



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

08/02/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Newberg Plan Amendment
DLCD File Number 003-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, August 15, 2011

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Barton Brierley, City of Newberg
Angela Lazarean, DLCD Urban Planning Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	☐ In person ☐ electronic ☐ mailed
	DEPT OF
	JUL 26 2011
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: **City of Newberg**

Local file number: **DCA 11-002**

Date of Adoption: **7/18/2011**

Date Mailed: **7/22/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: April 22, 2011

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The ordinance amends the Newberg Development provisions for annexations. The amendment creates a batch annexation process to allow several small annexations to be considered together. The amendment distinguishes quasi-judicial and legislative annexation processes. The amendment also modifies the city regulations for island annexation to conform to recent changes in state law.

Does the Adoption differ from proposal? Yes, Please explain below:

The ordinance limits batch annexation proposals to 15 acres and only to residential properties.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☒	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD File No. 003-11 (18804) [16722]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Barton Brierley**

Phone: **(503) 537-1212** Extension:

Address: **P.O. Box 970**

Fax Number: **503-537-1272**

City: **Newberg**

Zip: **97132-**

E-mail Address:

barton.brierley@newbergoregon.gov

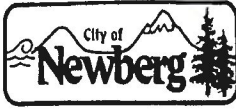
ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ - 11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.



ORDINANCE No. 2011-2745

AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE ANNEXATION PROCEDURES

RECITALS:

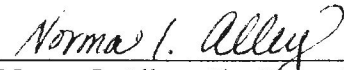
1. On May 4, 2009, the Newberg City Council passed Resolution No. 2009-2843, supporting the Newberg Affordable Housing Action plan. One action recommended in the plan was to create an expedited annexation process.
2. The Affordable Housing Action Committee reviewed the processes for annexation, and recommended adoption of a batch annexation process.
3. Oregon state law regarding island annexations has been changed, and the city desires its ordinances to be in conformance with state law.
4. After proper notice, the Planning Commission held a hearing on June 9, 2011, and recommended adoption of the attached ordinance.
5. The Newberg City Council held a hearing on July 18, 2011, to consider the attached ordinance. The Code of Newberg is amended and shown in Exhibit "A", which is hereby attached and by this reference incorporated.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

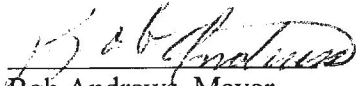
1. The Code of Newberg is amended and shown in Exhibit "A", which is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B", which is hereby adopted and by this reference incorporated.
3. After the first batch annexation, the fee to apply to be part of a batch annexation shall be \$500.00, or as set by resolution of the City Council.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: August 17, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of July, 2011, by the following votes: **AYE: 7 NAY: 0 ABSENT: 0 ABSTAIN: 0**


Norma I. Alley, City Recorder

ATTEST by the Mayor this 21st day of July, 2011.


Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Newberg Planning Commission at their 06/09/2011 meeting.

By and through the Affordable Housing Action Committee at their 02/23/2011 meeting.

Exhibit “A” to Ordinance 2011-2745 Development Code Amendments

Note: Existing text is shown in regular font.

Added text is shown in double-underline

Deleted text is shown in strikethrough.

ANNEXATIONS

15.250.010 Statement of purpose.

The city finds that annexation is the first step to converting future urbanizable lands to urbanizable land within the Newberg Urban Growth Boundary, and that as such it is an important part of the process of providing timely and orderly urban development. The city also recognizes that the development of lands at an urban density must include the provision of an adequate level of required urban services such as sewer, water, and roads. Policies and procedures adopted in this code are intended to carry out the directives of the citizens of Newberg and the Newberg comprehensive plan, and to insure that annexation of lands to the city is incorporated into the process of providing a timely and orderly conversion of lands to urban uses. The City Charter requires that, unless otherwise mandated by state law, annexation may only be approved by a majority of those voting.

15.250.020 Conditions for annexation.

The following conditions must be met prior to or concurrent with city processing of any annexation request:

- A. The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.
- B. The subject site must be contiguous to the existing city limits.

