findings, conclusion and Order shall be mailed by first-class mail to:
1. The claimant and to all other interested persons who both submitted written testimony or testified before the City Council;
 2. The government agencies that were provided notice of the Claim pursuant to subsection 2.925. B.3-5.

2.940**Burden of Proof.**

The burden of proof of any material element shall be upon the claimant for all matters required to show that the claimant is a qualifying Property Owner under Measure 37 and the amount of compensation for reduced property value caused by the cited regulation or regulations. The burden shall be upon the City to establish that the regulation is exempt from the obligation to pay compensation.

2.945**Standards for Interpretation.**

- A. Applications for claims shall be interpreted consistently with statutory laws and judicial decisions under Oregon Revised Statutes, Chapter 197.
- B. This ordinance is not intended in any way to expand the rights or remedies available to property owners under Measure 37 or any other law. Neither shall it be construed so as to contravene the express terms of Measure 37.
- C. If the City Council has taken an action under subsection 2.935 and the owner nevertheless files a court action seeking compensation or additional compensation from the City in relation to the specified regulation as it affects the owner's private real property, and if a final court decision determines that the extent of the license provided in the City Council's final order was not sufficient to avoid the owner(s) being entitled to compensation or additional compensation, then the extent of any license granted by the City shall be deemed to be the extent of any license necessary to avoid the owner(s) being entitled to compensation or additional compensation, effective as of the date of the Council's decision.

2.950

License Waiving Enforcement of City Regulation.

- A. There is hereby established a City license, which waives or modifies City enforcement of one or more specified City regulations found by the Council to reduce the value of a Claimant's Real Property. Such license shall have the following characteristics:
1. It shall be signed by the Director on behalf of the City and issued only to a claimant pursuant to the process set forth in this ordinance;
 2. It shall be personal to the owner and nontransferable. The license shall expire upon the licensee's death or in the case of non-natural persons its expiration or termination;
 3. It shall remain effective so long as the claimant owns the property to the same extent as at the time the claim was allowed;
 4. Such license shall be presented to the City as part of any application for development of the subject property for which a waiver of the subject regulation is sought;
 5. The City may record the license of a memorandum of the license in the deed records of the County.
- B. Issuance of a license under this subsection shall not cause the repeal of the regulation(s) being challenged.
- C. The City Attorney is authorized to prepare an appropriate form of license under this subsection.

2.955

Payment of Claim.

- A. If the Council determines that a valid claim has been presented and established under this ordinance and sufficient funds are available and appropriated therefore, the Council may authorize payment to the claimant. The amount of payment shall be based on the Council's determination of the diminution in property value attributed to the City regulation.
- B. Payment shall be tendered upon Claimant's recordation in the Washington County Department of Records and Elections of a notice, covenant, or declaration in a form approved by the City Attorney that the cited regulation(s) are applicable to the Property.

2.960

Record.

- A. The City Recorder shall maintain records of all monies paid and licenses issued pursuant to this ordinance.
- B. The Director shall cause a copy of any license issued under this ordinance to be mailed to the Washington County Director of Assessment and Taxation with a request that such information be considered in determining the assessed value of the subject property.

2.965

Conditions Related to Future Court Decisions.

- A. If the City Council grants a license or limited license as a means to avoid having to compensate, or as a means to limit compensation to, an owner or owners under Measure 37, and if, based on a subsequent appellate court interpretation or invalidation of Measure 37, in the same or another case, the applying owner was not entitled to compensation in relation to the regulation from which the license waiving the regulation was granted, then the waiver or limited waiver shall be deemed to have been invalid and ineffective as of and after the date of the City Council's order granting the waiver or limited waiver. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the City being required to compensate the owner under Measure 37.
- B. The City Council may make a decision to pay compensation under this ordinance conditional on the owner or owners signing an agreement, in a form acceptable to the City, that, if an appellate court subsequently interprets or invalidates Measure 37, in the same or another case, in a manner such that the owner or owners were not entitled to compensation in relation to the subject regulation, then the owner or owners will repay the compensation received by the owner or owners to the City, with the repayment obligation being a lien against the subject private real property until paid. Whether or not the owner or owners sign such an agreement, if an appellate court subsequently interprets or invalidates Measure 37, in the same or another case, in a manner such that the owner or owners were not entitled to compensation in relation to the subject regulation, then the owner or owners shall repay the compensation received by the owner or owners to the City, with the repayment obligation being a lien against the subject private real property until paid.

Any such repayment obligation and lien shall be limited as necessary to avoid the City being required to compensate the owner under Measure 37.

