

Chapter 195

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Local Government Planning Coordination

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CROSS REFERENCES

195.205 to 195.235

Annexation, 199.466 to 199.534, Ch. 222

MISCELLANEOUS MATTERS

COORDINATION AGREEMENTS**(Agreements Generally)****195.020 Special district planning responsibilities; agreements with local governments, Metropolitan Service District.**

(1) Special districts shall exercise their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use, including a city or special district boundary change as defined in ORS 197.175 (1), in accordance with goals approved pursuant to ORS chapters 195, 196 and 197.

(2) A county assigned coordinative functions under ORS 195.025 (1), or the Metropolitan Service District, which is assigned coordinative functions for Multnomah, Washington and Clackamas counties by ORS 195.025 (1), shall enter into a cooperative agreement with each special district that provides an urban service within the boundaries of the county or the metropolitan district. A county or the Metropolitan Service District may enter into a cooperative agreement with any other special district operating within the boundaries of the county or the metropolitan district.

(3) The appropriate city and county and, if within the boundaries of the Metropolitan Service District, the Metropolitan Service District, shall enter into a cooperative agreement with each special district that provides an urban service within an urban growth boundary. The appropriate city and county, and the Metropolitan Service District, may enter into a cooperative agreement with any other special district operating within an urban growth boundary.

(4) The agreements described in subsection (2) of this section shall conform to the requirements of paragraphs (a) to (d), (f) and (g) of this subsection. The agreements described in subsection (3) of this section shall:

(a) Describe how the city or county will involve the special district in comprehensive planning, including plan amendments, periodic review and amendments to land use regulations;

(b) Describe the responsibilities of the special district in comprehensive planning, including plan amendments, periodic review and amendments to land use regulations regarding provision of urban services;

(c) Establish the role and responsibilities of each party to the agreement with respect to city or county approval of new development;

(d) Establish the role and responsibilities of the city or county with respect to district interests including, where applicable, water

sources, capital facilities and real property, including rights of way and easements;

(e) Specify the units of local government which shall be parties to an urban service agreement under ORS 195.065;

(f) If a Metropolitan Service District is a party to the agreement, describe how the Metropolitan Service District will involve the special district in the exercise of the Metropolitan Service District's regional planning responsibilities; and

(g) Contain such other provisions as the commission may require by rule.

(5) Agreements required under subsections (2) and (3) of this section are subject to review by the commission. The commission may provide by rule for periodic submission and review of cooperative agreements to insure that they are consistent with acknowledged comprehensive plans. [Formerly 197.185]

195.025 Regional coordination of planning activities; alternatives. (1) In addition to the responsibilities stated in ORS 197.175, each county, through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including planning activities of the county, cities, special districts and state agencies, to assure an integrated comprehensive plan for the entire area of the county. In addition to being subject to the provisions of ORS chapters 195, 196 and 197 with respect to city or special district boundary changes, as defined by ORS 197.175 (1), the governing body of the Metropolitan Service District shall be considered the county review, advisory and coordinative body for Multnomah, Clackamas and Washington Counties for the areas within that district.

(2) For the purposes of carrying out ORS chapters 195, 196 and 197, counties may voluntarily join together with adjacent counties as authorized in ORS 190.003 to 190.620.

(3) Whenever counties and cities representing 51 percent of the population in their area petition the commission for an election in their area to form a regional planning agency to exercise the authority of the counties under subsection (1) of this section in the area, the commission shall review the petition. If it finds that the area described in the petition forms a reasonable planning unit, it shall call an election in the area on a date specified in ORS 203.085, to form a regional planning agency. The election shall be conducted in the manner provided in ORS chapter 255. The county clerk shall be considered the election officer and the commission shall be considered the district election authority. The agency shall be considered

established if the majority of votes favor the establishment.

