



1 Section 3. SRC Chapter 165, Annexation Procedures, is added to and made a part of the Salem  
2 Revised Code, as follows:

3 **SRC 165.010: Intent and Purpose.** The intent and purpose of this chapter is to establish  
4 procedures relating to the annexation of territory into the City of Salem and to ensure the public has  
5 adequate information to consider the merits of a proposed annexation at the time of the election.

6 **SRC 165.020: Definitions.** Except where the context otherwise clearly requires, as used in this  
7 chapter the following mean:

8 (a) “Annexation contract” means a contract between the city and a landowner relating to  
9 extraterritorial provision of service and consent to eventual annexation of the property of the  
10 landowner.

11 (b) “Director” means the Director of Community Development, or the Director’s designee.

12 (c) “Enclave” means territory that is completely surrounded by the corporate boundaries of  
13 the City of Salem, or by the corporate boundaries of the City of Salem and a river, stream,  
14 lake or other body of water.

15 (d) “Health hazard” means a condition which is conducive to the propagation of  
16 communicable or contagious disease-producing organisms and which presents a reasonably  
17 clear possibility that the public generally is being exposed to disease-caused physical  
18 suffering or illness, including impure or inadequate domestic water; inadequate installations  
19 for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste;  
20 or inadequate improvements for drainage of surface water and other fluid substances.

21 (e) “Person” means a natural person, corporation, limited liability company, partnership,  
22 joint venture, trust, co-operative, association, or any other entity in law or fact.

23 **SRC 165.030: Initiation of Annexations.** Annexation of territory into the City of Salem may be  
24 initiated by the City Council upon its own motion, or by a petition submitted to the City Council by  
25 owners of real property in the territory proposed to be annexed.

26 **SRC 165.040: Enclave Annexations.** When a petition for annexation is filed, the Director shall  
27 include areas adjacent to the territory proposed to be annexed as part of the proposed annexation if  
28 the failure to include the additional territory would result in the creation of an enclave and the

1 requirements for consent elections set forth in ORS Chapter 222 are met, or if the inclusion of the  
2 additional territory would eliminate existing enclaves.

3 **SRC 165.050: Voter Approval of Annexations; Exempt Annexations.**

4 (a) Except as provided in subsection (b) of this section, all annexations shall be submitted to  
5 the voters of the City of Salem for their approval.

6 (b) Annexations made pursuant to annexation contracts effective prior to May 16, 2000,  
7 annexations necessitated by failing septic systems or health hazards, or annexations mandated  
8 by state law are exempt from voter approval.

9 **SRC 165.060: Annexation Elections.** Annexation may be submitted to the voters at a general  
10 election or at a special election.

11 **SRC 165.070: Pre-Application Conference; Filing Deadline.**

12 (a) Any person who wishes to petition for the annexation of territory shall participate in a  
13 pre-application conference not less than sixty days prior to the deadline for filing the petition.  
14 The purpose of the pre-application conference shall be to inform the person of the process for  
15 annexing territory into the city.

16 (b) Unless otherwise allowed by the Director, annexation petitions which propose a change  
17 to the comprehensive plan or zone designation for the territory pursuant to SRC 165.100(b)  
18 shall be filed not less than three hundred and fifteen days prior to the date of the election  
19 when the annexation is proposed to be submitted to the voters. Annexation petition which  
20 will have the comprehensive plan and zone designations applied pursuant to SRC 165.100(a)  
21 shall be filed not less than two hundred and forty days prior to the date of the election when  
22 the annexation is proposed to be submitted to the voters.

23 **SRC 165.080: Annexation Petitions; Land Use Determination Application; Conceptual Plan.**

24 (a) Petitions for annexation and applications for land use designations shall be on forms  
25 promulgated by the Director.

26 (b) A petition for annexation for which voter approval is required shall be accompanied by:

- 27 (1) A legal description of the territory proposed to be annexed, along with  
28 documentation of ownership;

1 (2) Notarized signatures of the necessary number of landowners and voters residing  
2 on the territory proposed for annexation as required by state law;

3 (3) Identification of any territory that could be annexed pursuant to a previously  
4 executed annexation contract; and

5 (4) An application for land use designations shall contain the following:

6 (A) A notification list of the owners of all real property which is located  
7 within 250 feet of the property proposed to be annexed.

8 (B) A county tax assessor's map showing all tax lots located within 250 feet  
9 of the property proposed to be annexed.

10 (C) A statement demonstrating the availability of water, sewer, drainage,  
11 transportation, public safety, park, and school facilities and services needed to  
12 serve the proposed development at the maximum density levels allowed or  
13 proposed.

