Chapter 222

1979 REPLACEMENT PART

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GENERAL PROVISIONS

222.010 Report of city boundary changes mandatory; contents of report; time for filing; exception. (1) Every city, through its recorder, shall report to the county clerk and county assessor of the county within which the city is located all changes in the boundaries or limits of the city. The report shall contain a detailed legal description of the new boundaries established by the city. The report shall be filed by the city within 10 days from the effective date of the change of any boundary lines.

(2) This section does not apply to a minor boundary change ordered under ORS 199.410 to 199.512. [Amended by 1969 c.494 §26; 1971 c.462 §18]

222.020 [Repealed by 1955 c.475 §12]

222.030 Assessor to furnish statement of assessed valuation of territory to be annexed. When a change of the boundaries of a city through the annexation of territory is proposed pursuant to ORS 199.410 to 199.512, or 222.111 to 222.180 or city charter, the assessor of the county or counties wherein the territory to be annexed is located, shall furnish upon official request within 20 days, a statement showing for the current fiscal year the assessed valuation of the taxable property in the territory to be annexed. [1957 c.236 §1; 1969 c.494 §27]

ANNEXATION OF CONTIGUOUS TERRITORY

222.110 [Repealed by 1957 c.613 §1 (222.111 enacted in lieu of 222 110)]

222.111 Authority and procedure for annexation, generally. (1) Upon the approval, in the manner authorized by the charter of the annexing city or in the manner provided by ORS 222.111 to 222.180 or 222.850 to 222.915, of a proposal containing the terms of annexation, the boundaries of any city may be extended by the annexation of territory not then within a city and which territory is contiguous to the city or separated from it by a stream only. Such territory may lie either wholly or partially within or without the same county in which the city lies.

(2) The proposal may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

(3) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.850 to 222.915 to do so, the proposal for annexation to the registered voters of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.850 to 222.915 to dispense with submitting the proposal for annexation to the voters of the city, the legislative body of the city shall submit such proposal to the qualified voters of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

(4) The proposal for annexation may be voted upon by the voters of the city and of the territory simultaneously or at different times not more than 12 months apart.

(5) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot. [1957 c.613 §2 (enacted in lieu of 222.110); 1959 c.415 §1; 1967 c.624 §13]

222.120 Procedure without election by city voters; hearing; ordinance subject to referendum. (1) Unless the city charter expressly prohibits, the city legislative body shall, by ordinance, if it elects to dispense with submitting the question to the registered voters of the city, fix a day for public hearing before such legislative body at which time the registered voters of the city may appear and be heard on the question of annexation. The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing

to be posted in four public places in the city for a like period.

(2) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.170, prior to the public hearing held under subsection (1) of this section; or

(c) Declare that the territory is annexed to the city where the Health Division, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.850 to 222.915.

(3) The ordinance referred to in subsection (2) of this section is subject to referendum.

(4) For the purpose of this section and ORS 222.170, "owner" or "landowner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as his interest in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2]

222.130 Notice requirements and contents. The city legislative body shall give notice of each annexation election by publication prior to such election once each week for four successive weeks in a newspaper of general circulation in the city. Whenever simultaneous elections are held, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. Notice shall also be given by posting notices of the election in four public places within the city if votes are to be cast therein and four public places in each territory proposed to be annexed for a like period as provided in this section for publication of notice. The notice shall distinctly state the proposition to be submitted, shall contain a legal description of, and a map indicating, the boundaries of each territory proposed to be annexed and the registered voters shall be invited thereby to vote upon such annexation. The notice shall state the hours during which the polls will be open, and that the precinct polling places are those designated by the county clerk. "County clerk" means the county clerk or the county official in charge of elections. [Amended by 1967 c.283 §1; 1979 c.317 §4]

222.140 [Repealed by 1979 c.317 §26]

222.150 Canvass of votes; proclamation of annexation; records transmitted to Secretary of State. (1) The city legislative body shall, at its first regular meeting following each annexation election or at a special meeting thereafter called for such purpose, proceed to canvass the votes cast thereat. For the purpose of any canvass under this section and ORS 222.160, the official figures returned by the county clerk or registrar of elections, as the case may be, from any such election held at the time of a general election, shall be sufficient.

(2) The votes cast in the territory shall be canvassed, and if it appears that the majority of all votes cast favors annexation and the city legislative body has dispensed with submitting the question to the registered voters of the city, the city legislative body shall proclaim the annexation and transmit the record to the Secretary of State as provided in ORS 222.160, together with the ordinance dispensing with submitting the question to the registered voters in the city and, if a referendum petition was filed with respect to such ordinance, an abstract of the vote upon the referendum.

222.160 Procedure when annexation is submitted to city vote; proclamation ordinance; report to Secretary of State. If the city legislative body has not dispensed with submitting the question to the registered voters of the city, the votes cast in the territory shall first be canvassed, and if it appears upon such canvass that the majority of all the votes cast favors annexation, then the votes cast within the city shall be canvassed. If a majority of the votes in the city is also found to favor annexation, then the council or legislative body shall, by a proper order, resolution or ordinance which will create an official city record, proclaim those annexations which have received a majority of the votes cast in both the city and the territory. The proclamation shall contain a legal description of each territory annexed. The recorder of the city, or

other officer performing the duties of recorder, shall transmit to the Secretary of State a certified copy of the order, resolution or ordinance and an abstract of the vote showing the whole number of registered voters voting in each such territory, the whole number of registered voters voting in the city, the number of votes cast in each for each annexation, and the number of votes cast against each annexation.

222.170 Effect of consent to annexation by territory; proclamation with and without city election; ordinance of annexation; records transmitted to Secretary of State. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed, or post notice in the contiguous territory, if more than half of the owners of land in the territory, 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 and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the registered voters of the city; or

(b) The city legislative body takes the necessary action to call the annexation election in the city under ORS 222.130, if the city legislative body submits the question to the registered voters of the city.

(2) If the city legislative body has not dispensed with submitting the question to the registered voters of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the registered voters of the city as provided in ORS 222.120, the legislative body shall, by a proper order, resolution or ordinance constituting an official city record, set the final boundaries of the area to be annexed by a legal description and proclaim the annexation, and cause the recorder of the city, or other officer performing the duties of recorder, to make and submit to the Secretary of State:

(a) A copy of the order, resolution or ordinance,

(b) An abstract of the vote within the city if votes were cast therein, which shall show the whole number of registered voters voting therein on the annexation, the number of votes cast therein for annexation and the number of votes cast against annexation,

(c) A copy of the statement of consent of landowners in the territory annexed,

(d) A copy of the ordinance of the city declaring that no election is required in the city, and

(e) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the referred ordinance. [Amended by 1955 c.51 §2; 1961 c 511 §2; 1971 c.673 §1; 1973 c.434 §1]

222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of any abstract as provided in ORS 222.150, 222.160, 222.170 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation, provided such filing is made not later than 90 days prior to any primary or general election, otherwise, except as provided in subsection (2) of this section, the effective date of such annexation shall be the day after the primary or general election next following the date of filing.