(4) If a voluntary association of local governments adopts a resolution ratified by each participating county and a majority of the participating cities therein which authorizes the association to perform the review, advisory and coordination functions assigned to the counties under subsection (1) of this section, the association may perform such duties. [Formerly 197.190]

195.035 County review of comprehensive plans required; compliance advice. Following the approval by the commission of goals and guidelines, each county governing body shall review all comprehensive plans for land conservation and development within the county, both those adopted and those being prepared. The county governing body shall advise the local government preparing the comprehensive plans whether or not the comprehensive plans are in compliance with the goals. [Formerly 197.255]

195.040 Annual county reports on comprehensive planning compliance. Upon the expiration of one year after the date of the approval of the goals and guidelines and annually thereafter, each county governing body, upon request of the commission, shall report to the commission on the status of comprehensive plans within each county. Each report shall include:

(1) Copies of comprehensive plans reviewed by the county governing body and copies of land use regulations applied to areas of critical state concern within the county.

(2) For those areas or jurisdictions within the county without comprehensive plans, a statement and review of the progress made toward compliance with the goals. [Formerly 197.260]

(Urban Service Agreements)

195.060 Definitions. As used in ORS 195.020, 195.065 to 195.085 and 197.005, unless the context requires otherwise:

(1) "District" has the meaning given that term in ORS 198.010. In addition, the term includes a county service district organized under ORS chapter 451.

(2) "Urban growth boundary" means an acknowledged urban growth boundary contained in a city or county comprehensive plan or an acknowledged urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3).

(3) "Urban service" has the meaning given that term in ORS 195.065. [1993 c.804 §12]

195.065 Agreements required; contents; county responsibilities. (1) Under ORS 190.003 to 190.110, units of local government and special districts that provide an urban service to an area within an urban growth boundary that has a population greater than 2,500 persons, and that are identified as appropriate parties by a cooperative agreement under ORS 195.020, shall enter into urban service agreements that:

(a) Specify whether the urban service will be provided in the future by a city, county, district, authority or a combination of one or more cities, counties, districts or authorities.

(b) Set forth the functional role of each service provider in the future provision of the urban service.

(c) Determine the future service area for each provider of the urban service.

(d) Assign responsibilities for:

(A) Planning and coordinating provision of the urban service with other urban services;

(B) Planning, constructing and maintaining service facilities; and

(C) Managing and administering provision of services to urban users.

(e) Define the terms of necessary transitions in provision of urban services, ownership of facilities, annexation of service territory, transfer of moneys or project responsibility for projects proposed on a plan of the city or district prepared pursuant to ORS 223.309 and merger of service providers or other measures for enhancing the cost efficiency of providing urban services.

(f) Establish a process for review and modification of the urban service agreement.

(2)(a) Each county shall have responsibility for convening representatives of all cities and special districts that provide or declare an interest in providing an urban service inside an urban growth boundary within the county, for the purpose of negotiating an urban service agreement. A county may establish two or more subareas inside an urban growth boundary for the purpose of such agreements. If an urban service is to be provided within the boundaries of a Metropolitan Service District, a county shall notify the Metropolitan Service District in advance of the time for cities and special districts to meet for the purpose of negotiating an urban service agreement, and the Metropolitan Service District shall exercise its review, advisory and coordination functions under ORS 195.025.

(b) When negotiating for an urban service agreement, a county shall consult with recognized community planning organiza-

tions within the area affected by the urban service agreement.

(3) Decisions on a local government structure to be used to deliver an urban service under ORS 195.070 are not land use decisions under ORS 197.015.

(4) For purposes of ORS 195.020, 195.070, 195.075, 197.005 and this section, "urban services" means:

- (a) Sanitary sewers;
- (b) Water;
- (c) Fire protection;
- (d) Parks;
- (e) Open space;
- (f) Recreation; and
- (g) Streets, roads and mass transit.

