



Staff Report

Meeting Date: July 6, 2020

From Emily Meharg, Senior Planner

SUBJECT: 20-010 DCA Chapter 17.78 Annexation Code Modifications

Background:

File No. 20-010 DCA amends Chapter 17.78 of the Development Code, which contains the procedures and conditions for annexation. The amendment clarifies annexation criteria and required submittal items and includes additional minor modifications. Italicized text as contained in this staff report is revised text since the first reading of the ordinance on June 15, 2020.

SUMMARY OF PROPOSED AMENDMENTS SINCE LAST COUNCIL MEETING

- Changed annexation waiting period for significant tree removal back to staff recommendation of 10 years.
- Added flexibility to Transportation Planning Rule criteria and submittal requirement.
 - Section 17.78.50(A.3): “The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule (TPR) *or explains that the TPR analysis is not required.*”
 - Section 17.78.60(H): “Transportation Planning Rule findings, *if applicable.*”
- Additional language to clearly exempt additional annexation analysis for annexations that have an annexation agreement (demonstration of public services provision and mitigation).
 - Section 17.78.50(B.3): “An annexation for which the City has executed an annexation agreement *and the agreement allows for A.1 and A.2 to be delayed until development is proposed.*”
- Added flexibility to FSH analysis submission requirement.
 - Section 17.78.60(F.3): “*Approximate or surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area. If the applicant wants to avoid an additional zone map modification request at time of development, then these areas will need to be surveyed at the time of annexation application submittal.*”
- Added flexibility to submittal criteria related to adherence to City plans.
 - Section 17.78.60(G.3): “Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails

Master Plan, Comprehensive Plan, and Specific Area Plans; *this analysis may be deferred if the applicant enters into an annexation agreement as provided in Section 17.78.50(B).*”

Recommendation:

Staff recommends the City Council approve the proposed code amendments to Chapter 17.78, Annexation. Since the proposed code has been modified the ordinance will need to be re-approved through first reading.

Code Analysis:

EXHIBITS:

- A. Clean Copy of Proposed Code Changes to Chapter 17.78
- B. Track Changes Copy of Proposed Changes to Chapter 17.78
- C. Parks Board Comment
- D. Public Comment – Delva Von Harten
- E. Public Comment – Fair Housing Council of Oregon
- F. Public Comment – Georgina Sutherland
- G. Public Comment – Jan Sharman
- H. Public Comment – Kathleen Walker
- I. Public Comment – Kathleen Walker #2
- J. Public Comment – Kimberly Nomad
- K. Public Comment – Lora Strick
- L. Public Comment – Nancy McCowan
- M. Public Comment – Nancy O’Grady
- N. Public Comment – Steve Winkler
- O. Public Comment – Susan Drew
- P. Public Comment – Tracy Brown
- Q. Planning Commission Staff Report
- R. Planning Commission PowerPoint Presentation
- S. City Council June 15 Staff Report
- T. City Council PowerPoint Presentation

Budgetary Impact:

None

CHAPTER 17.78 ANNEXATION

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

- A. Maximize citizen involvement in the annexation review process by holding a public hearing;
- B. Ensure that public facilities are or will be available to serve land annexed to the City;
- C. Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,
- D. Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.

17.78.10 PROCEDURAL CONSIDERATIONS

- A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.
- B. The City may annex an unincorporated area that is surrounded by the City boundary.
- C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

17.78.15 TYPES OF ANNEXATION

- A. Type A: Annexation in conformance with conceptual zoning designation
- B. Type B: Annexation + zone change, including Parks and Open Space (POS) and/or Flood and Slope Hazard (FSH) Overlay District
- C. Type C: Annexation + plan map change + zone change

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

- A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;
- B. The site must be within the City of Sandy Urban Growth Boundary (UGB);

- C. The site must be contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake or other body of water; and
- D. The site has not violated Section 17.78.25.

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of ten (10) years if any of the following apply:
 - 1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the ten (10) years prior to the annexation application.
 - 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the ten (10) years prior to the annexation application.
 - 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the ten (10) years prior to the annexation application.
 - 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the ten (10) years prior to the annexation application.
 - 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the ten (10) years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the ten (10) years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.
 - c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees

per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the ten (10) years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25(A) 2. and 3. shall count towards tree removal under Section 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than ten (10) years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or right-of-way or utility facilities or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

17.78.30 ZONING OF ANNEXED AREAS

A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.

17.78.40 EXISTING USE, ACTIVITY OR STRUCTURE

- A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this ordinance.
- B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.
- C. Any lot or parcel of land duly recorded in the Clackamas County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

17.78.50 ANNEXATION CRITERIA

Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

- A. Except as provided in subsection B of this section, an application to annex property into the city shall meet the following criteria:
 - 1. The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks. Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.
 - 2. The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be mitigated, if necessary. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.

3. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule (TPR) or explains that the TPR analysis is not required.
 4. The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it meets one or more of the following criteria:
 - a. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
 - b. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
 - c. Needed routes for utility and transportation networks.
- B. The standards described in paragraphs A.1 and A.2 above do not apply to:
1. An application to annex property that is smaller than one acre.
 2. An “island” annexation under ORS 222.750.
 3. An annexation for which the City has executed an annexation agreement and the agreement allows for A.1 and A.2 to be delayed until development is proposed.

17.78.60 APPLICATION SUBMISSION REQUIREMENTS

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.
- B. A legal description certified by a registered surveyor or engineer.
- C. The application fee established by the city.
- D. A list of property owners within one thousand (1,000) feet of the subject property and two sets of mailing labels.
- E. Vicinity map showing the area to be annexed including adjacent city territory.
- F. Site Plan drawn to scale (not greater than one inch = fifty feet), indicating:
 1. The location of existing structures (if any);
 2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
 3. Approximate or surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area. If the applicant wants to avoid an

additional zone map modification request at time of development, then these areas will need to be surveyed at the time of annexation application submittal.

G. Narrative Statement explaining the proposal and addressing:

1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park facilities;
2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand;
3. Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; this analysis may be deferred if the applicant enters into an annexation agreement as provided in Section 17.78.50(B); and,
4. Method and source of financing required to provide additional facilities, if any.

H. Transportation Planning Rule findings, if applicable.

17.78.70 REVIEW PROCEDURE

Type A, B & C

1. Pre-application conference;
2. Submission of completed application;
3. Review by Planning Commission with recommendation to City Council;
4. Review by City Council;
5. Approval or denial by City Council.

17.78.80 EXCEPTIONS

Exceptions may be granted for identified health hazards and for those matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process. The City Council 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.

17.78.90 ANNEXATION CONDITIONS

- A. All properties annexed are subject to inclusion within applicable advance financing districts and urban renewal districts.
- B. These conditions apply to all annexed properties regardless of transfers of the ownership of such properties.

CHAPTER 17.78 ANNEXATION

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

A. Maximize citizen involvement in the annexation review process by holding a public hearing;

B. Ensure that public facilities are or will be available to serve land annexed to the City;

~~B.C.~~ Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,

~~C.D.~~ Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.

17.78.10 PROCEDURAL CONSIDERATIONS

A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.

B. The City may annex an unincorporated area that is surrounded by the City boundary. ~~The City may annex an island if it is less than 100 acres and has at least 80 percent of its boundary contiguous to the City; or the land is of any size and has at least 80 percent of its boundary contiguous to the City if the area to be annexed existed as an island before October 20, 1997.~~

C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

17.78.15 TYPES OF ANNEXATION

A. Type A: Annexation in conformance with conceptual zoning designation

~~A.B.~~ Type B: Annexation + zone change, including Parks and Open Space (POS) and/or Flood and Slope Hazard (FSH) Overlay District

~~B.C.~~ Type C: Annexation + plan map change + zone change

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;

- B. The site must be within the City of Sandy Urban Growth Boundary (UGB);
- C. The site must be contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake or other body of water; ~~and-~~
- D. The site has not violated Section 17.78.25.

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of ~~five-ten~~ (10~~5~~) years if any of the following apply:
 - 1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the ~~five-ten~~ (10) years prior to the annexation application.
 - 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the ~~five-ten~~ (10) years prior to the annexation application.
 - 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the ~~five-ten~~ (10) years prior to the annexation application.
 - 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the ~~five-ten~~ (10) years prior to the annexation application.
 - 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the ~~five-ten~~ (10) years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the ~~five-ten~~ (10) years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in ~~fewer than three (3) trees per gross acre remaining on the site. Tree removal may not result in fewer~~

~~than three (3) trees per gross acre remaining on the site. At least three (3) healthy, non- nuisance trees 11 inches DBH or greater must be retained for every one-acre of contiguous ownership~~
the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.

- c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the ~~five~~-ten (10) years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25(A) 2. and 3. shall count towards tree removal under Section 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than ~~ten (10)~~five years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or right-of-way or utility facilities easements or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

17.78.30 ZONING OF ANNEXED AREAS

A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.

~~B. Where only a single city zoning designation corresponds to the comprehensive plan designation (Type A) and the rezoning decision does not require the exercise of legal or policy judgment on the part of the City Council, amendment of the zoning map shall be a ministerial decision of the Director made without notice or any opportunity for a hearing.~~

17.78.40 EXISTING USE, ACTIVITY OR STRUCTURE

- A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this ordinance.
- B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.
- C. Any lot or parcel of land duly recorded in the Clackamas County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

17.78.50 ANNEXATION CRITERIA

Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

A. Except as provided in subsection B of this section, an application to annex property into the city shall meet the following criteria:

1. The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks. Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.
2. The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be mitigated, if necessary. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and

specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.

3. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule (TPR) or explains that the TPR analysis is not required.

~~3.4.~~The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it is desirable for the city to annex an area if the annexation meets one or more ~~any~~ of the following criteria:

~~1. A necessary control for development form and standards of an area adjacent to the city;~~
~~or~~

- a. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
- b. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
- c. Needed routes for utility and transportation networks.

B. The standards described in paragraphs A.1 and A.2 above do not apply to:

1. An application to annex property that is smaller than one acre.

2. An "island" annexation under ORS 222.750.

3. An annexation for which the City has executed an annexation agreement and the agreement allows for A.1 and A.2 to be delayed until development is proposed.

17.78.60 APPLICATION SUBMISSION REQUIREMENTS

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.;
- B. A legal description certified by a registered surveyor or engineer.;
- C. The application fee established by the city.;

- D. A list of property owners within ~~three one thousand~~ hundred (31,000) feet of the subject property ~~on and two sets of~~ mailing labels.;
- E. Vicinity map showing the area to be annexed including adjacent city territory.;
- F. Site Plan (~~Type A=15 copies; Type B or C=25 copies~~) drawn to scale (not greater than one inch = fifty feet), indicating:
1. The location of existing structures (if any);
 2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
 3. Approximate or surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area. If the applicant wants to avoid an additional zone map modification request at time of development, then these areas will need to be surveyed at the time of annexation application submittal.
- G. Narrative Statement explaining the proposal and addressing:
1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park ~~and school~~ facilities;
 2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand; and,
 - ~~2.3.~~ Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; this analysis may be deferred if the applicant enters into an annexation agreement as provided in Section 17.78.50(B); and,
 4. Method and source of financing required to provide additional facilities, if any.
- H. Transportation Planning Rule findings, if applicable.

17.78.70 REVIEW PROCEDURE

Type A, B & C

1. Pre-application conference;
2. Submission of completed application;
3. Review by Planning Commission with recommendation to City Council;
4. Review by City Council;
- ~~4.5.~~ Approval or denial by City Council.

17.78.80 EXCEPTIONS

Exceptions may be granted for identified health hazards and for those matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process. The City Council 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.

17.78.90 ANNEXATION CONDITIONS

- A. All properties annexed are subject to inclusion within applicable advance financing districts and urban renewal districts.
- B. These conditions apply to all annexed properties regardless of transfers of the ownership of such properties.

DRAFT



Emily Meharg <emeharg@ci.sandy.or.us>

Note from the Parks Board - Proposed code changes 17.78

3 messages

Sarah Richardson <srichardson@ci.sandy.or.us>

Mon, May 18, 2020 at 10:27 AM

To: Emily Meharg <emeharg@ci.sandy.or.us>, Kelly O'Neill <koneill@cityofsandy.com>

Hi Emily and Kelly,

I think I have captured the conversation but I am including the time stamp and link for the discussion during the meeting. They did want to be sure their intent was communicated.

They were not trying to figure out the correct language, but wanted to be sure the intent for the code was clear.

If you have any questions give me a call at my desk - 503-489-2150.

I hope this is helpful - Sarah

Note for code change

17.78.60 G

Would like it to read "Parks and Trails Master Plan".

17.78.50 B in criteria – would like a more clearly spelled out reference to the Parks and Trails Master Plan.

Annexation criteria – if there is a park/trail in the master plan in the annexation area this is the place to say - we will consider annexing it if it will include the park area that is referenced in the Master Plan.

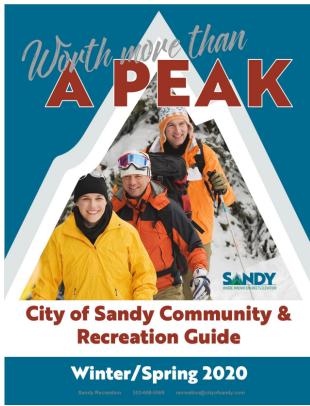
Want to ensure that annexation is compatible with the Parks and Trails and Master Plan. Would like it to be clear that the city has discretion to say "yes or no". Annexation criteria should support that discretion. Concerned that once annexed in, there is no discretion available to the city and this is where the most leverage exists.