14 (D) If the petitioner proposes a comprehensive plan or zone designation  
15 which is different from the existing or equivalent comprehensive plan  
16 designation or equivalent zone designation, as set forth in Table 165-1, the  
17 land use designation application shall include:

18 (i) A conceptual plan, drawn to scale, including:

19 (a) The proposed zoning for the territory, and, if more than one  
20 zone is proposed for the territory, a legal description for each  
21 area with the proposed zoning;

22 (b) A site map, showing general circulation patterns, location  
23 of land uses by general categories, the anticipated intensity of  
24 uses in each category, and approximate acreage for uses in each  
25 category. Categories of land uses may be identified by any  
26 descriptive system or method generally acceptable by  
27 professionals engaged in the production of development master  
28 plans;

1 (c) The location of all significant trees within the territory as  
2 defined in SRC Chapter 68;

3 (d) The location and proposed changes to any wells, septic  
4 tanks, drain fields, and easements within the territory; and

5 (e) The location and proposed changes to creeks, drainage  
6 ways and courses, and riparian corridors.

7 (ii) Proposed findings demonstrating why comprehensive plan and  
8 zone designation criteria are met.

9 (c) A petition for annexation exempt from voter approval under SRC 54.050(b) shall contain  
10 the following:

11 (1) A legal description of the property proposed to be annexed, along with  
12 documentation of ownership;

13 (2) The notarized signatures of the landowner or owners; and

14 (3) A statement from the Oregon Department of Human Services, the Oregon  
15 Department of Environmental Quality or the county health department or sanitarian  
16 attesting to the failing septic system or health hazard and which otherwise complies  
17 with health hazard abatement law relative to annexation, a copy of the annexation  
18 contract, or documentation that the annexation is mandated by state law.

19 (d) If the City Council initiates an annexation at the request of a landowner, and a  
20 comprehensive plan or zone designation is proposed which is different from the existing or  
21 equivalent comprehensive plan designation or equivalent zone designation, as set forth in  
22 Table 165-1, the landowner shall, as a condition of the initiation and within thirty days of the  
23 date the City Council initiates the annexation, provide a conceptual plan which complies with  
24 subsection (b)(4)(D) of this section.

25 **SRC 165.090: Filing Fees and Election Costs.**

26 (a) **Filing Fees.** Any person submitting a petition for annexation shall pay a petitioner's  
27 application fee at the time the petition is filed, and such other fees that are required for  
28 processing any land use actions or special district withdrawals associated with the

1 annexation. The petitioner's application fee shall be set by resolution of the City Council.  
2 The fees paid pursuant to this subsection shall be non-refundable.

3 **(b) Election Costs.**

4 (1) In addition to the petitioner's application fee and any land use fees, the petitioner  
5 shall deposit with the Director a sum sufficient to cover any and all other costs  
6 incurred by the City in submitting the annexation to the voters. The deposit shall be  
7 based on the petitioner's pro rata share of the estimated cost of placing an annexation  
8 measure on the ballot, and of publishing notices and other information related to the  
9 election. Any unexpended portion of the deposit shall be refunded to the petitioner  
10 following the election.

11 (2) The deposit shall be made not less than seven business days after the City Council  
12 adopts the measure referring the annexation proposal to the voters. If the petitioner  
13 fails to make such deposit within seven days, the annexation shall not be referred to  
14 the voters.

15 (3) The petitioner shall execute a consent to lien form to secure payment of all  
16 election costs. If the deposit is insufficient to cover the petitioner's pro rata share of  
17 the actual costs, an additional sum equal to such amount shall be remitted to the  
18 Director no later than fifteen days after the election date. If such amount is not paid  
19 within the fifteen day period, the Director shall file an election cost lien in the city  
20 lien docket. The election cost lien shall have priority over all other liens, except liens  
21 for the payment of taxes, shall bear interest at the legal rate, and shall remain a lien  
22 against the property until fully paid or foreclosed, as provided by law.

23 (4) If an annexation is initiated by the City Council upon the request of any  
24 landowner, the landowner shall pay all fees, deposits and costs provided by this  
25 subsection, and shall execute a consent to lien form to secure payment of all election  
26 costs. If the deposit is insufficient to cover the landowner's pro rata share of the  
27 actual costs, an additional sum equal to such amount shall be remitted to the Director  
28 no later than fifteen days after the election date. If such amount is not paid within the

1                   fifteen day period, the Director shall file an election cost lien in the city lien docket.  
2                   The election cost lien shall have priority over all other liens, except liens for the  
3                   payment of taxes, shall bear interest at the legal rate, and shall remain a lien against  
4                   the property until fully paid or foreclosed, as provided by law.

5 **SRC 165.100: Land Use Designations.**

6                   (a) Territory annexed into the city shall be automatically given the city comprehensive plan  
7                   and zone designations that are the equivalent to the applicable county comprehensive plan  
8                   and zoning designations, as set forth in Table 165-1, unless one or more of the following  
9                   apply:

- 10                   (1) The petitioner requests a comprehensive plan or zone designation other than the  
11                   equivalent city designation in Table 165-1 in the petition for annexation;  
12                   (2) The City Council proposes a comprehensive plan or zone designation other than  
13                   the equivalent city designation in Table 165-1 in the resolution initiating the  
14                   annexation; or  
15                   (3) The equivalent city designation in Table 165-1 is inconsistent with the Salem  
16                   Area Comprehensive Plan.

17                   (b) If the comprehensive plan or zoning designation proposed for the territory is different  
18                   from the equivalent designations set forth in Table 165-1, the Planning Commission shall  
19                   hold a public hearing to review the proposed designation, and shall make a recommendation  
20                   to the City Council whether, in light of the conceptual plan, to adopt the proposed  
21                   designation, the equivalent designation, or a different designation. The Planning  
22                   Commission's review shall be based the following criteria:

- 23                   (1) Whether the comprehensive plan and zone designation provides for the logical  
24                   urbanization of land;  
25                   (2) Whether the comprehensive plan and zone designation is compatible with  
26                   development patterns in the nearby vicinity;  
27                   (3) Whether the social, economic, or demographic patterns of the nearby vicinity  
28                   have so altered that the current designations are no longer appropriate; and

1 (4) Whether it is in the public interest that the proposed change be made.

2 **SRC 165.110: Modification of Conceptual Plan After Planning Commission Recommendation.**

3 (a) Notwithstanding any other provision of this chapter, if the Planning Commission fails to  
4 recommend the comprehensive plan or zone designation proposed by a petitioner or  
5 requested by a landowner, the petitioner or landowner may elect to:

6 (1) Modify the conceptual plan prior to hearing before the City Council under SRC  
7 165.130, and propose different uses, development standards, or an alternative  
8 conceptual plan which conform to the Planning Commission's recommended  
9 comprehensive plan and zone designations;

10 (2) Choose to proceed with the annexation under the equivalent zoning designations  
11 set forth under SRC 165.095, without a conceptual plan; or

12 (3) Present the original conceptual plan to the City Council.

13 (b) Notice of the election of one of the options set forth in SRC 165.110 (a) shall be  
14 provided, in writing, to the Director not less than sixty days prior to the hearing before the  
15 City Council. If the petitioner or landowner chooses to modify the conceptual plan or to  
16 submit an alternative conceptual plan, a copy of the modified or alternative conceptual plan  
17 shall be provided with the notice of election, along with proposed findings demonstrating that  
18 the comprehensive plan and zone designation criteria will be met under the modified or  
19 alternative plan.

20 **SRC 165.120: Fiscal Impact Statement.**

21 (a) Not less than fourteen days prior to the date of the hearing before the City Council under  
22 SRC 165.130, the Director shall prepare a fiscal impact statement, which shall estimate the  
23 fiscal impact the proposed annexation would have on the city's general fund. If the proposed  
24 annexation includes a conceptual plan, the Director shall base the estimate on the information  
25 provided pursuant to SRC 165.080. The methodology for the preparation of the fiscal impact  
26 statement shall be adopted by resolution of the City Council.

27 (b) The Director shall forward the petition to the Salem-Keizer School District for its  
28 review, and request that the District submit a report on the fiscal impact of the proposed

1 annexation on the District not less than three weeks prior to the date of the hearing before the  
2 City Council under SRC 165.130.

3 **SRC 165.130: City Council Review of Proposed Annexations.**

4 **(a) Hearing.** No later than forty-five days prior to the date the proposed annexation must be  
5 submitted to the county clerk for inclusion on the ballot, the City Council shall hold a public  
6 hearing on each annexation proposal, including the proposed zoning and any comprehensive  
7 plan designation for the territory to be annexed, if such designation is different than that  
8 automatically applicable under SRC 165.100(a).

9 **(b) Notice of Hearing.** At least 10 days before the hearing, notice of the hearing shall be  
10 mailed to the person whose property will be annexed, any person who has submitted written  
11 or oral evidence or testimony in a timely manner at the Planning Commission evidentiary  
12 hearing, any recognized neighborhood organization for the area adjacent to that proposed to  
13 be annexed, and persons who requested notice of the Planning Commission's decision.

14 **(c) Criteria.** The City Council shall determine whether the proposed annexation meets the  
15 following criteria:

16 (1) The proposed land use designations are consistent with the Salem Area  
17 Comprehensive Plan and applicable Statewide planning goals;

18 (2) The annexation will result in a boundary in which services can be provided in an  
19 orderly, efficient, and timely manner;

20 (3) The uses and density that will be allowed can be served through the orderly,  
21 efficient and timely extension of key urban facilities and services;

22 (4) The public interest would be furthered by the referral of the annexation to the  
23 voters; and

24 (5) For annexations that propose a change in the comprehensive plan or zoning  
25 designation that are different from the equivalent zoning designations set forth in  
26 Table 165-1, that:

27 (A) The comprehensive plan and zone designation provides for the logical  
28 urbanization of land;

- 1 (B) The comprehensive plan and zone designation is compatible with
- 2 development patterns in the nearby vicinity;
- 3 (C) Social, economic, or demographic patterns of the nearby vicinity have so
- 4 altered that the current designations are no longer appropriate; and
- 5 (D) It is in the public interest that the proposed change be made.

6 (d) **Decision.** Unless the person whose property would be annexed agrees to a longer time  
7 period, the City Council shall adopt a decision, supported by findings, within twenty-one  
8 days of the hearing. If the annexation proposal would change the comprehensive plan or  
9 zoning designation that are different from the equivalent zoning designations set forth in  
10 Table 165-1, the City Council shall adopt, modify or reject the Planning Commission's  
11 recommendation for land use designations, and approve or reject the conceptual plan.

12 (e) **Notice of Decision.** Within 5 days of the decision, the Director shall mail written notice  
13 of the decision to the person whose property would be annexed, and to any person who  
14 participated in the hearing before the City Council, any person who requested notice of the  
15 decision, and any recognized neighborhood organization for any area adjacent to the area  
16 proposed to be annexed. The notice shall summarize the decision of the City Council and  
17 explain the appeal rights.

18 **SRC 165.140: Special District Withdrawal.** When withdrawal from a special service district is  
19 not automatic, the City Council shall decide on withdrawal from those special service districts. The  
20 withdrawals shall be made according to applicable state statutes governing the specific withdrawal.

21 **SRC 165.150: Referral to Voters.**

22 (a) The City Council may refer a proposed annexation to the voters at the next available  
23 election, if it finds that the proposed annexation satisfies the criteria set forth under SRC  
24 165.130(c).

25 (b) In the event any appeal is filed based on the City Council's decision under SRC  
26 165.130(d), then the annexation may not be referred until the next available election  
27 occurring after a final decision is rendered on the appeal.

28 (c) Any measure submitting a petitioner-initiated annexation or an annexation that was

1 initiated by the City Council at the request of a landowner to the voters shall contain the  
2 condition that the annexation is conditioned upon substantial conformance with the  
3 conceptual plan approved by the City Council under SRC 165.130(d).

4 **SRC 165.160: Explanatory Statement; Fact Sheet.**

5 (a) For any annexation which requires voter approval, the Director shall prepare an  
6 explanatory statement, which should include, in addition to any other information required by  
7 state of Oregon elections law, the following information:

8 (1) The location of the territory proposed for annexation;

9 (2) The proposed Salem Area Comprehensive Plan designation and zoning for the  
10 territory, including the uses permitted and density available under the comprehensive  
11 plan, zoning designation, and, if applicable, the conceptual plan; and

12 (3) A statement supporting of the adequacy of public facilities to serve the territory  
13 and the estimated fiscal impact of the development proposed for territory.

14 (b) The Director shall prepare a fact sheet for each annexation proposal, to be made  
15 available to the voters not less than twenty (20) days prior to the election. This fact sheet  
16 shall be approved by the City Council prior to its public distribution, and shall include an  
17 easily understandable summary of all relevant information required by SRC 165.080.

18 **SRC 165.170: Effect of Annexation on Land Use Designations.** The land use designations which  
19 are approved as part of the referral process shall be binding for 5 years after annexation, unless the  
20 landowner can show that substantial changes in the social, economic, and demographic patterns of  
21 the nearby vicinity have so altered since the date of the annexation that the current designations are  
22 no longer in the public interest, and that such changes could not have been anticipated prior to the  
23 time the annexation was referred to the voters.

24 **SRC 165.180: Addition of Annexed Areas to Official Map.** When an annexation of territory to  
25 the City of Salem becomes final and effective, the Director shall add the property to the official  
26 zoning map, along with the zoning and comprehensive plan designations. The official zoning map  
27 shall be annotated to the effect that the territory was annexed, and include a citation to the action  
28 annexing the property and establishing the designations. The addition to the official zoning map

1 shall be certified and filed in the manner as set forth in SRC 113.030.

2 **SRC 165.190: Conceptual Plan Conformance.**

3 (a) Except as provided in this section, development of the property shall be in substantial  
4 conformance with any conceptual plan approved under SRC 165.080. For the purposes of  
5 this section, development is in substantial conformance with a conceptual plan if the  
6 development:

- 7 (1) Is consistent with the character and intent of the conceptual plan;
- 8 (2) The impacts from the development, including but not limited to, noise, vibration,  
9 dust, odor, or fumes, detectable at the property line will not exceed the maximums  
10 typical for the categories of uses proposed in the conceptual plan;
- 11 (3) The number and types of vehicular trips to and from the site will not exceed the  
12 maximums typical for the categories of uses proposed in the conceptual plan; and
- 13 (4) That the amount and types of outside storage, loading, and parking will not  
14 exceed the maximums typical for the categories of uses proposed in the conceptual  
15 plan.

16 (b) If proposed development of the property is not in substantial conformance with the  
17 conceptual plan approved under SRC 165.080, on application the Director shall approve the  
18 substitution of a modified or alternative plan if the landowner demonstrates the plan complies  
19 with the land use and development regulations applicable to the property, the plan is  
20 consistent with the character of, and development patterns in, the surrounding area and the  
21 plan minimizes any reasonably likely adverse impacts on the surrounding area.

22 (c) The Director may approve changes to a conceptual plan, if such changes are necessary to  
23 comply with land use and development regulations in effect at the time development occurs,  
24 to comply with conditions of approval imposed as part of a land use decision or to comply  
25 with any permit or license required for development to occur, and may impose conditions  
26 necessary to minimize reasonably likely adverse impacts resulting from revisions to the  
27 conceptual plan, or the substitution of a new conceptual plan.

28 (d) The Director's decision to approve or deny a modified or alternative conceptual plan  
shall be appealable to the hearings officer, pursuant to SRC Chapter 114.

**SRC 165.200: Effect of Failure of Annexation Proposal on Conceptual Plan.** A landowner acquires no rights to a conceptual plan, and if the annexation proposal fails to win approval by the voters, any conceptual plan submitted as part of a new proposal to annex the same property shall be treated as a new plan.

**Table 165-1  
Land Use Designations**

**POLK COUNTY:**

<b>SACP Designation</b>	<b>Polk County Zone</b>	<b>Equivalent City Zone</b>
Developing Residential Single Family Residential	SR (Suburban Residential)	RA (Residential Agriculture) RS (Single Family Residential)
Developing Residential	AR-5 (Acreage Residential - 5 Acres)	RA (Residential Agriculture)
Developing Residential	EFU (Exclusive Farm Use)	EFU (Exclusive Farm Use)
Industrial	IP (Industrial Park)	IP (Industrial Park)

**MARION COUNTY:**

<b>SACP Designation</b>	<b>Marion County Zone</b>	<b>Equivalent City Zone</b>
Single-Family Residential Developing Residential	RS (Single Family Residential)	RS (Single Family Residential)
Multi-Family Residential	RL (Limited Multi-Family Residential)	RM1 (Multiple Family Residential)

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Multi-Family Residential	RM (Multiple-Family Residential)	RM1 (Multiple Family Residential) RM2 (Multiple Family Residential)
Commercial	CO (Commercial Office)	CO (Commercial Office)
Commercial	CR (Commercial Retail)	CR (Retail Commercial)
Commercial	CG (Commercial General)	CG (General Commercial)
Industrial-Commercial	HC (Highway Commercial)	IC (Industrial Commercial)
Industrial-Commercial	IC (Industrial Commercial)	IC (Industrial Commercial)
Industrial	IP (Industrial Park)	IP (Industrial Park)
Industrial	IG (General Industrial)	IG (General Industrial)
Industrial	IH (Heavy Industrial)	II (Intensive Industrial)
Developing Residential	UT (Urban Transition)	RA (Residential Agriculture)
Developing Residential	UTF (Urban Transition Farm)	RA (Residential Agriculture)
Developing Residential	UD (Urban Development)	RA (Residential Agriculture)
Single Family Residential		RS (Single Family Residential)

Community Service Parks, Open Space and Outdoor Recreation	P (Public)	P (Public Use)
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PASSED by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004 .

ATTEST:

City Recorder

Approved by City Attorney: \_\_\_\_\_

Checked By: \_\_\_\_\_