

ORDINANCE NO. 21-1009

AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING OREGON CITY MUNICIPAL CODE (OCMC) TITLE 14, ANNEXATIONS, CHAPTER 14.04 – CITY BOUNDARY CHANGES AND EXTENSION OF SERVICES

WHEREAS, Oregon City Municipal Code (OCMC) Title 14, Annexations, Chapter 14.04 – City Boundary Changes and Extension of Services provides the standards, procedures, and factors by which the City evaluates annexation proposals; and

WHEREAS, the City Commission recognizes that annexations are discretionary decisions of the City Commission pursuant to OCMC 17.50, 14.04, ORS Ch. 222 and Metro Code 3.09; and

WHEREAS, the City Commission desires to provide greater clarity and specificity to the annexation approval process to ensure that annexations are timely, orderly and efficient; and

WHEREAS, the proposed amendments OCMC 14.04 provide such assurance as well as greater clarity to applicants; and

WHEREAS, the City Commission held three work sessions on December 16th, 2020, January 12th, 2021, and March 3, 2021 to review the code amendments; and

WHEREAS, the Planning Commission held a public hearing on May 10, 2021 and recommended approval of the proposed code amendments with modifications; and

WHEREAS, the City Commission held a public hearing on June 2, 2021 and found that the proposed code amendments meet all of the criteria for Legislative approval as discussed in the Staff Report and Recommended Findings for File LEG-21-00001.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. OCMC 14.04 - City Boundary Changes and Extension of Services is hereby amended (Attachment A).

Read for the first time at a regular meeting of the City Commission held on the 2nd Day of June, 2021, and the City Commission finally enacted the foregoing ordinance this 16th day of June, 2021.



RACHEL LYLES SMITH, Mayor

Attested to this 16th day of June 2021:



Kattie Riggs, City Recorder

Approved as to legal sufficiency:



City Attorney



Oregon City Municipal Code

Chapter 14.04 – City Boundary Changes and Extension of Services

14.04.010 - Purpose.

It is the purpose and general intent of the ordinance codified in this chapter to delineate the appropriate procedures to be followed to annex territory to the City and to undertake other major and minor boundary changes. It is recognized that annexations to the corporate limits are major land use actions affecting all aspects of city government, and that other boundary changes and extensions of services shall also be regulated.

- A. With respect to annexations, the procedures and standards established in this chapter are required for review of proposed annexations in order to:
 - 1. Provide adequate public information and sufficient time for public review before an annexation election, where applicable;
 - 2. Maximize citizen involvement in the annexation review process;
 - 3. Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and
 - 4. Ensure adequate time for staff review.
- B. With respect to major and minor boundary changes or extensions of services other than annexations, it is the purpose and general intent of this chapter to provide a method by which such changes or extensions may be reviewed in a rational way and in accordance with applicable comprehensive plans.

14.04.020 - State and regional regulations regarding annexations, other boundary changes and extensions of services.

The regulations and requirements of ORS Ch. 222, and Metro Code Section 3.09, are concurrent obligations for annexation and are not affected by the provisions of this chapter.

14.04.030 - Definitions.

Unless the context requires otherwise, the following definitions and their derivations shall be used in this chapter:

"City" means the City of Oregon City, Oregon.

"Commission" or "City Commission" means the City Commission of Oregon City, Oregon.

"District" means an entity described in ORS 198.010, 198.710(1) to (4) or 199.420.

"Major boundary change" means the formation, merger, consolidation or dissolution of a city or district.

"Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a city-county to a district. "Minor boundary change" also means an extra-territorial extension of water or sewer service by a city or district.

"Planning Commission" means the Oregon City Planning Commission.

"Withdrawal" means the detachment, disconnection, or exclusion of territory from the City or service district.

14.04.040 - Procedures for major boundary changes and for minor boundary changes other than annexations.

- A. With respect to major boundary changes and for minor boundary changes other than for annexations, the procedures that shall be followed shall be those provided by the laws of the State of Oregon.
- B. The City Commission may provide for the withdrawal of territory from a district described in ORS 222.111, when land is annexed into the City. Any such withdrawal shall be specifically set forth in the final order of the City Commission approving the annexation.

14.04.050 - Annexation procedures.