Want to be able to implement the parks and trails master plan where it exists within a proposed annexation. Conditions for approval – compatible with the Parks and Trails Master Plan if applicable.

<https://www.youtube.com/watch?v=NbJS3EKtEBs>

Time stamp 38.0-47.50

Sarah Richardson
City of Sandy
Recreation Manager
Direct 503-489-2150
Main 503-668-5569
srichardson@cityofsandy.com



Explore the Recreation Guide. City of Sandy Community & Recreation Guide [CLICK HERE to view the Winter/Spring Community & Recreation Guide](#)

Interested in activities for Older Adults? [Click Here.](#)

[Check out the great programs at the Sandy/Hoodland Library](#)

Emily Meharg <emeharg@ci.sandy.or.us>
To: "Kelly O'Neill Jr." <koneill@ci.sandy.or.us>

Tue, May 19, 2020 at 10:26 AM

I added "parks and trails master plan" specifically to the list in 17.78.50(B) and amended "parks master plan" to "parks and trails master plan" in the list in 17.78.60(G). I'm thinking PC can discuss the rest to see if they want to add anything more but those two edits seemed pretty minor. Sound ok?

[Quoted text hidden]

Kelly O'Neill Jr. <koneill@ci.sandy.or.us>
To: Emily Meharg <emeharg@ci.sandy.or.us>

Tue, May 19, 2020 at 10:38 AM

Sounds good to me.

[Quoted text hidden]

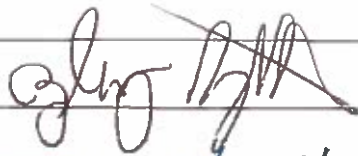
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Kelly O'Neill Jr.
Development Services Director

City of Sandy
Development Services Department
39250 Pioneer Blvd
Sandy, OR 97055
(503) 489-2163
koneill@ci.sandy.or.us

COMMENT SHEET for File No. 20-010 DCA:

Our property on 377th Ave is directly across from the proposed Annexation. We are opposed to any widening of the current access road (377th Ave). We are also opposed to any of the proposed houses fronting on 377th Ave. We bought our property expressly for the peaceful setting that was absent in our other Sandy neighborhood. Thank you for your consideration.



Delva Von Harten
Your Name

503 680 2169
Phone Number

15270 SE 377th Ave
Address

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.78 Annexation.

RECEIVED
JUN 16 2020
City of Sandy



June 15, 2020

City of Sandy City Council
39250 Pioneer Blvd.
Sandy, OR 97055

Re: File No. 20-010 DCA amends Chapter 17.78 of the Development Code, which contains the procedures and conditions for annexation. The amendment clarifies annexation criteria and required submittal items and includes additional minor modifications.

Dear Council Members:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you know, and as reflected in the staff report, all amendments to the City's Comprehensive Plan and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) in order to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change.

The staff report for the proposed amendments to Chapter 17.78 of the Sandy development code recommends its approval. This recommendation is contingent on the Goal 10 findings, stating that since "nothing in this text amendment affects any aspect" of the HNA or BLI, it complies with Goal 10. However, this statement fails to consider that annexations, and plans for annexations, are often critical pieces of a City's strategy to provide housing for its future population. For example, if as the staff report states, the new amendments will make annexations "more expensive", how will this impact the City's ability to provide needed housing? Goal 10



findings must demonstrate that the changes do not leave the City with less than adequate residential land supplies in the types, locations, and affordability ranges affected. *See Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane Cty. v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations). Further, because the proposed amendments have the potential to impact the addition of future housing units to the City, the City should reference its HNA and BLI to illustrate its expected growth, and showcase its current ability to provide for the housing needs of its citizens. Only with a complete analysis showing the City's status and plans to provide needed housing as dictated by the HNA and compared to the BLI, can housing advocates and planners understand whether the City is achieving its goals through 20-010 DCA.

HLA and FHCO urge the City Council to defer approval of 20-010 DCA until adequate Goal 10 findings can be made, and the proposal evaluated under the HNA and BLI. Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at ldix@fhco.org or reach her by phone at (541) 951-0667.

Thank you for your consideration.

A handwritten signature in black ink that reads "Louise Dix".

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

/s/ Jennifer Bragar
Jennifer Bragar
President
Housing Land Advocates

cc: Kevin Young (kevin.young@state.or.us)

COMMENT SHEET for File No. 20-010 DCA:

No Comments

Georgia G. Sutherland

Your Name

503-668-4875

Phone Number

41601 SE Vista Loop Dr. Sandy, OR 97055-6422

Address

APPLICABLE CRITERIA: Sandy Municipal Code: 17.12 Procedures for Decision Making; 17.18 Processing Applications; 17.22 Notices; 17.78 Annexation.



Marisol Martinez <mmartinez@ci.sandy.or.us>

Fwd: Annexation

Jeff Aprati <japrati@ci.sandy.or.us>

Mon, Jun 15, 2020 at 12:45 PM

To: Kelly O'Neill <koneill@ci.sandy.or.us>, Emily Meharg <emeharg@ci.sandy.or.us>, Marisol Martinez <mmartinez@ci.sandy.or.us>

20-010 DCA

Jeff Aprati

City Recorder / Management Analyst

City of Sandy

503-489-0938

japrati@ci.sandy.or.us

----- Forwarded message -----

From: **Scott Sharman** <bikemadd@msn.com>

Date: Mon, Jun 15, 2020 at 12:31 PM

Subject: Annexation

To: recorder@ci.sandy.or.us <recorder@ci.sandy.or.us>

I am very interested in the city to plan for our future with the council adopting a 10 year delay for annexation after clearing out large trees. I have seen 1st hand the damage it has done to the tickle creek trail as a walk this at least 5 times a week.

I also feel strongly that with annexations we need to strengthen our terms,

Developers to:

1 pay for their necessary infrastructure.

2: pay their share of necessary roads in our transportation system plan.

3: dedicate park and trail land as identified in our parks and trail master plan.

4: follow the other pertinent City Master Plans and City Code,

5: when developers clear cut or harvest lots of large trees, delay annexation for 10 years.

Jan Sharman

Sent from my iPhone

Dear City Council,

May 14, 2020

I am testifying tonight on the proposed revisions to the Annexation Code. Please ensure that the code allows the City Council to deny an annexation unless the Developer signs an agreement that they will be responsible for all the infrastructure associated with their developments. This means not only local roads, but arterials and collectors that are necessary to serve the proposed parcels. Please ensure that developments build all roads needed to not exceed average daily traffic according to the accepted engineering design standards (like 800-1000 for local roads) for all existing and proposed roads.

Please ensure that any development wanting to be annexed, agree to dedicate land as outlined in the existing and proposed amended Parks and Trails Master Plan.

Please ensure that any development wanting to be annexed agree to pay for and construct any other projects as outlined in Master Plans that are necessary for the planned parcel.

Another important aspect are planned annexations that are proposing to request zone changes. Annexations requests should be required to disclose proposed zone changes so there are no surprises. It would be difficult to ensure the above items are addressed, if the zone allocations are completely different once annexed!

Please ensure that we extend the annexation period from five years to ten years if the trees on the proposed annexation parcel as identified in the existing code language (11" plus, etc.) are cut. The State Forester requires people harvesting their forest lands have their land reforested and "free to grow" on six years. This is because cutting can take 1-2 years, slash removal and site prep can take 1-2 years, and reforestation and ongoing clearing and spraying takes time. So as you can see, the 6 year period will result in small trees less than 3 feet tall. Even extending it to 10 years, will only give us Christmas tree size trees less than 8-10 feet. So, extending the ten years should encourage those that want to annex, to hold off on clearing the land until they annex into the City. At that point, they can STILL cut many of the trees, but we have the ability to implement a tree retention policy and develop something other than a clearcut.

Please amend the proposed code or City policies to ensure that all proposed annexations and zone changes are posted on the City website with maps and explanations, as well as being posted in the City newsletter. The notification for those only within a 300-1000 feet is totally unacceptable. We all care!

Lastly, I would say that it is most important that you ensure the code is as discriminating as legally possible. We have been one of the fastest growing cities in the state. We are having to catch up with out water and sewer treatment plants upgrades. So we can and should slow our roll. Annexations are discretionary. We have the ability to say no. When we used to vote annexations in, we voted some in, and denied others that were not a good fit at the time. Both the Bailey Meadows and Orient gas station were not included in the original UGB expansion and were approved at one of the last meetings to review expansion (without the analysis of roads, water and sewer). So City Council did not use the code and criteria they had in place at the time. Please ensure you adhere to the code criteria for annexation once it is finalized.

Sincerely,

Kathleen Walker

Addendum to Testimony:

In response to the Fair Housing Council: Their letter implies that the annexation code will limit Goal 10 and affordability. What is affecting affordability is when taxpayers are forced to pay for developer's infrastructure. The expansion of our UGB boundary is the simple solution to adding needed land for meeting Goal 10. This annexation code change does not affect that.

In response to Mr. Brown's Testimony: Yes, this addendum is exactly the result of a large payout by the City to a developer. This should never happen again. He is incorrect when he says the additions to the UGB were analyzed. If they were, the Bailey Meadows Gunderson Road and the lack of any City services being able to serve the Orient gas station would have been apparent! So no, the analysis done was inadequate to address these issues. And this annexation code change is the fix for that issue.



Marisol Martinez <mmartinez@ci.sandy.or.us>

Fwd: Annexations discussion

Jeff Aprati <japrati@ci.sandy.or.us>

Thu, Jun 11, 2020 at 8:01 PM

To: Kelly O'Neill <koneill@ci.sandy.or.us>, Marisol Martinez <mmartinez@ci.sandy.or.us>

This (and others like it I expect in the next couple days) is for 20-010

----- Forwarded message -----

From: **Kimberly Normand** <knormand@live.com>

Date: Thu, Jun 11, 2020 at 7:25 PM

Subject: Annexations discussion

To: recorder@ci.sandy.or.us <recorder@ci.sandy.or.us>

Hello to my dear city of Sandy,

It is very important that we slow the growth of this great community so we can be thoughtful and intelligent as we grow our town. Some ways I would encourage you to slow the growth is by putting restrictions for developers such as:

developers need to

- 1) pay for their necessary infrastructure
- 2) pay to build their share of necessary roads in our transportation system plan
- 3) dedicate park and trail land as identified in our Parks and Trails Master Plan and
- 4) follow other pertinent City Master Plans and City code. The existing Code said that developers could not annex within 5 years of clearcutting trees on a parcel. City staff proposed extending that to 10 years (since even the State Forestry guidelines give 6 years to replant and get seedlings growing free). The Planning Commission recommended that it stay at 5 years. I would recommend the 10 years - and we will still just have Christmas tree size trees. If you agree, recommend 10 years. That helps ensure developers don't clear cut and then annex into the City. They can clear trees with some City tree cutting limitations, once they are in the City (and not under State Forest clearcutting guidelines).

Sincerely,

Kimberly Normand

Get [Outlook for iOS](#)

--

Jeff Aprati

City Recorder / Management Analyst

City of Sandy

503-489-0938

japrati@ci.sandy.or.us



Marisol Martinez <mmartinez@ci.sandy.or.us>

Fwd: Sandy growth and development

Jeff Aprati <japrati@ci.sandy.or.us>

Mon, Jun 15, 2020 at 8:01 AM

To: Kelly O'Neill <koneill@ci.sandy.or.us>, Marisol Martinez <mmartinez@ci.sandy.or.us>, Emily Meharg <emeharg@ci.sandy.or.us>

20-010 comments

Jeff Aprati

City Recorder / Management Analyst

City of Sandy

503-489-0938

japrati@ci.sandy.or.us

----- Forwarded message -----

From: **lora strick** <lorastrick@comcast.net>

Date: Sun, Jun 14, 2020 at 7:42 PM

Subject: Sandy growth and development

To: <recorder@ci.sandy.or.us>

If there are developers that want to come to Sandy and make a TON OF MONEY, they need to be regulated better. There is no need for them to enjoy a windfall because of our sloppy practices. They need to pay for their infrastructure which also includes a portion of the roads. We need to hold them accountable to the Parks and Trails Master Plan which includes park and trail land. There are plenty of City Master Plans and City codes that also need to be enforced. I would recommend increasing the delay for annexation after clearcutting to be 15 years. I would consider 10 years to be a compromise though.

No one gets to come in and get rich quick. Allowing this to happen isn't the responsible way to run a city. I am watching and I vote every single election. Others do too and we're about tired of the seemingly underhanded deals that are happening which grow Sandy in an irresponsible way.

Regards,

Lora Strick

97055



Marisol Martinez <mmartinez@ci.sandy.or.us>

Fwd: Annexation

1 message

Jeff Aprati <japrati@ci.sandy.or.us>

Mon, Jun 15, 2020 at 8:05 AM

To: Kelly O'Neill <koneill@ci.sandy.or.us>, Marisol Martinez <mmartinez@ci.sandy.or.us>, Emily Meharg <emeharg@ci.sandy.or.us>

20-010 comments - (Part 1 of 3 grouped emails)

Jeff Aprati

City Recorder / Management Analyst

City of Sandy

503-489-0938

japrati@ci.sandy.or.us

----- Forwarded message -----

From: **'Nancy McCowan' via City Recorder** <recorder@ci.sandy.or.us>

Date: Sun, Jun 14, 2020 at 3:11 PM

Subject: Annexation

To: recorder@ci.sandy.or.us <recorder@ci.sandy.or.us>

I saw the attached on Facebook.

