Chapter 222

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GENERAL PROVISIONS

222.005 Notice to public utilities of annexation; contents of notice; effect. (1) When territory is approved for annexation to a city by city council action under ORS chapter 199 or this chapter, the recorder of the city or other city officer or agency performing the duties of recorder under this section, not later than 10 working days after passage of a resolution or ordinance approving the proposed annexation, shall provide by registered mail to all public utilities, electric cooperatives and telecommunications utilities operating within the city each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change and a copy of the city council's resolution or ordinance approving the proposed annexation.

(2) Additional or increased fees or taxes, other than ad valorem taxes, imposed on public utilities, electric cooperatives and telecommunications utilities as a result of an annexation of territory to a city shall become effective on the effective date of the annexation if notice of the annexation is given to public utilities, electric cooperatives and telecommunications utilities by registered mail not later than 10 working days after the effective date of the annexation. However, if notification of the effective date of the annexation is provided to the public utilities, electric cooperatives and telecommunications utilities later than the 10th working day after the effective date of the annexation, the additional or increased fees or taxes become effective on the date of notification.

(3) As used in this section:

(a) "Effective date of annexation" is the effective date described in ORS chapter 199 or this chapter, whichever is applicable.

(b) "Public utility" has the meaning given that term in ORS 757.005. [1981 c.238 §2; 1985 c.702 §5; 1987 c.447 §116, 1989 c.736 §1]

222.010 Report of city boundary changes mandatory; contents of report; time for filing; exception. (1) Every city, through its recorder or other city officer or agency designated to perform the duties of the recorder under this section, 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 199.519. [Amended by 1969 c.494 §26, 1971 c 462 §18; 1985 c.702 §6]

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 199.519, 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]

222.040 Delay of effective date of actions under this chapter because of election; effective date of certain annexations and transfers of territory. (1) Notwithstanding any provision of this chapter that provides a different effective date, an annexation, transfer of territory, consolidation or merger under this chapter, or any removal by a city by ordinance of a newly annexed area from a special district, shall not become effective during the period:

(a) Beginning after the 90th day before a primary or general election and ending on the day after the election; or

(b) Beginning after the deadline for filing the notice of election before any other election held by any city, district or other municipal corporation involved in the annexation, transfer of territory, consolidation, merger or removal, and ending on the day after the election.

(2) If the effective date established for an annexation, transfer of territory, consolidation, merger or removal is a date that is prohibited under this section, the annexation, transfer of territory, consolidation, merger or removal shall become effective on the day after the election.

(3) For the purposes of ORS 308.225 only, the effective date of an annexation under ORS 222.180 shall be the date of filing of the abstract referred to in ORS 222.180. [1981 c.391 §3, 1983 c 514 §1b; 1985 c.130 §5; 1985 c.808 §71; 1989 c 923 §25]

ANNEXATION OF CONTIGUOUS TERRITORY

Note: Sections 3 and 10, chapter 737, Oregon Laws 1987, provide:

Sec. 3. (1) Notwithstanding any other provision of law, when property:

(a) Is property on which no electors reside;

(b) Is zoned for industrial uses;

(c) Has sewer and water lines paid for and installed by the property owner; and

(d) Has an assessed valuation, including improvements, of more than $7 million

that property can only be annexed by or to a city after the city receives a petition requesting annexation from the owner of the property.

(2) Property described in subsection (1) of this section shall not be included with other territory as part of an annexation, or annexed under ORS 222.750, unless the owner of the property consents to the annexation in the form of a petition for annexation.

(3) This section applies to property within the jurisdiction of a local government boundary commission. [1987 c.737 §3]

Sec. 10. Section 3, chapter 737, Oregon Laws 1987, is repealed on July 1, 1999. [1987 c.737 §10, 1989 c.226 §1]

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) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

(3) The proposal for annexation 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.

(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors 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.

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

(7) 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, 1985 c.702 §7]

222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) 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.

(4) 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 electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 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 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

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

(7) For the purpose of this section, ORS 222.125 and 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 the interest of the owner 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. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1, 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11]

222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

Note: 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein See Preface to Oregon Revised Statutes for further explanation

222.130 Annexation election; notice; ballot title. (1) The statement of chief purpose in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words.

