

ORDINANCE NO. 4636

An ordinance enacting requirements and procedures for annexation of lands to the City of McMinnville and repealing Ordinance No. 4357.

RECITALS:

On May 21, 1996 the citizens of McMinnville passed Measure No. 36-32. This measure directs the City Charter be amended to require that all annexations, except those otherwise mandated by state law, be referred to a vote of the electorate. Consistent with the direction of this measure and the requirements of ORS 222, City staff prepared legislation supplanting the City's existing annexation ordinance with provisions designed to implement the requirements of Measure No. 36-32 for review and adoption by the City Council.

In summary, the proposed annexation ordinance, which replaces Ordinance No. 4357, revises application submittal requirements and fees, and requires voter approval prior to a property's annexation to the City.

At its meeting of September 12, 1996, the McMinnville Planning Commission, after studying the proposed changes to the annexation ordinance, voted to recommend to the City Council that they be approved.

At its meeting of October 8, 1996, the City Council received public testimony and discussed the issues, and at its meeting of November 12, 1996, approved the Planning Commission recommendation; now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. Statement of Purpose. The City of McMinnville finds that annexation is the first step to converting future urbanizable lands to urbanizable land within the McMinnville 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 ordinance are intended to carry out the directives of the citizens of McMinnville and the McMinnville 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.

Section 2. 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 McMinnville Urban Growth Boundary.
- (b) The subject site must be contiguous to the existing City limits.

Section 3. Policies. The following policies shall apply to all annexation requests:

- (a) The proposed use for the site complies with the McMinnville Comprehensive Plan, Volume II (Goals and Policies) and with the designation on the McMinnville 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 Volume II (Goals and Policies).
- (b) An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:
  - (1) Municipal sanitary sewer and water service meeting the requirements enumerated in Volume II (Goals and Policies) 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, 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 3 (a), (b), and (c) is placed upon the applicant.

Section 4. Annexation by Election. All annexation requests approved by the City Council shall be referred to the voters in accordance with the requirements of this ordinance and ORS 222.

- (a) Annexation elections are scheduled for May and November. Applications for annexation shall be filed with the Planning Department before 5 p.m. on the second Thursday of November for a ballot election in May and before 5 p.m. on the second Thursday of May for a ballot election in November.
- (b) Notice of the annexation election shall be published 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 an approximate one-quarter page layout, which includes a map of the property to be annexed and unbiased information regarding the annexation.
- (c) The City shall cause the property under consideration to be annexed to be posted with a minimum of one sign not greater than six 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.

Section 5. Application Requirements. Applications for annexation shall be made on forms provided by the Planning Department 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.
- (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, watercourses, significant natural features, open space, 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.

Section 6. Annexation by Consent of All Owners of Land. When all the owners of land in the territory to be annexed consent in writing to the annexation of their land in the territory and file a statement of their consent with the City, the following procedures shall apply:

- (a) The Planning Commission shall hold at least one public hearing on the annexation request.
  - (1) Application for said change must be filed, with payment of the appropriate fee, not less than thirty days prior to the date of the public hearing.
  - (2) Notice of the public hearing shall be published in a newspaper of general circulation in the City not less than five days nor more than fifteen days prior to the date of the public hearing.
  - (3) Written notice of a requested change shall be mailed to all owners of the property within three hundred feet of the exterior boundary of the property for which the change has been requested, not less twenty days prior to the date of the hearing.
- (b) Public hearing shall be conducted as per the requirements established in McMinnville Ordinance No. 3682, as amended;
- (c) Any public hearing may be continued to a specific date by oral pronouncement prior to the close of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.
- (d) Within 45 days following the public hearing, unless a continuance is announced, the Commission shall make specific findings of fact. Based on the findings, the Commission shall render a decision which shall recommend either that the application be approved and submitted to the voters at the next available election as per the requirements of Section 4, above, or denied.
  - (1) If the decision of the Commission recommends that the application be granted and set for the election, the Commission shall transmit to the Council a copy of the application, a scale drawing of the site, the minutes of the public hearing, the decision and findings of the Commission, and any other materials deemed necessary for a decision by the Council.
  - (2) If the decision of the Commission recommends that the application be denied, no further proceedings shall be held by either the Commission or Council, unless an appeal of the Commission's decision is filed by the

applicant or by an interested party within fifteen calendar days of the Commission's decision.