Although I don't know the particulars, I DO know that 1) Sandy has waaay too much traffic on the main drag and I would REALLY like to see that controlled, if possible, and 2) I enjoy walking Tickle Creek Trail and would hate to see anything transpire that would have a detrimental affect on same, or any other forested area.

I left the area in '81 when I joined the US Navy. At that time, as I recall, Gresham was in the midst of annexing and I see what a mess that has brought to what was once a nice smaller community. I hope Sandy isn't headed in the same direction.

Thank you for taking the time to read this.

Nancy McCowan

[Sent from Yahoo Mail on Android](#)

Want to control future growth in Sandy? You need to write an email before Monday 6/15 5pm, to recorder@ci.sandy.or.us The Sandy City Council is meeting (via zoom) on Monday at 7pm to consider adopting code changes that will make it slightly more challenging to annex into the City (and develop). Annexations are the first opportunity for our City to slow growth! Be sure to insist that criteria for annexations are that developers: 1) pay for their necessary infrastructure; 2) pay to build their share of necessary roads in our transportation system plan 3) dedicate park and trail land as identified in our Parks and Trails Master Plan; 4) follow other pertinent City Master Plans and City code and 5) when developers clear cut or harvest lots of large trees, delay annexation for ten years. The existing Code said that developers could not annex within 5 years of cutting numerous large trees on a parcel. City staff proposed extending that to 10 years (since even the State Forestry guidelines give 6 years to replant and get seedlings growing free). The Planning Commission recommended that it stay at 5 years - see Tickle Creek Trail example below! Please recommend Council adopt a 10 year delay as we will still just have Christmas tree size trees. They can clear trees with some City tree cutting limitations, once they are in the City (and not under State Forest clearcutting guidelines). Feel free to "like my post" but more importantly, send a quick email to our City Council!! Also, tune into the zoom meeting on this link to let them know residents are watching and care! You can testify over the phone if you want.

<https://us02web.zoom.us/j/87268786379>

In 2015, a ten acre parcel of land was logged just south of the Tickle Creek Trail. As a result, dozens of large trees along the trail and creek on the adjacent City land blew down. The City spent over \$12,000 replanting 36 large (3') cedars to replace those that blew down. We continue to get blowdown (domino effect). They are likely to request annexation this year since our City code allows them to annex in, 5 years after harvest. Last we asked, the State Forester did not require reforestation of the land since the developer was going to annex into the City (and not manage it as forest land!). Let's require a 10 year delay on annexations after harvest. Even then, reforested trees will only be Christmas tree size!

2015

2018



Marisol Martinez <mmartinez@ci.sandy.or.us>

Fwd: Annexation/ city of Sandy/upcoming Sandy City Council Mtg of 6/15/20

Jeff Aprati <japrati@ci.sandy.or.us>

Mon, Jun 15, 2020 at 8:05 AM

To: Kelly O'Neill <koneill@ci.sandy.or.us>, Emily Meharg <emeharg@ci.sandy.or.us>, Marisol Martinez <mmartinez@ci.sandy.or.us>

20-010 comments - (Part 3 of 3 grouped emails)

Jeff Aprati

City Recorder / Management Analyst

City of Sandy

503-489-0938

japrati@ci.sandy.or.us

----- Forwarded message -----

From: **Nancy O'Grady** <nancyogra@gmail.com>

Date: Sun, Jun 14, 2020 at 3:44 PM

Subject: Annexation/ city of Sandy/upcoming Sandy City Council Mtg of 6/15/20

To: <recorder@ci.sandy.or.us>

Hello,

The letter is written on Sunday June 14, 2020. It contains opinions in regards to the next Sandy City Council mtg of Monday 6/15/20.

Annexation is the best and first opportunity for Sandy to slow and control growth to a manageable level. Which is sorely needed at this juncture. And the fact that it seems that city council and planning commission basically agree to whatever developers request even if it is not in the best interest of Sandy residents. It Should be the other way around.

The criteria for annexations are that developers:

1. Pay for the necessary infrastructure.
2. Pay to build their share of necessary roads in our transportation system plan.
3. Dedicate park and trail land as identified in our Parks and Trails Masterplan
4. Follow other pertinent City Master Plans and City Code.
5. When developers clear cut or harvest lots of large trees, delay annexation for 10 (ten) years.

Thank you,

Nancy O'Grady

[19087 Barrington Avenue](#)

Sandy, OR 97055

6/14/2020

Sandy resident since 1984.

Sent from my iPad



Marisol Martinez <mmartinez@ci.sandy.or.us>

Fwd: proposed annexation code changes

Jeff Aprati <japrati@ci.sandy.or.us>

Mon, Jun 15, 2020 at 12:44 PM

To: Kelly O'Neill <koneill@ci.sandy.or.us>, Emily Meharg <emeharg@ci.sandy.or.us>, Marisol Martinez <mmartinez@ci.sandy.or.us>

20-010 DCA

Jeff Aprati

City Recorder / Management Analyst

City of Sandy

503-489-0938

japrati@ci.sandy.or.us

----- Forwarded message -----

From: **Steven Winkler** <stevesandy9@gmail.com>

Date: Mon, Jun 15, 2020 at 12:31 PM

Subject: proposed annexation code changes

To: <recorder@ci.sandy.or.us>

I strongly encourage the city to adopt code that will require developers to pay their share for infrastructure, roads, and parks.

If developers clear cut or harvest large trees, they should be prevented from annexing for 10 years rather than 5.

Steve Winkler

17170 SE Beers #3

Sandy, OR 97055



Marisol Martinez <mmartinez@ci.sandy.or.us>

Fwd: Proposed Code Changes to Criteria for Annexation

Jeff Aprati <japrati@ci.sandy.or.us>

Mon, Jun 15, 2020 at 1:45 PM

To: Kelly O'Neill <koneill@ci.sandy.or.us>, Emily Meharg <emeharg@ci.sandy.or.us>, Marisol Martinez <mmartinez@ci.sandy.or.us>

20-010

Jeff Aprati

City Recorder / Management Analyst

City of Sandy

503-489-0938

japrati@ci.sandy.or.us

----- Forwarded message -----

From: 'Susan Drew' via City Recorder <recorder@ci.sandy.or.us>

Date: Mon, Jun 15, 2020 at 1:44 PM

Subject: Proposed Code Changes to Criteria for Annexation

To: recorder@ci.sandy.or.us <recorder@ci.sandy.or.us>

Dear City of Sandy,

As the Council is now revising City Code regarding criteria for annexation, I am writing to express my concerns. The criteria for developers should be written so that any clearcutting or harvesting of many large trees prior to request for annexation would result in a prohibition on annexing that land for ten (10) years rather than the current five (5) years delay.

Also, the Code should ensure that developers:

- 1) pay their fair share of necessary roads set forth in our TSP,
- 2) pay their fair share for other infrastructure, and
- 3) dedicate park and trail land as identified in our Parks and Trails Master Plan.

Thank you for your consideration.

Susan Drew

37770 Hwy 26Sandy, OR 97055

Date: June 15, 2020
To: Sandy City Council
From: Tracy Brown
Subject: Proposed Amendments to Chapter 17.78, Annexation

I am writing to express my concern with the proposed amendments to Chapter 17.78, Annexation. The City of Sandy has historically had a straight forward and friendly approach to annexing property. The current code allows a property owner to request annexation of their property if the property meets basic criteria, is located within the urban growth boundary, and is contiguous to the city limits. The proposed amendments represent a significant departure from this approach and would appear to be an overreaction to a recently controversial development request. If adopted this code is likely to effectively shut down the majority of future annexation requests, except for those funded by developers. In the least, the proposed code will add significant time and expense to the annexation process for the average property owner.

The staff report included with this item provides little analysis explaining the reasons for these changes or does it evaluate the pros and cons of the revisions. There is also no mention of the Planning Commission's discussion and review of this code.

The staff report does say, "*Rest assured that for small annexations under 1 acre the burden of proof for annexation will be reduced*". Section 17.78.50(B) allows an exception for properties smaller than one acre. What is the magic with one acre? There is none. This section should be crafted to allow an exception regardless of property size given certain site specific conditions or perhaps the property owner could provide assurances they do not want to develop their property in the near term. There is also no discussion regarding the cost burden these changes will add to the average annexation application.

Specific Comments

1. Section 17.78.00, Intent is proposed to be amended to add a new subsection B that reads,
B. Ensure that public facilities are or will be available to serve land annexed to the City
Annexation of property is not a request to develop the property but rather a request to change the property's jurisdictional authority, allowing residents residing within the annexation area to vote in city elections and pay city taxes. Each property included the most recent UGB expansion was already evaluated to ensure future development potential. Annexation is not the time to require additional analysis to this degree.
2. The most troubling and costly amendments are proposed to Section 17.78.50, Annexation Criteria. Subsection 17.78.50(B) as proposed would require all annexation applicant's to demonstrate how the property will be served by sanitary sewer, domestic water, transportation, internet service, and parks. An applicant

would also need to demonstrate how the property will be provided with public facilities and services in an “orderly, efficient, and timely manner”. I submit to you that this is an almost impossible criteria to achieve without hiring a team of consultants to design a complete project and get city approval prior to annexation. The requirements in this section are unrealistic and will be extremely burdensome for most applicant’s. The items in this section are appropriate as part of a development application, not an annexation application. I urge you to reject this change.

3. Section 17.78.50 (C) is even more problematic. This section requires an applicant to demonstrate how impacts to the sewer, water, stormwater and transportation system from development of the property will be mitigated. It also requires an applicant to demonstrate there is adequate funding for the mitigation. The requirements of this criteria are impossible to know until after approval of a subdivision application or other development request. The majority of annexation applicant’s are not aware of what can be done with their property other than they want to bring it into the city. The requirements in this criteria are also very confusing, burdensome, and unnecessary at this stage. I urge you to reject this change.
4. Procedural Problems. The Planning Commission’s hearing on this item included considerable deliberation and discussion. As far as I can find, none of this discussion is included in has it been summarized in the Council’s packet. This seems to be a critical error and disregards the commission’s work.

One of the items expressed during the Planning Commission’s discussion was the question of noticing the proposed code amendments and that notices should be sent to all affected property owners within the UGB but outside the city limits. These are the people who will be most affected by the requirements by these changes. Was notice provided? Why not?

Conclusion

As discussed above, the proposed amendments to Chapter 17.78, Annexations represent a significant departure from the city’s current annexation approach. The additional requirements contained in these revisions are likely to add significant time and expense to annexation applications and may effectively shut down future annexation requests. If it is the Council’s intent to stop properties from annexing, then these changes should be adopted. If on the other hand you are interested in continuing to bring properties located in the urban growth boundary into the city limits as they were intended, than these changes should be rejected. At the least I urge you to push the pause button on these changes to allow time to notice affected property owners and to take more time to more carefully consider these amendments.



Staff Report

Meeting Date: May 27, 2020

From Emily Meharg, Senior Planner

SUBJECT: 20-010 DCA Chapter 17.78 Annexation Code Amendments

Background:

File No. 20-010 DCA amends Chapter 17.78 of the Development Code, which contains the procedures and conditions for annexation. The amendment clarifies annexation criteria and required submittal items and includes additional minor modifications. The Commission's role in this process is to review the proposed code amendments and forward a recommendation to the City Council.

Summary

The current Annexation code does not make it clear that properties requesting annexation will need to demonstrate that they can and will develop in a manner consistent with adopted City of Sandy plans such as the Comprehensive Plan, Transportation System Plan, Parks and Trails Master Plan, public facility plans, and other applicable area and master plans. The proposed amendments more clearly identify annexation criteria and required submittal items. The amendments have been reviewed by legal counsel. In addition, the amendments increase the annexation waiting period for a property from a minimum of 5 years to a minimum of 10 years in the event of significant tree removal.

Recommendation:

Staff recommends the Planning Commission hold a public hearing to take testimony regarding modifications to Chapter 17.78 and forward a recommendation of approval to the City Council.

Code Analysis:

See attached:

- Draft code changes
- Comments from Parks and Trails Advisory Board

Budgetary Impact:

None

CHAPTER 17.78 ANNEXATION

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

A. Maximize citizen involvement in the annexation review process by holding a public hearing;

B. Ensure that public facilities are or will be available to serve land annexed to the City;

~~B.C.~~ Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,

~~C.D.~~ Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.

17.78.10 PROCEDURAL CONSIDERATIONS

A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.

B. The City may annex an unincorporated area that is surrounded by the City boundary. ~~The City may annex an island if it is less than 100 acres and has at least 80 percent of its boundary contiguous to the City; or the land is of any size and has at least 80 percent of its boundary contiguous to the City if the area to be annexed existed as an island before October 20, 1997.~~

C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

17.78.15 TYPES OF ANNEXATION

A. Type A: Annexation in conformance with conceptual zoning designation

~~A.B.~~ Type B: Annexation + zone change, including Parks and Open Space (POS) and/or Flood and Slope Hazard (FSH) Overlay District

~~B.C.~~ Type C: Annexation + plan map change + zone change

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;

- B. The site must be within the City of Sandy Urban Growth Boundary (UGB);
- C. The site must be contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake or other body of water; ~~and-~~
- D. The site has not violated Section 17.78.25.