(2) The notice of an annexation election shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

(3) Whenever simultaneous elections are held in a city and the territory to be annexed, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. [Amended by 1967 c.283 §1, 1979 c.317 §4, 1983 c.350 §33]

222.140 [Repealed by 1979 c.317 §26]

222.150 Election results; proclamation of annexation. The city legislative body shall determine the results of the election from the official figures returned by the county clerk. If the city legislative body finds that the majority of all votes cast in the territory favors annexation and the city legislative body has dispensed with submitting the question to the electors of the city, the city legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [Amended by 1983 c.83 §23; 1983 c.350 §34; 1985 c.702 §9]

222.160 Procedure when annexation is submitted to city vote; proclamation. This section applies when the city legislative body has not dispensed with submitting the question of annexation to the electors of the city. If the city legislative body finds that a majority of the votes cast in the territory and a majority of the votes cast in the city favor annexation, then the legislative body, by resolution or ordinance, shall 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. [Amended by 1983 c 350 §35; 1985 c.702 §10]

222.170 Effect of consent to annexation by territory; proclamation with and without city election. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed 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 electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors 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 electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors 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 electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications utility or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section. [Amended by 1955 c.51 §2, 1961 c.511 §2, 1971 c.673 §1; 1973 c.434 §1, 1983 c 350 §36; 1985 c.702 §11; 1987 c.447 §117; 1987 c.737 §4]

222.173 Time limit for filing statements of consent; public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505. [1985 c.702 §20, 1987 c 737 §5, 1987 c 818 §8]

Note: 222 173 to 222.177 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation

222.175 City to provide information when soliciting statements of consent. If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city's ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited. [1985 c.702 §21; 1987 c.737 §6; 1987 c 818 §9]

Note: See note under 222 173.

222.177 Filing of annexation records with Secretary of State. When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

(1) A copy of the resolution or ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an

abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4, 1987 c.737 §7; 1987 c.818 §10]

Note: See note under 222.173.

222.179 Exempt territory. The amendments to ORS 222.210, 222.230, 222.240 and 222.270 made by chapter 702, Oregon Laws 1985, do not apply in territory subject to the jurisdiction of a local government boundary commission. [1985 c.702 §27]

Note: 222.179 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 222 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

222.180 Effective date of annexation. The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 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. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2, 1981 c.391 §5; 1985 c.702 §12]

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; limitation. (1) 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 222.210 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 consist of contiguous or noncontiguous areas.

(2) Notwithstanding any other provision of ORS 222.210 to 222.310, no city shall be created under ORS 222.210 to 222.310 that contains any noncontiguous area which is separated from the rest of the territory of the city by a distance that is nowhere less than or equal to three miles. If a petition filed under ORS 222.230 (2) proposes creation of a city containing noncontiguous areas separated by a distance of more than three miles, the affected city governing bodies shall so declare at the joint convention held under ORS 222.230 (3) and shall cancel any further proceedings related to the petition. If a consolidated city with such noncontiguous areas results from an election called under ORS 222.250 or 222.275, the consolidated city shall consist only of the most populous city included in the consolidated city and those cities or unincorporated areas in which the majority of votes cast favored creation of the consolidated city and which lie not more than three miles from the contiguous area composed of the most populous city and any other city or unincorporated area in which the majority of votes cast favored creation of the consolidated city. [Amended by 1971 c.761 §1; 1983 c.350 §37; 1985 c.702 §22; 1989 c.92 §38]

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 electors of each incorporated city to be included within the proposed city. If 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 electors registered 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; 1983 c.83 §24]

222.225 Economic feasibility statement required; contents. When a petition to create a city under ORS 222.210 to 222.310 is filed with the clerk or recorder of a city under ORS 222.230, an economic feasibility statement concerning the proposed city described in the petition shall also be filed with the clerk or recorder. The economic feasibility statement shall be prepared by the petitioners and shall form the basis for the proposed tax base required by ORS 222.230 (2). The economic feasibility statement shall contain:

(1) A description of the services and functions to be performed or provided by the proposed city;

(2) An analysis of the relationship between those services and functions and other existing or needed government services; and