15.250.030 Quasi-judicial annexation criteria.

Quasi-judicial annexations applications are those filed pursuant to the application of property owners and exclude legislative annexations. The following criteria shall apply to all quasi-judicial annexation requests:

A. The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.

B. An adequate level of urban services must be available, or made available, within three years time of annexation, except as noted in division (E) below. An adequate level of urban services shall be defined as:

1. Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.

2. Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

C. Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

D. The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.

E. The city council may annex properties where urban services are not and cannot practically be made available within the three year time frame noted in division (B) above, but where annexation is needed to address a health hazard, to annex an island, to address sewer or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the Council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.

15.250.040 Quasi-judicial Annexation procedures.

All quasi-judicial annexation requests approved by the city council shall be referred to the voters in accordance with the requirements of this code and O.R.S. 222.

A. Annexation elections are normally scheduled for the biennial primary or general elections which are held in May and November of even numbered years. Applications for annexation shall be filed with the Planning Division before 5:00 p.m. on October 1 for a primary ballot election in May and before 5:00 p.m. on April 1 for a general ballot election in November. An applicant may request that the Council schedule an annexation ballot measure for a special election date. Applications proposed for review at a special election must be filed with the city eight months prior to the proposed special election date. Filing of an annexation application and having the application deemed complete does not obligate the city to place the annexation question before the voters at any particular election. This division does not obligate the city to process an annexation application within any time frame not required by ordinance or state statute.

B. The application shall be processed in accordance with the Type III processing procedures outlined in this code. Once the Director receives a completed application for annexation, he/she shall schedule a recommendation hearing before the planning commission. The planning commission shall make a recommendation to the city council as to whether or not the application meets the criteria contained in § 151.262. This decision shall be a quasi-judicial determination and not a legislative determination. The planning commission may also recommend denial of an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to recommend denial of an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

C. Following the planning commission hearing, the Director shall schedule a city council hearing to consider the request. The city council shall conduct a quasi-judicial hearing and determine whether or not the application meets the criteria contained in § 151.262. The hearing at the city council shall be considered a new hearing. If additional testimony is submitted, the Council may, at its own discretion, return the application to the planning commission for further review and recommendation. The city council may also deny an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to deny an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

D. If the city council approves the annexation request, the proposal may, at the city council's sole discretion, be placed before the voters of the city as follows:

1. The biennial primary or general elections which are held in May and November of even numbered years, or

2. An available special election.

E. If the city schedules the annexation election for an election other than the biennial primary or general election, the agreement of the applicant or owner of the property must be obtained. All costs associated with placing the matter on the ballot shall be paid for by the applicant or owner of the property being annexed.

F. The city shall place a notice of the annexation election in a newspaper of general circulation in the city not more than 30 days nor less than 20 days prior to the date of the election. Such notice shall take the form of a minimum one quarter page layout, which includes a map of the property to be annexed and unbiased information regarding the annexation.

G. The city shall cause the property under consideration for annexation to be posted with a minimum of one sign not less than 16 square feet in size. The sign shall provide notice of the annexation election, a map of the subject property, and unbiased information regarding the annexation. The sign shall be removed by the applicant within ten days following the election day.

H. In addition to the regular annexation fee, the applicant shall pay for all of the costs associated with the election, the ad in the newspaper, and posting of the notice. The city shall inform the applicant of the costs necessary for the newspaper ad and property posting and of the deadline for payment of these costs.

I. Should this annexation request be approved by a majority vote of the electorate of the city at the election date as identified by resolution of the city council, the property shall be annexed and the following events shall occur:

1. The property shall be ordered and declared annexed and withdrawn from the Newberg Rural Fire Protection District.

2. The territory will be changed from a county zone to a city zoning designation as indicated in NMC 15.250.080. The Newberg, Oregon zoning map shall be amended to indicate this change.

3. The Recorder of the city is directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of the following documents:

a. A copy of the approved ordinance.

b. A map identifying the location of said territory.

J. If the city council refers an annexation to the voters at a particular election, and the annexation fails to pass at that election, the applicant may petition the city council to refer the annexation to the voters at a subsequent election, subject to the following.

1. The petition shall include a fee in an amount determined by resolution of the city council. In addition, should the petition be granted, the applicant shall be responsible for all election costs, including the cost of preparing the new annexation measure.

2. The applicant may only petition the city council once for resubmittal to place the annexation on the ballot in any 12-month period.

3. The city council shall hold a hearing to consider the petition. The hearing is a legislative hearing. Notice of the hearing shall be published in accordance with NMC 15.100.270.

4. After hearing the petition, the city council may decide any of the following.

a. The Council may approve the petition and schedule the annexation for a subsequent election. The annexation may only be placed before the voters once in any 11-month period. The annexation shall be processed according to the procedures in subsections (D) through (I) of this section.

b. The Council may deny the petition.

c. If conditions affecting the original criteria for the approval of the annexation by the city council have changed significantly, the Council may require the applicant to resubmit the annexation application for consideration by the city council and to pay a new annexation application fee. The Council also may direct that the resubmitted application be referred to the planning commission for recommendation. If there is a period of more than five years between the Council's original quasi-judicial determination that the annexation meets applicable criteria and the annexation election date, then a new application shall be required.

5. The city council shall have total discretion in determining the timing of placing an annexation measure before the voters, in requiring the submittal of a new or modified annexation application, or in denying a petition for new election.

6. Where an annexation has been initiated by the city council, the council may refer the annexation to a subsequent election upon its own motion.

15.250.050 Application requirements for quasi-judicial annexations.

Applications for quasi-judicial annexations shall be made on forms provided by the planning division and include the following material:

A. Written consent to the annexation signed by the requisite number of affected property owners, electors, or both to conduct an election within the area to be annexed, as provided by state law. The consent shall include a waiver stating that the owner will not file any demand against the city under Measure 49, approved November 6, 2007, that amended O.R.S. Chapter 195 and 197.

B. Legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.

C. Vicinity map and map of the area to be annexed including adjacent city territory.

D. General land use plan indicating types and intensities of proposed development, transportation corridors (including pedestrian and vehicular corridors), watercourses, significant natural features, open space, significant stands of mature trees, wildlife travel corridors, and adjoining development.

E. Statement of overall development concept and methods by which physical and related social environment of the site, surrounding area, and community will be enhanced.

F. Annexation fees, as set by city council resolution.

G. Statement outlining method and source of financing to provide additional public facilities.

H. Comprehensive narrative of potential positive and negative physical, aesthetic, and related social effects of the proposed development on the community as a whole and on the smaller sub-community or neighborhood of which it will become a part and proposed actions to mitigate such effects.

I. Concurrent with application for annexation, the property may be assigned one of the following methods for development plan review:

A. A planned unit development approved through a Type III procedure.

B. A development agreement approved by the city council.

C. A contract annexation as provided for in the state statutes. Development plans must be

approved and an annexation contract must be signed by the city council in order to use the contract annexation process.

15.250.055 Legislative annexations.

A. Purpose. Legislative annexations are those annexations that are initiated by the City of Newberg. Legislative annexations include health hazard annexations, island annexations, batch annexations, and other annexations initiated by the City Council.

B. Process. Legislative annexations shall be processed as a Type IV legislative action, except as noted. The annexation request shall be reviewed directly by the city council. A planning commission hearing shall be required only if a comprehensive plan amendment is involved or city council refers the matter to the planning commission for a recommendation.

C. Notice. The director shall provide notice of hearings:

1. To the owner of the site proposed for annexation.

2. To owners of property within 500 feet of the entire site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.

3. To the Department of Land Conservation and Development per NMC 15.100.250.

4. Within a newspaper of general circulation within the city at least ten days prior to the first public hearing on the action per NMC 15.100.270.

D. Approval. In approving any legislative annexation, the city council shall follow the applicable procedures of state law and the Newberg Charter. If the city council approves the annexation, where required by state law or City Charter the annexation shall be referred to an election at a date determined by the city council. If the annexation election is not approved, the city council, at its discretion, may refer the proposal to a future election with any modifications it determines are appropriate. If an election is not required by state law or City Charter, the city council shall by ordinance declare that the territory is annexed to the City.

15.250.060 Health hazard annexation.

The city shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the city to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval.

15.250.070 Island annexation.

The following policies are adopted for island annexations:

A. The city shall attempt to not create islands of unincorporated territory within the corporate limits of the city. If such an island is created, the city council may set a time for a public hearing for the purpose of determining if the annexation should be submitted to the voters. The hearing shall be conducted in accordance with the policies and procedures contained in this code.

B. Written notice to property owners will be made prior to annexation to allow for property owner responses. Failure to receive notice shall not in any way invalidate the annexation procedure that may be subsequently undertaken by the city.

C. The island annexation shall follow the procedures required under ORS 222.750.

CD. Annexation of an island shall be by ordinance, subject to approval by the voting majority. The city shall allow electors, if any, in the territory proposed to be annexed to vote in the election on the question of annexation. If the city council finds that a majority of the votes cast in the city and the territory combined favor annexation, the city council, by ordinance, shall proclaim the annexation approved. The proclamation shall contain a legal description of each territory annexed.

E. For property that is zoned for, and in, residential use when annexation is initiated by the city under this section, the city shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the city proclaims the annexation approved. The director shall:

1. Cause notice of the delayed annexation to be recorded by the county clerk of the county in which any part of the territory subject to delayed annexation is located within 60 days after the city proclaims the annexation approved; and

2. Notify the county clerk not sooner than 120 days and not later than 90 days before the annexation takes effect.

3. Notwithstanding subsection (D) of this section, property that is subject to delayed annexation becomes part of the city immediately upon transfer of ownership.

15.250.075 Batch annexation of small properties by consent

With the consent of the property owners, the city may process multiple smaller annexations together as a legislative annexation in order to streamline the annexation process and to share the financial cost of the application.

A. Eligibility. Properties are eligible for batch annexation if:

1. The total area of each contiguous territory to be annexed does not exceed three buildable acres, unless the city council moves to allow consideration of a larger territory prior to the hearing.

2. Property owners shall file a consent and request to annex with the city on forms provided by the director.

3. The zoning map designation complies with the comprehensive plan map designation. If a comprehensive plan map change is proposed the request shall follow the process described in NMC 15.250.060 (B).

4. The properties have a residential comprehensive plan map designation and are intended for residential use.

B. Process. Batch annexations shall be processed as follows:

1. The deadline to file a request shall be November 1 prior to a May primary election in even number years.

2. The director shall collect the requests. If two or more eligible requests are submitted by November 1, the director shall initiate the batch annexation and schedule the item for a city council hearing. If fewer than two requests are submitted, the director shall extend the deadline to May 1 of the even numbered year to allow consideration prior to the general election in November. If multiple requests are not submitted by the May 1 deadline, the requests shall be deferred until multiple requests are received by the next deadline.

3. The city council may initiate a batch annexation at times other than those specified above.

4. Property owners shall submit a consent to annex form provided by the city and a request to be part of a batch annexation. The request shall include a legal description of the property and a

title report or proof of ownership, and a waiver stating that the owner will not file any demand against the city under Measure 49, approved November 6, 2007, that amended O.R.S. Chapter 195 and 197.

5. If the total acreage of the batch annexation exceeds 15 acres, then the annexation shall be referred to the Planning Commission for a public hearing.

C. Criteria for a batch annexation.

For each property, an adequate level of urban services is or can be made available within three years, including.

1. Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.

2. Roads with an adequate design capacity for the proposed use and projected future uses.

3. Police, fire, parks, and school facilities and services.

D. Approval. The Council may approve or deny all or part of the proposed batch annexation. If the city council approves, it shall refer the annexation to an election following the legislative process under NMC 15.250.060.

15.250.090 Coordination.

Annexation requests shall be coordinated with affected public and private agencies, including, but not limited to, Yamhill County, Chehalem Park and Recreation District, Newberg School District, Northwest Natural Gas, Portland General Electric, and, where appropriate, various state agencies. Coordination shall be made by referral of annexation request to these bodies sufficiently in advance of final city action to allow for reviews and recommendations to be incorporated into the city records.

15.250.100 Annexation of non-conforming uses.

When a non-conforming use, as described in NMC 15.205.010 through 15.205.100, is annexed into the city, the applicant shall provide a schedule for the removal of the non-conforming use for the planning commission and city council. Legal non-conforming residential uses are allowed to remain indefinitely. At time of approval of the annexation, the city council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one year to 10 years at the discretion of the city council.

Exhibit “B” to Ordinance 2011-2745 Findings

Newberg Comprehensive Plan Goal I. Housing

To provide for a diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels

Policy 3. The City has adopted a comprehensive approach to meeting local housing needs that balances density, design, and flexibility in code standards and procedures. The City shall use development incentives such as density bonuses, flexible development standards, and streamlined review procedures to stimulate or require the production and preservation of affordable housing

Finding: The proposed amendments would help in the provision of affordable housing by streamlining the annexation process for small properties.

Newberg Comprehensive Plan Policy N.2.

The City shall amend the annexation ordinance to streamline the procedures used for annexations.

Finding: The proposed amendment would streamline procedures by allowing small properties to be annexed as a group rather than individually.

ORS 222.750 Annexation of unincorporated territory surrounded by city. (1) *As used in this section:*

(a) *“Creek” means a natural course of water that is smaller than, and often tributary to, a river, but is not shallow or intermittent.*

(b) *“River” means a large, continuous and natural stream of water that is fed along its course by converging tributaries and empties into an ocean, lake or other body of water.*

(2) *When territory not within a city is surrounded by the corporate boundaries of the city, or by the corporate boundaries of the city and the ocean shore, a river, a creek, a bay, a lake or Interstate Highway 5, the city may annex the territory pursuant to this section after holding at least one public hearing on the subject for which notice has been mailed to each record owner of real property in the territory proposed to be annexed.*

(3) *This section does not apply when the territory not within a city:*

(a) *Is surrounded entirely by water; or*

(b) *Is surrounded as provided in subsection (2) of this section, but a portion of the corporate boundaries of the city that consists only of a public right of way, other than Interstate Highway 5, constitutes more than 25 percent of the perimeter of the territory.*

(4) *Unless otherwise required by its charter, annexation by a city under this section must be by ordinance or resolution subject to referendum, with or without the consent of any owner of real property within the territory or resident in the territory.*

(5) *For property that is zoned for, and in, residential use when annexation is initiated by the city under this section, the city shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the city proclaims the annexation approved. The city recorder or other officer performing the duties of the city recorder shall:*

(a) Cause notice of the delayed annexation to be recorded by the county clerk of the county in which any part of the territory subject to delayed annexation is located within 60 days after the city proclaims the annexation approved; and

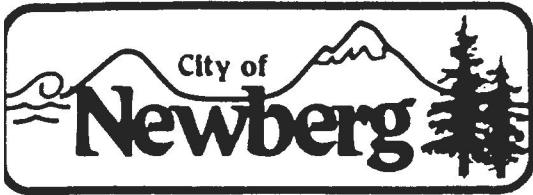
(b) Notify the county clerk of each county in which any part of the territory subject to delayed annexation is located not sooner than 120 days and not later than 90 days before the annexation takes effect.

(6) Notwithstanding subsection (5) of this section, property that is subject to delayed annexation becomes part of the city immediately upon transfer of ownership.

(7) This section does not limit provisions of a city charter, ordinance or resolution that are more restrictive than the provisions of this section for creating or annexing territory that is surrounded as described in subsection (2) of this section.

(8) If a city charter, ordinance or resolution requires the city to conduct an election in the city, the city shall allow electors, if any, in the territory proposed to be annexed to vote in the election on the question of annexation. If the governing body of the city finds that a majority of the votes cast in the city and the territory combined favor annexation, the governing body, by ordinance or resolution, shall proclaim the annexation approved. The proclamation shall contain a legal description of each territory annexed. [Amended by 1963 c.444 §1; 1985 c.702 §16; 2007 c.654 §1; 2007 c.706 §1]

Finding: The statute above was amended in 2007 to require delayed annexation for residential islands annexed. This amendment conforms to that requirement.



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