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of ~~five-ten~~ (10~~5~~) years if any of the following apply:
 - 1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the ~~five-ten~~ years prior to the annexation application.
 - 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the ~~five-ten~~ years prior to the annexation application.
 - 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the ~~five-ten~~ years prior to the annexation application.
 - 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the ~~five-ten~~ years prior to the annexation application.
 - 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the ~~five-ten~~ years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the ~~five-ten~~ years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in ~~fewer than three (3) trees per gross acre remaining on the site. Tree removal may not result in fewer~~

~~than three (3) trees per gross acre remaining on the site. At least three (3) healthy, non- nuisance trees 11 inches DBH or greater must be retained for every one acre of contiguous ownership~~
the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.

- c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the ~~five~~-ten years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25(A) 2. and 3. shall count towards tree removal under Section 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than ~~five~~-ten years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or right-of-way or utility facilities easements or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

17.78.30 ZONING OF ANNEXED AREAS

A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.

~~B. Where only a single city zoning designation corresponds to the comprehensive plan designation (Type A) and the rezoning decision does not require the exercise of legal or policy judgment on the part of the City Council, amendment of the zoning map shall be a ministerial decision of the Director made without notice or any opportunity for a hearing.~~

17.78.40 EXISTING USE, ACTIVITY OR STRUCTURE

A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this ordinance.

B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.

C. Any lot or parcel of land duly recorded in the Clackamas County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

17.78.50 ANNEXATION CRITERIA

~~Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area. To demonstrate this, annexation requests~~ An application to annex property into the city shall meet the following criteria:

A. The annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

~~A.B.~~ The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks.; Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.

~~C.~~ The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be

mitigated. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.

D. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule.

D.E. The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it is desirable for the city to annex an area if the annexation meets one or more any of the following criteria:

- ~~1. A necessary control for development form and standards of an area adjacent to the city;~~
or
- ~~2.1.~~ A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
- ~~3.2.~~ Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
- ~~4.3.~~ Needed routes for utility and transportation networks.

17.78.60 APPLICATION SUBMISSION REQUIREMENTS

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.;
- B. A legal description certified by a registered surveyor or engineer.;
- C. The application fee established by the city.;
- D. A list of property owners within ~~three one thousand~~ hundred (31,000) feet of the subject property ~~on and two sets of~~ mailing labels.;
- E. Vicinity map showing the area to be annexed including adjacent city territory.;
- F. Site Plan (~~Type A=15 copies; Type B or C=25 copies~~) drawn to scale (not greater than one inch = fifty feet), indicating:
 1. The location of existing structures (if any);

2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
3. ~~Approximate~~ Surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area.

G. Narrative Statement explaining the proposal and addressing:

1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park ~~and school~~ facilities;
2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand; ~~and~~,
- ~~2.3.~~ Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; and,
4. Method and source of financing required to provide additional facilities, if any.

H. Transportation Planning Rule findings.

17.78.70 REVIEW PROCEDURE

Type A, B & C

1. Pre-application conference;
2. Submission of completed application;
3. Review by Planning Commission with recommendation to City Council;
4. Review by City Council;
- ~~4.5.~~ Approval or Denial by City Council.

17.78.80 EXCEPTIONS

Exceptions may be granted for identified health hazards and for those matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process. The City Council 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.

17.78.90 ANNEXATION CONDITIONS

- A. All properties annexed are subject to inclusion within applicable advance financing districts and urban renewal districts.
- B. These conditions apply to all annexed properties regardless of transfers of the ownership of such properties.



Emily Meharg <emeharg@ci.sandy.or.us>

Note from the Parks Board - Proposed code changes 17.78

Sarah Richardson <srichardson@ci.sandy.or.us>

Mon, May 18, 2020 at 10:27 AM

To: Emily Meharg <emeharg@ci.sandy.or.us>, Kelly O'Neill <koneill@cityofsandy.com>

Hi Emily and Kelly,

I think I have captured the conversation but I am including the time stamp and link for the discussion during the meeting. They did want to be sure their intent was communicated.

They were not trying to figure out the correct language, but wanted to be sure the intent for the code was clear.

If you have any questions give me a call at my desk - 503-489-2150.

I hope this is helpful - Sarah

Note for code change

17.78.60 G

Would like it to read "Parks and Trails Master Plan".

17.78.50 B in criteria – would like a more clearly spelled out reference to the Parks and Trails Master Plan.

Annexation criteria – if there is a park/trail in the master plan in the annexation area this is the place to say - we will consider annexing it if it will include the park area that is referenced in the Master Plan.

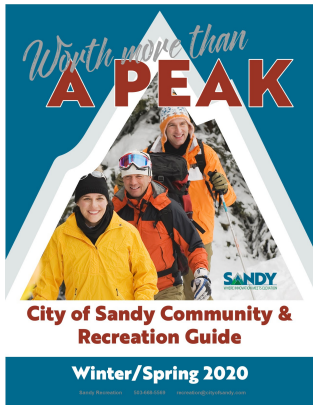
Want to ensure that annexation is compatible with the Parks and Trails and Master Plan. Would like it to be clear that the city has discretion to say "yes or no". Annexation criteria should support that discretion. Concerned that once annexed in, there is no discretion available to the city and this is where the most leverage exists.

Want to be able to implement the parks and trails master plan where it exists within a proposed annexation. Conditions for approval – compatible with the Parks and Trails Master Plan if applicable.

<https://www.youtube.com/watch?v=NbJS3EKtEBs>

Time stamp 38.0-47.50

Sarah Richardson
City of Sandy
Recreation Manager
Direct 503-489-2150
Main 503-668-5569
srichardson@cityofsandy.com



Explore the Recreation Guide. City of Sandy Community & Recreation Guide [CLICK HERE to view the Winter/Spring Community & Recreation Guide](#)

Interested in activities for Older Adults? [Click Here.](#)

Check out the great programs at the Sandy/Hoodland Library



May 22, 2020

City of Sandy Planning Commission
39250 Pioneer Blvd.
Sandy, OR 97055

Re: The proposed amendments to Chapter 17.78, Annexation, more clearly identify annexation criteria and required submittal items. In addition, the amendments increase the annexation waiting period for a property from 5 years to 10 years in the event of significant tree removal. (20-010 DCA)

Dear Commissioners:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you know, all amendments to the City's Comprehensive Plan and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) in order to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change. Due to the fact that no written findings, including findings for the Statewide Planning Goals, were provided for ZC-06-19 before the Planning Commission meeting, we are obligated to submit a comment letter. The practice of not providing written findings before the Planning Commission meeting not only allows less time for concerned citizens and advocates to review the findings and provide feedback, but it limits our ability to work with planning staff to avoid comment letters due to inadequate Goal 10 findings. This letter also allows us to appeal your decision on the basis of the lack of, or inadequate, findings.



Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at ldix@fhco.org or reach her by phone at (541) 951-0667.

Thank you for your consideration.

Louise Dix

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

/s/ Jennifer Bragar
Jennifer Bragar
President
Housing Land Advocates

cc: Kevin Young (kevin.young@state.or.us)

Date: May 27, 2020
To: Sandy Planning Commission
From: Tracy Brown
Subject: Proposed Amendments to Chapter 17.78, Annexation

I am writing to express my concern with the proposed amendments to Chapter 17.78, Annexation. The City of Sandy has historically had a straight forward and friendly approach to annexing property. The current code allows a property owner to request annexation of their property if the property meets basic criteria, is located within the urban growth boundary, and is contiguous to the city limits.

The proposed amendments represent a significant departure from this approach and if adopted this code is likely to effectively shut down the majority of future annexation requests. In the least, the proposed code will add significant time and expense to the annexation process for the average property owner.

The staff report included with this item provides little analysis to explain the reasons for these changes or does it evaluate the pros and cons of the revisions. In addition, there is no discussion regarding the significant cost burden that these changes will be add to the average annexation application.

Specific Comments

1. Section 17.78.00, Intent is proposed to be amended to add a new subsection B that reads,
B. Ensure that public facilities are or will be available to serve land annexed to the City

Annexation of property is not a request to develop the property but rather a request to change the property's jurisdictional authority, allow residents residing within the annexation area to vote in city elections and pay city taxes. Simply by the fact that a property is located within the city's Urban Growth Boundary a certain level of analysis had already been done to ensure future development potential. Annexation is not the time to require additional analysis to this degree.

2. Section 17.78.25, Tree Retention is proposed to be amended to require a ten year cooling off period rather than five years in the current code before a property owner could request annexation after tree removal. This seems to be subjective and an excessive amount of time. I urge the Commission to reject this change. In addition I also suggest the Commission consider reviewing all existing language in this section as it is already very restrictive.
3. The most troubling and costly amendments are proposed to Section 17.78.50, Annexation Criteria. Subsection 17.78.50(B) as proposed would require all annexation applicant's to demonstrate how the property will be served by sanitary sewer, domestic water, transportation, internet service, and parks. An applicant would also need to demonstrate how the property will be provided with public

facilities and services in an “orderly, efficient, and timely manner”. I submit to you that this is an almost impossible criteria to achieve without hiring a team of consultants to design a complete project and get city approval prior to annexation. The requirements in this section are unrealistic and will be extremely burdensome for most applicant’s. The items in this section are appropriate as part of a development application, not an annexation application. I urge you to reject this change.

4. Section 17.78.50 (C) is even more problematic. This section requires an applicant to demonstrate how impacts to the sewer, water, stormwater and transportation system from development of the property will be mitigated. It also requires an applicant to demonstrate there is adequate funding for the mitigation. The requirements of this criteria are impossible to know until after approval of a subdivision application or other development request. The majority of annexation applicant’s are not aware of what can be done with their property other than they want to bring it into the city. The requirements in this criteria are also very confusing, burdensome, and unnecessary at this stage. If the items in this criteria are a concern I suggest the Planning Commission consider amending subdivision criteria instead. I urge you to reject this change.

Conclusion

As discussed above, the proposed amendments to Chapter 17.78, Annexations represent a significant departure from the city’s current annexation approach. The additional requirements contained in these revisions are likely to add significant time and expense to annexation applications and may effectively shut down future annexation requests. If it is the Commission’s intent to stop properties from annexing, then these changes should be adopted. If on the other hand you are interested in continuing to bring properties located in the urban growth boundary into the city limits as they were intended, than I urge you to reject these changes. I am unclear what the intent of these revisions really are other than possibly an overreaction caused by a recent controversial subdivision application.

I urge you to push the pause button on these changes and to either recommend the Council reject these amendment or to make significant changes to this language prior to forwarding to the Council.

Chapter 17.78 Annexation Code Modifications

PC Meeting 5/27/2020

Chapter 17.78 Annexation - Proposal

- Clarify annexation criteria regarding public facilities and services.
- Clarify submission requirements regarding compliance with City plans, Transportation Planning Rule findings, and FSH mapping.
- Clarify annexation type for POS and/or FSH zone changes.
- Increase noticing distance to 1,000 feet.
- Increase annexation waiting period to 10 years for properties with significant tree removal.



Staff Report

Meeting Date: June 15, 2020
From Emily Meharg, Senior Planner
SUBJECT: 20-010 DCA

Background:

File No. 20-010 DCA amends Chapter 17.78 of the Development Code, which contains the procedures and conditions for annexation. The amendment clarifies annexation criteria and required submittal items and includes additional minor modifications.

I. SUMMARY OF PROPOSED AMENDMENTS

The current Annexation code does not make it clear that properties requesting annexation will need to demonstrate that they can and will develop in a manner consistent with adopted City of Sandy plans such as the Comprehensive Plan, Transportation System Plan, Parks and Trails Master Plan, public facility plans, and other applicable area and master plans. The proposed annexation code amendments more clearly identify annexation criteria and required submittal items. Annexations have both a land use element and political considerations; thus, changes to the annexation code provide an appropriate opportunity to avoid issues with future development, such as occurred with Bailey Meadows. The amendments have been reviewed by legal counsel to be consistent with annexation requirements in Oregon statutes.

II. BACKGROUND AND ADDITIONAL INFORMATION

Since the adoption of Senate Bill 1573 in March of 2016 the City of Sandy has had little ability to require analysis to prove annexation will not negatively affect Sandy and its residents. While the proposed code modifications will have some implications on annexations it will minimize negative impacts on existing and future residents. The proposed requirements to complete some analysis prior to annexation will make the annexation process slightly more expensive but will give the City Council some assurances prior to making a land use decision of this magnitude.

Rest assured that for small annexations under 1 acre the burden of proof for annexation will be reduced. Also, if properties need to annex to connect to city services for something like a failing septic tank or failing drain field this can be accomplished through an annexation agreement with the analysis being deferred prior to development of the property.

Most property owners that decide to annex typically do so in preparation of either development (i.e. subdividing the property, commercial development, etc.) or as part of

a property sale where a developer is trying to secure their entitlements prior to the sale being completed. This means that most property owners who annex property will pay for the master plan analysis through direct payments by the developer or by a reduction in sale price. Either way the master plan analysis is factored into the property value. In cases where a property owner does not have an interested developer the required master plan analysis should assist in selling the property after annexation.

Recommendation:

Staff recommends the City Council approve the proposed code amendments to Chapter 17.78, Annexation.

