



**McMinnville
City Limits**

ANNEXATIONS:

**Planning Commission
Work Session**

August 19, 2021

The Purpose of Tonight's Work Session

Discuss an annexation process for the City of McMinnville that is:

- **Compliant with state regulations, City Charter and local ordinances.**
- **A navigable path for land to be annexed into the City based upon the framework outlined in the McMinnville Growth Management and Urbanization Plan (MGMUP).**
- **A tool for the City of McMinnville to ensure that future new development is responding to the community needs.**

Discuss the actions that need to take place to implement a new annexation process for the City of McMinnville

- **Amendments to McMinnville Municipal Code (Chapter 16 and 17)**
- **Draft Annexation Agreement**
- **Development of Annexation Fees**

ANNEXATION

The Process by which a municipality, upon meeting certain requirements, expands its corporate limits.

GOVERNED BY:

ORS 222

CITY CHARTER

COMPREHENSIVE PLAN

LOCAL ORDINANCES

History of Local Ordinances

Ordinance	Date of Approval	What it does?
No. 4130	April 7, 1981	<ul style="list-style-type: none"> • Enacted requirements and procedures for annexation of land to the City of McMinnville. • Land must be in the UGB. • Land must be contiguous to the city limits. • Plan for development must meet comprehensive plan policies. • Adequate level of services must be available or made available within three years of annexation. • Public hearing at the Planning Commission level. PC provides a recommendation to City Council. • City Council public hearing and final decision. • City shall attempt to not create islands of non-incorporated territory within the city limits. • If an island is created, it needs be annexed within one year. • Zoning shall be AH or county zoning until it is rezoned into a city zone for development.
No. 4357	February 4, 1986	<ul style="list-style-type: none"> • Repeals Ordinance No. 4130. • In response to state changes to ORS 222, which no longer required two public hearings if all the property owners of the land to be annexed consent to the annexation. • City elected to retain a public hearing for annexations at the Planning Commission level and eliminate the one required at the City Council level.
No. 4535	April 27, 1993	<ul style="list-style-type: none"> • Amends Ordinance No. 4357 due to state amendments to ORS 222 relative to nonunanimous consent of property owners to be annexed.
No. 4624	May 14, 1996	<ul style="list-style-type: none"> • Amends Ordinance No. 4357 to require that Islands created by annexations be annexed into the city within one year.
No. 4636	November 12, 1996	<ul style="list-style-type: none"> • Repeals Ordinance No. 4357 in response to local ballot measure No. 36-32 passed on May 21, 1996, to amend the City Charter to read that all annexations except those otherwise mandated by state law, be referred to a vote of the electorate.
No 4670	June 23, 1998	<ul style="list-style-type: none"> • Amends Ordinance No. 4636 relative to the definition of adequate levels of municipal sanitary sewer and water service required within three years of annexation.

History of Local Ordinances

Ordinance	Date of	What it does?
No. 4130		<p>The main message is that there have been a lot of ordinances governing annexations in McMinnville but not a lot of significant changes. Ordinance No. 4537 just simply removed the requirement for a City Council public hearing because it was no longer required by state law, and other ordinance changes were either to reflect state law changes or to fix something that was not carried forward from previous ordinances.</p>
No. 4357		<p>However, the fact that there are six different ordinances makes it difficult to manage the changing policy and is not transparent to the general public. Thus, staff is recommending that the process become part of the code.</p>
No. 4535		
No. 4624		
No. 4636	November 12, 1996	<ul style="list-style-type: none"> Repeals Ordinance No. 4357 in response to local ballot measure No. 36-32 passed on May 21, 1996, to amend the City Charter to read that all annexations except those otherwise mandated by state law, be referred to a vote of the electorate.
No 4670	June 23, 1998	<ul style="list-style-type: none"> Amends Ordinance No. 4636 relative to the definition of adequate levels of municipal sanitary sewer and water service required within three years of annexation.

VOTE BY ELECTORATE

Local Ballot Measure (1996)

Measure No. 36-32 was voted on and approved by the McMinnville community on May 21, 1996.

Amended the McMinnville City Charter to read "Unless mandated by State Law, any annexation, delayed or otherwise, to the City of McMinnville may only be approved by a prior majority vote among the electorate."

