

TO: MAYOR AND CITY COUNCIL
THROUGH: ROBERT G. WELLS, CITY MANAGER
FROM: VICKIE HARDIN WOODS, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT
SUBJECT: INITIATE AN AMENDMENT TO SALEM REVISED CODE CHAPTER 165
(ANNEXATION PROCEDURES) TO REQUIRE NOTIFICATION OF
OWNERS OF POTENTIAL ENCLAVED AREAS

ISSUE:

To initiate an amendment to SRC 165.130 to require notification of owners of potential enclaved areas, refer the matter to the Salem Planning Commission for its recommendation and direct the Urban Planning Administrator to set a Planning Commission Public Hearing date in order to receive testimony concerning the proposed amendment.

RECOMMENDATION:

City Council adopt a resolution to:

- 1) Initiate an amendment to SRC 165.130 to require notification of owners of potential enclaved areas;
- 2) Refer the matter to the Salem Planning Commission for its recommendation; and
- 3) Direct the Urban Planning Administrator to set a date for a public hearing before the Salem Planning Commission to receive testimony concerning the proposed amendment.

BACKGROUND:

Under Agenda Item #11.2.a for the February 5, 2007 meeting, Councilor Rogers introduced this issue. The following motion was approved by City Council:

“Direct staff to amend SRC Chapter 165 (Annexation Procedures) to include a requirement to notify owners of properties which have the potential to become an enclave”

FACTS AND FINDINGS:

1. The following justification in support of the Council's motion to amend the Salem code to include notification of owners of potential enclave areas was provided by Councilor Rogers at the February 5, 2007 meeting:

"At past Council hearings for annexations, there were suggestions to increase the notification specifically to owners of properties which could be future enclaves if the annexation was approved. These notifications should explain the applicable state and local regulations pertaining to enclave areas and the possibility of future annexation of those newly created enclaves. It is appropriate for the Council to consider procedures to address the timing and content of these notifications."

2. Staff has reviewed this issue and finds that the current code requirements for notification of proposed annexations includes publication of the notice in the Statesman Journal for the City Council public hearing. The hearing notice is also mailed to each person whose property will be annexed, any person who has submitted written or oral evidence or testimony in a timely manner at the Planning Commission evidentiary hearing, any recognized neighborhood organization for the area adjacent to the territory proposed to be annexed, and persons who requested notice of the Planning Commission's decision.

In the past, as a courtesy practice, the property owners within 250 feet of the subject annexation territory were also notified of the Council hearing. In most cases, the owners of property of potential enclaved areas were included within this notification area. This notice stated the details of the upcoming Council hearing and the methods for citizens to participate in the hearing. The notice did not explain the potential for properties to be an enclave area or the consequences of being enclaved. The existing code does not have any specific requirements for the notification of property owners within 250 feet of the subject annexation territory or owners of potentially enclaved properties.

An ordinance to initiate the proposed code amendment will be brought to Council by June 4, 2007. This proposed code amendment will require notices to be distributed to the owners of property of potential enclaved areas. The notice will explain the potential for properties to be enclaved and the consequences of becoming enclaved would be distributed 20 days prior to a Planning Commission and/or Council public hearing.

3. There have been two Senate Bills and twelve House Bills introduced during this 2007 Oregon Legislative Session which deal with annexations. More specifically, eight of these Bills address "island annexations," or "enclave annexations." These proposed Bills include modifications to the requirements and procedures for a city to annex "island or enclave territory" such as requiring the consent of the property owners, and modifying the definition of "contiguous" to exclude a public right-of-way. If one or more of these bills become law, they will affect the applicability and

relevance of this proposed amendment, and could require the City to make additional amendments.

4. Following the initiation of an amendment to SRC 165.130, the Urban Planning Administrator shall set a date for a public hearing to be held before the Salem Planning Commission.
5. After holding a public hearing to receive testimony, the Salem Planning Commission shall forward a recommendation to the City Council on the matter.
6. Upon receipt of the Salem Planning Commission recommendation, the City Council may take action on the matter.



Glenn W. Gross, Urban Planning Administrator

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