2.970**No Reapplication.**

If a claim has been granted by Forest Grove or another jurisdiction based on one or more land use regulations on a property or an application is denied or withdrawn prior to the issuance of a final written order by the City Council, no application for the same or substantially similar compensation claim may be made by the owner or subsequent owner(s) of the subject property.

2.975**Validity of City Council Action.**

No failure of any person or body to comply with a procedural requirement set out in this ordinance shall invalidate any action of the City Council under this ordinance.

2.980**Attorney Fees on Delayed Compensation.**

If a demand made under Measure 37 and this ordinance is denied or not fully paid within 180 days of the date of filing a completed demand, the owner's reasonable attorney fees and expenses necessary to collect compensation will be added as additional compensation, provided compensation is awarded to the owner. If such demand is denied, not fully paid, or other action taken under Measure 37, within 180 days of the date of filing the completed demand, and the owner commences suit or action to collect compensation, if the City is the prevailing party in such action, then the City shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable attorney's fees. In the event the City is the prevailing party and is represented by in-house counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the attorney fee rates and charges reasonably and generally accepted in Forest Grove, Oregon for the type of legal services performed.

Severability. It shall be the legislative intent that if any part of this ordinance shall be held invalid or unconstitutional, including without limitation compliance with statewide planning goals, the remaining parts of this ordinance shall remain in force and effect.

(Ord. 2004-08, 12/01/04)

CODE ENFORCEMENT

(Ord. 2005-20, 11/28/05)

2.990 Administrative and Enforcement Responsibilities; Right of Entry.

- (1) The City Manager or designee shall be responsible for the administration and enforcement of this Code. In accordance with approved procedures, the City Manager may employ qualified officers, inspectors, assistants and other employees as shall be necessary to carry out the provisions of this Section.
- (2) The City Manager shall designate in writing the appropriate department responsible for the administration and enforcement of any provisions of the code.
- (3) The City Manager or Council may add other and additional duties and regulations to the enforcement and administration responsibilities of any department.
- (4) In order to carry out the duties set forth in subsection (2) above, the director of any department designated for the administration and enforcement for any provisions of the Code may:
 - (a) Adopt written policies and procedures for the enforcement of applicable Code provisions and laws;
 - (b) Establish enforcement priorities based on the number of personnel, public safety and welfare factors as well as such priorities as may be established by City Council.
- (5) In order to gain compliance with the provisions for which a department is given responsibility, the director (or his/her delegate) of said department may do any or all of the following:
 - (a) Obtain voluntary compliance;
 - (b) Cause appropriate action to be instituted in a court of competent jurisdiction (including the municipal court);
 - (c) Issue code violation citation(s) to the person(s) responsible for the violation; and
 - (d) Take such other action as the director, in the exercise of his/her discretion deems appropriate.
- (6) The director or designee may enter property (including the interior of structures) at all reasonable times whenever an inspection is deemed necessary to enforce any regulation under said department's jurisdiction as set forth in subsection (2).

- (7) In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken:
- a. If any structure on the property is occupied, the director shall first present proper credentials and request entry. If entry is refused, the director may attempt to obtain entry by obtaining an inspection warrant;
 - b. If the property is unoccupied, the director shall contact the property owner (or other person(s) having charge or control thereof) and request entry; if refused, the director may obtain entry through an inspection warrant. (Ord. 2005-20, 11/28/2005)

URBAN RENEWAL AGENCY

(Ord. 2014-05, 04/28/2014)

- 2.10.005** **Establishment and Need for Urban Renewal Agency.**
There exist within the City blighted areas and such areas impair economic values and property tax revenues. The Urban Renewal Agency of the City of Forest Grove is established to carry out conservation, rehabilitation, redevelopment and planning activities necessary to stimulate private property investment in order to reduce the presence of blight and improve property values and tax revenues within the City.
- 2.10.006** **Board of Directors.**
The membership of the board of directors of the Urban Renewal Agency of the City of Forest Grove shall consist of the City Council members.
- 2.10.007** **Powers and Limitations.**
The Urban Renewal Agency shall have all powers, duties, privileges and immunities granted to and vested in an urban renewal agency by the laws of the State of Oregon, provided however, that any act of the governing body acting as the Urban Renewal Agency Board of Directors shall be considered an act of the Board of Directors only and not the City Council.
- 2.10.008** **Bylaws.**
The Urban Renewal Agency shall adopt rules of procedure to govern the conduct Agency business.
- 2.10.009** **Termination of Urban Renewal Agency.**
If the City Council finds that a need for an urban renewal agency no longer exists, the City Council shall provide, by ordinance, for a termination of the agency and a transfer of the urban renewal agency facilities, files and personnel, if any to the City. The termination of the urban renewal agency shall not affect any outstanding legal actions, contracts or obligations of the urban renewal agency and the City shall be substituted for the agency in these matters. The urban renewal agency shall not be terminated unless all indebtedness to which a portion of taxes is irrevocably pledged for repayment of indebtedness is satisfied.

