ORDINANCE NO. 15-23

AN ORDINANCE OF THE CITY OF SOUTH OGDEN CITY, UTAH, AMENDING AND READOPTING ITS ANNEXATION POLICY DECLARATION FOR THE CITY; ADDING AREA 7 TO THE PREVIOUSLY ADOPTED PLAN; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION AND DEPOSIT WITH THE CITY RECORDER.

Section 1. Recitals:

WHEREAS, the City Council finds that the City of South Ogden City ("City") is a municipal corporation and a city of the fourth class duly organized and existing under the laws of the State of Utah; and,

WHEREAS, the City Council finds that in conformance with UCA §10-3-717, the governing body of the city may exercise all administrative powers by resolution; and,

WHEREAS, the City Council finds that in conformance with UCA §10-3-702, the governing body of the city may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and,

WHEREAS, the City Council finds that in conformance with UCA §10-2-401.5, the governing body of the city may pass adopt an annexation policy plan; and,

WHEREAS, the City Council finds it has previously adopted such an annexation policy plan; and,

WHEREAS, the City Council finds that certain changes to that prior plan should be made; and,

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue and requires action by the City as noted above; and,

WHEREAS, the City Council finds that the requisite notices and public hearings have been distributed and held;

NOW THEREFORE, BE IT ORDAINED By The City Council Of South Ogden City, Utah as follows:

The "South Ogden City Annexation Policy Plan (2008) Proposed Amendment 2015, Areas 1, 3, and 7" attached hereto as Attachment "A", and by this reference incorporated, copies of which are on file in the Office of the City Recorder, is Adopted.

Section 2. Repealer of Conflicting Enactments:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have heretofore been adopted by the City, or parts thereof, which conflict with any of this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 3. Prior Ordinances and Resolutions:

The body and substance of all prior Ordinances and Resolutions, with their provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:

If any provision of this Ordinance shall be held or deemed to be or shall be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed to be the separate independent and severable act of the City Council of South Ogden City.

Section 5. Date of Effect

This Ordinance shall be effective on the 6th day of October, 2015, and after publication or posting as required by law.

PASSED AND ADOPTED AND ORDERED POSTED by the City Council of South Ogden City, Utah this 6th day of October, 2015.

SOUTH OGDEN, a municipal corporation

by: _____
James F. Minister, Mayor

Attested and recorded

_____
Leesa Kapetanov
City Recorder

ATTACHMENT "A"

ORDINANCE NO. 15-23

An Ordinance Of The City Of South Ogden City, Utah, Amending And Readopting Its Annexation Policy Declaration For The City; Adding Area 7 To The Previously Adopted Plan; And Providing That This Ordinance Shall Take Effect Immediately Upon Its Adoption And Deposit With The City Recorder.

06 Oct 15

SOUTH OGDEN CITY ANNEXATION POLICY PLAN (2008)
PROPOSED AMENDMENT 2015
AREAS 1, 3 and 7

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1. Background

Overview of the Process for Annexing Land into South Ogden City[1]

Nature of the decision
This is a legislative decision that is made in two phases:

First, as a municipality that is willing to grow (some are not) and with an existing annexation policy plan in place, South Ogden must adopt a new annexation policy plan that reflects the new direction and changes. The existing South Ogden Annexation Policy Plan was adopted in 2008, replacing previous versions that were adopted in1997 and modified in 2003 and 2006. This amendment modifies the 2008 South Ogden Amendment Policy Plan incorporating two of the existing annexation areas with minor modifications/ clarifications (Areas 1 and 2), maintaining one existing annexation area "as is" with minor text modifications (Area 3), deleting Annexation Area 4 in its entirety (the area has been annexed into South Ogden since the 2008 amendment was adopted), and adding two new annexation areas (Areas 5 and 6.)