(2) For the purposes of ORS 308.225 only, the effective date of an annexation shall be the date of filing of the abstract referred to in subsection (1) of this section. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2]

222.185 [1971 c.673 §4; repealed by 1975 c.326 §5]

222.190 [Repealed by 1975 c.326 §5]

CONSOLIDATION OF ADJOINING AND NONADJOINING TERRITORIES

222.210 Authority to consolidate adjoining and nonadjoining cities or territories; additional method of annexation. An incorporated city may be created from adjoining or nonadjoining incorporated cities, from an incorporated city and adjoining or nonadjoining unincorporated territory, or from both, after proceedings had as required by ORS 222.220 to 222.310. The legislature expressly declares that those sections do not repeal or amend any other law or laws providing for the incorporation of cities, and that those sections are enacted for the purpose of providing an additional procedure for the incorporation of cities. The unincorporated territory may con-

sist of contiguous or noncontiguous areas. [Amended by 1971 c.761 §1]

222.220 Initiation of proceedings; signatures on petitions. Proceedings to create an incorporated city under ORS 222.210 to 222.310 may be initiated by petition signed by not less than 10 percent of the registered voters of each incorporated city to be included within the proposed city. In the event that it is proposed to include one or more unincorporated areas in the proposed city, the petition shall be signed by not less than 10 percent of the registered voters residing in each such area at the closing of the registration books by the county clerk at the close of registration preceding the last general election. The areas may be contiguous with one another. [Amended by 1971 c.761 §2]

222.230 Form and contents of petition; filing; meeting of city governing bodies. (1) The petition shall be addressed to the governing bodies of the cities to be included in the proposed city. The petition shall state the name of the city, which may be, but need not be, the name of any of the cities to be included in the city. If it is proposed to include one or more unincorporated areas, the petition shall describe the boundaries of each of them, in addition to designating the incorporated cities to be included in the proposed city. The petition may be filed in the office of the clerk or recorder of any of the cities to be included in the proposed city.

(2) When a petition to create a city pursuant to ORS 222.210 to 222.310 contains the required number of signatures and has been so filed, the governing bodies of the cities to be included in the proposed city shall meet in joint convention at the usual place of meeting of the governing body of that one of the cities having the largest population as shown by the last federal census, as soon after the filing of the petition as is convenient, but not more than 20 days after the filing of the petition. At that meeting the governing bodies shall examine the petition and determine whether it is in proper form and contains the required number of qualified signers. [Amended by 1971 c.761 §3]

222.240 Appointment of charter commission; employment of assistance; functions. In the event that the petition is in proper form and contains the required signatures, the governing body of each of the cities to be included in the proposed city shall appoint two residents of each of the cities as the members of a charter commission to prepare a charter for the proposed city to be submitted to the legal voters for approval or rejection at the same election at which is submitted the question of the creation of the proposed city. The charter commission may employ at the expense of the cities such legal and other assistance as it considers advisable to assist it in the preparation of the charter or the performance of its duties, and the expense shall be equally borne by the cities. If the petitions provide that one or more unincorporated areas shall be included in the proposed city, the governing body of the county within which the largest portion of all such areas lies shall appoint to the charter commission two legal voters residing in those areas. After the commission is selected, it shall prepare a charter for the proposed city within 60 days after the commission has been appointed. [Amended by 1971 c.761 §4]

222.245 Initial tax base for consolidated city. The charter prepared by the charter commission in accordance with ORS 222.240 may specify a tax base for the consolidated city. If the city is established by a vote at a primary or general November election, the tax base shall constitute the initial tax base of the consolidated city within the meaning of section 11, Article XI of the Oregon Constitution. [1971 c.761 §13]

Note: 222.245 was added to and made a part of 222.210 to 222.310 by legislative action but was not added to 222.210 to 222.300. See 222.300. See the Preface to Oregon Revised Statutes for further explanation.

222.250 Charter election; ballots; functions of county court. (1) After the charter commission has prepared and adopted a charter, copies of it, certified as correct by the secretary or two or more members of the commission, forthwith shall be filed with the governing bodies of each of the incorporated cities to be included in the proposed city. Within 30 days after the filing the governing bodies of the cities shall meet in joint convention at the usual place of meeting of the governing body of that one of the cities having the largest population as shown by the last federal census and select a date for the election. The election shall be held on the next available election date in ORS 221.230 that is not earlier than 60 days after the filing. The election shall be called and held for the purpose of submitting to the legal voters of each incorporated city and of each unincorporated area to be included in the proposed city the question whether:

(a) An incorporated city shall be created consisting of the largest city proposed to be included therein, of each other incorporated city whose voters vote to create the proposed city, and of each unincorporated area in which the voters vote to create the proposed city; and

(b) The charter proposed by the charter commission shall be adopted as the charter for the city.

(2) The question shall be stated in appropriate form on the ballots used at the election.

(3) If the governing bodies cannot agree at the joint convention upon a date and other details for the election, then the date and the manner in which the election shall be called, held and conducted shall be determined by the county court of the county within which the largest portion of the territory in the proposed city lies, by resolution duly adopted by the county court. The election in that case shall be called by the county court for the purposes provided in the petitions and ORS 222.210 to 222.310. [Amended by 1971 c.761 §5; 1979 c.316 §11]

222.260 Ordinance calling election; form and contents of notice; pamphlets not necessary. After the date and other election details have been determined, the governing bodies of each of the cities shall enact an ordinance calling a special election as required by this section and ORS 222.250 for the purposes specified. Thereupon each of the governing bodies shall give appropriate notice of the election by publication in a newspaper of general circulation in the area to constitute the proposed city by one insertion a week for four successive weeks prior to the election. The notices may be published more often than once a week. If there is no newspaper of general circulation in the area, then notices of the election shall be posted in three public places in each city and in each unincorporated area to be included in the proposed city. The notices shall be over the names of the recorders or similar officers of the cities, but any irregularity in this respect shall not invalidate the election. The notices shall state that a special election has been called and shall specify the time and places of the election and the question to be submitted to the legal voters at the election. If it is proposed to include one or more unincorporated areas, the notices shall contain a description of, and a map indicating, the boundaries of each such area, in addition to designating the incorporated cities proposed to be included in the proposed city. The notices may contain such other matters as the governing bodies of the cities at the joint convention consider advisable. Voters' pamphlets need not be prepared and sent to the legal voters. [Amended by 1967 c.283 §2; 1971 c.761 §6]

222.270 Joint convention of governing bodies for canvass of votes; abstract. (1) The governing bodies of each of the cities to be included in the proposed city shall meet in joint convention at the usual place of meeting of the governing body of that one of the cities having the largest population as shown by the last federal census, on the first Monday after the election and canvass the votes cast on the question submitted. The votes cast in each of the cities shall be canvassed separately, as shall the votes cast in each unincorporated area proposed to be included in the proposed city.

