

PROPOSED SDC AMENDMENTS – ANNEXATION REGULATIONS

TABLE OF CONTENTS

**CHAPTER 5
THE DEVELOPMENT REVIEW PROCESS AND APPLICATIONS**

5.7-100 ANNEXATIONS

5.7-105 Purpose

5.7-110 Applicability

5.7-113 Definitions

5.7-115 Review

5.7-120 Development Issues Meeting

5.7-125 Annexation Initiation and Application Submittal

5.7-130 Notice

5.7-135 ~~[Fiscal Impact and Annexation Agreement]~~ Annexation Procedures

5.7-140 Criteria

5.7-143 City Council Decision

5.7-145 ~~[Submittal of the Council's Resolution to the LCLGBC]~~ Zoning

5.7-150 ~~[Notification of Utilities]~~ Effective Date and Notice of Approved Annexation

5.7-155 Withdrawal from Special Service Districts

5.7-160 Appeals

5.23-100 EXTRATERRITORIAL EXTENSION OF WATER OR SEWER SERVICE

5.23-105 Purpose

5.23-110 Applicability

5.23-115 Review

5.23-120 Application Submittal

5.23-125 Criteria

Section 3.3-800 Urbanizable Fringe Overlay District

3.3-825 Additional Provisions

- A. The City shall not extend water or sanitary sewer service outside the city limits, unless ~~[the property owner obtains annexation]~~ a health hazard, as defined in ORS 222.840-915 is determined to exist. Annexation of the affected territory so served is required if the territory is within the urban growth boundary and is contiguous to the city limits.
1. The City may extend water or sanitary sewer outside the city limits or urban growth boundary to provide these services to properties within the city limits. As provided in ORS 222.840-915, the City and a majority of the electors of the affected territory may agree to an alternative to annexation to mitigate the health hazard, including extraterritorial extension of services without annexation.
 2. Extraterritorial extension of water or sanitary sewer applications that are not related to health hazards as specified in ORS 222.840-915 shall be processed as specified in Section 5.23-100.
- E. Connection to the sanitary sewer system. Any property to be partitioned that is within the distances specified in OAR 340-071-0160(4)(A) for connection to the City's sanitary sewer system shall require annexation to the City prior to Partition Tentative Plan submittal, unless the Director determines that a topographic or man-made feature makes the connection physically impractical. In this case, the Partition application may be approved without annexation.

Section 5.1-100 The Development Review Process

5.1-140 Type IV Procedure (Legislative)

- F. The City Council's decision is the City's final decision either on the date the decision is made, or 30 days after the decision is made if there is no emergency clause in the adopting Ordinance, or as authorized by ORS 222. Notice of decision is mailed to the applicant, property owner and those persons who submitted written or oral testimony and as required by ORS 222 and Section 5.7-150. Where required, the notice of decision shall also be mailed to the Department of Land Conservation and Development as specified in OAR 660-18-0040.

EXCEPTION: [~~For annexations, the City Council decision is final only upon concurrence of the Lane County Local Government Boundary Commission.~~] For Metro Plan amendments that require adoption by the City, Eugene and/or Lane County, the City Council decision is final only upon concurrence of the Lane County Commissioners and the City of Eugene City Council, as appropriate.

Section 5.4-100 Development Applications

Table 5.4-1 Development Applications

<i>Type of Application</i>	<i>Decision Type</i>	<i>Applicable SDC Sections</i>
Accessory Dwelling Unit	Type I	5.5-100
Amendment of Development Code Text	Type IV	5.6-100
Amendment of Refinement Plan Text or Diagram	Type IV	5.6-100
Annexation [, including extraterritorial extensions]	Type IV	5.7-100
Appeal of a Type II Director's Decision	Type III	5.3-100
Appeal of Type III Decision to City Council	Type IV	5.3-100
Appeal of an Expedited Land Division	Type III	5.3-125
Conceptual Development Plan	Type III	Applicable Section
Conceptual Development Plan Amendment	Type III	Applicable Section
Demolition of Historic Landmark	Type III	3.3-900
Determination of Non-Conforming Use Status	Type I	5.8-100
Development Issues Meeting	Type I	5.1-100
Discretionary Use	Type III	5.9-100
Drinking Water Protection Overlay District Development	Type I	3.3-200
Establishment of Historic Landmark Inventory	Type III	3.3-900
Expansion/Modification of a Non-Conforming Use	Type II	5.8-100
Expedited Land Division	Type II	5.1-145
Extraterritorial Extension of Water or Sewer Service	Type IV	5.23-100