(5) Whether the requirement of subsection (1) of this section is met by a single urban service agreement among multiple providers of a service, by a series of agreements with individual providers or by a combination of multiprovider and single-provider agreements shall be a matter of local discretion. [1993 c.804 §3]

195.070 Agreement factors. (1) The following factors shall be considered in establishing urban service agreements under ORS 195.065:

(a) Financial, operational and managerial capacity to provide the service;

(b) The effect on the cost of the urban service to the users of the service, the quality and quantity of the service provided and the ability of urban service users to identify and contact service providers, and to determine their accountability, with ease;

(c) Physical factors related to the provision of the urban service;

(d) The feasibility of creating a new entity for the provision of the urban service;

(e) The elimination or avoidance of unnecessary duplication of facilities;

(f) Economic, demographic and sociological trends and projections relevant to the provision of the urban service;

(g) The allocation of charges among urban service users in a manner that reflects differences in the costs of providing services to the users;

(h) Matching the recipients of tax supported urban services with the payers of the tax;

(i) The equitable allocation of costs between new development and prior development; and

(j) Economies of scale.

(2) The extent of consideration of the factors set forth in subsection (1) of this section is a matter of local government and special district discretion. [1993 c.804 §4]

195.075 Agreement provisions and considerations. (1) Urban service agreements entered into under ORS 195.065 shall provide for the continuation of an adequate level of urban services to the entire area that each provider serves. If an urban service agreement calls for significant reductions in the territory of a special service district, the urban service agreement shall specify how the remaining portion of the district is to receive services in an affordable manner.

(2) Units of local government and special districts that enter into an urban service agreement shall consider the agreement's effect on the financial integrity and operational ability of each service provider and its protection of the solvency and commitments of affected service providers. When an urban service agreement provides for the elimination, consolidation or reduction in size of a service provider, the urban service agreement shall address:

(a) The capital debt of the provider and short- and long-term finances;

(b) Rates;

(c) Employee compensation, benefits and job security; and

(d) Equality of service. [1993 c.804 §5]

195.080 Application of comprehensive plans and land use regulations. Nothing in ORS 195.020, 195.060 to 195.085, 195.145 to 195.235, 197.005, 197.319, 197.320, 197.335 and 223.304 shall be construed to prevent planning for, installation of or connection to public facilities or services consistent with acknowledged comprehensive plans and land use regulations. [1993 c.804 §6]

195.085 Compliance deadlines. (1) No later than the first periodic review that begins after November 4, 1993, local governments and special districts shall demonstrate compliance with ORS 195.020 and 195.065.

(2) The commission may adjust the deadline for compliance under this section when cities and counties that are parties to an agreement under ORS 195.020 and 195.065 are scheduled for periodic review at different times.

(3) Local governments and special districts that are parties to an agreement in effect on November 4, 1993, which provides for the future provision of an urban service shall demonstrate compliance with ORS 195.065 no later than the date such agreement expires or the second periodic review that begins after November 4, 1993, whichever comes first. [1993 c.804 §§7,8]

(School Facility Planning)

195.110 School facility plan for high growth school districts. (1)(a) A county or city containing a high growth school district shall include as an element of its comprehensive plan a school facility plan prepared by the high growth district in cooperation with the city or county.

(b) A county or city containing a high growth area shall initiate planning activities with a school district to accomplish planning as required under ORS 195.020.

(c) The provisions of paragraph (a) of this subsection do not apply to a city that contains less than 10 percent of the total population of a high growth school district.

(2) As used in this section, "high growth school district" means any school district that has an enrollment of over 5,000 students and had an increase in student enrollment of six percent or more during the three most recent school years, based on certified enrollment numbers submitted to the Department of Education during the first quarter of each new school year.

(3) The school facility plan shall identify school facility needs based on population growth projections and land use designations contained in the city or county comprehensive plan. The plan shall be updated during periodic review and may be updated more frequently by mutual agreement between the school district and the county or city.

(4) In the school facility plan, a high growth school district shall assess the capacity of school facilities on the basis of objective criteria that are formally approved by the school board. In an agreement under ORS 195.020, the school district and the city or county shall agree, to the greatest extent possible, on the criteria for the capacity of school facilities. After a school district formally adopts criteria for the capacity of school facilities, a county or city shall accept those criteria as its own for purposes of evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment. A city or county shall provide notice to an affected school district when considering a plan or land use regulation amendment that significantly impacts school capacity.

(5) The school facility plan shall provide for the integration of existing city or county land dedication requirements with the needs of the school district.

(6) Any school district not defined as high growth in subsection (2) of this section may adopt a plan for school facilities as set forth in this section, subject to cooperation with the affected cities or counties.

(7) The school facility plan shall include but need not be limited to the following elements:

(a) Population projections by school age group;

(b) Identification by both the city or county and the school district of desirable school sites;

(c) Physical improvements needed to bring existing schools up to the school district's minimum standards;

(d) Financial plans to meet school facility needs;

(e) An analysis of the alternatives to new school construction and major renovation;

(f) Five-year capital improvement plans; and

(g) Site acquisition schedules and programs.

(8) The capacity of a school facility shall not be the basis for a development moratorium under ORS 197.505 to 197.540.

(9) This section and ORS 197.015 do not confer any power to a school district to declare a building moratorium. [1993 c.550 §2]

Note: Section 3, chapter 550, Oregon Laws 1993, provides:

Sec. 3. Initial planning required under section 2 of this Act [195.110] shall be completed no later than December 31, 1995, except in cases in which the Department of Land Conservation and Development has provided funding to a local school district and a city or a county prior to the effective date of this Act [November 4, 1993] for purposes of engaging in school facility planning, in which case a cooperative plan must be in effect no later than December 31, 1994. [1993 c.550 §3]

URBAN RESERVE AREAS

195.145 Urban reserve areas; when required; limitation. (1) To insure that the supply of land available for urbanization is maintained, local governments may cooperatively designate lands outside urban growth boundaries as urban reserve areas, subject to ORS 197.610 to 197.625.

(2)(a) The Land Conservation and Development Commission may require a local government to designate an urban reserve area during its periodic review in accordance with the standards for periodic review under ORS 197.628.

(b) Notwithstanding paragraph (a) of this subsection, the commission may require a local government to designate an urban reserve area outside of its periodic review if:

(A) The local government is located inside a Primary Metropolitan Statistical Area or a Metropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

(B) The local government has been required to designate an urban reserve area by rule prior to November 4, 1993.

(3) In carrying out subsections (1) and (2) of this section:

(a) Within an urban reserve area, neither the commission nor any local government shall prohibit the siting on a legal parcel of a single family dwelling that would otherwise have been allowed under law existing prior to designation as an urban reserve area.

(b) The commission shall provide to local governments a list of options, rather than prescribing a single planning technique, to assure the efficient transition from rural to urban use in urban reserve areas.

(4) For purposes of this section, "urban reserve area" means lands outside an urban growth boundary that will provide for:

(a) Future expansion over a long-term period; and

(b) The cost-effective provision of public facilities and service within the area when the lands are included within the urban growth boundary. [1993 c.804 §19]

URBAN SERVICE PROVIDER ANNEXATION

195.205 Annexation by provider; prerequisites to vote; public hearing. (1) A city or district that provides an urban service may annex territory under ORS 195.020, 195.060 to 195.085, 195.145 to 195.235, 197.005, 197.319, 197.320, 197.335 and 223.304 that:

(a) Is situated within an urban growth boundary; and

(b) Is contained within an annexation plan adopted pursuant to ORS 195.020, 195.060 to 195.085, 195.145 to 195.235, 197.005, 197.319, 197.320, 197.335 and 223.304.

(2) A city or district may submit an annexation plan to a vote under subsection (1) of this section only if, prior to the submission of the annexation plan to a vote:

(a) The territory contained in the annexation plan is subject to urban service agreements among all appropriate counties and cities and the providers of urban services within the territory, as required by ORS 195.065 and 195.070, and:

(A) Such urban service agreements were in effect on November 4, 1993; or

(B) They expressly state that they may be relied upon as a prerequisite of the annexation method authorized by ORS 195.020, 195.060 to 195.085, 195.145 to 195.235, 197.005, 197.319, 197.320, 197.335 and 223.304; and

(b) The territory contained in the annexation plan is subject to an agreement be-

tween the city and county addressing fiscal impacts, if the annexation is by a city and will cause reductions in the county property tax revenues by operation of section 11b, Article XI of the Oregon Constitution.