(2) If a majority of the votes cast in the most populous city and a majority of the votes cast in another city or an unincorporated area proposed to be included in the proposed city favor creation of the city. the joint convention, by an order entered upon its minutes, shall cause the officer performing the duties of clerk of the governing body at whose place of meeting the joint convention is held to make a certified abstract of the votes upon creation of the city. The abstract shall show the whole number of electors voting at the election upon the question in each of the cities and in each unincorporated area, if any, and the number of votes cast in each in favor of and against creation of the proposed city. The consolidated city shall consist of the largest incorporated city proposed to be included therein, each other city whose voters vote in favor of creating the consolidated city and each unincorporated area whose voters so vote. Its charter shall be the charter prepared by the charter commission. [Amended by 1971 c.761 §7]

222.275 Elections for consolidation of certain areas or cities. (1) Whenever a petition requesting a second election on the question of consolidation is filed in accordance with this section, a second such election shall be held in a city or area included in a consolidated city, in accordance with ORS 222.250, provided:

(a) The majority of votes cast in the first election in the city or area for which the second election is requested was in favor of consolidation but the city or area is not contiguous to any other portion of the consolidated city; or

(b) The majority of votes cast in the election in the city or area is against consolidation but the city or area is contiguous to the consolidated city.

(2) A petition for a second election in a city or area shall be signed by not less than 25 percent of the registered voters in the city or area and filed, within 25 days after the date of the first election, with the county court of the county within which the largest portion of the city or area lies. If the court finds the petition has been signed by the required number of voters, it shall call an election which shall be held on the next available election date in ORS 221.230 that is not earlier than 35 days after the date the petition is filed with the court. The court shall give notice of the election, conduct the election, and canvass the vote in accordance with ORS 222.260 and 222.270. The abstracts upon the proposition voted upon at the election shall be recorded and a certified copy transmitted to the Secretary of State in accordance with ORS 222.280. [1971 c.761 §11; 1979 c.316 §12]

Note: 222.275 was added to and made a part of 222.210 to 222.310 by legislative action but was not added to 222.210 to 222.300. See 222.310. See the Preface to Oregon Revised Statutes for further explanation.

222.280 Transmittal of charter and abstracts to Secretary of State; election of officers; effective date of incorporation. (1) The abstract referred to in ORS 222.270 shall be recorded upon the records of the governing body of each of the cities. Immediately upon the recording thereof, the officer performing the duties of clerk of the joint convention shall transmit to the Secretary of State a certified copy of the abstract, together with a certified copy of the charter adopted as the charter for the proposed city.

(2) Within 30 days after the election, or after an election held under ORS 222.275, if such an election is held, the governing body of that one of the incorporated cities having the greatest population as shown by the last federal census shall call a special election to be held in the consolidated city for electing the officers required by the charter adopted by the voters. The election shall be held within five months after it is called and may be held at the same time and places as a primary or general election if such an election is to be held during that time. The election shall be called and conducted in all respects as required by law and shall be canvassed by the governing body calling it, which immediately shall declare the result thereof and cause the same to be entered upon its records. From and after the date of the entry or at whatever subsequent time the charter of the consolidated city specifies, the city shall be one city, with the rights and privileges conferred by its charter adopted under ORS 222.230 to 222.270 and the laws of this state.

(3) A city incorporated under ORS 222.210 to 222.310 may not exercise the power granted by ORS 222.750 as to land surrounded by the corporate limits or boundaries of the city at the time of incorporation. [Amended by 1971 c.761 §8]

222.290 Officers to assume functions; terms of office. At whatever time the charter of the consolidated city specifies the officers elected at the election referred to in ORS 222.280 shall be entitled to enter upon the duties of their respective offices, upon qualifying therefor in accordance with the charter, and shall hold their respective offices for whatever terms are prescribed by the charter. [Amended by 1971 c.761 §9]

222.295 Effect of consolidation; records, assets and uncollected taxes of consolidating cities transferred to consolidated city. Upon the effective date of the consolidation, the consolidated city shall succeed to all the assets and become charged with all the liabilities and obligations of all cities included in the consolidated city, except as the charter of the consolidated city provides to the contrary. The officers of the consolidating cities shall forthwith deliver to the officers of the consolidated city the assets and records of the consolidating cities. Uncollected taxes theretofore levied by the consolidating cities shall become the property of the consolidated city and shall be delivered to it by the county treasurer upon collection. [1971 c.761 §12]

Note: 222.295 was added to and made a part of 222 210 to 222.310 by legislative action but was not added to and made a part of 222.210 to 222.300. See 222 310. See the Preface to Oregon Revised Statues for further explanation.

222.300 Ordinances of former incorporated units continued in effect; initiation of civil and criminal actions. (1) The ordinances in force in the previously incorporated cities at the time of the creation of the newly formed incorporated city by virtue of ORS 222.210, so far as the ordinances are not inconsistent with the charter adopted for the newly formed municipal corporation, shall continue in effect within the limits of the newly formed municipal corporation and shall be deemed its ordinances subject to the provi-

sions of said charter and subject to modification, amendment or repeal by the council or other governing body of the newly created municipal corporation.

(2) From the date the newly formed municipal corporation comes into existence, all complaints and prosecutions for crimes committed or ordinances violated and all suits or causes of action arising within the territory of the municipal corporation prior to its creation may be instituted in said incorporated city with the same effect as if it had been in existence prior to the violations, subject however, to the provisions of the charter of the newly formed municipal corporation.

222.310 Construction of ORS 222.210 to 222.300; substantial compliance sufficient. The provisions of ORS 222.210 to 222.300 shall be construed liberally, and substantial compliance with the provisions of those sections shall be sufficient.

222.410 [Repealed by 1969 c.494 §29]

222.420 [Repealed by 1969 c.494 §29]

222.430 [Amended by 1967 c.283 §3; repealed by 1969 c.494 §29]

222.440 [Repealed by 1969 c.494 §29]

222.450 [Repealed by 1969 c.494 §29]

ANNEXATION OF PUBLIC SERVICE DISTRICTS

222.510 Annexation of entire district; transfer of liabilities and functions to city. Whenever the entire area of a rural fire protection district, a water district, including a domestic water supply corporation or a water control district, a park and recreation district, a highway lighting district, a county service district, a special road district, road assessment district or a sanitary district or authority, lawfully organized and existing, becomes incorporated in or annexed to a city in accordance with law, the district shall be extinguished and the city shall, upon the effective date of such incorporation or annexation, succeed to all the assets and become charged with all the liabilities, obligations and functions of the district. The district officers shall forthwith deliver to the city officers the district assets and records. Uncollected taxes theretofore levied by such district shall become the property of the city and be delivered to it by the county treasurer upon collection. [Amended by 1955 c.471 §1; 1963 c.347 §1; 1965 c.509 §1; 1967 c.365 §1; 1967 c.624 §16; 1969 c.78 §1; 1971 c.13 §5]

222.520 Annexation of less than entire district; assumption of liabilities by city optional. (1) Whenever a part less than the entire area of a district named in ORS 222.510 becomes incorporated as or annexed to a city in accordance with law, the city may at any time after such incorporation or annexation cause that part to be withdrawn from such a district in the manner set forth in ORS 222.524. Until so withdrawn, the part of such a district incorporated or annexed into a city shall continue to be a part of the district.