Section 5.7-100 Annexations

5.7-105 Purpose

These regulations:

- A. Clearly define the process for the review of proposals to annex [Annexation of] territory to the City;
- B. Provide a process for the subsequent withdrawal of territory from special service districts; and
- C. Provide a process for City approval of annexations to certain special districts, including but not limited to: the Lane County Metropolitan Wastewater District; and the Willamalane Park and Recreation District.

5.7-110 Applicability

~~[This Section applies to any Annexation of territory to the City that is within the City's urbanizable area.]~~

- A. These regulations apply to annexation applications as specified in Section 5.7-125, including applications initiated using the double and triple majority initiating methods; and
- B. Other annexation proposals permitted by ORS 222 shall be processed as provided in ORS 222.

5.7-113 Definitions

The following definitions are specific to this Section:

Affected City. A city, city-county or cities, named in a petition, for which a boundary change is proposed or a city, city-county or cities, named in an ordinance or order, for which a boundary change is ordered.

Affected County. Each county that contains any territory for which a boundary change is proposed or ordered.

Affected District. Each special district that contains or would contain territory for which a boundary change is proposed or ordered. Affected district also means a district or districts, named in a petition, for which a boundary change is proposed or ordered.

Affected Territory. Territory described in a petition. Affected territory also means an area within the urban growth boundary of a city that is otherwise eligible for annexation to a city where there exists an actual or alleged danger to public health as defined in ORS 222.

Annexation. The attachment or addition of territory to, or inclusion of territory in, an existing city or district.

Annexation Agreement. A written agreement between the City and owners of land requesting annexation that states the terms, conditions and obligations of the parties to mitigate fiscal and service impacts to the City associated with the annexation and future development of the property. The agreement may be used to ensure annexation consistent with the Metro Plan.

Cadastral Map. A map prepared by the Lane County Assessor's office showing bearings and distances and the boundaries of parcels, lots and tracts of land.

Consent to Annex. Forms provided by the affected city that must be included with certain annexation and extraterritorial extension applications which includes the signature of the owner or part or all of the affected territory.

Contiguous. Territory that abuts the city limits at any point along the property's exterior boundary or separated from the city limits by a public right-of-way or a stream, bay, lake, or other body of water.

Double Majority. A majority of the eligible electors registered in the affected territory and the owners of more than half of the land in the affected territory.

Effective Date of Annexation. The effective date of the boundary changed as prescribed in ORS 222.040, .180 or .465.

Elector. An individual registered to vote at an address within the affected territory.

Extraterritorial Connection of Service. The connection of water or sanitary sewer service to developed property located outside the city limits and within the urban growth boundary.

Extraterritorial Extension of a Facility. The extension of a water or sanitary sewer line outside the city limits and within the urban growth boundary.

Extraterritorial Service/Facility Contract. A contract between the owner of property proposed to be served and the City specifying and identifying service provisions, obligations of the city and cost obligations of the owner of the affected territory and shall be initiated at the sole discretion of the City Council.

Filing. The submittal of materials to initiate a boundary change process.

Legal Description. As defined in ORS 308.225(2).

Notice. An ordinance, resolution, order, or other similar matter providing notice authorized or required to be published, posted, or mailed.

Owner. The legal owner of record according to the latest available Lane County Tax assessment roll or, where there is a recorded land contract that is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land,

each consenting owner is counted as a fraction to the same extent as the interest of the other owners and the same fraction is applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in the affected territory, the corporation must be considered the individual owner of that land.

