

# ANNEXATION

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Knowing How and When

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## Adding New Lands by Annexation ...

- Counties are everywhere – boundaries set by state legislature
- Cities have historically been established where urbanization is occurring – boundaries set at time of creation
- Thereafter, only lands that qualify by law are eligible – in the discretion of the city council
- Procedures set by state law
- Appeals allowed in city-initiated annexations

# A World Without Municipal Annexation ...?

- Why annexation?
  - Owners often seek access to city-owned utilities
  - Predictability of system extension
  - Protection against inconsistent standards for transportation, etc.
  - Avoid *de facto* build-up of unserved urban development
- Consequences of not annexing
  - Gaps in basic systems
  - Inadequate dedication and fee collection for future urban needs
  - Remedial costs may be unaffordable
  - Remediation may be unachievable within the reach of economic reality
  - Inequitable sharing of common costs
  - Pressure on county budgets caused by urban service demands

# Basic Requirements

- Must be contiguous
- Have correct legal description from the start – can be costly
- Area of City Impact (category B & C)
- Land must have been divided into 5-acre parcels
- Must not be in bona fide agricultural use
- Must comply with hearing and others procedures required by Idaho Code §50-222
- After council action, record ordinance and work with county and state tax commission (must get it right from the start)

# Procedures to Annex

- Owner-Requested
  - Similar to zone change – requires two (2) public hearings (I.C. §50-222)
  - Completed by ordinance adoption
- Residential enclave
  - Same procedures as owner-requested annexation
  - Surrounded by city
- City-initiated/not all owners consent
  - Basic procedures plus ..
  - Area of city impact
  - Annexation plan
  - Findings required by statute
  - Subject to judicial review

# Owner-Requested Annexation/Enclave

- Must be contiguous – touching, even at a point
- Must have an **ACCURATE** legal description from the start – do not wait until drafting ordinance
- Should make sense from an orderly development standpoint – consider alternative of not annexing
- Best practice is to annex undeveloped land rather than wait until it has been developed
- Annexation agreements can smooth rough edges of specific annexation proposals – involve your city attorney
- Always consider how services would be delivered

## Requested Annexation (Category A)

- Lands adjacent/contiguous
- Often seeking utility access (policy implications of denial)
- Apply initial zoning
  - Public hearing
  - Zoning recommendation from p-z
- Annexation recommendation from p-z (unless no p-z)
- Ordinance annexing and zoning concludes (starts?) the process

## Considerations For Requested Annexation

- Can you provide services efficiently – orderly – adequate capacity?
- What if you say no? Consequences?
- Past practices
- Intervening lands
- Contiguity (true)



## City-Initiated Annexation (Category B)

- Two primary types
  - Bridging a gap
  - Including a substantially developed area (more difficult)
- Not everyone consents
- Implied consent if using utilities (pre-2008)
- Now must get executed agreement if provide utilities
- Remember – 2 public hearings required

## Annexation Plan – Required Components

- Manner of providing tax-supported services
- Changes in taxation – newly annexed would begin to pay city taxes
- Means of providing fee-supported municipal services
- Analysis of effects of annexation on other units of government
- Proposed future land use and zoning
- Publish initial notice at least 28 days in advance – notify of plan
- Notify where plan is available without charge

## Required Findings by Governing Board

- Must be set forth in council minutes
- Must find compliance with requirements of §50-222 and not subject to any conditional exceptions
- Must find that the proposed annexation would be consistent with the public purposes set forth in the annexation plan
- Must find that the annexation is reasonably necessary for the orderly development of the city
- Worthwhile, though not expressly required, to address annexation policy in comprehensive plan

## Category C – Seek Professional Help

- Don't try Category C annexation without thorough consideration by advisers – legal and otherwise
- You start Category C behind the curve
- Try to avoid this process

## General Considerations

- Annex before development
- Don't extend utilities outside your city limits – once you enable development – owners will try to avoid paying public costs
- When you hold public hearings, listen; don't rush through annexation
- Work with counties to build an understanding of the reasons for unified systems – need for city services