(2) The part thus withdrawn shall not thereby be relieved from liabilities and indebtedness previously contracted by the district. For the purposes of paying such liabilities and indebtedness of the district, property in the part withdrawn shall continue to be subject to assessment and taxation uniformly with property in the area remaining in the district. The city of which it became a part shall, however, assume such obligations if the obligations assumed do not bring the total of the city's obligations above any applicable limitations prescribed by statute. When the city assumes such obligations it shall be liable to the district for one of the following, at the option of the city:

(a) The amount of taxes which otherwise would be extended each year therefor against the property in the part withdrawn; or

(b) Payment annually, as the bonds of the district that were outstanding on the effective date of the withdrawal mature, of the same proportion of such outstanding bonds, and the interest thereon, as the assessed valuation of the part withdrawn bears to the assessed valuation of the entire district on the effective date of the withdrawal. After the city agrees to make such payments under this subsection, neither the city nor the part withdrawn shall be charged by the district with any future liabilities, obligations or functions of the district. [Amended by 1955 c.471 §2; 1957 c.401 §1; 1963 c.347 §2; 1965 c 509 §2; 1967 c.624 §17]

222.524 Procedure for withdrawal of part of district from district. (1) If as authorized by ORS 222.520 the governing body of the city elects to cause the withdrawal from a district named in ORS 222.510 of that part of such district theretofore incorporated in or annexed to the city, it shall hold a public hearing on the question of such withdrawal. At the hearing, the governing body of the city shall hear objections to the withdrawal and shall determine whether such withdrawal is for the best interest of the city.

(2) The governing body shall fix a date, time and place for the hearing and cause notice of the date, time, place and purpose of the hearing to be published once each week for two successive weeks prior to the date of the hearing in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

(3) After the hearing, the governing body of the city may by ordinance declare that the part of the district which was theretofore incorporated as or annexed to the city is withdrawn from the district.

(4) The ordinance referred to in subsection (3) of this section is subject to referendum.

(5) The city may withdraw from all of such districts at the same time in one proceeding under this section or may withdraw from each district in separate proceedings at different times. [1957 c.401 §3; 1963 c.347 §3; 1965 c.509 §3]

222.528 Territory withdrawn from district not liable for certain obligations. The liabilities and indebtedness for which a part of a district named in ORS 222.510 remains liable, upon withdrawal by annexation or incorporation as provided in ORS 222.520, shall not include:

(1) Current operating expenses of the district beyond the fiscal year in which the withdrawal is effective.

(2) Special tax levies, bond indebtedness or debt service obligations approved in the district subsequent to the withdrawal.

(3) Any amount which is due beyond the fiscal year in which the withdrawal is effective by reason of a contract for services between the district and another district or municipality where the amount due varies in each fiscal year according to the assessed valuation of the district. [1957 c.573 §2; 1963 c.347 §4; 1965 c.509 §4]

222.530 Procedure for division of assets on withdrawal of part of district; arbitration and award. (1) Within 90 days from the date of such withdrawal of part of a rural fire protection district, a highway lighting district, a special road district or a park and recreation district, the governing bodies of the city and the district shall agree upon an equitable division and disposal of the assets of the district. The plan of division of assets shall be arrived at after giving consideration to the assessed valuation of the whole district and the part of it withdrawn, the types of assets, and their location and intended use. However, the plan for division of assets of a rural fire protection district may in no case divide the assets so that the remaining part of the district would have a less favorable fire insurance grade classification, according to filings made pursuant to ORS 737.205, than that which the district had at the time of the withdrawal.

(2) The remainder of such district shall continue in existence as a district, but may dissolve in the manner provided in the applicable district statutes. After withdrawal, the services for the remaining part may be performed by the remainder of the district acting independently as such; or, such services may be performed by contract with the city, or by agreement of the city directly with the property owners of the remainder if the district determines upon dissolution. If dissolution is determined upon, and the city agrees to furnish service to the remainder of the district, all assets of the district shall become the property of the city.

(3) If an agreement pursuant to subsection (1) of this section cannot be arrived at within 90 days from the date of withdrawal, upon the request of any party in interest, the county court or board of county commissioners of the county in which the property is situated shall submit the matter to arbitration under ORS 33.210 to 33.340.

(4) Service under ORS 33.310 need be made only upon parties in interest who have participated in the arbitration proceedings. An appeal from the award may be taken only to the circuit court for the county in which the property withdrawn is located, subject to further appeal under ORS 33.340. The functions of the district for the entire preexisting area thereof shall be continued by the district until the final determination of such agreement or arbitration.

(5) The governing bodies of the city and a rural fire protection district, a special road district or a park and recreation district, as the case may be, may enter into a binding agreement for the joint operation of the fire protection or park and recreation facilities of each that will be beneficial to and equitable for the inhabitants and property owners of each after the withdrawal of part of such districts. [Amended by 1955 c.471 §3; 1957 c.401 §4; 1963 c.347 §5; 1965 c.509 §5; 1969 c.690 §27; 1971 c.13 §6]

222.540 Procedure for division of installations on withdrawal of part of water district; appeal; joint operations. (1) When a part of a water district, including a water control district or a domestic water supply corporation, is thus withdrawn, the district shall, by action of its governing body, turn over to the city, of which the withdrawn area becomes a part, its water mains, service installations, structures, facilities, improvements and other property in the area withdrawn from the district that are not necessary for the operation of the remainder of the water control or water supply system of the district. All water mains, service installations, reservoirs, structures, facilities, improvements and other property which are necessary for the district to continue maintenance and operation of its water control or water supply system shall remain the property of the district, regardless of whether they are located within or without the city. If the city is not satisfied with such property division made by the district governing body, or if, within 90 days from the effective date of the withdrawal, the district governing body has failed to make a division, the city's governing body may request the county court or board of county commissioners of the county in which the property is situated to decide upon such a division.

(2) After giving 10 days' notice and an opportunity to be heard to the district governing body, the court or board shall, in accordance with the standards of guidance provided in this section for the district governing board, divide the property.

(3) The decision of the county court or board of commissioners shall be binding upon all parties in interest, except that an appeal may be taken therefrom for abuse of discretion in arriving at the decision to the circuit court of the county in which the property withdrawn is located within 30 days from the announcement of the decision. The functions of the district shall be continued in the entire preexisting area thereof by the district until the final determination of the division of property.