Once the plan is adopted, individual annexation requests can be considered as legislative acts. Such proposals usually begin with a petition by the owners of more than 50 percent of the property in the proposed annexation area. The issue on a specific annexation request is whether or not South Ogden wishes to make the annexation; it typically has no duty to do so and has virtually complete discretion whether to make an annexation. In some cases, if enough landowners or residents within the proposed annexation area protest the annexation, the annexation cannot occur.

Who makes the decision?
In order for a property to be annexed, it must first be included in the city's annexation policy plan. The city council, by majority vote, adopts the annexation policy plan based on recommendations from the planning commission. Once the plan has been adopted, the decision to annex a property requires a simple majority of the council.

What notice is required?
There are several stages of meetings required and public notices provided for, but no specific notice to a particular property owner is required. However, notices to affected entities are required. When a particular property or area is slated for annexation, there is yet another set of public notice requirements, but still no requirement that affected property owners be notified directly. See the statute for specific language and requirements.

What public input is required?
The notice periods, public meetings and public hearings required in the preparation of an annexation policy plan are relatively extensive. Once the petition for a specific annexation is received, not only are public notices required, but specific notices to affected municipalities, Weber County, Weber School District, special service districts and other affected entities also must be provided.

[1] Information contained in the *Utah Citizen's Guide to Land Use Regulation - Specific Legislative Issues and How They are Resolved,* p.60-62. http://www.utahlanduse.org/pages/Citizens_Guide_Links.html was utilized as the basis of this section.

What are the issues?
The question of annexation is simple: Is this addition a good thing for the community?

How is the decision appealed?
Property owners can protest the petition to annex and refer it to a local appeals body called the Boundary Commission. This can also be done by the school district, special service district (a government utility provider), the county or a neighboring town. Once the Boundary Commission has made a decision, the local city council is to follow the commission's directive and annex the land or deny the request as instructed. Within 20 days of the boundary commission's decision, those who disagree must file a petition with the district court or their challenge will be too late.

Basic Annexation Criteria
In 1979, the Utah State Legislature passed an annexation law that outlined the criteria, policy declaration and standards required for annexation. The law also provided for a boundary commission to settle annexation disputes within each county. Changes to the law in 1997 eliminated the policy declaration requirement of the annexation law and made other procedural changes. In 2001, the Legislature further amended portions of the annexation law to further define the requirements and responsibilities of counties and municipalities regarding annexation. As of January 2002, the basic criteria under State Law are as follows:

1. A petition requesting annexation, signed by a majority of the owners of property in the area to be annexed (i.e., a majority of the private land and equal to at least 1/3 of the value of all private property, or 100 percent of owner if the area is within an agricultural protection area)be filed with the city recorder;
2. The properties to be annexed must be contiguous to each other;
3. The area to be annexed must be contiguous to the corporate boundaries of the municipality;
4. The area must not leave or create an unincorporated island or peninsula, except that existing islands or peninsulas within a city may be annexed in portions, leaving islands (See UCA 10- 2-418(1)(b), 1953)
5. The area must be within the municipality's expansion area;
6. An accurate and recordable plat, prepared by a licensed surveyor must accompany the petition; and
7. The plat and ordinance declaring the annexation be recorded by the County Recorder.

Specific Requirements of the Annexation Policy Plan
In addition to the above criteria, the amended Utah State Law requires that after December 2002, a municipality may not annex unincorporated land unless it has adopted an annexation policy plan. The policy plan is a description of those areas the city would consider annexing if petitioned by the owners, and the criteria that will be used to decide when to annex.

Specifically, the policy plan must include the following:

1. A map of the expansion area; and
2. A statement of the specific criteria that will guide the decision whether or not to grant future annexation petitions. The statement should include matters relevant to those criteria including the following:
    - The character of the community.
    - The need for municipal services in developed and undeveloped unincorporated areas.
    - The municipality's plans for extension of municipal services.
    - How the services will be financed.

- An estimate of the tax consequence to residents both currently within the municipal boundaries and in the expansion area.
- The interests of all affected entities.