MARIJUANA TAX

(Ord. 2014-09, 09/22/2014)

2.11.000 Purpose.

For the purposes of this Code Section, every person who sells marijuana, medical marijuana or marijuana-infused products in the City of Forest Grove is exercising a taxable privilege. The purpose of this Chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

2.11.005 Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in this Code Section have the following meanings:

Gross Taxable Sales. The total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this Chapter.

Manager. The City Manager, or designee, of the City of Forest Grove.

Marijuana. All parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Oregon Medical Marijuana Program. The office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.

Person. Natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

Purchase or Sale. The retail acquisition or furnishing for consideration by any person of marijuana within the City and does not include the acquisition or furnishing of marijuana by a grower or processor to a seller.

Registry identification cardholder. A person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

Retail sale. The transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a seller.

Seller. Any person who is required to be licensed or has been licensed by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

Tax. Either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this Chapter.

Taxpayer. Any person obligated to account to the City Manager for taxes collected or to be collected, or from Chapter whom a tax is due, under the terms of this Chapter.

2.11.010**Levy of Tax.**

- A. Every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this Chapter is subject to and must pay a tax for exercising that privilege. This tax is in addition to any other taxes or fees required by the City.
- B. The amount of tax levied is:
 1. Ten percent (10%) of the gross sale amount paid to the seller of marijuana and marijuana infused products by persons who are purchasing marijuana and marijuana-infused products but are not doing so under the provisions of the Oregon Medical Marijuana Program.

2.11.015

Deductions.

The following deductions are allowed against sales received by the seller providing marijuana:

- A. Refunds of sales actually returned to any purchaser;
- B. Any adjustments in sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

2.11.020

Seller Responsible for Payment of Tax.

- A. Every seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Manager, on forms provided by the City, specifying the total sales subject to this Chapter and the amount of tax collected under this Chapter. The seller may request or the Manager may establish shorter reporting periods for any seller if the seller or Manager deems it necessary in order to ensure collection of the tax. The Manager may require further information in the return relevant to payment of the tax. A return is not considered filed until it is actually received by the Manager.
- B. At the time the return is filed, the seller must remit to the Manager the full amount of the tax collected. Payments received by the Manager for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.
- C. The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.

- D. If the Manager, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Manager may order such a change. The Manager may establish shorter reporting periods for any seller if the Manager deems it necessary in order to ensure collection of the tax. The Manager also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to this Chapter for the City's account until the seller makes payment to the Manager. A separate trust bank account is not required in order to comply with this provision.
- E. Every seller required to remit the tax imposed by this Chapter is entitled to retain five percent (5%) of all taxes due to the City to defray the costs of bookkeeping and remittance.
- F. Every seller must keep and preserve in an accounting format established by the Manager records of all sales made by the seller and such other books or accounts as the Manager may require. Every seller must keep and preserve for a period of three years all such books, invoices and other records. The Manager has the right to inspect all such records at all reasonable times.

2.11.025**Penalties and Interest.**

- A. Any seller who fails to remit any portion of any tax imposed by this Chapter within the time required must pay a penalty of 10 percent (10%) of the amount of the tax, in addition to the amount of the tax.
- B. If any seller fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, the seller must pay a second delinquency penalty of 10 percent (10%) of the amount of the tax in addition to the amount of the tax and the penalty first imposed.

- C. If the Manager determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty of 25 percent (25%) of the amount of the tax will be added thereto in addition to the penalties stated in subparagraphs A and B of this section.
- D. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this Chapter must pay interest at the rate one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- E. Every penalty imposed, and any interest as accrues under the provisions of this section, becomes a part of the tax required to be paid.
- F. All sums collected pursuant to the penalty provisions in paragraphs A through C of this section will be distributed to the City's General Fund.
- G. Waiver of Penalties. Penalties for late tax payments may be waived or reduced if approved by City Council pursuant to City Council policy. Nothing in this subsection requires the City to reduce or waive penalties.

2.11.030

Failure to Report and Remit Tax – Determination of Tax by Manager.