(3) A proposed first year line item operation budget and a projected third year line item operating budget for the new city that demonstrate its economic feasibility. [1989 c.92 §33]

222.230 Form and contents of petition; filing; meeting of city governing bodies. (1) Before circulating a petition to create a city from adjoining or nonadjoining cities or unincorporated territory, the petitioners shall file with the county clerk of the county in which the proposed city lies or, should it lie in more than one county, to the county clerk of the county in which the largest part of its territory lies, a petition for consolidation in a form prescribed by rule of the Secretary of State. If the economic feasibility statement required by ORS 222.225 is submitted with the petition, the county clerk shall immediately date and time stamp the prospective petition and shall authorize the circulation of the petition. The county clerk shall retain the prospective petition and economic feasibility statement and shall immediately send a copy of the prospective petition to each city included in the proposed consolidation.

(2) 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 shall also include a proposed tax base sufficient to support an adequate level of municipal services and a declaration of the rate of taxation necessary to raise an amount of revenue equal to the proposed tax base. The tax base shall be expressed as a total dollar amount and the tax rate shall be expressed in dollars per thousand dollars of assessed value. The tax rate shall be calculated for the latest tax year for which the assessed value of the proposed city is available. 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. However, a petition shall not be accepted for filing unless all the signatures on the petition were obtained within the one-year period immediately following the date on which the petition was filed under subsection (1) of this section.

(3) 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:

(a) Whether it is in proper form and contains the required number of qualified signers; and

(b) Whether the incorporation of the consolidated city proposed in the petition complies with goals adopted under ORS 197.005 to 197.465. [Amended by 1971 c.761 §3, 1985 c 702 §23; 1989 c 92 §34]

222.240 Approval of petition; appointment of charter commission; employment of assistance; functions. If the governing bodies find that the petition is in proper form, contains the required signatures and proposes an incorporation that complies with goals adopted under ORS 197.005 to 197.465, the governing body of each of the cities to be included in the proposed city shall approve the petition and 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 electors 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 electors 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; 1985 c 702 §24]

222.245 [1971 c.761 §13; repealed by 1989 c.92 §39]

222.250 Joint convention of governing bodies; election on consolidation, charter and tax base; date; functions of county court; ballot title. (1) After the charter commission has prepared and adopted a charter, the secretary of the charter commission shall file copies of the charter, certified as correct by the secretary or two or more members of the commission, 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 the city having the largest population as shown by the last federal census to adopt a ballot title for the question of consolidation and adoption of a city charter and tax base. The ballot title shall comply with the requirements of ORS 310.402. The tax base submitted to the electors shall be the tax base included in the petition for consolidation filed under ORS 222.230.

(2) The election shall be held on the date of the next regular state-wide primary or general election that is not earlier than the 90th day after the filing. The election shall be called and held for the purpose of submitting the following question to the electors of each incorporated city and of each unincorporated area to be included in the proposed city:

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

(b) Whether the charter proposed by the charter commission shall be adopted as the charter for the city; and

(c) Whether the tax base included in the petition for consolidation filed under ORS 222.230 shall be adopted as the initial tax base of the new city.

(3) If the governing bodies cannot agree at the joint convention upon a date and a ballot title for the election, the county court of the county in which is located the administrative office of the city having the largest population of all cities proposed to be included in the consolidated city, by resolution duly adopted by the county court, shall determine a date and adopt a ballot title. 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.

(4) The statement of chief purpose in a ballot title for an election under this section shall include a general description of the boundaries of the proposed city. The description shall use streets and other generally recognized features and name the cities proposed to be included in the consolidated city. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words.

(5) Not later than the 61st day before the date of the election, the officer performing the duties of clerk of the joint convention or the county court shall file the ballot title with the county clerk of the county in which is located the administrative office of the city having the largest population of all cities proposed to be included in the consolidated city. The ballot title may be challenged in the manner provided for county measures in ORS 250.195. [Amended by 1971 c.761 §5; 1979 c.316 §11; 1983 c.350 §38; 1985 c.565 §34; 1989 c.92 §35]

222.260 Ordinance calling election. After the date and other election details have been determined, the governing body of each of the cities shall enact an ordinance calling an election as required by this section and ORS 222.250 for the purposes specified. A copy of the ordinance shall be filed with the county clerk of each county in which any territory included in the proposed consolidation lies. [Amended by 1967 c.283 §2; 1971 c.761 §6; 1983 c 350 §39, 1989 c.92 §36]

222.265 Conduct of election. (1) Except as provided in this section, ORS chapters 246 to 260 govern the conduct of an election called under ORS 222.250 or 222.275.