Petition. Any document such as signature sheets, resolutions, orders, or articles of incorporation, required for initiating a boundary change. In the case of a petition initiated by property owners, the person signing on behalf of a corporation or business must provide evidence showing that person is authorized to sign legal documents for the firm.

Proceeding. A proceeding to consider a boundary change.

Proposal. The set of documents required to initiate proceedings for a boundary change.

Special Service District. Any of the districts identified in ORS 198.

Triple Majority. More than half of the owners of the land area , who also own more than half of the land area representing more than half of the assessed value in the affected territory.

Urban Growth Boundary. A site-specific line, delineated on a map or by written description that separates urban and urbanizable land from rural lands, that is part of a comprehensive plan

Withdrawal. The detachment, disconnection or exclusion of territory from an existing city or district.

5.7-115 Review

- [A.] Annexation applications are reviewed under Type IV procedure, without Planning Commission consideration.
- [B.] ~~The Annexation of all territory to the City requires final action by the Lane County Local Government Boundary Commission (LCLGBC) as specified in ORS 199.425.]~~

5.7-120 Development Issues Meeting

The applicant shall schedule a Development Issues Meeting prior to filing an annexation application where staff will inform the applicant of the annexation application submittal requirements and procedures specified in this Section, unless waived by the Director.

5.7-125 Annexation Initiation and Application Submittal

- [A.] ~~Annexation of territory to the City may be citizen initiated or initiated by the City Council.~~

- ~~B. All Annexation applications shall include information to address the approval criteria specified in Section 5.7-140.]~~
- A. An annexation application may be initiated by City Council resolution, or by written consents from electors and/or property owners as provided below.
- B. In addition to the provisions specified in Section 5.4-105, an annexation application shall include the following:
1. A list of all owners, including partial holders of owner interest, within the affected territory, indicating for each owner:
 - a. The affected tax lots, including the township, section and range numbers;
 - b. The street or site addresses within the affected territory as shown in the Lane County Regional Land Information Database system (RLID);
 - c. A list of all eligible electors registered at an address within the affected territory; and
 - d. Signed petitions, as may be required.
 2. Written consents on City approved petition forms that are:
 - a. Completed and signed, in accordance with ORS 222.125, by:
 - i. All of the owners within the affected territory ; and
 - ii. Not less than 50 percent of the eligible electors, if any, registered within the affected territory ; or
 - b. Completed and signed, in accordance with ORS 222.170, by:
 - i. A majority of the eligible electors registered in the territory proposed for annexation and the owners of more than half of the land in the affected territory and said ownership represents more than half of the assessed value of the land comprising the affected territory as specified in ORS 222.170(1) (Triple Majority); or
 - ii. A majority of the owners of the land in the affected territory, who also own more than half of the land in the affected territory as specified in ORS 222.170(2) (Double Majority);

iii. Publicly owned rights-of-way can be added to annexations initiated by these two methods without any consents;

3. A City Council resolution to initiate a boundary change, including but not limited to, publicly owned rights-of way.
4. In lieu of a petition form described in Subsection 2 above, an owner's consent may be indicated on a previously executed Consent to Annex form that has not yet expired as specified in ORS 222.173 or previously executed Annexation Agreement consenting to the annexation of territory.
5. Verification of Property Owners form signed by the Lane County Department of Assessment and Taxation.
6. A Certificate of Electors form signed by the Lane County Elections/Voter Registration Department.
7. An ORS 197.352 waiver form signed by each owner within affected the territory.
8. A waiver form signed by each owner within the affected territory as allowed by ORS 222.173.
9. A legal description of the affected territory proposed for annexation consistent with ORS 308.225 that will include contiguous or adjacent right-of-way to ensure contiguity as required by ORS 222.111.
10. A Lane County Assessor's Cadastral Map to scale highlighting the affected territory and its relationship to the city limits.
11. A list of the districts providing services to the affected territory.
12. A public/private utility plan describing how the proposed affected territory can be served by a full/minimum level of key urban facilities and services.
13. A signed Annexation Agreement, if required by the Director, to resolve fiscal impacts upon the City caused by the proposed annexation. The Annexation Agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the City, unless otherwise required by ORS. Where public facilities and services are available and can be extended, the applicant shall be required to do so.
14. A written narrative addressing the proposal's consistency with the approval criteria specified in Section 5.7-140.

15. A fee as established by Council Resolution.

5.7-130 Notice

[Newspaper notice shall be required as specified in Section 5.2-115.] Notice requirements for annexations shall be as specified below:

- A. Mailed Notice. Notice of the annexation application shall be mailed at least 14 days prior to the public hearing date to:
1. The applicant, property owner and electors in the affected territory;
 2. Owners and occupants of properties located within 300 feet of the perimeter of the affected territory;
 3. The neighborhood group or community organization officially recognized by the City that includes the affected territory;
 4. Affected special districts and all other public utility providers; and
 5. Lane County Land Management Division, Lane County Elections, and the Lane County Board of Commissioners.
- B. Newspaper Notice. Notice of the public hearing at which an annexation application will be considered shall be published in a local newspaper with general circulation once each week for two successive weeks prior to the hearing date; and
- C. Posted Notice. Notice of the public hearing at which an annexation application will be considered shall be posted in four public places in the City for two successive weeks prior to the hearing date.
- D. Notice Contents. Notice of the public hearing at which an annexation application will be considered shall include:
1. The Lane County Tax Assessor's map and tax lot numbers, street addresses or other easily understood geographical references of the affected territory;
 2. A statement that the Director's recommendation will be available seven days prior to the public hearing; and
 3. The date, time and place the City Council will hold a public hearing to consider the annexation application.

5.7-135 [Fiscal Impact and Annexation Agreement] Recommendation to City Council

~~[A. The Director shall utilize information submitted by the applicant to determine the fiscal impact of the proposed Annexation on the City and whether the applicant has addressed the approval criteria in Section 5.7-140.]~~

~~[B. Fiscal impacts may be resolved by using an Annexation Agreement. The Annexation Agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the City. Where public facilities and services are available and can be extended, the applicant shall be required to do so.]~~

The Director shall forward a written recommendation on the annexation application to the City Council based on the approval criteria specified in Section 5.7-140.

5.7-140 Criteria

~~[The City Council shall approve, modify or deny any annexation application based upon] An annexation application may be approved only if the City Council finds that the proposal conforms to the following [approval] criteria:~~

- A. ~~The affected territory proposed to be annexed is within the City's [urbanizable area] urban growth boundary, and is;~~
 - 1. Contiguous to the city limits; or
 - 2. Separated from the City only by a public right of way or a stream, lake or other body of water.
- B. ~~[Key urban services and facilities can be provided to the area in an orderly and efficient manner] The proposed annexation is consistent with applicable policies in the Metro Plan and in any applicable refinement plans or Plan Districts;~~
- C. ~~[There will be a logical area and time within which to deliver urban services and facilities] The proposed annexation will result in a boundary in which the minimum level of key urban facilities and services, as defined in the Metro Plan, can be provided in an orderly, efficient, and timely manner; and~~
- D. Where applicable, fiscal impacts to the City have been mitigated through an Annexation Agreement or other mechanism approved by the City Council.

5.7-143 City Council Decision

City Council approval of annexation applications shall be by Ordinance.

~~5.7-145 Submittal of the Council's Resolution to the LCLGBC~~

The City Council shall adopt by Resolution any Annexation recommendation. ~~[The Director shall forward all City Annexation recommendations to the LCLGBC.]~~

5.7-145 Zoning

Currently, all unincorporated land within the City's ~~[urbanizable area]~~ urban growth boundary is zoned in compliance with the zoning districts listed in this Code and is designated in compliance with the Metro Plan. Unincorporated land within the [urbanizable area] urban growth boundary is distinguished from land within the city limits by the addition of the urban Fringe (UF-10) Overlay District established in Section 3.3-800. Upon approval of the annexation by the ~~[LCLGBC]~~ City Council:

- A. The UF-10 Overlay District designation shall cease to apply automatically; and
- B. The current zoning shall apply, unless a zoning map amendment has been submitted and approved by the City.
- C. The Director will not deem an application complete for a zoning map amendment until the annexation has been approved by the City Council.

5.7-150 ~~[Notification of Utilities]~~ Effective Date and Notice of Approved Annexation

~~[The City Recorder shall provide notice by certified mail to all public utility providers operating in the City within 10 days of receipt of the LCLGBC action approving the Annexation. The notice shall contain each site address as recorded on the Lane County assessment and tax rolls, a legal description, a map of the boundary change and a copy of the LCLGBC action.]~~

- A. The effective date of an approved annexation shall be set in accordance with ORS 222.040, 222.180 or 222.465.
- B. Notice of Approved Annexation.
 - 1. Not later than 10 working days after the passage of an Ordinance approving an annexation, the Director shall:
 - a. Send by certified mail a notice to public utilities (as defined in ORS 757.005), electric cooperatives and telecommunications carriers (as defined in ORS 133.721) operating within the City; and
 - b. Mail a notice of the annexation to the Secretary of State, Department of Revenue, Lane County Clerk, Lane County Assessor, affected districts, and owners and electors in the affected territory. The notice shall include:
 - i. A copy of the Ordinance approving the annexation;
 - ii. A legal description and map of the annexed territory;

iii. The findings; and

iv. Each site address to be annexed as recorded on Lane County assessment and taxation rolls or found in RLID.

c. The notice to the Secretary of State will also include copies of the petitions signed by electors and/or owners of the affected territory as required in Section 5.7-125.

2. If the effective date of an annexation is more than one year after the City Council passes the Ordinance approving it, the Director shall mail a notice of the annexation to the Lane County Clerk not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

5.7-155 Withdrawal from Special Districts

A. Withdrawal from special districts may occur concurrently with the approved annexation ordinance or after the effective date of the annexation of territory to the City. The Director shall recommend to the City Council for consideration of the withdrawal of the annexed territory from special districts as specified in ORS 222 [upon receipt of the LCLGBC action approving the Annexation, and after the effective date of the Annexation].

B. Withdrawal from special districts processed separate from the process annexing the territory to the City requires a Public Hearing with notice as required in Section 5.7-150(B) and (C).

C. Criteria. In determining whether to withdraw the territory, the City Council shall determine whether the withdrawal is in the best interest of the City.

D. Effective Date. The effective date of the withdrawal shall be as specified in ORS 222.

E. Notice of Withdrawal. Notice will be provided in the same manner as specified in Section 5.7-150.

5.7-160 Appeals

Appeals of the City Council decision shall be to the Land Use Board of Appeals, as specified in Section 5.1-140G.

Section 5.12-100 Land Divisions - Partitions and Subdivisions

5.12-120 Tentative Plan Submittal Requirements

A Tentative Plan application shall contain the elements necessary to demonstrate that the provisions of this Code are being fulfilled.

- F. Additional information and/or applications required at the time of Tentative Plan application submittal shall include the following items, where applicable:
1. A brief narrative explaining the purpose of the proposed land division and the existing use of the property.
 2. If the applicant is not the property owner, written permission from the property owner is required.
 3. A Vicinity Map drawn to scale showing bus stops, streets, driveways, pedestrian connections, fire hydrants and other transportation/fire access issues within 200 feet of the proposed land division and all existing Partitions or Subdivisions immediately adjacent to the proposed land division.
 4. How the Tentative Plan addresses the standards of any applicable overlay District.
 5. How the Tentative Plan addresses Discretionary Use criteria, where applicable.
 6. A Tree Felling Permit as specified in Section 5.19-100.
 7. A Geotechnical Report for slopes of 15 percent or greater and as specified in Section 3.3-500, and/or if the required Site Assessment Section 5.12-120 indicates the proposed development area has unstable soils and/or high water table as specified in the *Soils Survey of Lane County*.
 8. An annexation application as specified in Section 5.7-100 where a development is proposed outside of the city limits but within the City's ~~urbanizable area~~ urban growth boundary and can be serviced by sanitary sewer and water.