3. Justification for excluding from the expansion area any area containing urban development within ½ mile of the municipality's boundary

In developing, considering and adopting the annexation policy plan, the Planning Commission and City Council must:

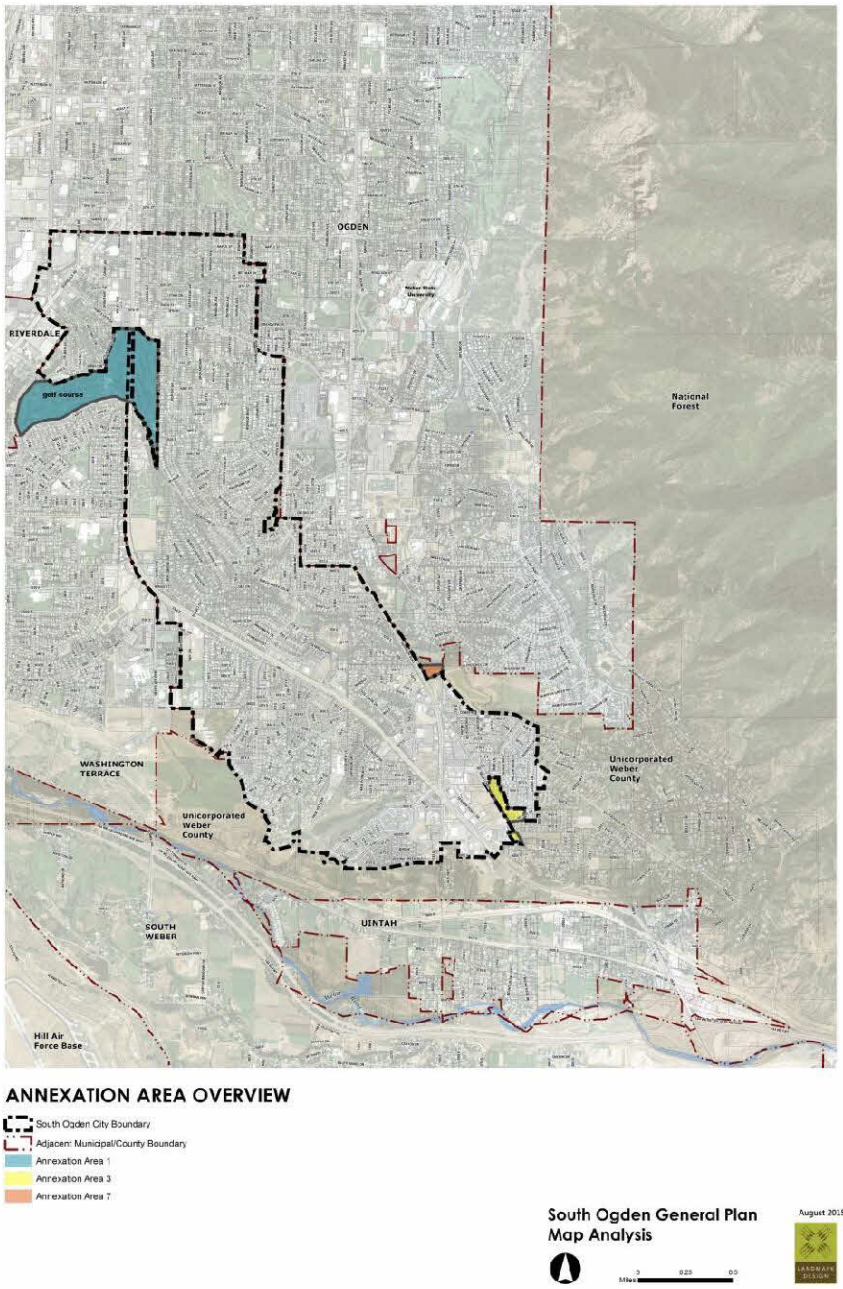
- Attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;
- Consider population growth projections for the municipality and adjoining areas for the next 20 years;
- Consider current and projected costs of infrastructure, urban services and public facilities necessary to facilitate full development of the area within the municipality and to expand the infrastructure, services and facilities into the area being considered for inclusion in the expansion area;
- Consider the need over the next 20 years for additional land suitable for residential, commercial and industrial development;
- Consider the reasons for including agricultural lands, forests, recreational areas and wildlife management areas in the municipality; and
- Be guided by the principles set forth in UCA 10-2-403 (5), 1953.

