

## TITLE 50

### MUNICIPAL CORPORATIONS

#### CHAPTER 2

##### GENERAL PROVISIONS — GOVERNMENT — TERRITORY

50-222. annexation by cities. (1) Legislative intent. It is the intent of the legislature to honor the right of private landowners to have a voice in their own governance, to minimize conflict between citizens and municipalities, to provide a mechanism for the orderly development of Idaho cities, including the efficient and economically viable provision of tax-supported and fee-supported municipal services, to enable the orderly development of private lands that benefit from cost effective availability of municipal services in urbanizing areas, and to equitably allocate the costs of public services in managing development on the urban fringe.

(2) Definitions. For purposes of this section:

(a) "Consent" means a written document executed by the landowner or the landowner's authorized agent explicitly agreeing to annexation. Written consent to annex lands must be recorded in the county recorder's office to be binding upon subsequent purchasers, heirs, or assigns of lands addressed in the consent.

(b) "Contiguous" means sharing a common border. For the purpose of this section, land is not contiguous if the only common border is along a shoestring connection.

(c) "Implied consent" means that valid consent to annex is implied for the area of all lands connected to a water or wastewater collection system owned and operated in its entirety by the city if the connection was requested in writing by the owner or the owner's authorized agent prior to July 1, 2024, or if the connection was completed before July 1, 2008.

(d) "Landowner" means a person owning real property in the area proposed for annexation.

(e) "Planning and zoning commission" means the entity performing planning and zoning duties for the city, which may be the city council itself, a planning commission, a zoning commission, or a planning and zoning commission.

(f) "Subject land" means an area proposed for annexation by a city pursuant to this section.

(3) Requirements. Except as provided in subsection (5) of this section, no city of this state shall annex land unless and until the following requirements are met:

(a) The subject land is contiguous to or surrounded by the city, except as provided in subsections

(7), (9), or (11) of this section;

(b) The city notifies each landowner and the board of county commissioners of its intent to annex the subject land. Such notification shall:

(i) Include a summary of the annexation plan;

(ii) Advise landowners of their right to give or withhold consent;

(iii) Include a description of how consent can be made, where it should be filed, and the deadline for such filing, which shall be no later than forty-five (45) days after the date of notification;

(iv) Include information about where the entire record of the proposed annexation may be reviewed; and

(v) Include a legal description of the subject land and a simple map depicting the location of the subject land;

(c) The city publishes notice of its intent to annex the subject land. In providing notice, the city shall comply with the notice and hearing procedures governing a zoning district boundary change as set forth in chapter 65, title 41, Idaho Code, unless otherwise provided in this section, on the question of whether the subject land should be annexed and, if annexed, the zoning designation to be applied to the subject land. The initial notice of public hearing concerning the question of annexation and zoning shall be published in the official newspaper of the city and mailed by first class mail to every landowner of property included in the annexation proposal at least twenty-eight (28) days prior to the initial public hearing. All public hearing notices shall establish a time and procedure by which comments concerning the proposed annexation may be received in writing and heard;

(d) The city council adopts a written annexation plan;

(e) Subsequent to publishing notice of intent and a written annexation plan, the city council and the planning and zoning commission each holds a public hearing on the proposed annexation, pursuant to section 6-6525, Idaho Code, at which landowners and city residents are afforded an opportunity to testify for or against annexation. Provided, however, if a city performs its own planning and zoning functions without a commission, the two (2) public hearings required by this paragraph may be combined into one (1) public hearing, but in such case, the notice to landowners required by paragraph (c) of this subsection must be mailed at least forty-five (45) days prior to the public hearing; and

(f) Landowners representing sixty percent (60%) of the parcels and at least fifty percent (50%) of the area proposed for annexation give voluntary consent as defined in subsection (2) of this section and record such consent with the county recorder's office for the county in which the property is located.

(4) Written annexation plan. The written annexation plan required by subsection (3) of this section shall describe:

(a) The manner of providing tax-supported municipal services to the subject land;

(b) The changes in taxation and other costs that would result if the subject land were to be annexed;

(c) The means of providing fee-supported municipal services, if any, to the subject land;

(d) An analysis of the potential effects of annexation on other units of local government that currently provide tax-supported or fee-supported services to the subject land;

(e) The proposed future land use plan and zoning designation or designations, subject to public hearing, for the subject land; and

(f) A statement of the public purposes that would benefit from annexation.

(5) Exceptions.

(a) Annexation with consent. In the case of a prospective annexation where all landowners of the subject property have requested annexation or where consent has been given by the landowner or landowners of a contiguous parcel or parcels or where implied consent has been given, the provisions of subsections (3) and (4) of this section shall not apply. In such a case, the subject land may extend beyond the city area of impact if the land is contiguous to the city and the comprehensive plan includes the area of annexation. Lands need not be contiguous to the city limits at the time a landowner consents to annexation for the property to be subject to a valid consent to annex, but no annexation of lands may occur, regardless of consent, until such land becomes contiguous to the city. Upon determining that a proposed annexation meets the requirements of this subsection, a city may initiate the planning and zoning procedures set forth in chapter 65, title 67, Idaho Code, to establish the comprehensive planning policies, where necessary, and zoning classification of the lands to be annexed.

(b) Enclaves. The provisions of subsections (3) and (4) of this section shall not apply to the annexation of any residential enclaved lands of thirty (30) or fewer privately owned parcels that are surrounded on all sides by lands within a city or lands that cannot legally or physically be annexed.

(6) Ordinance. If all requirements provided in subsection (3) or (5) of this section are satisfied and the city agrees to the annexation, then the city council shall enact an annexation ordinance.

(7) Highways. In any annexation proceeding, all portions of highways lying wholly or partly in the subject area shall be included in the area annexed unless there is an express agreement otherwise between the city and the governing board of the highway agency providing road maintenance at the time of annexation. Provided, however, no city council may annex property if the property will be connected to the city only by a shoestring connection or strip of land comprising the highway's right-of-way in order to establish contiguity.

(8) Fairgrounds. Property that is used as a fairground pursuant to the provisions of chapter 31, title 8, Idaho Code, or chapter 2, title 22, Idaho Code, shall not be annexed unless the annexation is approved by a majority of the board of county commissioners of the county in which the property lies.

(9) Airports. A city may annex land that is not contiguous to the city itself if such land is occupied by a municipally owned or operated airport or landing field. A city may not annex any land contiguous to the airport or landing field unless the land may otherwise be annexed pursuant to this section.

(10) Recreational areas. Property owned by a nongovernmental entity that is used to provide outdoor recreational activities to the public and that has been designated as a planned unit



development of fifty (50) acres or more and does not require or utilize any city services must have the express written permission of the nongovernmental entity owner to be annexed by a city.

(1 1) Railroad rights-of-way. A railroad right-of-way property may be annexed pursuant to this section only when property within the city adjoins or will adjoin both sides of the right-of-way. Provided, however, no city council may annex property if the property will be connected to the city only by a shoestring connection or strip of land comprising the railroad right-of-way.

(12) Agricultural or forest lands. In addition to the requirements set forth in this section, the following lands may not be annexed without the express written permission of the landowner:

(a) Land, if five (5) acres or greater, actively devoted to agriculture as defined in section

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Idaho Code, regardless of whether such land is surrounded or bounded on all sides by lands within the city; and

(b) Land, if five (5) acres or greater, actively devoted to forest land as defined in section g , Idaho Code, regardless of whether such land is surrounded or bounded on all sides by lands within the city.

(13) Judicial review. In the case of a city-initiated annexation, the decision of a city council to annex and zone land shall be subject to judicial review in accordance with the procedures provided in chapter 52, title 67, Idaho Code, and pursuant to the standards set forth in section 7-1279, Idaho Code. An appeal shall be filed by an affected person in the appropriate district court no later than twenty-eight (28) days after the date of publication of the annexation ordinance and shall be heard by the district court at the earliest practicable time. All cases in which there may arise a question of the validity of any city-initiated annexation under this section shall be advanced as a

matter of immediate public interest and concern and shall be heard by the district court at the earliest practicable time.

(14) This section applies to annexations occurring on and after July 1 , 2024. It does not invalidate or affect consent, including implied consent, obtained or annexations undertaken lawfully according to the laws in effect at the time of such consent or annexations.