(2) The chief elections officer for the purpose of conducting any election called under ORS 222.250 or 222.275 shall be the county clerk of the county in which is located the administrative office of the city having the largest population of all cities proposed to be included in the consolidated city.

(3) If the proposed consolidation includes one or more unincorporated areas, the notice of the election called under ORS 222.250 shall include a map indicating the boundaries of each such area and indicating each incorporated city proposed to be included in the consolidated city. [1983 c.350 §41]

222.270 Canvass of votes; joint convention of governing bodies; proclamation; report to Secretary of State; cost of election. (1) The chief elections officer shall canvass separately the votes cast in each city and in each unincorporated area on the question of consolidation and adoption of a city charter and tax base. The chief elections officer shall deliver a certified copy of the abstracts to the governing body of each of the cities.

(2) Not later than the 10th day after the chief elections officer has delivered the certified copies of the abstracts under subsection (1) of this section, 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 the city with the largest population as shown by the last federal census.

(3) The joint convention shall determine from the abstracts the results of the election on the question. 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 shall make an order so proclaiming and enter the order upon its minutes. Except as provided in ORS 222.210 (2), the consolidated city shall consist of the most populous city proposed to be included therein, each other city whose electors vote in favor of creating the consolidated city and each unincorporated area whose electors so vote. Its charter shall be the charter prepared by the charter commission and its initial tax base shall be the tax base submitted to the electors at the election held under ORS 222.250 and 222.260.

(4) The officer performing the duties of clerk of the joint convention shall deliver to the Secretary of State a certified copy of the order proclaiming the election results and a certified copy of the charter adopted as the charter for the proposed city.

(5) If a consolidated city is created under subsection (3) of this section, the consolidated city shall pay the total cost of the election. If a consolidated city is not so created:

(a) Each city that would have been included in the proposed city shall pay a part of the total cost of holding the election on the proposed consolidation equal to the proportion that the number of persons registered to vote in the city holds to the number of persons registered to vote in all cities and unincorporated areas that would have been included in the proposed city; and

(b) Each county in which lies an unincorporated area that would have been included in the proposed city shall pay a part of the total cost of the election equal to the proportion that the number of persons registered to vote in the unincorporated area holds to the number of persons registered to vote in the total area that would have been included in the proposed city. [Amended by 1971 c 761 §7, 1981 c 173 §9; 1983 c.350 §42, 1985 c 702 §25; 1989 c.92 §37]

222.275 Elections for consolidation of certain areas or cities. (1) Electors of a city or area proposed to be included in a consolidated city may request a second election on the question of consolidation by filing a petition requesting the election as provided in this section, if:

(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) Except as provided in subsection (4) of this section, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under ORS 250.165 to 250.235. The petition must be signed by not less than 25 percent of the electors of the city or area.

(3) Except as provided in subsection (4) of this section and notwithstanding subsection (2) of this section, if ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county charter or an ordinance adopted under the county charter.

(4) The petition must be filed with the county clerk of the county within which the largest portion of the city or area lies, not later than the 60th day after the date of the first election. The county clerk of the county in which the petition is filed immediately shall verify the signatures on the petition and forward the petition to the chief elections officer.

(5) If a petition is filed as provided in this section, the chief elections officer shall call a second election on the question of consolidation in the city or area on the next available election date in ORS 221.230 that is not sooner than:

(a) The 61st day after the date on which the chief elections officer receives the verified petition for an election to be held on the fourth Tuesday in March, the third Tuesday in May or the first Tuesday after the first Monday in November;

(b) The 43rd day after the date on which the chief elections officer receives the verified petition for an election to be held on the second Tuesday in August; or

(c) The 34th day after the date on which the chief elections officer receives the verified petition for any other election.