(3) Prior to adopting an annexation plan, the governing body of a city or district shall hold a public hearing at which time interested persons may appear and be heard on the question of establishing the annexation plan.

(4) The governing body of the city or district shall cause notice of the hearing to be published, once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city or district.

(5) If after the public hearing required under subsection (3) of this section, the governing body of the city or district decides to proceed with the annexation plan, it shall cause the annexation plan to be submitted to the electors of the city or district and to the electors of the territory proposed to be annexed under the annexation plan. The proposed annexation plan may be voted upon at a general election or at a special election to be held for that purpose. [1993 c.804 §13]

195.210 Election procedures. (1) The statement of chief purpose in the ballot title of a proposal for adoption of an annexation plan 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 plan 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. [1993 c.804 §14]

195.215 Election certification; order. (1) The governing body of the city or district shall determine the results of the election from the official figures returned by the county clerk. If the governing body of the city finds that a majority of all of the votes cast in the territory and the city favor the annexation plan, then the governing body, by resolution or ordinance, shall proclaim the adoption of the annexation plan. The governing body of the district shall certify the results of the election to the appropriate county governing body. When a majority of all of the votes in the territory and district are in favor of the annexation plan, the county governing body by order shall so declare. The proclamation or order declaring approval of the annexation plan shall contain a legal description of each territory annexed.

(2) Annexation of particular tracts of territory shall take effect in accordance with the provisions of the adopted annexation plan. [1993 c.804 §15]

195.220 Annexation plan provisions. (1) An annexation plan adopted under ORS 195.205 shall include:

(a) The timing and sequence of annexation.

(b) Local standards of urban service availability required as a precondition of annexation.

(c) The planned schedule for providing urban services to the annexed territory.

(d) The effects on existing urban services providers, including, but not limited to, the effects on the tax base and budget of each provider.

(e) The long-term benefits of the annexation plan.

(2) An annexation plan shall be consistent with all applicable comprehensive plans. [1993 c.804 §16]

195.225 Boundary commission review; action; plan amendment; election. (1) In areas subject to the jurisdiction of a local government boundary commission, the boundary commission shall conduct an advisory review of an annexation plan for conformity with annexation plan requirements set forth in ORS 195.220, 199.462 and the rules of procedure of the commission.

(2) If a boundary commission finds that an annexation plan does not comply with ORS 195.220, 199.462 or the procedural rules of the commission, the boundary commission, by order, shall disapprove the annexation plan and return the plan to the governing body of the city or district. The order of the boundary commission that disapproves an

annexation plan shall describe with particularity the provisions of the annexation plan that do not comply with ORS 195.220, 199.462 or the procedural rules of the commission and shall specifically indicate the reasons for noncompliance.

(3) The governing body of the city or district, upon receiving an order of the boundary commission that disapproves an annexation plan, may amend the plan and resubmit the amended plan to the boundary commission.

(4) After a boundary commission reviews an annexation plan, the annexation plan shall be submitted to the electors of the city or district and affected territory as provided in ORS 195.205.

(5) Notwithstanding ORS chapter 199, annexations provided for in an annexation plan approved by the electors of a city or district and affected territory do not require the approval of a local government boundary commission.

(6) A city or district shall submit an annexation plan approved by the electors and a copy of the resolution, ordinance, order or proclamation proclaiming an annexation under an approved annexation plan to the local government boundary commission filing with the Secretary of State, Department of Revenue, assessor and county clerk of each county in which the affected territory is located. [1993 c.804 §17]

195.235 Application of other annexation procedures. The method of annexing territory to cities or districts set forth in ORS 195.205 to 195.225 is in addition to and does not affect or prohibit other methods of annexation authorized by law. [1993 c.804 §18]