- A. Application Filing Deadlines. If applicable, annexation elections shall be scheduled for March, May, September and November of each year. Each application shall first be approved by the City Commission, which shall provide a valid ballot title in sufficient time for the matter to be submitted to the voters as provided by the election laws of the state of Oregon.
- B. Pre-application Review. Prior to submitting an annexation application, the applicant shall confer in the manner provided by OCMC 17.50.050 with City staff.
- C. Neighborhood Contact. Prior to filing an annexation application, the applicant shall meet with the City-recognized neighborhood association or associations within which the property proposed to be annexed is located. Proactive efforts by the applicant to meet with a neighborhood association shall be deemed a positive factor in the evaluation of the annexation application.
- D. Signatures on Consent Form and Application. The applicant shall sign the consent form and the application for annexation. If the applicant is not the owner of the property proposed for annexation, the owner shall sign the consent form and application in writing before the Community Development Director may accept the same for review.
- E. Contents of Application. An applicant seeking to annex land to the City shall file with the City the appropriate application form approved by the Community Development Director. The application shall include the following:
 1. Written consent form to the annexation signed by the requisite number of affected property owners, electors or both, provided by ORS 222, if applicable;
 2. A legal description of the territory to be annexed, meeting the relevant requirements of the Metro Code and ORS 308. If such a description is not submitted, a boundary survey may be required. A lot and block description may be substituted for the metes and bounds description if the area is platted. If the legal description contains any deed or book and page references, legible copies of these shall be submitted with the legal description;
 3. A list of property owners within three hundred feet of the subject property and, if applicable, those property owners that will be "islanded" by the annexation proposal, on mailing labels acceptable to the City Manager;
 4. Two full quarter-section county tax assessor's maps, with the subject property(ies) outlined;
 5. A site plan, drawn to scale (not greater than one inch = fifty feet), indicating:
 - a. The location of existing structures (if any);
 - b. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
 - c. The location and direction of all water features on and abutting the subject property. Approximate location of areas subject to inundation, stormwater overflow or standing

water. Base flood data showing elevations of all property subject to inundation in the event of one hundred year flood shall be shown;

- d. Natural features, such as rock outcroppings, marshes or wetlands (as delineated by the Division of State Lands), wooded areas, identified habitat conservation areas, isolated preservable trees (trees with trunks over six inches in diameter—as measured four feet above ground), and significant areas of vegetation; and
- e. General land use plan indicating the types and intensities of the proposed, or potential development.

6. If applicable, a double-majority worksheet, certification of ownership and voters. Certification of legal description and map, and boundary change data sheet on forms provided by the City.

7. Narrative statements explaining the conditions surrounding the proposal and addressing each of the annexation factors contained in section 14.04.060, as relevant.

- a. Statement of availability, capacity and status of existing water, sewer, drainage, transportation, wireless communications infrastructure, park and school facilities;
- b. Statement of increased demand for such facilities to be generated by the proposed development, if any, at this time;
- c. Statement of additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand;
- d. Statement outlining method and source of financing required to provide additional facilities, if any;
- e. Statement of overall development concept and methods by which the physical and related social environment of the site, surrounding area and community will be enhanced;
- f. Statement of potential physical, aesthetic, and related social effects of the proposed, or potential development on the community as a whole and on the small subcommunity or neighborhood of which it will become a part; and proposed actions to mitigate such negative effects, if any; and
- g. Statement indicating the type and nature of any comprehensive plan text or map amendments, or zoning text or map amendments that may be required to complete the proposed development.
- h. The narrative statements described above, and the analyses contained therein should be based on the reasonably “worst case development scenario”. This means that the required analysis of impacts on city services and utilities should assume the most reasonably intense development scenario given the anticipated city zoning for the annexation area using commonly accepted measures such as number of residential units, overall residents, commercial floor area, etc.

8. The application fee for annexations established by resolution of the City Commission and any fees required by Metro. In addition to the application fees, the City Manager shall require a deposit, which is adequate to cover any and all costs related to the election.

9. Paper and electronic copies of the complete application as required by the community development director.

14.04.060 - Annexation factors.

- A. When reviewing a proposed annexation, the commission shall consider the following factors, as relevant and approve an annexation only when it finds that on balance these factors are satisfied:
 - 1. Adequacy of access to the site;
 - 2. Consistency of the proposal with the City's adopted Comprehensive Plan, including but not limited to goals and policies for urbanization, housing, cultural, historic and natural resources, infrastructure, and provision of public infrastructure and community services;

3. Adequacy and availability of the following public facilities and services to serve potential development at time of development;
 - a. Transportation. The urbanization of the site is accounted for in the Transportation System Plan. The application demonstrates that the annexation is consistent with the Transportation Planning Rule (TPR) or explain why a TPR analysis is not required;
 - b. Sewer. The urbanization of the site is accounted for in the Sewer Master Plan;
 - c. Water. The urbanization of the site is accounted for in the Water Master Plan;
 - d. Stormwater. The urbanization of the site is accounted for in the Stormwater Master Plan;
 - e. Police, Fire, and Emergency Services. Police, fire, and emergency services can adequately serve the site;
 - f. Parks. The urbanization of the site is accounted for in the Parks and Recreation Master Plan; and
 - g. Schools. The urbanization of the site is analyzed for school capacity in a Concept Plan or in a school forecast approved by Oregon City School District.
4. Demonstration of how the impacts of future development to City public facilities and services will be mitigated. Mitigation may include on-site or off-site infrastructure or improvements to existing infrastructure to City standards and specifications, payment of system development charges, etc. Funding for the mitigation must be identified. The City Commission reserves the right to enter into a development agreement with the applicant that governs the extent and timing of infrastructure improvements.
5. Annexations over 5 acres shall obtain Master Plan approval at a public hearing before the Planning Commission prior to or concurrent with a Land Division or Site Plan and Design Review application. The Master Plan will identify the details of development including the overall impact of development on the city infrastructure and mitigating improvements.
6. The annexation is in the best interest of the City. Generally, the Commission may consider the annexation is in the best interest of the city if it meets two or more of the following criteria:
 - a. It provides a needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service-related problems; or
 - b. It provides land for development to meet urban needs including jobs and/or housing in an orderly and logical growth pattern; or
 - c. It provides needed routes for utility and transportation networks.
7. Compliance with applicable sections of ORS 222, and Metro Code Section 3.09 including a demonstration that the proposed annexation is timely, orderly, and efficient;
8. All natural hazards identified by the City, such as wetlands, floodplains, steep slopes and landslides, including those mapped and unmapped by the City, County, State or other government agencies are identified;
9. All historically designated and potentially eligible historic structures are identified;
10. Any significant adverse impacts on the economic, social and physical environment of the community or on specially designated open space, scenic, historic or natural resource areas identified in the Comprehensive Plan by urbanization of the subject property at time of annexation can be avoided or mitigated;
11. The extent to which the proposed annexation territory includes preservation of natural features, landforms and significant tree canopy since the date when the annexation application was filed with the City, excluding properties under farm or forest tax deferment or farm or forest practices as defined under ORS 30.930. Annexations which demonstrate efforts to avoid significant site

grading or tree removal will be viewed more favorably than those upon which such activities have occurred.

14.04.070 - Action by the Planning Commission.

The Planning Commission shall conduct a public hearing in the manner provided by OCMC 17.50.170(B) to evaluate the proposed annexation and make a recommendation to the City Commission regarding how the proposal has or has not complied with the factors set forth in OCMC 14.04.060 of this chapter. The Planning Commission shall provide findings in support of its recommendation.

14.04.080 - Action by City Commission.

- A. Upon receipt of the Planning Commission's recommendation, the City Commission shall hold a public hearing in the manner provided by OCMC 17.50.170(C). The City Commission shall endeavor to review all proposals prior to the City application deadline for submitting ballot measures to the voters, if applicable. The City Commission shall only set for an election annexations consistent with a positive balance of the factors set forth in OCMC 14.04.060. The City Commission shall make findings in support of its decision to schedule an annexation for an election.
- B. The City Commission reserves the right to enter into a development agreement with the owners of property that is proposed for annexation to the City.

14.04.090 - Legal advertisement of pending election.

After City Commission review and approval, the Community Development Director shall cause a legal advertisement describing the proposed annexation and pending election to be published in at least one newspaper of general circulation in the City in the manner provided by state election law. The advertisement shall be placed at least fourteen days prior to the election. The size of the advertisement shall be determined by the City Manager. The advertisement shall contain: a description of the location of the property, size of the property, its current zoning and any proposal for zone changes upon annexation, a general description of the potential land uses allowed, any required comprehensive plan text or map amendment or zoning ordinance text or map amendment, and where the City Commission's evaluation of the proposed annexation may be found. Any statement regarding development of the property proposed for annexation that is dependent upon future action by the City shall be accompanied by a disclaimer to the effect that such development would not be affected by the annexation vote.

14.04.100 - Election procedures.

- A. Pursuant to ORS 222.130(1), the ballot title for a proposal for annexation 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 one hundred fifty words. The City Attorney shall prepare the ballot title wording.
- B. Pursuant to ORS 222.130(2), the notice of an annexation 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.
- C. Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.

14.04.110 - Setting of boundaries and proclamation of annexation.

Upon approval by the voters of the proposed annexation, the City Commission, by ordinance, shall set the boundaries of the area to be annexed by a legal description, adopt findings, and proclaim the results of the election.

14.04.120 - Exceptions.

The City Commission may authorize an exception to any of the requirements of this chapter. An exception shall require a statement of findings that indicates the basis for the exception. Exceptions may be granted for identified health hazards and for those matters which the City Commission determines that the public interest would not be served by undertaking the entire annexation process. All annexations, however, shall be referred to the voters of the City except those exempted by state law. An exception referring to an annexation application that meets the approval criteria to an election cannot be granted except as provided for in the Oregon Revised Statutes.