(6) The results of the election shall be determined according to ORS 222.270. [1971 c.761 §11; 1979 c.316 §12; 1983 c.83 §25; 1983 c.350 §43; 1987 c.707 §5; 1989 c.923 §10]

222.280 Election of officers; effective date of incorporation; certain annexations prohibited. (1) Not later than the 30th day after an election held under ORS 222.250, or after an election held under ORS 222.275, if such an election is held, the chief elections officer shall call a special election in the consolidated city for the purpose of electing the officers required by the charter adopted by the electors. The election

shall be held on a date specified in ORS 221.230 that is not sooner than the 90th day after the date on which the election is called.

(2) The first city officers shall take office on the 10th day following the date on which their elections are proclaimed.

(3) On the date on which the first city officers take office, 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 222.210 to 222.310 and the laws of this state.

(4) 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; 1983 c.350 §44]

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]

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 provisions 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 222.310; substantial compliance sufficient. ORS 222.210 to 222.310 shall be construed liberally, and substantial compliance with the provisions of those sections shall be sufficient. [Amended by 1983 c.350 §45]

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]

WITHDRAWAL OF TERRITORY

222.460 Procedures for withdrawal of territory; content of resolution; hearing; election; taxes and assessments. (1) Except as expressly prohibited by the city charter, when the legislative body of a city determines that the public interest will be furthered by a withdrawal or detachment of territory from the city, the legislative body of the city, on its own motion, may order the withdrawal of territory as provided in this section.

(2) A withdrawal of territory from the city shall be initiated by a resolution of the legislative body of the city.

(3) The resolution shall:

(a) Name the city and declare that it is the intent of the legislative body of the city to change the boundaries of the city by means of a withdrawal of territory;

(b) Describe the boundaries of the affected territory; and

(c) Have attached a county assessor's cadastral map showing the location of the affected territory.

(4) Not later than 30 days after adoption of the resolution, the legislative body of the city shall hold a public hearing at which the residents of the city may appear and be heard on the question of the withdrawal of territory. The legislative body of the city shall cause notice of the hearing to be given in the manner required under ORS 222.120 (3).

(5) After receiving testimony at the public hearing, the legislative body of the city may alter the boundaries described in the resolution to either include or exclude territory. If the legislative body of the city still favors the withdrawal of territory pursuant to the resolution, as approved or modified, it shall enter an order so declaring. The order shall set forth the boundaries of the area to be withdrawn. The order shall also fix a place, and a time not less than 20 nor more than 50 days after the date of the order, for a final hearing on the resolution. The order shall declare that if written requests for an election are not filed as provided by subsection (6) of this section, the legislative body of the city, at the time of the final hearing, will adopt a resolution or ordinance detaching the territory from the city.

(6) An election shall not be held on the question of withdrawal of the affected territory from the city unless written requests for an election are filed at or before the hearing by not less than 15 percent of the electors or 100 electors, whichever is the lesser number, registered in the territory proposed to be withdrawn from the city.

(7) At the time and place set for the final hearing upon the resolution for withdrawal, if the required number of written requests for an election on the proposed withdrawal have not been filed, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city.

(8) If the required number of requests for an election are filed on or before the final hearing, the legislative body of the city shall call an election in the city upon the question of the withdrawal of the affected territory.

(9) If an election is called and a majority of the votes cast at the election is in favor of the withdrawal of the designated area from the city, the legislative body of the city shall, by resolution or ordinance, declare that the territory is detached from the city. If the majority of the votes cast is against the withdrawal, the legislative body of the city shall enter an order declaring the results of the election and that no withdrawal shall occur.

(10) The described area withdrawn shall, from the date of entry of the order, be free from assessments and taxes levied thereafter by the city. However, the withdrawn area shall remain subject to any bonded or other indebtedness existing at the time of the order. The proportionate share shall be based on the assessed valuation, according to the assessment roll in the year of the levy, of all the property contained in the city immediately prior to the withdrawal. [1985 c.702 §2; 1989 c.1063 §13]

Note: 222.460 and 222.465 were added to and made a part of ORS chapter 222 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