- (e) Upon receipt of the decision of the Commission to recommend approval, the Council shall:
  - (1) Based on the material in the record and the findings adopted by the Commission and transmitted to the Council, approve the annexation and set the matter for election; or
  - (2) Call for a public hearing on the proposal subject to the notice requirements stated in Section 17.72.030(a)(2) and (3) of McMinnville Ordinance No. 3380.
- (f) In the event of an appeal of a Planning Commission decision, the Council shall hold a public hearing following the procedures as laid out in Section 17.72.050 of McMinnville Ordinance No. 3380.

Section 7. Annexation by Non-unanimous Triple Majority Consent Petition. When more than half, but not all, of the owners of land in the territory to be annexed who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory, the following procedures shall apply:

- (a) The Planning Commission shall hold at least one public hearing on the annexation request:
  - (1) Application for said change must be filed, with payment of the appropriate fee, not less than thirty days prior to the date of the public hearing.
  - (2) Notice of the public hearing shall be published in a newspaper of general circulation in the City not less than five days nor more than fifteen days prior to the date of the public hearing.
  - (3) Written notice of a requested change shall be mailed to all owners of the property within three hundred feet of the exterior boundary of the property for which the change has been requested, not less twenty days prior to the date of the hearing.
- (b) Public hearing shall be conducted as per the requirements established in McMinnville Ordinance No. 3682, as amended;

- (c) Any public hearing may be continued to a specific date by oral pronouncement prior to the close of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.
- (d) Within 45 days following the public hearing, unless a continuance is announced, the Commission shall make specific findings of fact. Based on the findings, the Commission shall render a decision which shall recommend either that the application be approved and set for election, or be denied.
- (e) Upon receipt of the recommendation from the Planning Commission, the Council shall hold a public hearing following the procedure as laid out in ORS 222.120.

Section 8. Findings and Decision. In the event the City Council holds a public hearing on an annexation request:

- (a) The City Council may adopt the Planning Commission findings for approval or denial of the annexation, supplement the record as appropriate in the circumstances, or reject the findings of the Planning Commission and adopt new findings.
- (b) Inasmuch as the decision to annex property consists of a quasi-judicial element (the findings required herein) and a legislative decision based upon the best judgment of the Council, the Council may deny an annexation based upon its 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 act separate and apart from the quasi-judicial decision.

Section 9. Annexation Declaration. The City Council shall by ordinance declare annexation only after determining that all requirements of the Oregon Revised Statutes have been met, all applicable fees have been paid, and the annexation request has been approved by a majority of those voting.

Section 10. 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.

Section 11. 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 ordinance.
- (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) Annexation of an island shall be by ordinance, subject to approval by the voting majority.

Section 12. Submission of Annexation Reports. The City shall report all changes in the boundaries of the City to the County Clerk, County Assessor, and the State of Oregon as required by Oregon Revised Statutes.

Section 13. Comprehensive Plan and Zoning Designations.

- (a) The Comprehensive Plan Map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the McMinnville Comprehensive Plan. A redesignation of the Comprehensive Plan Map may be requested concurrent with annexation under procedures set forth in Ordinance No. 4127. The proposed redesignation shall then be used to determine compliance with the McMinnville Comprehensive Plan.
- (b) An un-zoned area annexed to the City shall be placed in the AH (Agricultural Holding) zone. A county zoned area annexed to the City shall remain in the county zone classification and shall not be allowed any building permits until the zone is changed to a City zone through the procedures set forth in Chapter 17.72 of Ordinance No. 3380. Simultaneous application for annexation and a zone change is allowed provided that the zone change ordinance does not take effect until and unless the property is properly annexed to the City and incorporated within the City limits.

Section 14. Coordination. Annexation requests shall be coordinated with affected public and private agencies, including, but not limited to, Yamhill County, McMinnville Water and Light Department, McMinnville School District 40, Northwest Natural Gas, 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.

Section 15. An annexation applied for between January 1996 and May 21, 1996, which was approved by the City Council but did not become final before May 21, 1996, shall be allowed to be placed on the next available election ballot thereby exempting it from the requirements of Section 4 (a), above.

Section 16. That Ordinance No. 4357 is hereby repealed in its entirety.

Section 17. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823 entitled, "Initiative and Referendum," for a period of thirty (30) days.

Passed by the Council this 12<sup>th</sup> day of November 1996 by the following votes:

Ayes: Hughes, Kirchner, Massey, Payne, Windle

Nays: \_\_\_\_\_

Approved this 12<sup>th</sup> day of November 1996.

  
MAYOR

Attest:

  
RECORDER