

Enrolled
House Bill 4029

Sponsored by Representative KENNEMER, Senator ROBLAN; Representative FAGAN (Pre-session filed.)

CHAPTER

AN ACT

Relating to the withdrawal of property from a city; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in sections 1 and 2 of this 2014 Act:

(a) "Same ownership" includes ownership, singly or in any combination, by an individual, other individuals related to the individual by blood, marriage or adoption, and entities owned, directly or indirectly, by the individual or such related individuals.

(b) "Tract" means one or more contiguous lots or parcels of land under the same ownership and includes any portion of the contiguous lots or parcels of land under the same ownership less than the whole.

(2) Notwithstanding ORS 222.460, the owner of a tract within the boundaries of a city may withdraw the tract from the city if:

(a) The city is located within Metro and was incorporated after January 1, 2000, and before January 1, 2005;

(b) The comprehensive plan and land use regulations of the city were not acknowledged within four years after incorporation, as required under ORS 197.757, and remain unacknowledged at the time the owner makes the filing for withdrawal required under subsection (3) of this section; and

(c) Any portion of the tract is located on the boundary of the city and is within one-half mile of another city.

(3)(a) To withdraw a tract from the city under this section, the owner must:

(A) Obtain a letter from the Department of Land Conservation and Development confirming that the city's comprehensive plan and land use regulations were not acknowledged in the four-year period following incorporation. The department shall provide the letter within 30 days after the department receives a written request from the owner of the tract.

(B) File a written statement with the city in person or by registered mail, return receipt requested, and a copy of the written statement with Metro and the department.

(b) The written statement must include:

(A) The name of the city from which the tract is to be withdrawn;

(B) A declaration by the owner of the owner's intention to withdraw the tract from the city;

(C) A copy of a deed, preliminary title report, tax record or similar document showing ownership of the tract;

(D) A legal description of the tract to be withdrawn;

(E) A copy of the cadastral map maintained by the county assessor that shows the location of the tract; and

(F) A copy of the letter from the department obtained pursuant to paragraph (a)(A) of this subsection.

(4) An enforcement order under ORS 197.319 to 197.335 is not a prerequisite for the provision of the letter by the department as required under subsection (3)(a)(A) of this section or to the withdrawal of the tract under this section.

SECTION 2. (1) Notwithstanding any other notice requirements in the city code, within 10 days after receipt of the written statement required under section 1 (3) of this 2014 Act, the legislative body of the city shall cause notice of a public hearing on the question of the withdrawal of the tract to be held within 30 days after receipt of the written statement.

(2) For two successive weeks before the date of the public hearing, the notice shall be published once each week in a newspaper of general circulation in the city and posted in four public places in the city.

(3) At the public hearing, the public may appear and be heard on the question.

(4) After receiving testimony at the public hearing, the legislative body of the city shall withdraw the tract from the city by an order or resolution adopted during a work session at, or immediately after, the close of the public hearing.

(5) Within two business days after the legislative body of the city adopts the order or resolution, the city shall report the change in its boundaries to Metro and the Department of Land Conservation and Development.

(6) If the city refuses or fails to adopt the order or resolution within the 30-day period described in subsection (1) of this section:

(a) The withdrawal of the tract is deemed complete.

(b) Metro shall report the change in the boundaries of the city to the county clerk and county assessor of the county in which the city is located and the Department of Revenue, as required under ORS 222.010 and 308.225, respectively.

(7) On and after the effective date of the order or resolution, or completed withdrawal:

(a) ORS 222.460 (10) applies to the withdrawn tract.

(b) The withdrawn tract is freed from any urban planning agreement or other local governmental agreement, document or policy that could prevent the tract from being annexed by another jurisdiction.

(8) The withdrawal of territory under this section:

(a) Is not a land use decision or a limited land use decision subject to the exclusive jurisdiction of the Land Use Board of Appeals under ORS 197.805 to 197.855.

(b) If completed by order or resolution, is not subject to referral to the electors.

(c) Is not subject to ORS 222.040.

(9) A city from which a tract has been withdrawn under this section may not annex the tract for a period of 10 years following the withdrawal unless the owner of the tract submits a petition to the legislative body of the city seeking annexation of the tract.

SECTION 3. (1) Any person who testified at a public hearing under section 2 (3) of this 2014 Act may seek judicial review of a withdrawal order or resolution adopted, or a withdrawal completed without order or resolution, under section 2 (4) or (6) of this 2014 Act, respectively, by filing a petition in the Court of Appeals.

(2)(a) Except as provided in paragraph (b) of this subsection, ORS 197.850, 197.855 and 197.860 apply to judicial review under this section.

(b) Notwithstanding ORS 197.850 (9), the court may reverse or remand the action of the city only if the court finds that:

(A) The withdrawal was clearly in error;

(B) There is a basis to vacate the withdrawal for the reasons for which an arbitration award may be vacated, modified or corrected under ORS 36.705 (1)(a) to (d) or 36.710; or

(C) The withdrawal was unconstitutional.

SECTION 4. Sections 1 to 3 of this 2014 Act are repealed on January 2, 2025.

SECTION 5. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.

Passed by House February 14, 2014

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate February 27, 2014

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2014

Approved:

.....M,....., 2014

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2014

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Kate Brown, Secretary of State