Planning Commission Work Session

SB 1573 (2016)

Amends ORS 222.127 to

- (1) This section applies to a city whose laws require a petition proposing annexation of territory to be submitted to the electors of the city.*
- (2) Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the electors of the city.*

VOTE BY ELECTORATE

Local Ballot Measure (1996)

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21, 1996

In 1996, McMinnville passed a local ballot measure requiring all annexations to go to a vote of the electorate for final approval or denial.

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In 2016, the Oregon Legislature passed a law that said annexation decisions by electorate vote when it was an unanimous petition by the property owners who want to annex and it met the city's comprehensive code was not lawful. SB 1573 required cities to annex property without a vote upon receipt of petition for annexation submitted by all owners of land in the territory provided property is within the UGB; is or will be subject to acknowledged comprehensive plan of city; is contiguous to city limits or separated by public right of way or body of water and conforms to city ordinances.

SB 1573 (2016)

Amends ORS 222.127 to

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Ordinance No. 4636

Current ordinance in effect that requires the vote of the people for approval or denial.

- ❖ Within the UGB
- ❖ Contiguous to the city limits
- ❖ Complies with the Comprehensive Plan, Volume II, Goals and Policies
- ❖ Must have an adequate level of urban services available or made available, within three years time of annexation.
- ❖ Findings documenting the availability of police, fire, and school facilities and services shall be made to allow for the proposed annexation.
- ❖ Public hearing with the Planning Commission for recommendation of approval to City Council to go to the ballot or denial.
- ❖ Cities shall strive to not create Islands of unincorporated territory within the corporate limits of the City
- ❖ Land will come into the City based on underlying comprehensive plan designation and be zoned AH if no other zone has been requested or it does not have a county zone.
- ❖ Referred to the electorate for a vote of approval or denial.

Staff Recommendation:

Embed Annexation requirements and procedures in the McMinnville City Code, replacing existing Chapter 16, which is a redundant Land Division Standards Chapter, with a Chapter 16 dedicated to annexations. (Process of Annexation)

Will not need to keep track of ordinances over time. Simplifies process and is more transparent.

Amend Chapter 17 to remove any references to annexation processes and procedures making them administrative and not quasi-judicial, keep compliance with comprehensive plan in Chapter 17 under Area Plans and Master Plans.

MGMUP PROCESS

Components

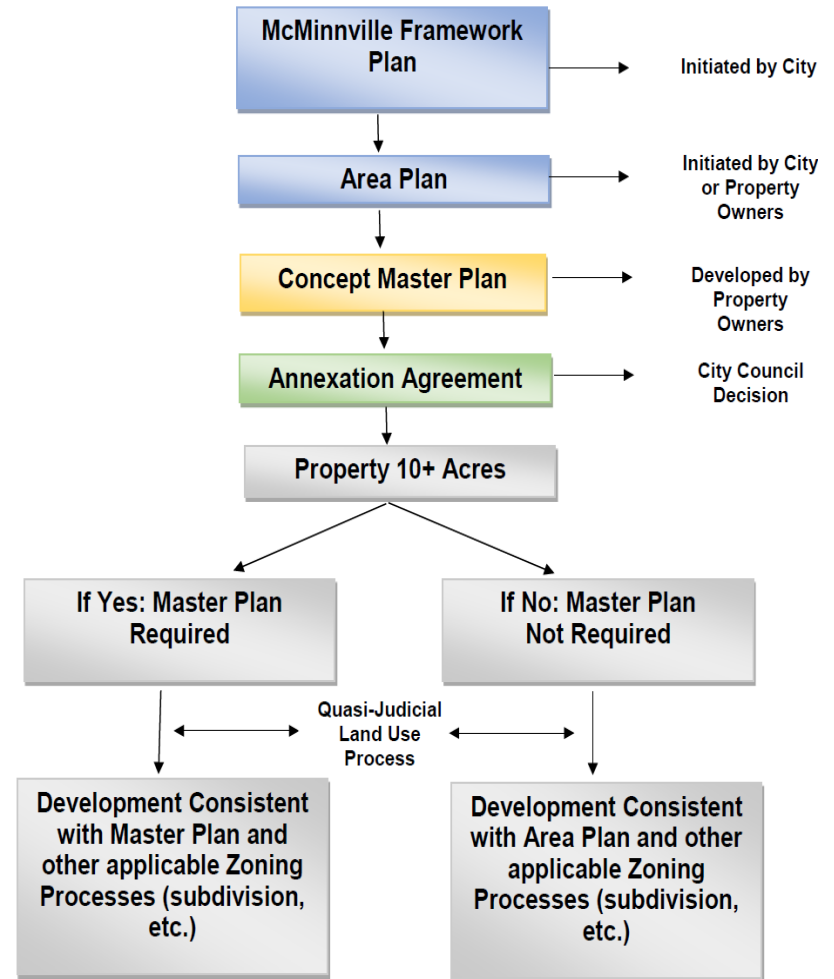
Area Plan

Concept Master Plan

Annexation Agreement

Master Plan

Annexation



MGMUP PROCESS



Initiated by City

Com

Proposed process adopted by the City Council with the adoption of the McMinnville Growth Management and Urbanization Plan.