5.12-130 Tentative Plan Conditions

To the extent necessary to satisfy the approval criteria of Section 5.12-125, comply with all applicable provisions of this Code and to mitigate identified negative impacts to surrounding properties, the Director shall impose approval conditions. All conditions shall be satisfied prior to Plat approval. Approval conditions may include, but are not limited to:

- P.** In the case of a Partition of property that is outside of the city limits but within the City's [~~urbanizable area~~] urban growth boundary and no concurrent annexation application is submitted, [~~Annexation Agreement~~] Consent to Annex forms shall be signed and recorded by the property owner prior to recording the Partition Plat.

Section 5.23-100 Extraterritorial Extension of Water and Sewer Service

5.23-105 Purpose

- A.** These regulations govern the approval of requests for the extension of water service or sewer service outside of the city limits or extensions that go beyond the city limits and urban growth boundary to reach property within the city limits. These regulations are intended to accomplish the orderly development of land within the community, ensure the adequate provision of public facilities and services, protect the public health and safety of the community and enable development to occur consistent with applicable provisions of the Metro Plan.
- B.** The City shall not extend water or sanitary sewer service outside the city limits, unless a health hazard, as defined in ORS 222.840 - .915 is determined to exist. Annexation of the territory so served is required if the territory is within the urban growth boundary and is contiguous to the city limits. An alternative to annexation, if agreed to by the City and the owners of the affected property, may occur in the place of annexation. The City may extend water or sanitary sewer outside the city limits or urban growth boundary to provide these services to properties within the city limits.
- C.** Extraterritorial Service/Facility Contracts between a property owner and the City shall be initiated at the sole discretion of the City Council.

5.23-110 Applicability

These regulations apply to applications requesting the extension and/or connection of water service or sewer service outside of the city limits and within the urban growth boundary.

5.23-115 Review

Extraterritorial extension of water or sewer service applications are reviewed under Type IV procedures.

5.23-120 Application Submittal

Commentary: *What about additional submittal requirements from Section 5.7-125?*

In addition to the provisions specified in Section 5.4-105, an extraterritorial extension of water or sewer service application shall include the following:

- A.** A list of all tax lots proposed to be served, including street addresses and property owner names;
- B.** A legal description of the property to be served;

- C. A signed Consent to Annex form for the property proposed to be served;
- D A map drawn to scale showing the proposed extension of sanitary and/or water lines to include the proposed number of service connections and their sizes and locations; and
- E. A written narrative addressing the proposal's consistency with the approval criteria in Section 5.23-125.
- F. A fee as established by Council Resolution.

5.23-125 Criteria

The Director shall approve, approve with conditions, or deny the application based on compliance with the following criteria:

- A. The property proposed for service is located within the city's urban growth boundary;
- B. Annexation of the property proposed to be served is currently not possible due to the inability to meet the criteria for annexation specified in Section 5.7-140;
- C. The property proposed for service is not vacant;
- D. The provision of service will not prolong uses which are nonconforming uses as specified in Section 5.8-100;
- E. In the case of an application for extension of water service, the property to be served is connected with an approved means of sewage disposal;
- F. The proposed extension is consistent with adopted resolutions, policies, plans and ordinances concerning extraterritorial extensions; and
- G. Even if a proposed extension is inconsistent with the criteria above, the city may approve an extraterritorial extension of water or sewer service:
 - 1. Where a communicable disease hazard exists and the extension is the only practical remedy as specified in ORS 222.840 - .915; or
 - 2. To property within a dissolved water district within which the Springfield Utility Board is providing service to some properties.

CHAPTER 6 DEFINITIONS

~~[Annexation Agreement. A written agreement between the City and owners of land requesting annexation that states the terms, conditions and obligations of the parties to mitigate fiscal and service impacts to the City associated with the annexation and future development of the property. The agreement may be used to ensure annexation consistent with the Metro Plan.]~~