222.465 Effective date of withdrawal from domestic water supply district, water control district or sanitary district. Notwithstanding any provision of this chapter or ORS chapter 199 which provides a different effective date, when territory is withdrawn by a city from a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved after March 31 in any year, the effective date of the withdrawal of territory shall be July 1 in the following year. However, if the ordinance, annexation or incorporation that results in the withdrawal is enacted or approved before April 1 in any year, the effective date of the withdrawal of territory shall be July 1 in the same year. When less than the entire area of a domestic water supply district organized under ORS chapter 264, a water control district organized under ORS chapter 553 or a sanitary district organized under ORS chapter 450 is annexed by or incorporated into a city, the district shall, for purposes of administration, operation and the collection of service charges, continue to operate that portion of the district separately until the effective date of the withdrawal of territory as determined under this section. This section does not limit any agreement between a city and a district under ORS 222.530 (5), 222.540 (4) or 222.560 (4). [1985 c.702 §4a]

Note: See note under 222.460.

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 cause that part to be withdrawn from the district in the manner set forth in ORS 222.120 or at any time after such incorporation or annexation 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, 1985 c.702 §13]

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.

(6) The public hearing and ordinance referred to in this section may be the same as the public hearing and ordinance in ORS 222.120. [1957 c.401 §3; 1963 c.347 §3, 1965 c.509 §3, 1985 c.702 §14]

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 222.120 or 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; 1985 c.702 §15]

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 36.300 to 36.365.

(4) Service under ORS 36.350 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 36.365. 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 ORS 222.530 (5), 222.540 (4) and 222.560 (4) 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; ANNEXATION OF TERRITORY SURROUNDED BY CITY

222.610 Merger of, and surrender of charter by cities authorized; elections to be held. Any city may surrender its charter and be merged into an adjoining city in the same or another county. Cities having a river as a common boundary, or cities 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 222.710, shall be deemed to be adjoining. No cities may become merged unless a majority of the electors of the two cities 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 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; 1983 c.350 §46]

222.620 Submission of merger issue to electors of city surrendering charter; petition for merger; conduct of election. (1) The question of merger shall be submitted to the electors of the city desiring to surrender

its charter and be merged into an adjoining city, as provided in this section. The governing body of the city shall call an election on the question when a petition is filed as provided in this section.

(2) The requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under ORS 250.265 to 250.346. However, notwithstanding ORS 250.325, the governing body of the city shall not consider adoption or rejection of the measure before submitting it to the electors.

(3) Notwithstanding subsection (2) of this section, if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the city charter or an ordinance adopted under the city charter.

(4) The question of merger under this section may not be submitted to the electors of the city more than once in any 12-month period.

(5) An election under this section shall be conducted under ORS chapters 246 to 260, except as follows:

(a) The statement of chief purpose in the ballot title shall include a general description of the boundaries of each city proposed to be included in the merger. The description shall use streets and other generally recognized features and name the cities included in the proposed merger. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words.

(b) The notice of the election shall include a map indicating the boundaries of each city included in the proposed merger.

(6) An election under this section shall be held on the next practicable date under ORS 221.230. [Amended by 1967 c.283 §4, 1981 c 173 §10; 1983 c.350 §47; 1985 c 808 §72]

222.630 [Repealed by 1983 c.350 §331a]

222.640 [Amended by 1979 c.317 §5; repealed by 1983 c.350 §331a]

222.650 Submission of merger issue to electors of city retaining charter; petition for merger optional; notice of election. (1) The question of merger shall be submitted to the electors of the city into which the city surrendering its charter is to be merged as provided in this section. The governing body:

(a) May order the election on its own resolution; or

(b) Shall order the election when a petition is filed as provided in this section.

(2) The requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under ORS 250.265 to 250.346. However, notwithstanding ORS 250.325, if the governing body of the city orders the election, the governing body shall not first consider adoption or rejection of the measure before submitting it to the electors.

(3) Notwithstanding subsection (2) of this section, if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the city charter or an ordinance adopted under the city charter.

(4) The question under this section may not be submitted to the electors of the city more than once in a 12-month period.

(5) An election under this section shall be conducted under ORS chapters 246 to 260, except as follows:

(a) The statement of chief purpose in the ballot title shall include a general description of the boundaries of each city proposed to be included in the merger. The description shall use streets and other generally recognized features and name the cities included in the proposed merger. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words.

(b) The notice of the election shall include a map indicating the boundaries of each city included in the proposed merger.

(6) An election under this section shall be held on the next practicable date under ORS 221.230. [Amended by 1967 c.283 §5, 1979 c.316 §13; 1983 c.350 §48, 1985 c 808 §73]

222.660 [Repealed by 1983 c.350 §331a]

222.670 [Amended by 1979 c 317 §6; repealed by 1983 c.350 §331a]

222.680 Effective date of merger. If the two cities affected vote affirmatively on the question of merger upon the same day, the merger of the two cities 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, the merger shall become effective 30 days after the last election is held. [Amended by 1983 c.350 §49]

222.690 Effect of merger on rights, liabilities and jurisdiction of the merged cities. On the date the 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 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 city 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 into which it is merged. However, all county roads lying within the limits of the merged city 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 city surrendering its charter shall thereupon be liabilities of the city into which it is merged and the last named city shall thereupon assume all liabilities of the city surrendering its charter. All valid claims against the city surrendering its charter shall thereafter be valid claims against the city into which it is merged. The inhabitants of the city surrendering its charter shall become subject in all respects to the jurisdiction of the authorities of the city into which it is merged. The jurisdiction of any public authority exercised theretofore in the city surrendering its charter, so far as it is in conflict with the corporate authority of the city in which it is merged, shall cease and the city surrendering its charter shall lose its corporate identity entirely. [Amended by 1983 c 350 §50]

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 surrendering its charter is a party, but all such suits, actions and proceedings shall be defended or prosecuted to termination by the city into which it is merged. All suits, actions and proceedings pending in the municipal, city or recorder's court of the city surrendering its charter shall be transferred to the municipal, city or recorder's court of the city 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, but the 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. [Amended by 1983 c.350 §5]

222.710 Return statements filed with county recording officer. If any two cities vote to merge under ORS 222.610 to 222.710, the officer having charge and custody of the records of the city into which the city 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 city 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 cities. The county officers shall enter the statements of returns of record in the deed records of the county. [Amended by 1983 c.350 §52]

222.720 [Repealed by 1983 c.350 §331a]

222.750 Annexation of unincorporated territory surrounded by city. When territory not within a city is surrounded by the corporate boundaries of the city, or by the corporate boundaries of the city and the ocean shore or a stream, bay, lake or other body of water, it is within the power and authority of that city to annex such territory. However, this section does not apply when the territory not within a city is surrounded entirely by water. 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; 1985 c.702 §16]

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]

HEALTH HAZARD ABATEMENT

222.840 Short title. ORS 222.840 to 222.915 shall be known and may be cited as the Health Hazard Abatement Law. [1983 c.407 §2]

222.850 Definitions for ORS 222.840 to 222.915. As used in ORS 222.840 to 222.915, unless the context requires otherwise:

(1) "Affected territory" means an area within the urban growth boundary of a city and which is otherwise eligible for annexation to that city and in which there exists an actual or alleged danger to public health.

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

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

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

(5) "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.

(6) "District" means any one of the following:

(a) A metropolitan service district formed under ORS chapter 268.

(b) A county service district formed under ORS chapter 451.

(c) A sanitary district formed under ORS 450.005 to 450.245.

(d) A sanitary or a water supply authority formed under ORS 450.650 to 450.989.

(e) A domestic water supply district formed under ORS chapter 264.

(7) "Division" means the Health Division of the Department of Human Resources. [1967 c 624 §1, 1973 c.637 §1; 1975 c.639 §1, 1983 c.407 §4]

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 which is within the urban growth boundary of a city 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 222.840 to 222.915, 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; 1981 c.888 §7]

222.860 Proposal for annexation. (1) The city council of any city shall adopt a resolution containing a proposal for annexation without vote or consent in the affected territory. The proposal may contain terms of annexation as provided in ORS 222.111 and shall:

(a) Describe the boundaries of the affected territory; and

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

(2) The governing body of any district having jurisdiction over the affected territory may adopt a resolution containing a proposal for annexation to the city without vote or consent in the affected territory. The proposal shall:

(a) Describe the boundaries of the affected territory; and

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

(3) 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.

(4) The council or governing body 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 affected territory. [1967 c 624 §3; 1973 c.637 §3; 1975 c 639 §3; 1981 c 888 §8; 1983 c.407 §5]

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 affected territory. 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 affected territory, or at a place near the affected territory 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 affected territory once each week for two successive weeks and by posting copies of the order in four public places within the affected territory. [1973 c 624 §6, 1973 c.637 §5; 1975 c 639 §4; 1983 c.407 §6]

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 affected 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, including residents of the city, 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 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, including residents of the city, or the affected city, may petition the assistant direc-

tor 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; 1983 c.407 §7]

222.880 Health Division order or finding; hearing upon petition; alteration of boundaries; tax differential. (1) Within 30 days following the final hearing of any arguments received by petition under the provisions of ORS 222.875 (2) the assistant director shall review the arguments and the findings and recommendations of the person conducting the hearing as provided in ORS 222.875 (2). If the assistant director finds no danger to public health exists because of conditions within the affected territory, the assistant director shall issue an order terminating the proceedings under ORS 222.840 to 222.915 with reference to the affected territory.

(2) If the assistant director finds that a danger to public health exists because of conditions within the affected territory, the assistant director shall file a certified copy of 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 affected territory, the assistant director may, upon petition and hearing, reduce the boundaries of the affected territory to that part of the territory that presents a danger if the area to be excluded would not be surrounded by the affected 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 affected territory remaining to be annexed. The findings shall describe the boundaries of the affected territory as reduced by the assistant director. The assistant director shall file a certified copy of 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 affected territory 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.

(6) Notwithstanding ORS 222.111 (3), the assistant director, in implementing an order under ORS 222.840 to 222.915, may allow the use of the tax differential authorized by ORS 222.111 (3) for a period not exceeding 15 years with the consent of the affected city. [1967 c.624 §8; 1973 c.637 §7; 1975 c 639 §6; 1983 c.407 §8; 1989 c.780 §1]

222.883 Suspension of proceedings by Health Division; purpose; limit. At any time after the assistant director under ORS 222.880 finds that conditions dangerous to public health exist, the division may order further proceedings on the findings filed under ORS 222.880 halted in order to allow a city, district or persons affected by the findings to develop and propose an alternative plan to annexation for the removal or alleviation of the conditions dangerous to public health. Proceedings may be stayed under this section for not longer than 30 days. [1983 c.407 §3]

222.885 Alternative plan by petition or resolution; stay of proceedings. (1) Within 60 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 electors registered in the affected territory, 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 district authorized by law to provide facilities within the affected territory necessary to remove or alleviate the dangerous conditions or to seek, with the approval of the city or district, extraterritorial extension of a city's or district's sewer or water lines. 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) Within 30 days after the assistant director under ORS 222.880 finds that conditions dangerous to public health exist, a resolution adopted by the city council or the governing body of any district having jurisdiction over the affected territory may be filed with the division. The resolution shall suggest an alternative plan to annexation to the city for removal or alleviation of the conditions dangerous to public health. The resolution 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.

(3) Upon receipt of such petition or resolution adopted by a district or city council, the division shall:

(a) Immediately forward copies of any petition or resolution to the city or district referred to in the petition or resolution, 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, 1983 c 83 §26, 1983 c.407 §9]

222.890 Review of alternative plan. (1) An alternative plan referred to in 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 or appropriate governing body 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 received approval for the extension of a city's or district's sewer or water lines within the territory or has annexed to a 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, city or district 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 suspended and the city shall be so notified. If the requirements of subsection (2) of this section are not met by the petitioners, city or district or whenever the reviewing authority determines that the requirements of the certified plan are not being satisfied, 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, 1983 c 407 §10]

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 222.840 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 deter-

mine 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 ORS 222.880 (2) or (3) 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 222.840 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 ORS 222.880 (3), 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 448.115 to 448.285 or 468.742 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, 1983 c.740 §57]

222.905 Application to initiate annexation. (1) The local board of health or the boundary commission having jurisdiction shall, 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; 1981 c 888 §9]

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 employee prohibited. No officer or employee of the division who owns property or resides within affected territory that is subject to proceedings under the provisions of ORS 222.840 to 222.915 shall participate in an official capacity in any investigation, hearing or recommendation relating to such proceedings. If the assistant director is such a person, the assistant director 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 222.840 to 222.915. The provisions of ORS 222.840 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 222.840 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.