(4) This section shall not prevent the governing bodies of the city and the district from arriving at a binding agreement for a joint operation of the water or other facilities of each that will be beneficial to and equitable for the inhabitants and property owners of each after the withdrawal of part of the water district. [Amended by 1965 c.509 §6]

222.550 Withdrawal of major portion of water district; dissolution optional; transfer of property to city. When the greater portion of a water district including a domestic water supply corporation or a water control district is thus withdrawn, measured by the comparative assessed valuations of the portion withdrawn and the portion remaining in the district, the remainder of the district may dissolve in the manner provided for water districts. If dissolution is determined upon and the city agrees to furnish water or other facilities theretofore provided by the water district to the remainder of the district and if the city agrees to assume the liabilities of the district, then all assets of the district become the property of the city. A city to which the major portion of a water district has been annexed may make such agreement notwithstanding any charter or statute limitation. [Amended by 1965 c.509 §7]

222.560 Procedure for division of installations on withdrawal of part of sanitary district; appeal; joint operation. (1) When a part of a sanitary district is thus withdrawn, the district shall, by action of its governing body, turn over to the city of which the withdrawn area becomes a part, its sewer lines, pumping stations, disposal and any other properties within the area withdrawn from the district that are not necessary for the operation of the remainder of the sewer system of the district. All outfall, trunk and collection lines, pumping stations, disposal and other properties which are necessary for the district to continue maintenance and operation of its sewer and disposal system shall remain the property of the district, regardless of whether they are located within or without the city. If the city is not satisfied with the division of property made by the district governing body, or if, within 90 days from the effective date of the withdrawal, the district governing body has failed to make a division, the city's governing body may request the county court or board of county commissioners of the county in which the property is situated to decide upon such a division.

(2) After giving 10 days' notice and an opportunity to be heard to the district governing body, the court or board shall, in accordance with the standards of guidance provided in this section for the district governing board, divide the property.

(3) The decision of the court or board shall be binding upon all parties in interest except

that an appeal may be taken therefrom for abuse of discretion in arriving at the decision to the circuit court of the county in which the property withdrawn is located within 30 days from the announcement of the decision. The functions of the district shall be continued in the entire preexisting area thereof by the district until the final determination of the division of property.

(4) This section shall not prevent the governing bodies of the city and the district from arriving at a binding agreement for a joint operation of the sewer, sewage disposal or other properties of each that will be beneficial to and equitable for the inhabitants and property owners of each after the withdrawal of part of the sanitary district.

222.570 Effect on metropolitan sanitary districts. ORS 222.560 shall not prevent the formation of metropolitan sanitary districts which may include cities under authority of other laws.

222.575 Agreements for joint operation by city and district may be made before or after withdrawal. The agreements referred to in subsection (5) of ORS 222.530, subsection (4) of ORS 222.540 and subsection (4) of ORS 222.560 may be entered into between the city and a district prior to and contingent upon the withdrawal of the annexed or incorporated area from the district under the provisions of ORS 222.524, or they may be made after such withdrawal. [1957 c.401 §5]

222.580 Procedure applicable to prior annexations in which no property division was made. The provisions of ORS 222.510 to 222.570 and 242.050 are applicable to areas annexed to or incorporated as cities prior to March 18, 1949. The procedure provided in those sections may be followed in all cases in which such incorporation or annexation was effective prior to March 18, 1949, and in which no apportionment of property was made by March 18, 1949. As to any such district which has not already been taken over by, or come to an agreement with, the city involved, the effective date of the taking over shall be March 18, 1949, or the date of the agreement arrived at under the standards provided in ORS 222.530 to 222.560.

MERGER OF CITIES AND MUNICIPAL CORPORATIONS; ANNEXATION OF TERRITORY SURROUNDED BY CITY

222.610 Merger of, and surrender of charter by cities and municipal corporations authorized; elections to be held. Any city or municipal corporation may surrender its charter and be merged into an adjoining city or municipal corporation in the same or another county. Cities or municipal corporations having a river as a common boundary, or cities or municipal corporations the boundaries of which at the nearest point of proximity are separated a distance of not more than 1,500 feet, for the purpose of ORS 222.610 to 222.720, shall be deemed to be adjoining. No cities or municipal corporations may become merged unless a majority of the electors of the two cities or municipal corporations affected authorize the surrender and merger as provided in ORS 222.620 to 222.680. The elections at which the surrender and merger are authorized in the two cities or municipal corporations need not be held simultaneously, but it is sufficient if both are held within a period of one year. [Amended by 1953 c.80 §2]

222.620 Submission of merger issue to voters of municipality surrendering charter; petition for merger; notice of election. (1) The question of merger shall be submitted to the electors of the city or municipal corporation desiring to surrender its charter and be merged into an adjoining city or municipal corporation, as provided in ORS 222.620 to 222.640. The council or other legislative body of such corporation shall, upon receiving a petition therefor signed by not less than five percent of the electors of the corporation, as shown by the number of votes cast at the last general election, submit the question to the electors of the corporation. The question may be submitted at any special or regular city, or any special or general state election, provided the petition is filed not more than 90 days or less than 15 days before the date on which the election is held; or, the council or other legislative body may call a special election to be held not later than 90 days after the filing of the petition for the purpose of submitting the question. After one such special election is held, another shall not be called until a period of six months has elapsed.

(2) The council or other legislative body shall give notice of the question to be voted on by publication in a newspaper of general circulation in the corporation at least 10 days prior to the election, and in addition, by posting such notice in three public places in the city or municipal corporation. The notice shall

distinctly state the question to be submitted and contain a map indicating the boundaries of any municipal corporation included in the merger, and the electors shall be invited thereby to vote "yes" or "no" upon such question. [Amended by 1967 c.283 §4]

222.630 Ballot for merger election in surrendering city. The question shall be submitted upon a separate ballot to be called the "Merger Ballot," and shall be substantially in the following form:

Merger Ballot.

Shall the city (or municipal corporation) of (here insert name of the city or municipal corporation merging into another municipal corporation) surrender its charter and be merged into the city (or municipal corporation) of (here insert name of the city or municipal corporation into which another municipal corporation is to be merged)? (The elector desiring to vote affirmatively on the above question, shall place an X mark in the space before the word "yes." If he desires to vote negatively he shall place an X mark in the space before the word "no.")

——Yes

——No

The city or municipal corporation shall provide a sufficient number of such ballots to be used at the election.

222.640 Canvass of returns; statement of canvass; filing of canvass; determination of result. The canvass of votes shall contain a statement of the whole number of votes cast on the question, the number of affirmative and negative votes cast, and also a statement of the total number of electors in the city or municipal corporation, determined as provided in this section. The county clerk shall file a certified copy of the canvass with the officer having charge and custody of the records of the city or municipal corporation into which it is proposed to merge the city or municipal corporation voting to surrender its charter. "County clerk" means the county clerk or the county official in charge of elections. The number of electors in the city or municipal corporation shall be determined by the total number of votes cast at the election in the city or municipal corporation. If a majority of said number of electors vote affirmatively on the question it shall be deemed carried and the surrender and merger authorized. [Amended by 1979 c.317 §5]

