

ORDINANCE NO. 901

AN ORDINANCE AMENDING THE STAYTON MUNICIPAL CODE, TITLE 17 (LAND USE AND DEVELOPMENT) TO PROVIDE FOR VOTER APPROVAL OF MAJOR ANNEXATIONS.

WHEREAS, Oregon Revised Statutes, Chapter 197 requires municipalities to adopt and implement a comprehensive land use planning program in accordance with statewide planning goals established by the Legislature and the Oregon Land Conservation and Development Commission;

WHEREAS, the first Statewide Planning Goal calls for citizen participation in the land use planning process;

WHEREAS, the current provisions in Stayton Municipal Code, Title 17 (Land Use and Development) provide for the approval of requests for annexation of land into the City by the City Council;

WHEREAS, for the past 5 years every application for annexation not initiated by the City has resulted in a petition to refer the City Council's decision to the voters, resulting in expense to the City and delay in the approval process;

WHEREAS, following a public hearing, the Stayton Planning Commission has recommended that the Stayton City Council enact proposed code amendments to provide for voter approval of major annexations; and

WHEREAS, following a public hearing, the Stayton City Council deems the proposed amendments, together with the Council's amendments, to promote public participation and further the goals of the Stayton Comprehensive Plan;

NOW, THEREFORE, the Stayton City Council does ordain as follows:

SECTION 1. Stayton Municipal Code, Title 17 (Land Use and Development), is hereby amended as set forth in said Amendment appended hereto as Exhibit A, and by this reference, made a part hereof.

SECTION 2. This Ordinance shall be furnished to the State of Oregon, Department of Land Conservation and Development forthwith.

ADOPTED BY THE STAYTON CITY COUNCIL this 17th day of March 2008.

CITY OF STAYTON

Signed: March 17, 2008

BY: Virginia L. Honeywell
Virginia L. Honeywell, Mayor

Signed: March 17, 2008

ATTEST: Chris Childs
Chris Childs, City Administrator

APPROVED AS TO FORM:

David A. Rhoten
David A. Rhoten, City Attorney

Exhibit A

Amendments to Stayton Municipal Code Title 17 (Land Use and Development) to Provide for Voter Approval of Major Annexations.

Additions are underlined; deletions are ~~crossed out~~

Part 1. Amend Section 17.04.100 to include the following new definition of "contract annexation."

CONTRACT ANNEXATION: The addition of territory to the jurisdictional boundaries of the City that is subject to the terms and conditions of a contractual agreement between the property owner and the City relative to the nature of development to occur in the territory and the timing or sequence of annexation or annexation of portions of the property.

Part 2. Amend Section 17.12.210 to change the procedures for the approval of a request for annexation.

17.12.210 ANNEXATIONS

1. DEFINITION. An annexation is an expansion of the City limits through the addition of territory to the jurisdictional boundaries of the City, including "contract annexation" agreements between applicants and the City.
2. METHOD OF ADOPTION. Pursuant to the requirements of Sections 17.12.070 through 17.12.100, ~~the City Council shall adopt, by ordinance, annexation approvals. All proceedings shall be conducted in accordance with this title.~~
 - a. Major Annexations.
 - 1) A Major Annexation is an annexation that meets one or more of the following characteristics.
 - i. Consists of two or more parcels, except proposed annexations that consist of contiguous parcels in the same ownership.
 - ii. The area proposed for annexation exceeds 3 acres.
 - 2) Approval procedures. The following procedures shall be followed in the review and approval of an application for a Major Annexation:
 - i. Major Annexations are subject to referendum approval. The City Council may schedule a vote on an annexation proposal only in the May or November elections.
 - ii. Submission Deadlines. An application for a Major Annexation shall be filed with the City Planner before 5:00 p.m. on the last working day in September for a ballot election in May and the last working day in March for a ballot election in November.
 - iii. Planning Commission Proceedings. The Planning Commission shall hold a public hearing in accordance with the requirements of Section 17.12.090. Following the public hearing the Commission shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met.

Based on the findings of fact and conclusions, the Planning Commission shall make a recommendation to the City Council regarding the approval of the application.

- iv. City Council Proceedings. The City Council shall hold a public hearing in accordance with the requirements of Section 17.12.100. Following the public hearing, the City Council shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. If the Council finds that the criteria of Section 17.12.210.4 have been or will be met, the Council shall enact a resolution scheduling a referendum vote at the next available scheduled election. A decision by the Council approving the annexation, and referring to the voters, shall be final upon adoption for appeal purposes, but shall not be effective until all applicable appeal periods have passed with no appeal having been filed.
- v. Legal advertisement of pending election. After City Council review and approval, the City Administrator shall cause a legal advertisement describing the proposed annexation and pending election to be published in at least one newspaper of general circulation in the City in the manner provided by state election law. The advertisement shall be placed at least 14 days prior to the election. The advertisement shall contain: a description of the location of the property, size of the property, its proposed zoning upon annexation, a general description of the potential land uses allowed, any required comprehensive plan text or map amendment or zoning ordinance text or map amendment, and where the City Council's evaluation of the proposed annexation may be found.
- vi. Election procedures. Pursuant to ORS 222.130(1), the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words. The City Attorney shall prepare the ballot title wording.
 - (a) Pursuant to ORS 222.130(2), the notice of an annexation shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.
 - (b) Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.
- vii. Setting of boundaries and proclamation of annexation. Upon approval by the voters of the proposed annexation, the City Council shall proclaim the results of the election and by ordinance set the boundaries of the area to be annexed by a legal description.

b. Minor Annexations.

