

# House Bill 3084

Sponsored by Representative FAGAN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies authority for withdrawal of tract from City of Damascus if city did not adopt, and cause to be acknowledged, comprehensive plan and land use regulations within four years after incorporation of city.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to withdrawal of property from newly incorporated city; amending sections 1 and 4, chapter  
3 75, Oregon Laws 2014; repealing sections 2 and 3, chapter 75, Oregon Laws 2014; and declaring  
4 an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** Section 1, chapter 75, Oregon Laws 2014, is amended to read:

7 **Sec. 1.** (1) As used in [*sections 1 and 2 of this 2014 Act*] **this section:**

8 (a) **“Contiguous lots or parcels of land under the same ownership” includes lots or par-**  
9 **cels that are separated by a public or private right of way.**

10 (b) **“Located on the boundary of the city” includes the circumstance in which a tract is:**

11 (A) **Contiguous to the corporate boundary of the city or separated from the corporate**  
12 **boundary only by a public right of way or a stream, bay, lake or other body of water, as de-**  
13 **scribed in ORS 222.111;**

14 (B) **Separated from the corporate boundary only by real property that is owned by a**  
15 **public body, as defined in ORS 174.109; or**

16 (C) **Separated from the corporate boundary only by real property that the owner of the**  
17 **tract is entitled to use pursuant to an easement.**

18 [(a)] (c) **“Same ownership” includes ownership, singly or in any combination, by an individual,**  
19 **other individuals related to the individual by blood, marriage or adoption, and entities owned, di-**  
20 **rectly or indirectly, by the individual or such related individuals.**

21 [(b)] (d) **“Tract” means one or more contiguous lots or parcels of land under the same ownership**  
22 **and includes any portion of the contiguous lots or parcels of land under the same ownership less**  
23 **than the whole.**

24 (2) Notwithstanding ORS 222.460, the owner of a tract within the [*boundaries of a city*] **corpo-**  
25 **rate boundaries of the City of Damascus** may withdraw the tract from the city if:

26 [(a)] *The city is located within Metro and was incorporated after January 1, 2000, and before Jan-*  
27 *uary 1, 2005;]*

28 [(b)] (a) The comprehensive plan and land use regulations of the city were not acknowledged  
29 within four years after incorporation, as required under ORS 197.757, and remain unacknowledged  
30 [*at the time*] **when** the owner makes the filing for withdrawal required under subsection (3) of this

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 section; and

2 [(c)] (b) Any portion of the tract is located on the boundary of the city [*and is within one-half*  
 3 *mile of another city*].

4 (3)(a) To withdraw a tract from the City of **Damascus** under this section, the owner must:

5 (A) Obtain a letter from the Department of Land Conservation and Development confirming that  
 6 the city's comprehensive plan and land use regulations were not acknowledged in the four-year pe-  
 7 riod following incorporation. The department shall provide the letter within 30 days after the de-  
 8 partment receives a written request from the owner of the tract.

9 (B) File a written statement with the [city] **Mayor of the City of Damascus** in person or by  
 10 registered mail, return receipt requested, and a copy of the written statement with Metro and the  
 11 department.

12 (b) The written statement must include:

13 (A) The name of the City [*from which the tract is to be withdrawn*] **of Damascus**;

14 (B) A declaration by the owner of the owner's [*intention*] **request** to withdraw the tract from  
 15 the city;

16 (C) A copy of a deed, preliminary title report, tax record or similar document showing ownership  
 17 of the tract;

18 (D) A legal description of the tract to be withdrawn;

19 (E) A copy of the cadastral map maintained by the county assessor that shows the location of  
 20 the tract; and

21 (F) A copy of the letter from the department obtained pursuant to paragraph (a)(A) of this sub-  
 22 section.

23 (4) An enforcement order under ORS 197.319 to 197.335 is not a prerequisite for the provision  
 24 of the letter by the department as required under subsection (3)(a)(A) of this section or to the  
 25 withdrawal of the tract under this section.

26 **(5) If an owner of a tract described in subsection (2) of this section files the documenta-**  
 27 **tion described in subsection (3) of this section with the mayor and with Metro, the mayor**  
 28 **shall review the statement filed by the owner to:**

29 **(a) Determine that the tract qualifies for withdrawal from the city under this section.**

30 **(b) Make a finding as to whether withdrawal of the tract from the city creates an undue**  
 31 **hardship on continued operation of the city.**

32 **(6) Within 10 days after receiving the documentation described in subsection (3) of this**  
 33 **section:**

34 **(a) If the mayor concludes under subsection (5) of this section that the tract qualifies for**  
 35 **withdrawal from the city and the withdrawal will not cause an undue hardship on continued**  
 36 **operation of the city, the mayor shall:**

37 **(A) Declare the tract withdrawn from the city and cause the corporate boundary to be**  
 38 **amended to reflect the change.**

39 **(B) Report the change in the corporate boundaries of the city to:**

40 **(i) The owner of the tract.**

41 **(ii) Metro.**

42 **(iii) The county clerk and county assessor of the county in which the city is located, in**  
 43 **the manner required of a city under ORS 222.010.**

44 **(iv) The Department of Revenue, as required under ORS 308.225.**

45 **(b) If the mayor concludes under subsection (5) of this section either that the tract does**

1 not qualifies for withdrawal from the city or that the withdrawal will cause an undue hard-  
2 ship on continued operation of the city, the mayor shall:

3 (A) Reject the withdrawal of the tract from the city.

4 (B) Report the decision to:

5 (i) The owner of the tract.

6 (ii) Metro.

7 (7) The withdrawal of territory under this section:

8 (a) Is not a land use decision or a limited land use decision subject to the exclusive ju-  
9 risdiction of the Land Use Board of Appeals under ORS 197.805 to 197.855.

10 (b) Is not subject to referral to the electors.

11 (c) Is not subject to ORS 222.040.

12 (8)(a) Except as provided in paragraph (b) of this subsection, judicial review of a decla-  
13 ration under this section may be made in the same manner as judicial review of a final order  
14 under ORS 197.850, 197.855 and 197.860.

15 (b) Notwithstanding ORS 197.850 (9), the court may reverse or remand the action of the  
16 city only if the court finds that:

17 (A) The tract does not meet the criteria for withdrawal that are specified in subsection  
18 (2) of this section;

19 (B) The withdrawal was clearly in error;

20 (C) There is a basis to vacate the withdrawal for the reasons for which an arbitration  
21 award may be vacated, modified or corrected under ORS 36.705 (1)(a) to (d) or 36.710; or

22 (D) The withdrawal was unconstitutional.

23 (9) If a tract has been withdrawn from the City of Damascus under this section, the city  
24 may not annex the tract for a period of 10 years following the withdrawal unless the owner  
25 of the tract submits a petition to the legislative body of the city seeking annexation of the  
26 tract.

27 **SECTION 2.** Section 4, chapter 75, Oregon Laws 2014, is amended to read:

28 **Sec. 4.** [Sections 1 to 3 of this 2014 Act are] **Section 1, chapter 75, Oregon Laws 2014,** is re-  
29 pealed on January 2, 2025.

30 **SECTION 3.** Sections 2 and 3, chapter 75, Oregon Laws 2014, are repealed.

31 **SECTION 4.** This 2015 Act being necessary for the immediate preservation of the public  
32 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
33 on its passage.

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