2. Annexation Policy Plan Amendment 2015

NOTE

Annexation Expansion Areas 1 and 3 were originally approved by the City Council in 2003, and amended in 2006 and 2008. Annexation Area 7 is a new addition to the policy plan. Map 1 illustrates the location of Annexation Areas 1, 3 and 7 from a citywide context. Detailed maps of the same are provided in the annexation area descriptions that follow.

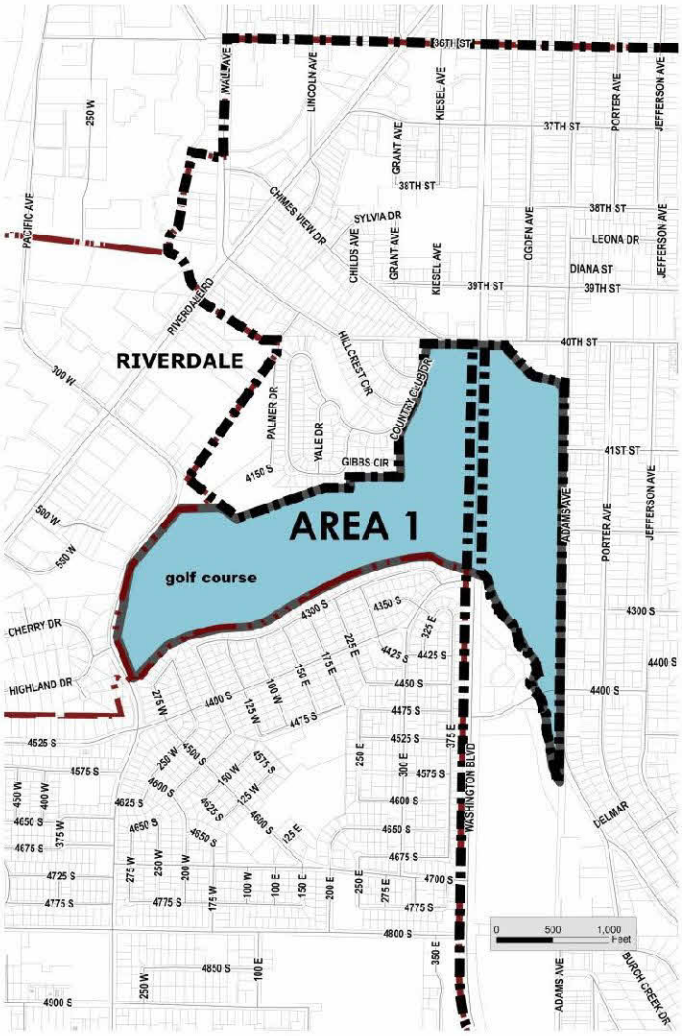
Map 1
Annexation Areas



AREA 1

CHARACTER OF THE COMMUNITY

This is a 126 acre site that currently encompasses the Ogden Golf and Country Club. The surrounding area is fully developed in South Ogden City as well as Washington Terrace and Riverdale City. Most of the surrounding area is made up of long established residential neighborhoods, with limited commercial uses located north of 40th Street in South Ogden, which is an arterial street. Access to the Ogden Golf and Country Club is from U.S. 89, a main arterial street that divides the golf course into two separate parcels. A tunnel is located under the street, providing a direct pedestrian link between the two parcels, and continuous pedestrian circulation throughout the course.