222.650 Submission of merger issue to voters of municipality retaining charter; petition for merger optional; notice of election. The question of merger shall be submitted to the electors of the city or municipal corporation into which the city or municipal corporation surrendering its charter is to be merged as provided in ORS 222.650 to 222.670. The council or other legislative body of the city or municipal corporation may in its discretion, upon receiving a petition therefor, signed with no less than five percent of the electors of the corporation as shown by the number of votes cast at the last general city election, submit such question to the electors of the corporation. The question may be submitted at any special, or regular city, or any special, or general state election, provided the petition is filed not more than 90 days or less than 35 days before the date on which the election is held; or, the council, or other legislative body, may call a special election to be held on the next practicable election date in ORS 221.230 after the filing of the petition for the purpose of submitting the question. After one such special election is held another special election shall not be called until a period of one year has elapsed; or the council or other legislative body may submit the question at any special or regular city, or any special or general state election without receiving such petition, by a vote of a majority of its members. The council or other legislative body shall give notice of the question to be voted on by publication in a newspaper of general circulation in such corporation at least 10 days prior to the election and in addition, by posting such notice in three public places in the city or municipal corporation. The notice shall distinctly state the question to be submitted and contain a map indicating the boundaries of any municipal corporation included in the merger, and the electors shall be invited thereby to vote "yes" or "no" upon such question. [Amended by 1967 c.283 §5; 1979 c.316 §13]

222.660 Ballot for merger election in city retaining charter. The question shall be submitted on a separate ballot to be styled a merger ballot and shall be substantially in the following form:

Merger Ballot

Shall the city (or municipal corporation) of (here insert name of the city or municipal corporation merging into another municipal corporation) be merged into the city (or municipal corporation) of (here insert the name of the city or municipal corporation into which another municipal corporation is to be merged) by amending the charter of the city (or municipal corporation) of (here insert name of the city or municipal corporation into which another municipal corporation is to be merged) so as to extend its boundaries to include the city (or municipal corporation) of (here insert the name of the city or municipal corporation merging into another municipal corporation)? (The elector desiring to vote affirmatively on the above question, shall place an X mark in the space before the word "yes." If he desires to vote negatively he shall place an X mark in the space before the word "no.")

——Yes

——No

The city or municipal corporation shall provide a sufficient number of such ballots to be used at the election.

222.670 Conduct of elections; filing of statement; determination of result. The votes cast shall be counted and returned in the same manner as other votes cast at such election. The county clerk shall file a certified copy of the writing with the officer having charge and custody of the records of the city or municipal corporation which proposes to surrender its charter. "County clerk" means the county clerk or the county official in charge of elections. The number of electors of the city or municipal corporation shall be determined by the total number of votes cast at the election in the city or municipal corporation. If a majority of the number of electors votes affirmatively on the question, it shall be deemed carried and the merger authorized. [Amended by 1979 c 317 §6]

222.680 Effective date of merger. If the two cities or municipal corporations affected vote affirmatively on the question of merger upon the same day, the merger of the two cities or municipal corporations shall become effective 30 days after the date on which the elections were held. If the question is affirmatively voted upon at elections held on different dates in the two cities or municipal corporations, the merger shall become effective 30 days after the last election is held.

222.690 Effect of merger on rights, liabilities and jurisdiction of the merged municipalities. On the date such surrender and merger become effective under ORS 222.680, without any further or formal action, all rights and property, both real and personal, then vested in or belonging to the city or municipal corporation which voted to surrender its charter, including all parks, public grounds, buildings and improvements and all rights or property in public streets or highways and also including all other rights and property vested in or belonging to the corporation of any nature whatever whether of the same or similar general nature as those expressly mentioned or differing therefrom in kind, nature, degree or otherwise, shall thereupon be rights and property of the city or municipal corporation into which it is merged. However, all county roads lying within the limits of the merged corporation which have not been laid out or accepted as streets, shall remain county roads until they are laid out or accepted as streets. All debts and liabilities and obligations of the corporation surrendering its charter shall thereupon be liabilities of the corporation into which it is merged and the last named corporation shall thereupon assume all liabilities of the corporation surrendering its charter. All valid claims against the corporation surrendering its charter shall thereafter be valid claims against the city into which it is merged. The inhabitants of the corporation surrendering its charter shall become subject in all respects to the jurisdiction of the authorities of the corporation into which it is merged. The jurisdiction of any public authority exercised theretofore in the corporation surrendering its charter shall, so far as it is in conflict with the corporate authority of the corporation in which it is merged, cease and the corporation surrendering its charter shall lose its corporate identity entirely.

222.700 Effect of merger on pending actions and proceedings; street work proceedings. (1) The merger shall not affect any suits, actions or proceedings pending in any court in which the city or municipal corporation surrendering its charter is a party, but all such suits, actions and proceedings shall be defended or prosecuted to termination by the city or municipal corporation into which it is merged. All suits, actions and proceedings

pending in the municipal, city or recorder's court of the city or municipal corporation surrendering its charter shall be transferred to the municipal, city or recorder's court of the city or municipal corporation into which it is merged.

(2) The merger shall not affect any proceedings for the opening, widening or extension of any street or for any street improvement or sewer pending at the time of the election in the merged city or municipal corporation, but such proceedings shall be continued and all provisions of the charter and ordinances of the merged city shall remain in effect so far as they may affect any matter set out in this section.

222.710 Return statements filed with county recording officer. If any two cities or municipal corporations vote to merge under the provisions of ORS 222.610 to 222.720, the officer having charge and custody of the records of the corporation into which the corporation surrendering its charter is merged, on or before the date on which the merger becomes effective, shall file for record with the officer of the county in which the corporation is located having charge and custody of the deed records of the county, certified copies of the written statements of returns of the election in the two corporations. The county officers shall enter the statements of returns of record in the deed records of the county.

222.720 Application of general election laws. All laws relating to the ballot, to the manner of voting and to the duties of election officers, so far as applicable and not in conflict with the provisions of ORS 222.610 to 222.710, hereby are included and made a part of those sections.

222.750 Annexation of unincorporated territory surrounded by city. In any case where land or territory is surrounded by the corporate limits or boundaries of any city, it is within the power and authority of that city to annex such land or territory, provided it is not an incorporated city. Unless otherwise required by its charter, annexation by a city under this section shall be by ordinance or resolution subject to referendum, with or without the consent of any owner of property within the territory or resident in the territory. [Amended by 1963 c.444 §1]

222.810 [Amended by 1953 c 562 §2; repealed by 1969 c.49 §1]

222.820 [Repealed by 1969 c.49 §1]

222.830 [Repealed by 1969 c.49 §1]

ANNEXATION TO REMOVE DANGER TO PUBLIC HEALTH

222.850 Definitions for ORS 222.850 to 222.915. As used in ORS 222.850 to 222.915, unless the context requires otherwise:

(1) "Assistant director" means the Assistant Director for Health.

(2) "City council" means the legislative body of a city.

(3) "Commission" means the Environmental Quality Commission.

(4) "Danger to public health" means a condition which is conducive to the propagation of communicable or contagious disease-producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease-caused physical suffering or illness, including a condition such as:

(a) Impure or inadequate domestic water.

(b) Inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrifying waste.

(c) Inadequate improvements for drainage of surface water and other fluid substances.