Initiated by City or Property Owners

Area

Process builds in a couple of additional steps to current process to allow for more community engagement and for the City to ensure that the annexation is meeting the city's needs.

Developed by Property Owners

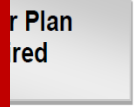
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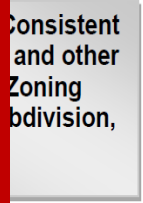
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Additional public engagement is built into the Area Planning process prior to annexation.



Ability to ensure that the annexation is meeting the city's needs, and not just the city's comprehensive plan is built into the added step of a negotiated annexation agreement with the property owner prior to annexation that is not part of a land-use decision-making process.



What is in an Annexation Agreement? (Some suggested template language)

Requirement to engage in a process that will ensure compliance with the Comprehensive Plan / Zoning Ordinance, and spells out the expectations for both parties:

- ❑ Owner shall obtain approval of a Final Master Plan per Section 17.10 of the MMC prior to the Annexation Ordinance. (Section 17.10 was adopted with the MGMUP in December, 2020.**

- ❑ Annexation will not become effective until the Master Plan land-use decision is final. Allows for time to appeal the land-use decision if warranted.**

- ❑ At the time of annexation, City will apply comprehensive plan designation in the Area Plan and zoning of the approved Master Plan if the applicant also applied for the zone change.**

What is in an Annexation Agreement? (Some suggested template language)

Ability to negotiate the dedication and build-out of public facilities / amenities:

- Public Right-of-Way: Owner will dedicate all appropriate public right-of-way and easements for public infrastructure identified in the Area Plan and public facility plans for the property.**
- Parks: Owner will dedicate the necessary land and develop any park amenities identified in the Parks and Recreation Master Plan or Area Plan for the property, including**
- Owner agrees to not remonstrate against the formation of a local improvement district or reimbursement district created for the purpose of funding public improvements that serve the Property.**

What is in an Annexation Agreement? (Some suggested template language)

Ability to negotiate community needs and values:

- ❑ **Affordable Housing**: Owner shall be required /encouraged to construct an appropriate mix of housing as demonstrated by the adopted Area Plan. Furthermore, the City will require/encourage Owner to create dedicated affordable housing for low and moderate-income households by:
 - **Allocating X% of all housing units to housing serving households of 80% Area Median Income or less. These housing units shall be deed restricted for ___ years to serve this household demographic and will be monitored by _____ for compliance.**
 - **Donating X% of Property to _____ Community Land Trust for the development of affordable housing serving households of 80% Area Median Income or less.**

What is in an Annexation Agreement? (Some suggested template language)

Ability to negotiate community needs and values:

- ❑ **School Funding:** Owner agrees to donate funds to the McMinnville School District as specified.
- ❑ **Public Art:** Owner agrees to donate \$____/housing unit and \$____/sf commercial space for a public art installation in the development.

❑ **Fees for Annexation:**

Springfield
Example →

Annexation <i>(SDC 5.7-100)</i>	
Annexation to the City of Springfield, UGB Only	
Type IV	Single family dwellings on LDR property of less than 10,000 square feet
	<1 acre \$1,214.00
	1 acre > 5 acres \$2,654.00
	5 acres > 10 acres \$3,393.00
	10 acres > 25 acres \$4,528.00
	25 acres > 50 acres \$5,714.00
	50 acres > 100 acres \$7,092.00
	100 acres or more \$8,164.00
	Postage Fee for all Type IV \$11,252.00
	Annexation Special District Boundary Adjustments/Withdrawals \$658.00
	10% of the paid annexation fee (exclusive of postage)
UGB Only	Comprehensive Planning Fee per acre \$2,328.00/acre
	Concurrent Special District Boundary Adjustments and/or Withdrawals, including but not limited to: Park and Recreation Districts; Water Districts; Fire Districts; Library Districts, etc.
	10% of applicable annexation fee (regardless of the number of Districts)
5% Technology Fee (surcharge) will be applied when imposed or collected.	