It should be noted that Washington Terrace has also adopted an annexation policy plan that includes Area 1 west of US-89 (see map for Area 1.)

NEED FOR MUNICIPAL SERVICES

This area is the Ogden Golf and Country Club. The South Ogden City General Plan indicates a desire to maintain this open space as part of the City environment. The bulk of the facility is located on the east side of U.S. 89, forming an island of unincorporated Weber County land. The site does not need to be annexed to South Ogden to remain a visual asset to the community. However, in the event that the club organization wants to become part of the City, the City would consider annexation. The City will then provide all municipal services as provided to others in the City. In the event that the club organization offers the facility for sale, South Ogden City would investigate the possibility of purchasing the property as a City facility or a jointly owned facility with other municipal entities such as Weber County and Washington Terrace.

The cost of providing municipal services to the area "as is" would be minimal and would have little impact on the existing City infrastructure or organization. The loss to Weber County would in turn be minimal because of the low demand for services.

ESTIMATE OF TAX CONSEQUENCES

The estimated tax consequences would be minimal, having little impact on the existing South Ogden City tax burden or benefit. The loss to Weber County would likewise be minimal.

THE AFFECTED ENTITIES

- Riverdale City
- Washington Terrace
- Ogden City
- Weber School District
- Weber County
- Weber County Library
- Central Weber Sewer Improvement District
- Weber Mosquito Abatement District
- Weber Area 911 Dispatch
- Weber Basin Water
- Weber/Morgan Health Department
- Weber Fire District

AREA 3

CHARACTER OF THE COMMUNITY

This area consists of two small portions comprising a total of 11 acres. The surrounding South Ogden community was developed primarily in 1970's, and is primarily lower-density residential in character. The area also includes a few older homes in addition to a few newer homes that have been developed in recent years. Wasatch Drive is a collector street that services most of the community. The proposed annexation area is located at the southern extents of this roadway, where it is anticipated that the properties located on the east side of the street will be developed with residential homes similar to those that surround it, while the properties on the west side of Wasatch Drive will be commercial in nature, matching the uses to the southwest. It is expected that office buildings and/or retail uses will be located on the latter site. The unincorporated area to the south and east are dominated by low-density residential neighborhoods that have been in existence for several decades.

NEED FOR MUNICIPAL SERVICES

Area 3 has been planned for development expansion for several years. The utilities necessary to facilitate this development are available through South Ogden City and the Uintah Highlands Improvement District. As development is approved, costs to connect to or expand the utilities will be paid by the developers, with the costs to maintain public improvements will be offset by the anticipated increase in tax revenues.

ESTIMATE OF TAX CONSEQUENCES

The small size of this annexation area, coupled by the fact that infrastructure is readily available supports the notion that costs can be easily absorbed by the increase in tax revenue generated by new development. Service costs will either remain the same or be reduced assuming South Ogden City provides the services.

THE AFFECTED ENTITIES

- Weber County
- Uintah City
- Ogden City
- Weber School District
- Uintah Highlands Water and Sewer Improvement District
- Central Weber Sewer Improvement District
- Weber Mosquito Abatement District
- Weber Area 911 Dispatch
- Weber Basin Water Conservancy District
- Weber Fire District
- Weber County Library
- Weber/Morgan Health Department

AREA 7

CHARACTER OF THE COMMUNITY

This area consists of a small parcel approximately three acres in extent. The surrounding South Ogden community has been developed since the 1970's, and is primarily commercial in character. The surrounding area also includes a few older homes in addition to some newer homes that have been developed in recent years. Harrison Boulevard provides access to the site. The roadway is an arterial street that serves much of the community. The site is located on the toe of a steep slope occupied by two large water storage tanks and other buildings. The

proposed annexation area is located at the eastern edge of the city, and will create a small island of unincorporated county north of the site.