(5) "Division" means the Health Division of the Department of Human Resources. [1967 c.624 §1; 1973 c.637 §1; 1975 c.639 §1]

222.855 Annexation to remove danger to public health. In addition to the procedures authorized in ORS 222.010 to 222.750, territory otherwise eligible for annexation in accordance with ORS 222.111 may be annexed by passage of an ordinance as provided in ORS 222.900 without any vote in such territory or any consent by the owners of land therein if it is found, as provided in ORS 222.850 to 229.915, that a danger to public health exists because of conditions within the territory and that such conditions can be removed or alleviated by sanitary, water or other facilities ordinarily provided by incorporated cities. [1967 c.624 §2; 1973 c.637 §2; 1975 c.639 §2]

222.860 Proposal for annexation; plan for removing danger to public health. (1) The city council of any city may adopt a resolution containing a proposal for annexation without vote or consent in the territory proposed to be annexed. The proposal may contain terms of annexation as provided in ORS 222.111 and shall:

(a) Describe the boundaries of the territory proposed to be annexed; and

(b) Describe the conditions alleged to be causing a danger to public health.

(2) The local board of health having jurisdiction shall verify the conditions alleged in the proposal to be causing a danger to public health, based upon its knowledge of those conditions.

(3) The council shall cause a certified copy of the resolution together with verification by the local board of health having jurisdiction, to be forwarded to the division and request the division to ascertain whether conditions dangerous to public health exist in the territory. [1967 c 624 §3; 1973 c.637 §3; 1975 c.639 §3]

222.865 [1967 c.624 §4; 1973 c.637 §4; repealed by 1975 c.639 §18]

222.870 Hearing in affected territory; notice. (1) Upon receipt of the certified copy of the resolution, and verification by the local board of health having jurisdiction, the division shall review and investigate conditions in the territory proposed to be annexed. If it finds substantial evidence that a danger to public health exists in the territory, it shall issue an order for a hearing to be held within the territory proposed to be annexed, or at a place near the territory proposed to be annexed if there is no suitable place within that territory at which to hold the hearing, not sooner than 30 days from the date of the order.

(2) Upon issuance of an order for a hearing, the division shall immediately give notice of the resolution and order by publishing them in a newspaper of general circulation within the city and the territory once each week for two successive weeks and by posting copies of the order in four public places within the territory. [1973 c.624 §6; 1973 c.637 §5; 1975 c.639 §4]

222.875 Purpose and conduct of hearing; written findings of fact. (1) The hearing shall be for the sole purpose of determining whether a danger to public health exists due to conditions in the territory. It may be conducted by one or more members of the division's staff to whom authority to conduct such a hearing is delegated. It shall proceed in accordance with rules which may be established by the division. Any person who may be affected by the finding may be heard. Within 60 days following the hearing, the person conducting the hearing shall prepare and submit to the division written findings of fact and his recommendations based thereon. The division shall publish a notice of the issuance of such findings and recommendations in the newspaper utilized for the notice of hearing under ORS 222.870, advising of the opportunity for presentation of a petition under subsection (2) of this section.

(2) Within 15 days after the publication of notice of issuance of findings in accordance with subsection (1) of this section any person who may be affected by the findings, or the affected city, may petition the assistant director according to rules of the division to present written or oral arguments on the proposal. If a petition is received the assistant director may set a time and place for receipt of argument. [1967 c.624 §7; 1973 c.637 §6; 1975 c.639 §5]

222.880 Health Division order or finding; hearing upon petition; alteration of boundaries. (1) Within 30 days following the final hearing of any arguments received by petition under the provisions of subsection (2) of ORS 222.875 the assistant director shall review the arguments and the findings and recommendations of the person conducting the hearing as provided in subsection (2) of ORS 222.875. If he finds no danger to public health exists because of conditions within the territory, he shall issue an order terminating the proceedings under ORS 222.850 to 222.915 with reference to the territory for which annexation is proposed.

(2) If the assistant director finds that a danger to public health exists because of conditions within the territory, he shall file a certified copy of his findings with the city and, except where the condition causing the danger to public health is impure or inadequate domestic water, with the commission.

(3) If the assistant director determines that a danger to public health exists because of conditions within only part of the area proposed to be annexed, the assistant director may, upon petition and hearing, reduce the boundaries of the area to that part of the area that presents a danger if the area to be excluded would not be surrounded by the territory remaining to be annexed and would not be directly served by the sanitary, water or other facilities necessary to remove or alleviate the danger to public health existing within the territory remaining to be annexed. The findings shall describe the boundaries of the area as reduced by the assistant director. The assistant director shall file a certified copy of his findings with the city and, except where the condition causing the danger to public health

is impure or inadequate domestic water, the commission.

(4) In determining whether to exclude any area the assistant director may consider whether or not such exclusion would unduly interfere with the removal or alleviation of the danger to public health in the area remaining to be annexed and whether the exclusion would result in an illogical boundary for the extension of services normally provided by an incorporated city.

(5) The city shall, when requested, aid in the determinations made under subsections (3) and (4) of this section and, if necessary, cause a study to be made. [1967 c.624 §8; 1973 c.637 §7; 1975 c.639 §6]

222.885 Alternative plan by petition; stay of proceedings. (1) At any time within 30 days after the assistant director under ORS 222.880 finds that conditions dangerous to public health exist, a petition, signed by not less than 51 percent of the registered voters in the territory proposed to be annexed, may be filed with the division. Such petition shall suggest an alternative plan to annexation to the city for removal or alleviation of the conditions dangerous to public health. The petition shall state the intent of the residents to seek annexation to an existing sanitary authority, county service district or other special district authorized by law to provide facilities necessary to remove or alleviate the dangerous conditions. The petition shall be accompanied by a proposed plan which shall state the type of facilities to be constructed, a proposed means of financing the facilities, and an estimate of the time required to construct such facilities and place them in operation.

(2) Upon receipt of such petition, the division shall:

(a) Immediately forward copies of the petition to the city, and, except where the condition causing the danger to public health is impure or inadequate domestic water, to the commission.

(b) Order further proceedings on the findings filed under ORS 222.880 stayed pending the review permitted under ORS 222.890 and this section. [1967 c 624 §8a (1), (2); 1973 c.637 §8; 1975 c.639 §7]

222.890 Review of alternative plan. (1) The alternative plan referred to in subsection (1) of ORS 222.885 shall be reviewed by the division in cases where danger to public health is caused by impure or inadequate domestic water and in all other cases by the commission. The plan shall be approved or rejected by the appropriate authority. In reviewing the alternative plan contained in the petition, the authority shall consider whether, in its judgment, the plan contains a preferable alternative for the alleviation or removal of the conditions dangerous to public health. If it determines that annexation to the city provides the best and most expeditious method of removing or alleviating the dangerous conditions, the alternative plan shall be rejected and further proceedings on the finding filed under ORS 222.880 shall resume.