- 1) A Minor Annexation is any annexation that meets all of the following characteristics.

- i. Consists of only one parcel, except proposed annexations that consist of contiguous parcels in the same ownership.
 - ii. The area proposed for annexation is 3 acres or less.
 - 2) Approval procedures. The following procedures shall be followed in the review and approval of an application for a Minor Annexation:
 - i. An application for a Minor Annexation shall be filed with the City Planning Department.
 - ii. Planning Commission Proceedings. The Planning Commission shall hold a public hearing in accordance with the requirements of Section 17.12.090. Following the public hearing the Commission shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. Based on the findings of fact and conclusions the Planning Commission shall make a recommendation to the City Council regarding the approval of the application.
 - iii. City Council Proceedings. The City Council shall hold a public hearing in accordance with the requirements of Section 17.12.100. Following the public hearing, the City Council shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. If the Council finds that the criteria of Section 17.12.210.4 have been or will be met, the Council shall, by ordinance, shall set the boundaries of the area to be annexed by a legal description.

c. Health Hazard Annexation

The City may 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 is not subject to voter approval.

~~3. PLANNING COMMISSION RESPONSIBILITY. Applicant initiated requests for annexation of territory to the City shall be referred to the Planning Commission for review and recommendation to the Council pursuant to the criteria below.~~

4.3. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and be processed in a timely manner by the City, requests for annexation of territory shall include the following materials and information:

- a. Completed application forms as supplied by the City Planner.
- b. Three copies of a site plan, drawn to a scale of 1 inch equals not more than 50 feet, shown as a graphic scale, of the property for which the annexation is requested. The site plan shall depict the, surrounding properties, neighboring streets and roads, and existing uses of the property. ~~and~~ If the application for annexation is not accompanied by a concurrent application for site plan, subdivision, or other land use approval, three copies of a conceptual plan of proposed uses of the property subsequent to annexation. In addition, a 18 reduced copies of the plan sized as 11 inches by 17 inches shall be submitted.

- c. A plan showing the boundary lines of the properties, as certified by a professional land surveyor, and the approximate area of the properties in acres or square feet.
- d. A legal description of the property, meeting the requirements of ORS 308.225.
- e. A narrative statement fully explaining the request and fully addressing the criteria for approval of an annexation.

5.4. REVIEW APPROVAL CRITERIA. In order to approve an application for annexation request, the following affirmative findings concerning the action must be able to be made by the decision authority:

Need exists in the community for the land proposed to be annexed.

- a. The site is or is capable of being serviced by adequate City public services including such services as may be provided subject to the terms of a contract annexation agreement between the applicant and the City.
- b. The proposed annexation is property contiguous to the existing City jurisdictional limits.
- c. The proposed annexation is compatible with the character of the surrounding area and complies with the urban growth program and policies of the City of Stayton.
- d. The annexation request complies, or can be made to comply, with all applicable provisions of state and local law.
- e. If a proposed contract annexation, within the terms and conditions of the contract, including the cost of City facility and service extensions to the annexed area shall be calculated by the Public Works Director.

65. ZONING OF ANNEXED TERRITORY. All lands ~~which~~ that are annexed to the City shall be zoned in conformance with the designation of the property in the Comprehensive Plan. This requirement does not prohibit an application to amend the Comprehensive Plan and Zoning Maps concurrent with the application for annexation.

6. CONFORMANCE WITH CONCEPTUAL PLAN. Development of the property after annexation shall be in substantial conformance with any conceptual plan submitted with the application for annexation. For the purposes of this section, development is in substantial conformance with a conceptual plan if:

- a. The development is generally consistent with the character and intent of the conceptual plan;
- b. The number and types of housing units are generally consistent with those presented in the conceptual plan;
- c. The impacts from the development, including but not limited to, noise, vibration, dust, odor, or fumes, detectable at the property line will not exceed the maximums typical for the categories of uses proposed in the conceptual plan;
- d. The number and types of vehicular trips to and from the site will not exceed the maximums typical for the categories of uses proposed in the conceptual plan; and
- e. The amount and types of outside storage, loading, and parking will not exceed the maximums typical for the categories of uses proposed in the conceptual plan.

7. NOTICE TO COUNTY AND STATE.

- a. Within 10 working days after enactment of the ordinance approving the annexation, the City Recorder shall provide by certified mail to all public utilities, electric cooperatives and telecommunications carriers operating within the City each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change, and a copy of the ordinance approving the annexation.
- b. Within 10 days from the effective date the ordinance approving the annexation, the City Recorder shall provide to the Marion County Clerk and County Assessor a report containing a detailed legal description of the new boundaries established by the City.
- c. Within 14 days of enactment of the ordinance approving the annexation, the City Recorder shall transmit to the Oregon Secretary of State:
 - 1) A copy of the ordinance proclaiming the annexation, including a legal description of the territory to be annexed.
 - 2) An abstract of the vote, if a major annexation. The abstract of the vote shall show the whole number of electors voting on the annexation, the number of votes cast for annexation, and the number of votes cast against annexation.
 - 3) A copy of the statement of consent by electors or landowners in the territory annexed.
- d. Within 30 days of enactment of an ordinance annexing territory into the City, the City Recorder shall transmit to the Marion County Assessor and the Oregon Department of Revenue the legal description of the boundary change or proposed change and an accurate map conforming to the requirements of ORS 308.225(2).