A portion of the property slopes north to Ogden City and Burch Creek, and the entire site is currently identified in Ogden City's annexation plan as property Ogden City will consider annexing in the future (See 8.F.4.F of the Ogden City General Plan). In defining this area for potential annexation, Ogden City's support for annexation is based primarily on the fact that the site drains north into Ogden City. However, access to the property would be difficult from Ogden City. It is the understanding of Ogden City that Area 7 and the parcel immediately south (which is located in South Ogden City), are currently owned by the same person. If the intent is to develop the entire property owned by the same individual, being in two cities would be difficult.

Section 10.2.401.5(4) of the Utah State Code indicates that communities should avoid overlaps with expansion areas of other communities. In order to avoid overlap, Ogden City has submitted a letter to South Ogden City, indicating they would consider amending Ogden City's existing annexation plan to remove this parcel, provided the following conditions are met:

- That storm water drainage created by development on the property be contained within South Ogden and not be allowed to drain north into unincorporated or Ogden City lands;
- That development in Area 7 only be allowed in conjunction with development of the adjacent property in South Ogden City that is owned by the same entity so that the overall utility service and drainage needs for the site can be adequately addressed for both sites; and
- That it is understood Ogden City will not provide any service or access to this land for development.

NEED FOR MUNICIPAL SERVICES

According to an assessment by the South Ogden City Engineer, Area 7 would receive culinary water from the adjacent storage tanks. Water pressure will be an issue for much of the property near Harrison Boulevard, with pressures tending to be in the more acceptable range of 40 to 50 psi. However, on the higher portions of the parcel, pressures will be relatively low (approximately 10 psi).

The location of the proposed culinary water connection will also be a potential problem. The culinary water connections for properties surrounding the subject parcel are all located near the intersection of the steel tank access road and Combe Road (5625 South Street) where the pressures are higher. Connecting at that point would require a line that crosses several other parcels of private property.

There is currently no city owned sanitary sewer or storm drain facilities located near the property. The closest sewer main line is located on Combe Road (5625 South Street). Any lines serving the subject property would need to run across private property to connect to the City main lines.

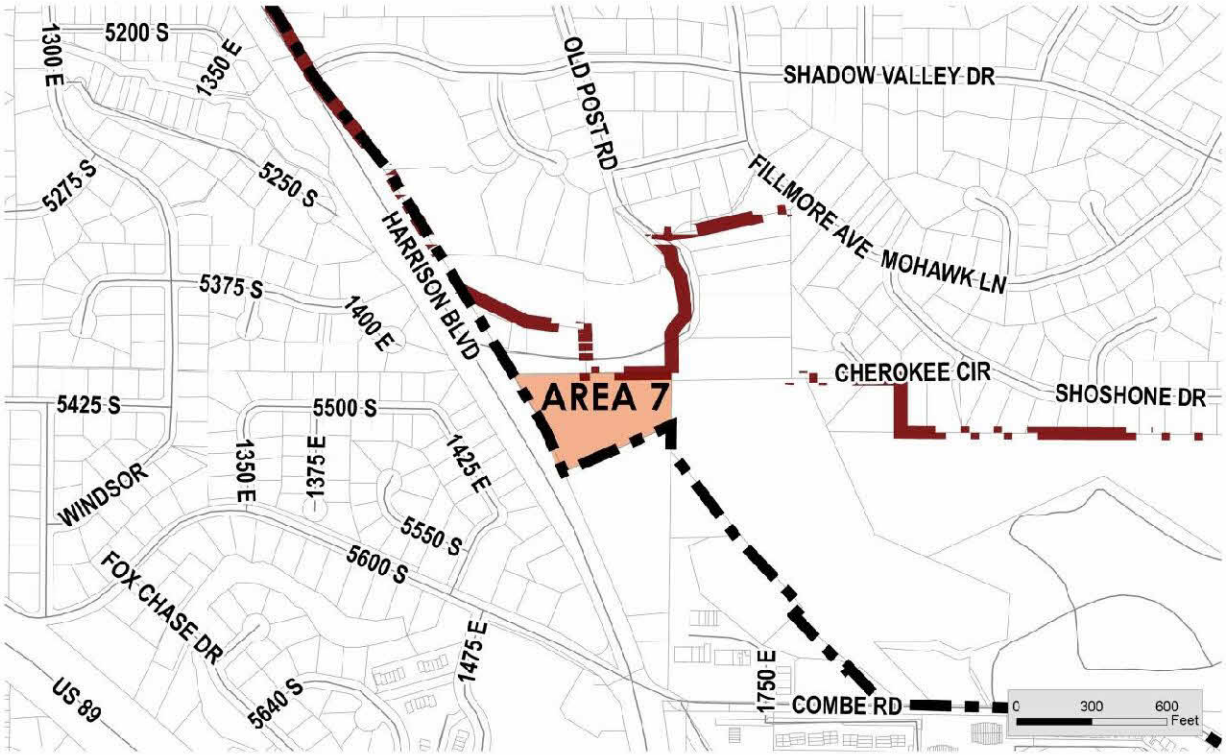
ESTIMATE OF TAX CONSEQUENCES

The small size of this annexation area, and the assumption that infrastructure costs would be provided by the owner or developer, supports the notion that tax consequences –both negative and positive – will be minor.

THE AFFECTED ENTITIES

- Weber County
- Ogden City

- Weber School District
- Central Weber Sewer Improvement District
- Weber Mosquito Abatement District
- Weber Area 911 Dispatch
- Weber Basin Water Conservancy District
- Weber Fire District
- Weber County Library
- Weber/Morgan Health Department



3. State Law Regarding Annexations

In 1979, the Utah State Legislature passed an annexation law that outlined the criteria, policy declaration and standards required for annexation. The law also provided for a boundary commission to settle annexation disputes within each county. Changes to the law in 1997 eliminated the policy declaration requirement of the annexation law and made other procedural changes. In 2001, the Legislature further amended portions of the annexation law to further define the requirements and responsibilities of counties and municipalities regarding annexation

After December 31, 2002, laws were adopted that ensured that no municipality may annex an unincorporated area located within a specified county unless the municipality has adopted an annexation policy plan as provided below.

To adopt an annexation policy plan the planning commission shall:

- prepare a proposed annexation policy plan that complies with Subsection (3);
- hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;
- provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;
- accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);
- before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);
- hold a public hearing on the proposed annexation policy plan;
- provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;
- make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing.

The Planning Commission shall submit its recommended annexation policy plan to the municipal legislative body (city council) and the municipal legislative body shall:

- hold a public hearing on the annexation policy plan recommended by the planning commission;
- provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;
- after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and
- adopt the recommended annexation policy plan, with or without modifications.

Each annexation policy plan shall include:

- a map of the expansion area which may include territory located outside the county in which the municipality is located;
- a statement of the specific criteria that will guide the municipality's decision whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:
    - the character of the community;

    - the need for municipal services in developed and undeveloped unincorporated areas;
    - the municipality's plans for extension of municipal services;
    - how the services will be financed;
    - an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and
    - the interests of all affected entities;

- justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and
- a statement addressing any comments made by affected entities at or within 10 days after the public meeting under Subsection (2)(a)(ii).

In developing, considering, and adopting an annexation policy plan, the planning commission and municipal legislative body shall:

- attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;
- consider population growth projections for the municipality and adjoining areas for the next 20 years;
- consider current and projected costs of infrastructure, urban services, and public facilities necessary:
    - to facilitate full development of the area within the municipality; and
        - to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area.
- consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;
- consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and
- be guided by the principles set forth in Subsection 10-2-403 (5) of the Utah State Code.

Within 30 days after adopting an annexation policy plan, the municipal legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.

Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.