(2) If the reviewing authority finds that the alternative plan provides a preferable method of alleviating or removing the dangerous conditions, the petitioners shall have six months within which to present to such authority information showing:

(a) That the territory in which the conditions dangerous to public health exist has annexed to a sanitary authority, a county service district or other special district authorized by law to provide facilities necessary to remove or alleviate the dangerous conditions, and that financing of the facilities for extension of such facilities to the territory has been assured.

(b) Detailed plans and specifications for the construction of such facilities.

(c) A time schedule for the construction of such facilities.

(d) That such facilities, if constructed, will remove or alleviate the conditions dangerous to public health in a manner as satisfactory and expeditious as would be accomplished by the proposed annexation to the city.

(3) The authority shall review the final plan presented to it by the petitioners and shall promptly certify whether the requirements of subsection (2) of this section have been met. If the requirements have been met, the division shall certify the alternative plan. Further annexation proceedings on the findings filed under ORS 222.880 shall be terminated and the city shall be so notified. If the requirements of subsection (2) of this section are not met by the petitioners, further proceedings on the findings filed under ORS 222.880 shall resume. [1967 c.624 §8a (3), (4), (5); 1973 c.637 §9; 1975 c.639 §8]

222.895 [1967 c.624 §9; 1973 c.637 §10; repealed by 1975 c.639 §9 (222.896 enacted in lieu of 222.895)]

222.896 Judicial review. Judicial review of final orders under ORS 222.850 to 222.915 shall be as provided in ORS 183.480

to 183.500 for judicial review of contested cases. [1975 c.639 §10 (enacted in lieu of 222.895)]

222.897 Study and plan for alleviation of health danger by city; procedure if city fails to act. (1) Upon receipt of a certified copy of the division's findings under ORS 222.880, the city council shall cause a study to be made and preliminary plans and specifications developed for the sanitary, water or other facilities necessary to remove or alleviate the conditions causing a danger to public health. The council shall prepare a schedule setting out the steps necessary to put the plan into operation and the time required for each step in the implementation of the plan. A copy of the plans and specifications and the time schedule shall, in the case where the danger to public health is caused by impure or inadequate domestic water, be submitted to the division and in all other cases to the commission.

(2) If the city within 90 days, fails to complete the requirements in subsection (1) of this section, the division shall conduct the necessary studies and prepare plans and other documents required for the consideration of the proposal and the final determination of the proceedings. The expense of the study and preparation of the plans and other documents shall be paid by the city upon vouchers properly certified by the assistant director. [1975 c.639 §12]

222.898 Determination if health danger can be alleviated; approval of plans; notice to city. (1) Within 60 days of receipt of the preliminary plans and other documents submitted as required by ORS 222.897, the appropriate reviewing authority shall determine whether the conditions dangerous to public health within the territory proposed to be annexed can be removed or alleviated by the sanitary, water or other facilities proposed by the plans and specifications.

(2) If such authority considers the proposed facilities and the time schedule for installation of such facilities adequate to remove or alleviate the dangerous conditions, it shall approve the proposal and certify its approval to the city.

(3) If the authority considers the proposed facilities or time schedule inadequate, it shall disapprove the proposal and certify its disapproval to the city including the particular matters causing the disapproval. The city council shall then submit an additional or revised proposal.

(4) In the event the authority upon review of the plans and other documents submitted under subsection (1) of this section determines that the danger to public health in the area proposed to be annexed cannot be removed or alleviated by sanitary, water or other facilities ordinarily provided by incorporated cities it shall terminate the proceedings upon the proposal and notify the city. [1975 c.639 §13]

222.900 City to adopt ordinance. (1) Subject to subsection (2) of this section, upon receipt of the certified copy of the finding as provided in subsection (2) or (3) of ORS 222.880 and certification of approval of plans under ORS 222.898, the city council shall adopt an ordinance which shall:

(a) Contain the legal description of the territory annexed;

(b) Contain the terms of the annexation, if any, made under ORS 222.111;

(c) Adopt the plans, specifications and time schedule as approved by the division or commission; and

(d) Declare the territory annexed to the city in accordance with ORS 222.850 to 222.915.

(2) An ordinance shall not be enacted as provided in subsection (1) of this section until the expiration of the time for appeal under the provisions of ORS 222.896 and, in the event an appeal is filed, following the determination of that appeal.

(3) If the division makes its finding under subsection (3) of ORS 222.880, the city shall not annex a greater area than that described in the finding. The recorder, or other officer performing the duties of the recorder, shall transmit a transcript to the Secretary of State, including certified copies of the resolution required in ORS 222.860, the finding of the assistant director, and the ordinance proclaiming annexation of the territory.

(4) If the city council adopts the ordinance of annexation as provided in subsection (1) of this section, it shall within one year thereafter prepare plans and specifications for the sanitary, water or other facilities proposed to be provided in the annexed area, in compliance with ORS 448.225 or 468.742, as the case may be, and shall then proceed in accordance with the time schedule to construct or install these facilities. The commission shall use its powers of enforcement under ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745, and ORS chapter 468 to insure

that the facilities are constructed or installed in conformance with the approved plans and schedule. The manner of financing the cost of the facilities shall be determined by the city council. [1967 c.624 §10; 1973 c.637 §11; 1975 c.639 §14]

222.905 Application to initiate annexation. (1) The local board of health or the boundary commission having jurisdiction may, if it believes a danger to public health exists within a territory otherwise eligible for annexation in accordance with ORS 222.111, proceed in the same manner as a city is authorized to proceed under ORS 222.860.

(2) Any 11 residents of territory otherwise eligible for annexation in accordance with ORS 222.111 who believe a danger to public health exists within such territory may apply to the local board of health to initiate proceedings to annex such territory as provided in subsection (1) of this section. The local board of health shall within a reasonable time, but not more than 90 days, investigate the matters alleged in the application and shall either initiate proceedings or certify to the petitioners that the investigation disclosed insufficient evidence to initiate proceedings. [1967 c.624 §11; 1973 c.637 §12; 1975 c.639 §15]

222.910 [1967 c.624 §5; 1973 c.637 §13; repealed by 1975 c.639 §16 (222.911 enacted in lieu of 222.910)]

222.911 Participation of interested division assistant director, officer or employe prohibited. No officer or employe of the division who owns property or resides within affected territory that is subject to proceedings under the provisions of ORS 222.850 to 222.915 shall participate in his official capacity in any investigation, hearing or recommendation relating to such proceedings. If the assistant director is such a person, he shall so inform the Governor, who shall appoint another person to fulfill the duties of the assistant director in any investigation, hearing or recommendation relating to such proceeding. [1975 c.639 §17 (enacted in lieu of 222.910)]

222.915 Application of ORS 222.850 to 222.915. The provisions of ORS 222.850 to 222.915 do not apply to proceedings to annex territory to any city if the charter or ordinances of the city conflict with or are inconsistent with ORS 222.850 to 222.915. [1967 c.624 §12; 1971 c.673 §5]

PENALTIES

222.990 Penalties. Failure to comply with the provisions of ORS 222.010 subjects the city to a penalty of $100 which may be recovered by an action in the name of the county in which the city is located.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel