

**CITY OF SILVERTON
RESOLUTION
16-29**

A RESOLUTION OF THE SILVERTON CITY COUNCIL RELATED TO THE INCONSISTENCY BETWEEN SILVERTON DEVELOPMENT CODE CHAPTER 4.10 AND OREGON SENATE BILL 1573 AND PROVIDING STAFF DIRECTION IN PROCESSING ANNEXATIONS UNTIL SUCH TIME AS THE INCONSISTENCY IS LEGALLY OR LEGISLATIVELY ADDRESSED

WHEREAS, under the Home Rule Authority granted by the Constitution and laws of the State of Oregon, the people of the City of Silverton have by popular vote enacted the Silverton City Charter (the “Charter”); and

WHEREAS, Section 4 of the Charter reserves to the City of Silverton (the “City”) all powers that the Constitutions, statutes and common law of the United States and of the State of Oregon expressly or impliedly grant or allow municipalities, as fully as though specifically enumerated in the Charter; and

WHEREAS, pursuant to the City’s Charter and Home Rule Authority, the City has adopted a Comprehensive Plan and Development Code which have been acknowledged by the State of Oregon as consistent with the Oregon Statewide Planning Goals and Oregon land use laws; and

WHEREAS, the Silverton Development Code (the “SDC”) has been codified as Title 18 of the Silverton Municipal Code; and

WHEREAS, SDC Section 4.10.110 requires all proposed annexations of land to the City to be approved by a majority vote among the electorate of the City; and

WHEREAS, the Oregon Legislature (the “Legislature”) passed Senate Bill 1573 (2016) (“SB 1573”), requiring the legislative body of cities in Oregon to consider annexations of land without submitting the proposal to the electorate when all owners of the land proposed for annexation have agreed to the petition for annexation; and

WHEREAS, the Legislature passed SB 1573 as an emergency law, making it effective immediately upon its passage; and

WHEREAS, it is not at all legally clear whether or not the Legislature acted within its authority in passing SB 1573, because its passage has effectively undermined the City’s exercise of its own Constitutionally granted authority in adopting SDC Section 4.10; and

WHEREAS, the cities of Corvallis and Philomath both require voter approvals for annexations of land; and

WHEREAS, the cities of Corvallis and Philomath have initiated legal proceedings seeking a judicial declaration that the passage of SB 1573 by was beyond the authority of the Legislature and is therefore invalid and of no effect; and

WHEREAS, the League of Oregon Cities is aware of the legal action initiated by the cities of Corvallis and Philomath and has successfully intervened in the case; and

WHEREAS, pending resolution of the legality SB 1573, City Staff, annexation applicants and the Silverton electorate need direction as to how to proceed with annexation proposals submitted in the meantime.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SILVERTON AS FOLLOWS:

Section 1: Until such time as the legal conflict between SB 1753 and SDC Section 4.10.110 is resolved, City Staff are directed to seek voluntary agreements from annexation applicants authorizing annexation proposals to be submitted the City electorate consistent with SDC 4.10.110; and

Section 2: When annexation applicants refuse to authorize the City to submit the annexation proposal to the City electorate, and the area proposed for annexation is greater than two (2) acres in size, the City shall place a hold on consideration of the proposed annexation for the sooner of six (6) months after the date of said refusal or the final adjudication of SB 1573; and

Section 3: City Staff are directed in all other regards to comply with the Charter, Comprehensive Plan, Development Code and all other applicable land use laws in processing annexation proposals.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF SILVERTON AS FOLLOWS:

Section 4: The City Manager, City Attorney and City Staff are hereby authorized and directed to prepare and present proposed revisions to the text SDC Section 4.10 for consideration by the City Council, in response to the uncertainty created by the passage of SB 1573; and

Section 5: The City Manager, City Attorney and City Staff are hereby directed to provide assistance and support to the cities of Corvallis and Philomath, and the League of Oregon Cities, in the legal challenge to the legality of SB 1573.


Section 6: This resolution is effective upon adoption by the City Council of the City of Silverton.

Resolution adopted by the City Council of the City of Silverton, this 12th day of September 2016.



Mayor, City of Silverton
Rick Lewis

ATTEST



City Manager/Recorder, City of Silverton
Bob Willoughby