Code Analysis:

ATTACHMENTS:

- A: Chapter 17.78 Code Modifications
- B: Clean Copy of Proposed Code Changes
- C: Parks Board Comment
- D: Public Comment – Kathleen Walker
- E: Public Comment – Tracy Brown
- F: Public Comment – Fair Housing Council of Oregon
- G: PC staff report
- H: PC PPT presentation

Budgetary Impact:

None

CHAPTER 17.78 ANNEXATION

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

A. Maximize citizen involvement in the annexation review process by holding a public hearing;

B. Ensure that public facilities are or will be available to serve land annexed to the City;

~~B.C.~~ Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,

~~C.D.~~ Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.

17.78.10 PROCEDURAL CONSIDERATIONS

A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.

B. The City may annex an unincorporated area that is surrounded by the City boundary.~~The City may annex an island if it is less than 100 acres and has at least 80 percent of its boundary contiguous to the City; or the land is of any size and has at least 80 percent of its boundary contiguous to the City if the area to be annexed existed as an island before October 20, 1997.~~

C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

17.78.15 TYPES OF ANNEXATION

A. Type A: Annexation in conformance with conceptual zoning designation

~~A.B.~~ Type B: Annexation + zone change, including Parks and Open Space (POS) and/or Flood and Slope Hazard (FSH) Overlay District

~~B.C.~~ Type C: Annexation + plan map change + zone change

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;

- B. The site must be within the City of Sandy Urban Growth Boundary (UGB);
- C. The site must be contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake or other body of water; ~~and~~;
- D. The site has not violated Section 17.78.25.

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of five (5) years if any of the following apply:
 - 1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the five years prior to the annexation application.
 - 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the five years prior to the annexation application.
 - 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the five years prior to the annexation application.
 - 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the five years prior to the annexation application.
 - 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the five years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the five years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in ~~fewer than three (3) trees per gross acre remaining on the site. Tree removal may not result in fewer than three (3) trees per gross acre remaining on the site. At least three (3) healthy,~~

~~non-nuisance trees 11 inches DBH or greater must be retained for every one-acre of contiguous ownership~~ [the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.](#)

- c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the five years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25(A) 2. and 3. shall count towards tree removal under Section 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than five years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or [right-of-way or utility facilities easements](#) or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

17.78.30 ZONING OF ANNEXED AREAS

A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.

~~B. Where only a single city zoning designation corresponds to the comprehensive plan designation (Type A) and the rezoning decision does not require the exercise of legal or policy judgment on the part of the City Council, amendment of the zoning map shall be a ministerial decision of the Director made without notice or any opportunity for a hearing.~~

17.78.40 EXISTING USE, ACTIVITY OR STRUCTURE

- A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this ordinance.
- B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.
- C. Any lot or parcel of land duly recorded in the Clackamas County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

17.78.50 ANNEXATION CRITERIA

Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

A. Except as provided in subsection B of this section, an application to annex property into the city shall meet the following criteria:

1. The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks. Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.
2. The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be mitigated, if necessary. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and

specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.

3. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule.

~~3.4.~~The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it is desirable for the city to annex an area if the annexation meets one or more ~~any~~ of the following criteria:

~~1. A necessary control for development form and standards of an area adjacent to the city;~~
~~or~~

- a. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
- b. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
- c. Needed routes for utility and transportation networks.

B. The standards described in paragraphs A.1 and A.2 above do not apply to:

1. An application to annex property that is smaller than one acre.
2. An "island" annexation under ORS 222.750
3. An annexation for which the City has executed an annexation agreement.

17.78.60 APPLICATION SUBMISSION REQUIREMENTS

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.;
- B. A legal description certified by a registered surveyor or engineer.;
- C. The application fee established by the city.;

- D. A list of property owners within ~~three one thousand~~ hundred (31,000) feet of the subject property ~~on and two sets of~~ mailing labels.;
- E. Vicinity map showing the area to be annexed including adjacent city territory.;
- F. Site Plan (~~Type A=15 copies; Type B or C=25 copies~~) drawn to scale (not greater than one inch = fifty feet), indicating:
1. The location of existing structures (if any);
 2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
 3. ~~Approximate~~ Surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area.
- G. Narrative Statement explaining the proposal and addressing:
1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park ~~and school~~ facilities;
 2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand; and,
 - ~~2.3.~~ Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; and,
 4. Method and source of financing required to provide additional facilities, if any.

H. Transportation Planning Rule findings.

17.78.70 REVIEW PROCEDURE

Type A, B & C

1. Pre-application conference;
2. Submission of completed application;
3. Review by Planning Commission with recommendation to City Council;
4. Review by City Council.;
- ~~4.5.~~ Approval or Denial by City Council.

17.78.80 EXCEPTIONS

Exceptions may be granted for identified health hazards and for those matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process. The City Council 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.

17.78.90 ANNEXATION CONDITIONS

- A. All properties annexed are subject to inclusion within applicable advance financing districts and urban renewal districts.
- B. These conditions apply to all annexed properties regardless of transfers of the ownership of such properties.

DRAFT

CHAPTER 17.78 ANNEXATION

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

- A. Maximize citizen involvement in the annexation review process by holding a public hearing;
- B. Ensure that public facilities are or will be available to serve land annexed to the City;
- C. Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,
- D. Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.

17.78.10 PROCEDURAL CONSIDERATIONS

- A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.
- B. The City may annex an unincorporated area that is surrounded by the City boundary.
- C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

17.78.15 TYPES OF ANNEXATION

- A. Type A: Annexation in conformance with conceptual zoning designation
- B. Type B: Annexation + zone change, including Parks and Open Space (POS) and/or Flood and Slope Hazard (FSH) Overlay District
- C. Type C: Annexation + plan map change + zone change

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

- A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;
- B. The site must be within the City of Sandy Urban Growth Boundary (UGB);

- C. The site must be contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake or other body of water; and
- D. The site has not violated Section 17.78.25.

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of five (5) years if any of the following apply:
 - 1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the five years prior to the annexation application.
 - 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the five years prior to the annexation application.
 - 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the five years prior to the annexation application.
 - 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the five years prior to the annexation application.
 - 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the five years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the five years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.
 - c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH

Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the five years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25(A) 2. and 3. shall count towards tree removal under Section 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than five years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or right-of-way or utility facilities or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

17.78.30 ZONING OF ANNEXED AREAS

- A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.

17.78.40 EXISTING USE, ACTIVITY OR STRUCTURE

- A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this ordinance.
- B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.
- C. Any lot or parcel of land duly recorded in the Clackamas County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

17.78.50 ANNEXATION CRITERIA

Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

- A. Except as provided in subsection B of this section, an application to annex property into the city shall meet the following criteria:
 - 1. The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks. Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.
 - 2. The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be mitigated, if necessary. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.
 - 3. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule.

4. The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it meets one or more of the following criteria:
 - a. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
 - b. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
 - c. Needed routes for utility and transportation networks.
- B. The standards described in paragraphs A.1 and A.2 above do not apply to:
 1. An application to annex property that is smaller than one acre.
 2. An “island” annexation under ORS 222.750
 3. An annexation for which the City has executed an annexation agreement.

17.78.60 APPLICATION SUBMISSION REQUIREMENTS

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.
- B. A legal description certified by a registered surveyor or engineer.
- C. The application fee established by the city.
- D. A list of property owners within one thousand (1,000) feet of the subject property and two sets of mailing labels.
- E. Vicinity map showing the area to be annexed including adjacent city territory.
- F. Site Plan drawn to scale (not greater than one inch = fifty feet), indicating:
 1. The location of existing structures (if any);
 2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
 3. Surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area.
- G. Narrative Statement explaining the proposal and addressing:

1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park facilities;
2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand;
3. Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; and,
4. Method and source of financing required to provide additional facilities, if any.

H. Transportation Planning Rule findings.

17.78.70 REVIEW PROCEDURE

Type A, B & C

1. Pre-application conference;
2. Submission of completed application;
3. Review by Planning Commission with recommendation to City Council;
4. Review by City Council;
5. Approval or Denial by City Council.

17.78.80 EXCEPTIONS

Exceptions may be granted for identified health hazards and for those matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process. The City Council 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.

17.78.90 ANNEXATION CONDITIONS

- A. All properties annexed are subject to inclusion within applicable advance financing districts and urban renewal districts.
- B. These conditions apply to all annexed properties regardless of transfers of the ownership of such properties.



Emily Meharg <emeharg@ci.sandy.or.us>

Note from the Parks Board - Proposed code changes 17.78

3 messages

Sarah Richardson <srichardson@ci.sandy.or.us>

Mon, May 18, 2020 at 10:27 AM

To: Emily Meharg <emeharg@ci.sandy.or.us>, Kelly O'Neill <koneill@cityofsandy.com>

Hi Emily and Kelly,

I think I have captured the conversation but I am including the time stamp and link for the discussion during the meeting. They did want to be sure their intent was communicated.

They were not trying to figure out the correct language, but wanted to be sure the intent for the code was clear.

If you have any questions give me a call at my desk - 503-489-2150.

I hope this is helpful - Sarah

Note for code change

17.78.60 G

Would like it to read "Parks and Trails Master Plan".

17.78.50 B in criteria – would like a more clearly spelled out reference to the Parks and Trails Master Plan.

Annexation criteria – if there is a park/trail in the master plan in the annexation area this is the place to say - we will consider annexing it if it will include the park area that is referenced in the Master Plan.

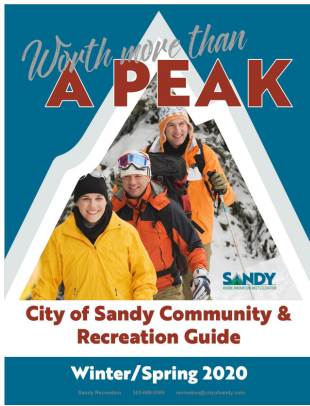
Want to ensure that annexation is compatible with the Parks and Trails and Master Plan. Would like it to be clear that the city has discretion to say "yes or no". Annexation criteria should support that discretion. Concerned that once annexed in, there is no discretion available to the city and this is where the most leverage exists.

Want to be able to implement the parks and trails master plan where it exists within a proposed annexation. Conditions for approval – compatible with the Parks and Trails Master Plan if applicable.

<https://www.youtube.com/watch?v=NbJS3EKtEBs>

Time stamp 38.0-47.50

Sarah Richardson
City of Sandy
Recreation Manager
Direct 503-489-2150
Main 503-668-5569
srichardson@cityofsandy.com



Explore the Recreation Guide. City of Sandy Community & Recreation Guide [CLICK HERE to view the Winter/Spring Community & Recreation Guide](#)

Interested in activities for Older Adults? [Click Here.](#)

[Check out the great programs at the Sandy/Hoodland Library](#)

Emily Meharg <emeharg@ci.sandy.or.us>
To: "Kelly O'Neill Jr." <koneill@ci.sandy.or.us>

Tue, May 19, 2020 at 10:26 AM

I added "parks and trails master plan" specifically to the list in 17.78.50(B) and amended "parks master plan" to "parks and trails master plan" in the list in 17.78.60(G). I'm thinking PC can discuss the rest to see if they want to add anything more but those two edits seemed pretty minor. Sound ok?

[Quoted text hidden]

Kelly O'Neill Jr. <koneill@ci.sandy.or.us>
To: Emily Meharg <emeharg@ci.sandy.or.us>

Tue, May 19, 2020 at 10:38 AM

Sounds good to me.

[Quoted text hidden]

--

Kelly O'Neill Jr.
Development Services Director

City of Sandy
Development Services Department
39250 Pioneer Blvd
Sandy, OR 97055
(503) 489-2163
koneill@ci.sandy.or.us

May 27, 2020

Dear Planning Commission and City Staff:

Thank you for revising Sandy's Annexation Code language. We believe that as one of the fastest growing cities in Oregon, that we can, and should, implement strategies to decrease that growth rate. We want this amended code to address the growth issues, including traffic, undersized and outdated infrastructure, and school overcrowding. We know you cannot address school crowding when developments are being approved, but it can be a factor in whether we annex more property into our city for development. We know you cannot stop growth, but your policies and code can make it more discretionary than what we currently have in place. We look fondly back on the days when we could learn more about the proposal and vote on it based on the merits!

Most importantly, we must ensure that we do not allow annexation of property that will lead to the City being responsible for development costs including roads and utilities. The new code should spell out that properties that require development of neighborhood access roads outside City limits can and should be declined. Annexation should only be considered when landowners and developers agree to pay for the development of all infrastructure needed for the development. Oversizing water and sewer infrastructure can apply for SDC credits. The proposal for future SDC credits (beyond the developer's SDC's should not be allowed as it comes at the expense of tax payer road funds!). Developers must agree to road alignments that locate roads on their property, instead of pushing it on to adjacent properties.

Please make sure to reference trails and open space in all park related language. We want to ensure that our Parks and Trails Master Plan and future annexations give us the ability to have sole discretion as is currently spelled out (but legally challenged by Bailey Meadows developers) in 17.86 of our City code. This language appears to do that, but because our Parks and Trails Master Plan amendment has not been adopted as of yet, I would ask that we ensure that the sole discretion language include our ability to make decisions in the next 6-9 months based on draft proposals in our Park Master Plan Amendment.

Please add a requirement that the notice and explanation of proposed annexation be posted in the City newsletter and on the City government facebook (social media site). Annexations affect all residents, not just the ones within 300-1000 feet. Bailey Meadows is a great example of this.

Annexations that propose zone changes are especially problematic because of the amount of analysis to our overall Comprehensive Plan is needed to rejigger the available inventory of different zones. All this takes considerable time (\$\$) by our City planning staff, when the are already overloaded trying to deal with ongoing developments within the city. All this analysis should be paid for by the developers.

Zone change proposals should have to be included in the annexation request or there should be a multi-year period where they cannot request a zone change. Once they are annexed in, they put more pressure on us, where as if we knew what the zone change was to be, we might not have approved annexation in the first place!

The proposed annexation code language is complicated and I have not had the time, nor have other city residents, to understand what is being proposed, what it means to us as residents, and what we want to edit or expand on in the language. The challenge we all face is with the more devious developers that seek to threaten LUBA appeals and lawsuits to exploit loopholes in our language, once they annex in. Perhaps there could be a clause in there that prohibits those actions if they are annexed in. Your language that says they must meet all the plans, does not cite chapter and verse of all the code, TSP standards, ADT standards, etc. so what is to stop Mr. Robinson from challenging us on that once he is annexed in? Deja vu all over again!

I would also say that any annexations should not be allowed to do a planned unit development unless that is spelled out with the annexation proposal. The PD's are so vague and will result in more high density growth, when we already have large areas zoned for medium and high density!

These annexation code changes will help in that vein, in that it will hopefully ensure that annexations are ONLY done when they benefit Sandy residents. I worry about what we are missing. Annexations should only be approved when they can demonstrate that they are responsible developers. agreeing to pay for their development and not stick it to us. They need to agree to follow our existing code while making a reasonable profit and not be asking for numerous variances that only benefit themselves.

I will be providing additional input on the proposed annexation code at the City Council. I am sure other members of the public will also be commenting. Please know that when few if any people come to your planning commission meetings, it is not because they don't care! It is because they don't know about them and about what is being proposed. It takes time and effort to get the word out, educate residents on what is proposed, what is within your decision space and how to make intelligent input on the proposal that can be used. I believe it is better to get the word out early, so that annexations, code changes, zone changes etc and changes to a proposed development are more easily made, than when a staff report is completed, and you all are giving your final blessings. We can and must to better on communication. It is our collective future! Thank you for your considerable volunteer time and hard work to make our city better.

Sincerely,

Kathleen Walker

Date: May 27, 2020
To: Sandy Planning Commission
From: Tracy Brown
Subject: Proposed Amendments to Chapter 17.78, Annexation

I am writing to express my concern with the proposed amendments to Chapter 17.78, Annexation. The City of Sandy has historically had a straight forward and friendly approach to annexing property. The current code allows a property owner to request annexation of their property if the property meets basic criteria, is located within the urban growth boundary, and is contiguous to the city limits.

The proposed amendments represent a significant departure from this approach and if adopted this code is likely to effectively shut down the majority of future annexation requests. In the least, the proposed code will add significant time and expense to the annexation process for the average property owner.

The staff report included with this item provides little analysis to explain the reasons for these changes or does it evaluate the pros and cons of the revisions. In addition, there is no discussion regarding the significant cost burden that these changes will be add to the average annexation application.

Specific Comments

1. Section 17.78.00, Intent is proposed to be amended to add a new subsection B that reads,
B. Ensure that public facilities are or will be available to serve land annexed to the City

Annexation of property is not a request to develop the property but rather a request to change the property's jurisdictional authority, allow residents residing within the annexation area to vote in city elections and pay city taxes. Simply by the fact that a property is located within the city's Urban Growth Boundary a certain level of analysis had already been done to ensure future development potential. Annexation is not the time to require additional analysis to this degree.

2. Section 17.78.25, Tree Retention is proposed to be amended to require a ten year cooling off period rather than five years in the current code before a property owner could request annexation after tree removal. This seems to be subjective and an excessive amount of time. I urge the Commission to reject this change. In addition I also suggest the Commission consider reviewing all existing language in this section as it is already very restrictive.
3. The most troubling and costly amendments are proposed to Section 17.78.50, Annexation Criteria. Subsection 17.78.50(B) as proposed would require all annexation applicant's to demonstrate how the property will be served by sanitary sewer, domestic water, transportation, internet service, and parks. An applicant would also need to demonstrate how the property will be provided with public

facilities and services in an “orderly, efficient, and timely manner”. I submit to you that this is an almost impossible criteria to achieve without hiring a team of consultants to design a complete project and get city approval prior to annexation. The requirements in this section are unrealistic and will be extremely burdensome for most applicant’s. The items in this section are appropriate as part of a development application, not an annexation application. I urge you to reject this change.

4. Section 17.78.50 (C) is even more problematic. This section requires an applicant to demonstrate how impacts to the sewer, water, stormwater and transportation system from development of the property will be mitigated. It also requires an applicant to demonstrate there is adequate funding for the mitigation. The requirements of this criteria are impossible to know until after approval of a subdivision application or other development request. The majority of annexation applicant’s are not aware of what can be done with their property other than they want to bring it into the city. The requirements in this criteria are also very confusing, burdensome, and unnecessary at this stage. If the items in this criteria are a concern I suggest the Planning Commission consider amending subdivision criteria instead. I urge you to reject this change.

Conclusion

As discussed above, the proposed amendments to Chapter 17.78, Annexations represent a significant departure from the city’s current annexation approach. The additional requirements contained in these revisions are likely to add significant time and expense to annexation applications and may effectively shut down future annexation requests. If it is the Commission’s intent to stop properties from annexing, then these changes should be adopted. If on the other hand you are interested in continuing to bring properties located in the urban growth boundary into the city limits as they were intended, than I urge you to reject these changes. I am unclear what the intent of these revisions really are other than possibly an overreaction caused by a recent controversial subdivision application.

I urge you to push the pause button on these changes and to either recommend the Council reject these amendment or to make significant changes to this language prior to forwarding to the Council.



May 22, 2020

City of Sandy Planning Commission
39250 Pioneer Blvd.
Sandy, OR 97055

Re: The proposed amendments to Chapter 17.78, Annexation, more clearly identify annexation criteria and required submittal items. In addition, the amendments increase the annexation waiting period for a property from 5 years to 10 years in the event of significant tree removal. (20-010 DCA)

Dear Commissioners:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you know, all amendments to the City's Comprehensive Plan and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) in order to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change. Due to the fact that no written findings, including findings for the Statewide Planning Goals, were provided for ZC-06-19 before the Planning Commission meeting, we are obligated to submit a comment letter. The practice of not providing written findings before the Planning Commission meeting not only allows less time for concerned citizens and advocates to review the findings and provide feedback, but it limits our ability to work with planning staff to avoid comment letters due to inadequate Goal 10 findings. This letter also allows us to appeal your decision on the basis of the lack of, or inadequate, findings.



Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at ldix@fhco.org or reach her by phone at (541) 951-0667.

Thank you for your consideration.

Louise Dix

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

/s/ Jennifer Bragar
Jennifer Bragar
President
Housing Land Advocates

cc: Kevin Young (kevin.young@state.or.us)



Staff Report

Meeting Date: May 27, 2020
From: Emily Meharg, Senior Planner
SUBJECT: 20-010 DCA Chapter 17.78 Annexation Code Amendments

Background:

File No. 20-010 DCA amends Chapter 17.78 of the Development Code, which contains the procedures and conditions for annexation. The amendment clarifies annexation criteria and required submittal items and includes additional minor modifications. The Commission's role in this process is to review the proposed code amendments and forward a recommendation to the City Council.

Summary

The current Annexation code does not make it clear that properties requesting annexation will need to demonstrate that they can and will develop in a manner consistent with adopted City of Sandy plans such as the Comprehensive Plan, Transportation System Plan, Parks and Trails Master Plan, public facility plans, and other applicable area and master plans. The proposed amendments more clearly identify annexation criteria and required submittal items. The amendments have been reviewed by legal counsel. In addition, the amendments increase the annexation waiting period for a property from a minimum of 5 years to a minimum of 10 years in the event of significant tree removal.

Recommendation:

Staff recommends the Planning Commission hold a public hearing to take testimony regarding modifications to Chapter 17.78 and forward a recommendation of approval to the City Council.

Code Analysis:

See attached:

- Draft code changes
- Comments from Parks and Trails Advisory Board

Budgetary Impact:

None

CHAPTER 17.78 ANNEXATION

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

A. Maximize citizen involvement in the annexation review process by holding a public hearing;

B. Ensure that public facilities are or will be available to serve land annexed to the City;

~~B.C.~~ Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,

~~C.D.~~ Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.

17.78.10 PROCEDURAL CONSIDERATIONS

A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.

B. The City may annex an unincorporated area that is surrounded by the City boundary. ~~The City may annex an island if it is less than 100 acres and has at least 80 percent of its boundary contiguous to the City; or the land is of any size and has at least 80 percent of its boundary contiguous to the City if the area to be annexed existed as an island before October 20, 1997.~~

C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

17.78.15 TYPES OF ANNEXATION

A. Type A: Annexation in conformance with conceptual zoning designation

~~A.B.~~ Type B: Annexation + zone change, including Parks and Open Space (POS) and/or Flood and Slope Hazard (FSH) Overlay District

~~B.C.~~ Type C: Annexation + plan map change + zone change

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;

- B. The site must be within the City of Sandy Urban Growth Boundary (UGB);
- C. The site must be contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake or other body of water; ~~and-~~
- D. The site has not violated Section 17.78.25.

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of ~~five-ten~~ (10~~5~~) years if any of the following apply:
 - 1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the ~~five-ten~~ years prior to the annexation application.
 - 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the ~~five-ten~~ years prior to the annexation application.
 - 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the ~~five-ten~~ years prior to the annexation application.
 - 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the ~~five-ten~~ years prior to the annexation application.
 - 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the ~~five-ten~~ years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the ~~five-ten~~ years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in ~~fewer than three (3) trees per gross acre remaining on the site. Tree removal may not result in fewer~~

~~than three (3) trees per gross acre remaining on the site. At least three (3) healthy, non- nuisance trees 11 inches DBH or greater must be retained for every one acre of contiguous ownership~~
the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.

- c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the ~~five~~-ten years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25(A) 2. and 3. shall count towards tree removal under Section 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than ~~five~~-ten years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or right-of-way or utility facilities easements or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

17.78.30 ZONING OF ANNEXED AREAS

A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.

~~B. Where only a single city zoning designation corresponds to the comprehensive plan designation (Type A) and the rezoning decision does not require the exercise of legal or policy judgment on the part of the City Council, amendment of the zoning map shall be a ministerial decision of the Director made without notice or any opportunity for a hearing.~~

17.78.40 EXISTING USE, ACTIVITY OR STRUCTURE

A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this ordinance.

B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.

C. Any lot or parcel of land duly recorded in the Clackamas County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

17.78.50 ANNEXATION CRITERIA

~~Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area. To demonstrate this, annexation requests~~ An application to annex property into the city shall meet the following criteria:

A. The annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

~~A.B.~~ The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks.; Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.

~~C.~~ The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be

mitigated. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.

D. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule.

D.E. The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it is desirable for the city to annex an area if the annexation meets one or more any of the following criteria:

- ~~1. A necessary control for development form and standards of an area adjacent to the city;~~
or
- ~~2.1.~~ A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
- ~~3.2.~~ Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
- ~~4.3.~~ Needed routes for utility and transportation networks.

17.78.60 APPLICATION SUBMISSION REQUIREMENTS

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.;
- B. A legal description certified by a registered surveyor or engineer.;
- C. The application fee established by the city.;
- D. A list of property owners within ~~three one thousand~~ hundred (31,000) feet of the subject property ~~on and two sets of~~ mailing labels.;
- E. Vicinity map showing the area to be annexed including adjacent city territory.;
- F. Site Plan (~~Type A=15 copies; Type B or C=25 copies~~) drawn to scale (not greater than one inch = fifty feet), indicating:
 1. The location of existing structures (if any);

2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
3. ~~Approximate~~ Surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area.

G. Narrative Statement explaining the proposal and addressing:

1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park ~~and school~~ facilities;
2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand; ~~and~~,
- ~~2.3.~~ Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; and,
4. Method and source of financing required to provide additional facilities, if any.

H. Transportation Planning Rule findings.

17.78.70 REVIEW PROCEDURE

Type A, B & C

1. Pre-application conference;
2. Submission of completed application;
3. Review by Planning Commission with recommendation to City Council;
- ~~4.~~ Review by City Council;
- ~~4.5.~~ Approval or Denial by City Council.

17.78.80 EXCEPTIONS

Exceptions may be granted for identified health hazards and for those matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process. The City Council 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.

17.78.90 ANNEXATION CONDITIONS

- A. All properties annexed are subject to inclusion within applicable advance financing districts and urban renewal districts.
- B. These conditions apply to all annexed properties regardless of transfers of the ownership of such properties.



Emily Meharg <emeharg@ci.sandy.or.us>

Note from the Parks Board - Proposed code changes 17.78

Sarah Richardson <srichardson@ci.sandy.or.us>

Mon, May 18, 2020 at 10:27 AM

To: Emily Meharg <emeharg@ci.sandy.or.us>, Kelly O'Neill <koneill@cityofsandy.com>

Hi Emily and Kelly,

I think I have captured the conversation but I am including the time stamp and link for the discussion during the meeting. They did want to be sure their intent was communicated.

They were not trying to figure out the correct language, but wanted to be sure the intent for the code was clear.

If you have any questions give me a call at my desk - 503-489-2150.

I hope this is helpful - Sarah

Note for code change

17.78.60 G

Would like it to read "Parks and Trails Master Plan".

17.78.50 B in criteria – would like a more clearly spelled out reference to the Parks and Trails Master Plan.

Annexation criteria – if there is a park/trail in the master plan in the annexation area this is the place to say - we will consider annexing it if it will include the park area that is referenced in the Master Plan.

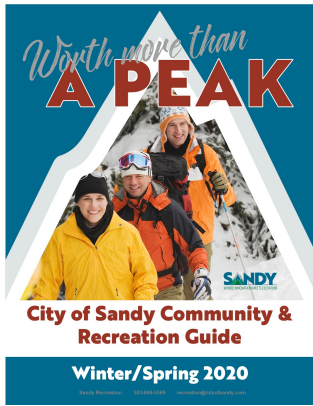
Want to ensure that annexation is compatible with the Parks and Trails and Master Plan. Would like it to be clear that the city has discretion to say "yes or no". Annexation criteria should support that discretion. Concerned that once annexed in, there is no discretion available to the city and this is where the most leverage exists.

Want to be able to implement the parks and trails master plan where it exists within a proposed annexation. Conditions for approval – compatible with the Parks and Trails Master Plan if applicable.

<https://www.youtube.com/watch?v=NbJS3EKtEBs>

Time stamp 38.0-47.50

Sarah Richardson
City of Sandy
Recreation Manager
Direct 503-489-2150
Main 503-668-5569
srichardson@cityofsandy.com



Explore the Recreation Guide. City of Sandy Community & Recreation Guide [CLICK HERE to view the Winter/Spring Community & Recreation Guide](#)

Interested in activities for Older Adults? [Click Here.](#)

Check out the great programs at the Sandy/Hoodland Library



May 22, 2020

City of Sandy Planning Commission
39250 Pioneer Blvd.
Sandy, OR 97055

Re: The proposed amendments to Chapter 17.78, Annexation, more clearly identify annexation criteria and required submittal items. In addition, the amendments increase the annexation waiting period for a property from 5 years to 10 years in the event of significant tree removal. (20-010 DCA)

Dear Commissioners:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you know, all amendments to the City's Comprehensive Plan and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) in order to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change. Due to the fact that no written findings, including findings for the Statewide Planning Goals, were provided for ZC-06-19 before the Planning Commission meeting, we are obligated to submit a comment letter. The practice of not providing written findings before the Planning Commission meeting not only allows less time for concerned citizens and advocates to review the findings and provide feedback, but it limits our ability to work with planning staff to avoid comment letters due to inadequate Goal 10 findings. This letter also allows us to appeal your decision on the basis of the lack of, or inadequate, findings.



Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at ldix@fhco.org or reach her by phone at (541) 951-0667.

Thank you for your consideration.

Louise Dix

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

/s/ Jennifer Bragar
Jennifer Bragar
President
Housing Land Advocates

cc: Kevin Young (kevin.young@state.or.us)

Date: May 27, 2020
To: Sandy Planning Commission
From: Tracy Brown
Subject: Proposed Amendments to Chapter 17.78, Annexation

I am writing to express my concern with the proposed amendments to Chapter 17.78, Annexation. The City of Sandy has historically had a straight forward and friendly approach to annexing property. The current code allows a property owner to request annexation of their property if the property meets basic criteria, is located within the urban growth boundary, and is contiguous to the city limits.

The proposed amendments represent a significant departure from this approach and if adopted this code is likely to effectively shut down the majority of future annexation requests. In the least, the proposed code will add significant time and expense to the annexation process for the average property owner.

The staff report included with this item provides little analysis to explain the reasons for these changes or does it evaluate the pros and cons of the revisions. In addition, there is no discussion regarding the significant cost burden that these changes will be add to the average annexation application.

Specific Comments

1. Section 17.78.00, Intent is proposed to be amended to add a new subsection B that reads,
B. Ensure that public facilities are or will be available to serve land annexed to the City

Annexation of property is not a request to develop the property but rather a request to change the property's jurisdictional authority, allow residents residing within the annexation area to vote in city elections and pay city taxes. Simply by the fact that a property is located within the city's Urban Growth Boundary a certain level of analysis had already been done to ensure future development potential. Annexation is not the time to require additional analysis to this degree.

2. Section 17.78.25, Tree Retention is proposed to be amended to require a ten year cooling off period rather than five years in the current code before a property owner could request annexation after tree removal. This seems to be subjective and an excessive amount of time. I urge the Commission to reject this change. In addition I also suggest the Commission consider reviewing all existing language in this section as it is already very restrictive.
3. The most troubling and costly amendments are proposed to Section 17.78.50, Annexation Criteria. Subsection 17.78.50(B) as proposed would require all annexation applicant's to demonstrate how the property will be served by sanitary sewer, domestic water, transportation, internet service, and parks. An applicant would also need to demonstrate how the property will be provided with public

facilities and services in an “orderly, efficient, and timely manner”. I submit to you that this is an almost impossible criteria to achieve without hiring a team of consultants to design a complete project and get city approval prior to annexation. The requirements in this section are unrealistic and will be extremely burdensome for most applicant’s. The items in this section are appropriate as part of a development application, not an annexation application. I urge you to reject this change.

4. Section 17.78.50 (C) is even more problematic. This section requires an applicant to demonstrate how impacts to the sewer, water, stormwater and transportation system from development of the property will be mitigated. It also requires an applicant to demonstrate there is adequate funding for the mitigation. The requirements of this criteria are impossible to know until after approval of a subdivision application or other development request. The majority of annexation applicant’s are not aware of what can be done with their property other than they want to bring it into the city. The requirements in this criteria are also very confusing, burdensome, and unnecessary at this stage. If the items in this criteria are a concern I suggest the Planning Commission consider amending subdivision criteria instead. I urge you to reject this change.

Conclusion

As discussed above, the proposed amendments to Chapter 17.78, Annexations represent a significant departure from the city’s current annexation approach. The additional requirements contained in these revisions are likely to add significant time and expense to annexation applications and may effectively shut down future annexation requests. If it is the Commission’s intent to stop properties from annexing, then these changes should be adopted. If on the other hand you are interested in continuing to bring properties located in the urban growth boundary into the city limits as they were intended, than I urge you to reject these changes. I am unclear what the intent of these revisions really are other than possibly an overreaction caused by a recent controversial subdivision application.

I urge you to push the pause button on these changes and to either recommend the Council reject these amendment or to make significant changes to this language prior to forwarding to the Council.

Chapter 17.78 Annexation Code Modifications

PC Meeting 5/27/2020

Chapter 17.78 Annexation - Proposal

- Clarify annexation criteria regarding public facilities and services.
- Clarify submission requirements regarding compliance with City plans, Transportation Planning Rule findings, and FSH mapping.
- Clarify annexation type for POS and/or FSH zone changes.
- Increase noticing distance to 1,000 feet.
- Increase annexation waiting period to 10 years for properties with significant tree removal.



NO. 2020-13

AN ORDINANCE AMENDING CHAPTER 17.78 OF THE SANDY MUNICIPAL CODE RELATED TO ANNEXATIONS.

Whereas, the Sandy Municipal Code (SMC), Chapter 17.78, Annexation, contains procedures and standards for the review of proposed annexations to the City;

Whereas, SMC Section 17.78.50 contains the review criteria for a proposed annexation and Section 17.78.60 contains application requirements;

Whereas, the City Council has determined it is necessary to revise SMC Chapter 17.78 to more clearly identify annexation criteria and required submittal items, and to make related administrative updates and revisions to the chapter;

Whereas, the City Council has determined that the amendments to SMC Chapter 17.78 as set forth below are in the best interest of the City and its residents.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS,

Section 1: Chapter 17.78 of the Sandy Municipal Code is amended as shown in Exhibit A.

Section 2: In support of this ordinance, the City Council adopts the findings and conclusions attached as Exhibit B.

Section 3: All remaining provisions of the Sandy Comprehensive Plan and Title 17 of the Sandy Municipal Code are reaffirmed in their entirety.

This ordinance is adopted by the Common Council of the City of Sandy and approved by the Mayor this 15 day of June 2020

Stan Pulliam, Mayor

ATTEST:

Jeff Aprati, City Recorder

Exhibit B
Ordinance No. 2020-13

1. Goal 1 – Citizen Involvement. Both the Planning Commission and the City Council held a public hearing prior to adopting the ordinance. The Commission held a public hearing on May 27, 2020. The Council held a public hearing on June 15, 2020. The City provided notice of the public hearings in accordance with state law and the City’s development code. The annexation code (Section 17.78.00, Intent, and Section 17.78.70, Review Procedure) specifies that two public hearings are required for all annexation applications to maximize citizen involvement in the annexation review process. Goal 1 is satisfied.
2. Goal 2 – Land Use Planning. Goal 2 requires the ordinance to be coordinated with other governmental entities and to be supported by an adequate factual base. The City provided notice of the proposed ordinance to Clackamas County on May 1, 2020 and provided 35-day notice to the State of Oregon on April 22, 2020. Goal 2 is satisfied.
3. Goal 3 – Agricultural Lands. Goal 3 does not apply to the decision.
4. Goal 4 – Forest Lands. Goal 4 requires the City to “conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.” Section 17.78.25, Tree Retention, addresses tree retention on properties outside the City of Sandy limits but within the Urban Growth Boundary (UGB). In the past, property owners have clear-cut their forested land in anticipation of annexing and subdividing. Goal 4 is satisfied.
5. Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces. Goal 5 requires the City to “protect natural resources and conserve scenic and historic areas and open spaces.” Riparian areas and fish and wildlife habitat are listed as protected Goal 5 resources. Limiting tree removal helps protect natural resources. Goal 5 is satisfied.
6. Goal 6 – Air, Water and Land Resources Quality. Goal 6 requires the city to “maintain and improve the quality of the air, water and land resources of the state.” Limiting tree removal in riparian areas helps maintain water quality. Tree retention in general helps maintain both air and soil quality. Goal 6 is satisfied to the extent it applies to the decision.
7. Goal 7 – Areas Subject to Natural Hazards. Goal 7 requires the City to “protect people and property from natural hazards.” Section 17.78.25, Tree Retention, limits tree removal on steep slopes (slopes 25 percent or greater) prior to annexation. Limiting tree removal on steep slopes helps prevent erosion and landslides. Goal 7 is satisfied to the extent it applies to the decision.
8. Goal 8 – Recreational Needs. No resorts are contemplated or authorized by this decision. The City’s comprehensive plan, parks master plan, and development regulations governing recreational needs (e.g. park dedication/fee in-lieu-of requirements, open space provisions, etc.) are not affected by the decision. Goal 8 is satisfied to the extent it applies to the decision.

9. Goal 9 – Economic Development. The City has adopted an economic opportunities analysis (“EOA”) as Goal 9 requires. The EOA includes in its analysis all properties within the City’s urban growth boundary, including unincorporated property. Nothing in this text amendment affects any aspect of the EOA. Therefore, Goal 9 is satisfied.
10. Goal 10 – Housing. The City has an adopted buildable lands inventory and housing needs analysis. Those studies include all properties within the City’s urban growth boundary, including unincorporated property. Nothing in this text amendment affects any aspect of those studies. Therefore, Goal 10 is satisfied.
11. Goal 11 – Public Facilities and Services. The City has an existing public facilities plan that includes all properties within the City’s urban growth boundary, including islands of unincorporated property. The plan assumes that the City is serving islands of unincorporated property and only properties contiguous to the City will be allowed to annex. The amendments will clarify annexation criteria with respect to public facilities and services requirements. Therefore, this text amendment will not undermine or contradict any aspect of the existing public facilities plan. Goal 11 is satisfied.
12. Goal 12 – Transportation. The decision does not affect the City’s comprehensive plan with respect to Goal 12, or its transportation system plan or the standards governing transportation and transportation-related facilities. The City’s comprehensive plan includes an acknowledged Goal 12 element that contains policies to ensure sufficient and adequate transportation facilities and services are available (or will be available as appropriate) to serve lands within the UGB. The City’s existing TSP anticipates and accounts for the potential development of all land inside the UGB in its analysis. This Ordinance does not affect either the Goal 12 element or the TSP. Moreover, the transportation planning rule is triggered only when a post-acknowledgment amendment “significantly affects” a transportation facility. The amendments will clarify annexation criteria and application submittal requirements related to transportation and the Transportation Planning Rule. The ordinance does not meet the definition of a “significant effect” pursuant to OAR 660-012-0060(1)(a)-(c) because it will not: (1) change the functional classification of an existing or future facility; (2) change the standards implementing the functional classification system; or (3) result in any of the effects listed in 0060(1)(c)(A)-(C). Therefore, Goal 12 is satisfied for the purposes of this decision.
13. Goal 13 – Energy Conservation. The City’s comprehensive plan with respect to Goal 13 and its standards governing energy conservation are not affected by the decision. Goal 13 is satisfied.
14. Goal 14 – Urbanization. The decision does not analyze or expand the City’s urban growth boundary. Goal 14 is not applicable.

Chapter 17.78 Annexation Code Modifications

City Council Meeting 6/15/2020

Chapter 17.78 Annexation - Proposal

- Clarify annexation criteria regarding public facilities and services.
 - Small annexations < 1 acre, island annexations per ORS 222.750, and properties with annexation agreements are exempt from being required to demonstrate how the property will be served by adequate public facilities and services and how impacts will be mitigated.

Chapter 17.78 Annexation - Proposal

- Clarify submission requirements regarding compliance with City plans, Transportation Planning Rule findings, and FSH mapping.
- Clarify annexation type for POS and/or FSH zone changes.
- Increase noticing distance to 1,000 feet.

Chapter 17.78 Annexation - Background

- The proposed requirements to complete some analysis prior to annexation will make the annexation process slightly more expensive but will give the City Council some assurances prior to making a land use decision of this magnitude.
 - Most property owners that annex typically do so in preparation of either development or as part of a property sale where a developer is trying to secure their entitlements prior to the sale being completed.

Chapter 17.78 Annexation - Background

- Most property owners who annex will pay for the master plan analysis through direct payments by the developer or by a reduction in sale price.
- Either way the master plan analysis is factored into the property value.
- In cases where a property owner does not have an interested developer the required master plan analysis should assist in selling the property after annexation.

Chapter 17.78 Annexation – Background

- Based on the recommendation of the Planning Commission, staff sent notice of the proposed changes to the annexation code to all property owners outside City limits but within the UGB.

Chapter 17.78 Annexation – Background

- Staff originally proposed increasing the annexation waiting period for significant tree removal from 5 years to 10 years.
- The Planning Commission ultimately voted to keep it at 5 years.
- Since the PC meeting, staff has received many public comments in support of increasing the annexation waiting period for significant tree removal to 10 or more years.



NO. 2020-13

AN ORDINANCE AMENDING CHAPTER 17.78 OF THE SANDY MUNICIPAL CODE RELATED TO ANNEXATIONS.

Whereas, the Sandy Municipal Code (SMC), Chapter 17.78, Annexation, contains procedures and standards for the review of proposed annexations to the City;

Whereas, SMC Section 17.78.50 contains the review criteria for a proposed annexation and Section 17.78.60 contains application requirements;

Whereas, the City Council has determined it is necessary to revise SMC Chapter 17.78 to more clearly identify annexation criteria and required submittal items, and to make related administrative updates and revisions to the chapter;

Whereas, SMC Section 17.78.25 contains tree retention standards that allows the City to apply its tree retention standards to a proposed annexation;

Whereas, the City Council seeks to discourage tree removal within the Urban Growth Boundary (UGB) and to require an increased annexation waiting period in the event of significant tree removal prior to annexation;

Whereas, the City Council has determined that the amendments to SMC Chapter 17.78 as set forth below are in the best interest of the City and its residents.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS,

Section 1: Chapter 17.78 of the Sandy Municipal Code is amended as shown in Exhibit A.

Section 2: In support of this ordinance, the City Council adopts the findings and conclusions attached as Exhibit B.

Section 3: All remaining provisions of the Sandy Comprehensive Plan and Title 17 of the Sandy Municipal Code are reaffirmed in their entirety.

This ordinance is adopted by the Common Council of the City of Sandy and approved by the Mayor this 06 day of July 2020

Stan Pulliam, Mayor

ATTEST:

Jeff Aprati, City Recorder

CHAPTER 17.78 ANNEXATION

17.78.00 INTENT

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

- A. Maximize citizen involvement in the annexation review process by holding a public hearing;
- B. Ensure that public facilities are or will be available to serve land annexed to the City;
- C. Establish a system for measuring the physical, environmental, fiscal and related social effects of proposed annexations; and,
- D. Where possible and practical, avoid the creation of irregular boundaries or annexations that create “island,” “cherry stem” or “shoestring” annexations.

17.78.10 PROCEDURAL CONSIDERATIONS

- A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.
- B. The City may annex an unincorporated area that is surrounded by the City boundary.
- C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

17.78.15 TYPES OF ANNEXATION

- A. Type A: Annexation in conformance with conceptual zoning designation
- B. Type B: Annexation + zone change, including Parks and Open Space (POS) and/or Flood and Slope Hazard (FSH) Overlay District
- C. Type C: Annexation + plan map change + zone change

17.78.20 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to beginning an annexation request:

- A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;
- B. The site must be within the City of Sandy Urban Growth Boundary (UGB);

- C. The site must be contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake or other body of water; and
- D. The site has not violated Section 17.78.25.

17.78.25 TREE RETENTION

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of ten (10) years if any of the following apply:
 - 1. Where any trees six (6) inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the ten (10) years prior to the annexation application.
 - 2. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the ten (10) years prior to the annexation application.
 - 3. Where more than two (2) trees (six (6) inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the ten (10) years prior to the annexation application.
 - 4. Where any trees six (6) inches or greater DBH have been removed on 25 percent or greater slopes in the ten (10) years prior to the annexation application.
 - 5. Where more than ten (10) trees (11 inches or greater DBH) per gross acre have been removed in the ten (10) years prior to the annexation application, except as provided below:
 - a. Sites under one (1) acre in area shall not remove more than five (5) trees in the ten (10) years prior to the annexation application.
 - b. Sites where removal of ten (10) or fewer trees will result in the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.
 - c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six (6) healthy 11 inch DBH or greater trees

per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine (9) healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than fifteen (15) trees in the ten (10) years prior to the annexation application. A calculation of 1.2 acres is rounded down to one (1) acre and a calculation of 1.8 is rounded up to two (2) acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25(A) 2. and 3. shall count towards tree removal under Section 17.78.25(A) 5.

B. Exceptions. The City Council may grant exceptions to this section where:

1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than ten (10) years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
2. The Council finds that tree removal was necessary due to hazards, or right-of-way or utility facilities or access; or
3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
4. The trees removed were nuisance trees; or
5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
7. The application of this section will create an island of unincorporated area.

17.78.30 ZONING OF ANNEXED AREAS

- A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.

17.78.40 EXISTING USE, ACTIVITY OR STRUCTURE

- A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this ordinance.
- B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.
- C. Any lot or parcel of land duly recorded in the Clackamas County Recorder's Office prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the Zoning District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

17.78.50 ANNEXATION CRITERIA

Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

- A. Except as provided in subsection B of this section, an application to annex property into the city shall meet the following criteria:
 - 1. The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks. Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.
 - 2. The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be mitigated, if necessary. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.

3. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule (TPR) or explains that the TPR analysis is not required.
 4. The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it meets one or more of the following criteria:
 - a. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
 - b. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
 - c. Needed routes for utility and transportation networks.
- B. The standards described in paragraphs A.1 and A.2 above do not apply to:
1. An application to annex property that is smaller than one acre.
 2. An “island” annexation under ORS 222.750.
 3. An annexation for which the City has executed an annexation agreement and the agreement allows for A.1 and A.2 to be delayed until development is proposed.

17.78.60 APPLICATION SUBMISSION REQUIREMENTS

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.
- B. A legal description certified by a registered surveyor or engineer.
- C. The application fee established by the city.
- D. A list of property owners within one thousand (1,000) feet of the subject property and two sets of mailing labels.
- E. Vicinity map showing the area to be annexed including adjacent city territory.
- F. Site Plan drawn to scale (not greater than one inch = fifty feet), indicating:
 1. The location of existing structures (if any);
 2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
 3. Approximate or surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area. If the applicant wants to avoid an

additional zone map modification request at time of development, then these areas will need to be surveyed at the time of annexation application submittal.

G. Narrative Statement explaining the proposal and addressing:

1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park facilities;
2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand;
3. Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; this analysis may be deferred if the applicant enters into an annexation agreement as provided in Section 17.78.50(B); and,
4. Method and source of financing required to provide additional facilities, if any.

H. Transportation Planning Rule findings, if applicable.

17.78.70 REVIEW PROCEDURE

Type A, B & C

1. Pre-application conference;
2. Submission of completed application;
3. Review by Planning Commission with recommendation to City Council;
4. Review by City Council;
5. Approval or denial by City Council.

17.78.80 EXCEPTIONS

Exceptions may be granted for identified health hazards and for those matters which the City Council determines that the public interest would not be served by undertaking the entire annexation process. The City Council 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.

17.78.90 ANNEXATION CONDITIONS

- A. All properties annexed are subject to inclusion within applicable advance financing districts and urban renewal districts.
- B. These conditions apply to all annexed properties regardless of transfers of the ownership of such properties.

Exhibit B
Ordinance No. 2020-13

1. Goal 1 – Citizen Involvement. Both the Planning Commission and the City Council held a public hearing prior to adopting the ordinance. The Commission held a public hearing on May 27, 2020. The Council held a public hearing on June 15, 2020. The City provided notice of the public hearings in accordance with state law and the City’s development code. The annexation code (Section 17.78.00, Intent, and Section 17.78.70, Review Procedure) specifies that two public hearings are required for all annexation applications to maximize citizen involvement in the annexation review process. Goal 1 is satisfied.
2. Goal 2 – Land Use Planning. Goal 2 requires the ordinance to be coordinated with other governmental entities and to be supported by an adequate factual base. The City provided notice of the proposed ordinance to Clackamas County on May 1, 2020 and provided 35-day notice to the State of Oregon on April 22, 2020. Goal 2 is satisfied.
3. Goal 3 – Agricultural Lands. Goal 3 does not apply to the decision.
4. Goal 4 – Forest Lands. Goal 4 requires the City to “conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.” Section 17.78.25, Tree Retention, addresses tree retention on properties outside the City of Sandy limits but within the Urban Growth Boundary (UGB). In the past, property owners have clear-cut their forested land in anticipation of annexing and subdividing. Updates to this section of the code are intended to discourage property owners from clear cutting their property prior to annexation to help prevent unnecessary loss of forest land by increasing the annexation waiting period in the event of significant tree removal prior to annexation. Goal 4 is satisfied.
5. Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces. Goal 5 requires the City to “protect natural resources and conserve scenic and historic areas and open spaces.” Riparian areas and fish and wildlife habitat are listed as protected Goal 5 resources. The updates to Section 17.78.25, Tree Retention, are designed to better protect riparian areas and habitat by increasing the annexation waiting period in the event of significant tree removal prior to annexation. Goal 5 is satisfied.
6. Goal 6 – Air, Water and Land Resources Quality. Goal 6 requires the city to “maintain and improve the quality of the air, water and land resources of the state.” The updates to Section 17.78.25, Tree Retention, are intended to limit unnecessary tree removal prior to annexation by increasing the annexation waiting period in the event of significant tree removal prior to annexation. Limiting tree removal in riparian areas also helps maintain water quality. Tree retention in general helps maintain both air and soil quality. Goal 6 is satisfied to the extent it applies to the decision.
7. Goal 7 – Areas Subject to Natural Hazards. Goal 7 requires the City to “protect people and property from natural hazards.” Section 17.78.25, Tree Retention, limits tree removal on steep

slopes (slopes 25 percent or greater) prior to annexation. Limiting tree removal on steep slopes helps prevent erosion and landslides. Goal 7 is satisfied to the extent it applies to the decision.

8. Goal 8 – Recreational Needs. No resorts are contemplated or authorized by this decision. The City’s comprehensive plan, parks master plan, and development regulations governing recreational needs (e.g. park dedication/fee in-lieu-of requirements, open space provisions, etc.) are not affected by the decision. Goal 8 is satisfied to the extent it applies to the decision.
9. Goal 9 – Economic Development. The City has adopted an economic opportunities analysis (“EOA”) as Goal 9 requires. The EOA includes in its analysis all properties within the City’s urban growth boundary, including unincorporated property. Nothing in this text amendment affects any aspect of the EOA. Therefore, Goal 9 is satisfied.
10. Goal 10 – Housing. The City has an adopted buildable lands inventory and housing needs analysis. Those studies include all properties within the City’s urban growth boundary, including unincorporated property. Nothing in this text amendment affects any aspect of those studies. Therefore, Goal 10 is satisfied.
11. Goal 11 – Public Facilities and Services. The City has an existing public facilities plan that includes all properties within the City’s urban growth boundary, including islands of unincorporated property. The plan assumes that the City is serving islands of unincorporated property and only properties contiguous to the City will be allowed to annex. The amendments will clarify annexation criteria with respect to public facilities and services requirements. Therefore, this text amendment will not undermine or contradict any aspect of the existing public facilities plan. Goal 11 is satisfied.
12. Goal 12 – Transportation. The decision does not affect the City’s comprehensive plan with respect to Goal 12, or its transportation system plan or the standards governing transportation and transportation-related facilities. The City’s comprehensive plan includes an acknowledged Goal 12 element that contains policies to ensure sufficient and adequate transportation facilities and services are available (or will be available as appropriate) to serve lands within the UGB. The City’s existing TSP anticipates and accounts for the potential development of all land inside the UGB in its analysis. This Ordinance does not affect either the Goal 12 element or the TSP. Moreover, the transportation planning rule is triggered only when a post-acknowledgment amendment “significantly affects” a transportation facility. The amendments will clarify annexation criteria and application submittal requirements related to transportation and the Transportation Planning Rule. The ordinance does not meet the definition of a “significant effect” pursuant to OAR 660-012-0060(1)(a)-(c) because it will not: (1) change the functional classification of an existing or future facility; (2) change the standards implementing the functional classification system; or (3) result in any of the effects listed in 0060(1)(c)(A)-(C). Therefore, Goal 12 is satisfied for the purposes of this decision.
13. Goal 13 – Energy Conservation. The City’s comprehensive plan with respect to Goal 13 and its standards governing energy conservation are not affected by the decision. Goal 13 is satisfied.
14. Goal 14 – Urbanization. The decision does not analyze or expand the City’s urban growth boundary. Goal 14 is not applicable.