- A. If any seller fails to make any report of the tax required by this Chapter within the time provided in this Chapter, the Manager will proceed to obtain facts and information on which to base the estimate of tax due. As soon as the Manager procures such facts and information upon which to base the assessment of any tax imposed by this Chapter and payable by any seller, the Manager will determine and assess against such seller the tax, interest and penalties provided for by this Chapter.
- B. If the Manager makes a determination as outlined in Subsection A, the Manager must give notice to the seller of the amount assessed. The notice must be personally served on the seller or deposited in the United States mail, postage prepaid, addressed to the seller at the last known place of address.
- C. The seller may appeal the determination as provided in Section 2.11.035. If no appeal is timely filed, the Manager's determination is final and the amount assessed is immediately due and payable.

2.11.035

Appeal.

- A. Any seller aggrieved by any decision of the Manager with respect to the amount of the tax owed along with interest and penalties, if any, may appeal the decision to the City Council.
- B. The seller must file the written notice of appeal within 10 days of the City's serving or mailing of the determination of tax due.
- C. The Council's decision is final subject only to judicial review pursuant to ORS 34.010 et seq.
- D. The City will serve the findings upon the appellant in the same manner as that used to give notice for a tax determination in City Code Section 2.11.030.B. Any amount found to be due is immediately due and payable upon the service of notice.

2.11.040

Refunds.

- A. The City may refund to the seller any tax, interest or penalty amount under any of the following circumstances:
 - 1. The seller has overpaid the correct amount of tax, interest or penalty; or
 - 2. The seller has paid more than once for the correct amount owed; or
 - 3. The City has erroneously collected or received any tax, interest or penalties.
- B. The City may not issue a refund under this subsection unless the seller provides to the Manager a written claim under penalty of perjury stating the specific grounds upon which the claim is founded and on forms furnished by the Manager. The seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a refund.
- C. The Manager has 20 calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Manager will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.

- D. If the Manager determines the claim is valid, the claimant may either claim a refund or take as credit against taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City. The claimant must notify the Manager of the claimant's choice no later than 15 days following the date the Manager mailed the determination and the claimant must do so in a manner prescribed by the Manager.
- E. If the claimant does not notify the Manager of claimant's choice within the 15-day period and the claimant is still in business, the City will grant a credit against the tax liability for the next reporting period. If the claimant is no longer in business, the City will mail a refund check to claimant at the address provided in the claim form.
- F. The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Manager acknowledges the claim's validity.

2.11.045**Actions to Collect.**

Any tax required to be paid by any seller under the provisions of this Chapter is a debt owed by the seller to the City. Any tax collected by a seller that has not been paid to the City is a debt owed by the seller to the City. Any person owing money to the City under the provisions of this Chapter is liable to an action brought in the name of the City of Forest Grove for the recovery of the amount owing. In lieu of filing an action for the recovery, the City, when taxes due are more than 30 days delinquent, may submit any outstanding tax to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, if the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of \$50.00 or 50 percent (50%) of the outstanding tax, penalties and interest owing.

2.11.050

Violation Infractions.

- A. In addition to the penalties provided in section 2.11.025, a violation of this Chapter is punishable as set forth in Code Section 1.095. It is a violation of this Chapter for any seller or other person to:
1. Fail or refuse to comply as required herein;
 2. Fail or refuse to furnish any return required to be made;
 3. Fail or refuse to permit inspection of records;
 4. Fail or refuse to furnish a supplemental return or other data required by the Manager;
 5. Render a false or fraudulent return or claim; or
 6. Fail, refuse or neglect to remit the tax to the city by the due date.
- B. The remedies provided by this section are not exclusive and do not prevent the City from exercising any other remedy available under the law.
- C. The remedies provided by this section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

2.11.055

Confidentiality.

Except as otherwise required by law, it is unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this Chapter. Nothing in this section prohibits any of the following:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
- C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Manager or an appeal from the Manager for amount due the City under this Chapter; or
- D. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

- E. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds \$5,000. The City Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

2.11.060**Audit of Books, Records or Persons.**

The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due. All books, invoices, accounts and other records must be made available within the City limits and be open at any time during regular business hours for examination by the Manager or an authorized agent of the Manager. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Manager may immediately seek a subpoena from the Forest Grove Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

2.11.065**Forms and Regulations.**

- A. The Manager is authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of the marijuana tax and to provide for:
1. A form of report on sales and purchases to be supplied to all vendors;
 2. The records that sellers providing marijuana and marijuana-infused products must keep concerning the tax imposed by this Chapter.

2.11.070 **Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs and clauses.

2.11.075 **Savings.** Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, remain valid and in full force and effect for purposes of all cases filed or commenced during the times this ordinance or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.