What is in an Annexation Agreement?

(Some suggested template language)

- ❑ **Annexation Agreements are negotiated on a case-by-case basis and are considered a contract between the property owners and the City. Some cities call them development agreements as well.**
- ❑ **The Annexation Agreement is developed after the Annexation Application and is a condition of annexation.**
- ❑ **A draft Concept Master Plan is provided with the Annexation Application and then that is used as the basis for the negotiations in review with the Area Plan and community needs at the time.**
- ❑ **The Concept Master Plan is not a land-use decision as it is a draft plan that shows what the property owner wants to do and sets the stage for the Annexation Agreement.**
- ❑ **In the end, the applicant will need to submit a Final Master Plan for consideration that not only shows compliance with the Comprehensive Plan goals and policies, but also compliance with the Annexation Agreement.**

Concerns Raised – Process

- ❑ **Concerns raised by Mark Davis – not enough opportunity for public influence on the decision-making process and the end results of the development. The ability to require a public vote is no longer legally allowed. However, the new process actually adds an opportunity for the public to participate in the formation of the future development plan by adding the Area Planning process, which adds a year or two of long-range planning and then a legislative public hearing process with the opportunity to appeal.**
- ❑ **Concerns by Sid Friedman – some of the language is problematic in terms of what is described as a land-use decision and what is not described as a land-use decision. The adopted language for the Area Plan in Section 17.10 needs to be clarified so that it is implicitly clear that it is a legislative land-use decision, and the language for the Concept Master Plan in Section 17.10 needs to be clarified so that it is implicitly clear that it is not a land-use decision.**

Proposed Process Identifying New Steps

Component of Process	PREVIOUS PROCESS	PROPOSED PROCESS	
Comprehensive Area Plan		Area Plan , adopted as a supplemental document to the Comprehensive Plan	<u>Legislative Land-Use Decision</u>
Application	Annexation Application – Findings for services identified in Ordinance 4636 and compliance with comp plan.	Annexation Application – Findings for services identified in Chapter 16, and conceptual master plan (draft)	
Agreement with City Council for Annexation		Annexation Agreement	Action of City Council – not a land-use decision
Compliance with Comprehensive Plan	Review development plan submitted with annexation application as a <u>quasi-judicial land-use decision</u> , public hearing with Planning Commission and CC decision	Master Plan – development plan that meets the annexation agreement requirements and compliance with the comprehensive plan and zoning ordinance.	Separate application required as a condition of the Annexation Agreement as a <u>quasi-judicial land-use decision</u> , public hearing with Planning Commission and CC decision.
Annexation Action	Vote of the Electorate	Annexation Ordinance	Action of City Council

Proposed Process Identifying New Steps

Component of Process	PREVIOUS PROCESS	PROPOSED PROCESS	
Comprehensive Area Plan		Area Plan, adopted as a supplemental document to the Comprehensive Plan	<u>Legislative Land-Use Decision</u>
Application	Annexation	Annexation Application – Per ORS 222.127, it is the City Council choice if they want to host a public hearing for the Annexation Ordinance. Typically the land-use decision and the Annexation Ordinance action happen on the same night with a public hearing for the land-use decision and the Annexation Ordinance adopted with the contingency that it does not become effective until the land-use decision is considered final.	
Agreement Council Annexa		nt	Action of City Council – not a land-use decision
Compliance Compre	annexation application as a <u>quasi-judicial land-use decision</u> , public hearing with Planning Commission and CC decision	meets the annexation agreement requirements and compliance with the comprehensive plan and zoning ordinance.	Separate application required as a condition of the Annexation Agreement as a <u>quasi-judicial land-use decision</u> , public hearing with Planning Commission and CC decision.
Annexation Action	Vote of the Electorate	Annexation Ordinance	Action of City Council

ORS 222.127 Annexation without election notwithstanding contrary city law upon petition of all owners of land; declaration of annexation.

(1) This section applies to a city whose laws require a petition proposing annexation of territory to be submitted to the electors of the city.

(2) Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the electors of the city if:

(a) The territory is included within an urban growth boundary adopted by the city or Metro, as defined in ORS 197.015;

(b) The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;

(c) At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and

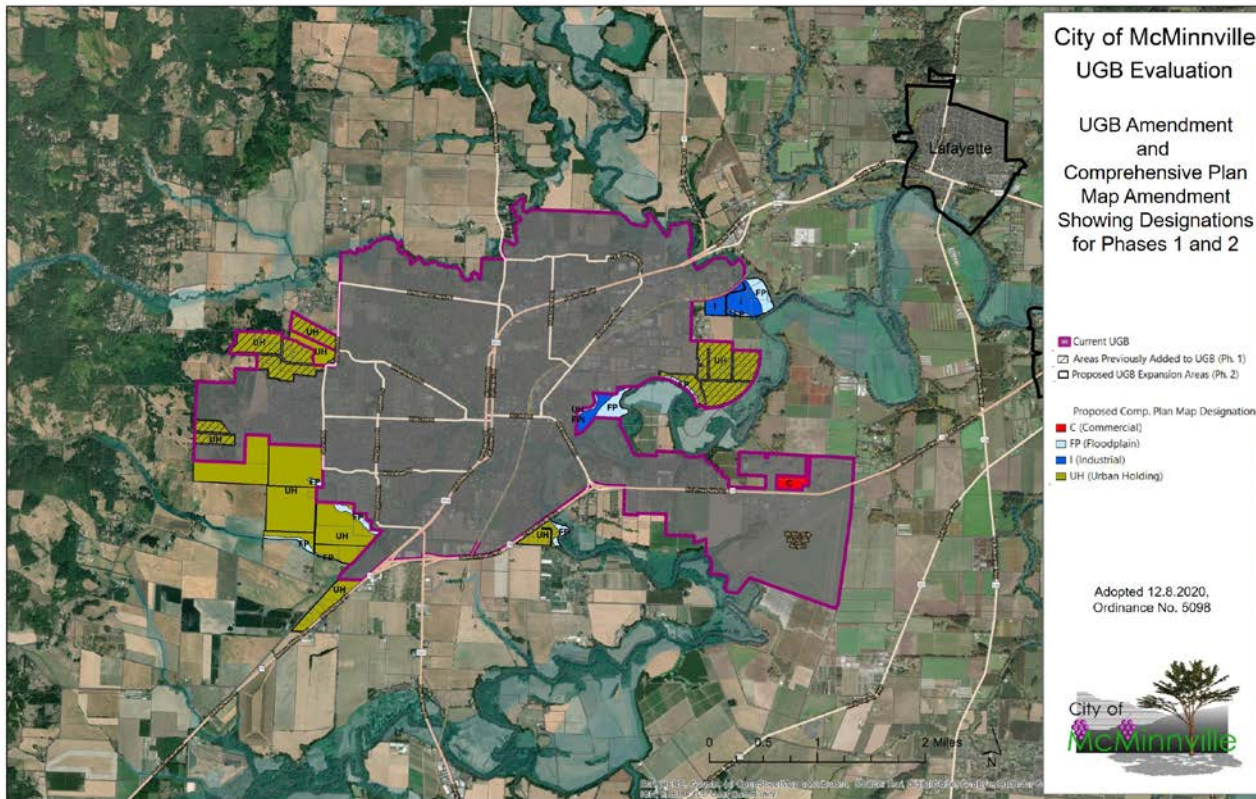
(d) The proposal conforms to all other requirements of the city's ordinances.

(3) The territory to be annexed under this section includes any additional territory described in ORS 222.111 (1) that must be annexed in order to locate infrastructure and right of way access for services necessary for development of the territory described in subsection (2) of this section at a density equal to the average residential density within the annexing city.

(4) When the legislative body of the city determines that the criteria described in subsection (2) of this section apply to territory proposed for annexation, the legislative body may declare that the territory described in subsections (2) and (3) of this section is annexed to the city by an ordinance that contains a description of the territory annexed. [2016 c.51 §2]

QUESTIONS TO CONSIDER

- ❑ Should all properties be required to provide a master plan – five acres, two acres, ½ acre – commercial or industrial.



Next Steps Annexations:

Amend Chapter 16 and Chapter 17 of the McMinnville Municipal Code

- Planning Commission Public Hearing with Notice (September 16)
- City Council Final Decision

Develop Annexation Fees

- Full Cost Recovery – Planning, City Recorder, City Attorney
- Amend Planning Fee Schedule

Agree on Draft Provisions for Annexation Agreement: