

**CITY OF FLORENCE  
ORDINANCE NO. 15, SERIES 2018**

**AN ORDINANCE ESTABLISHING SINGLE FAMILY RESIDENTIAL ZONING TO  
BOOTH MAY PROPERTY, ASSESSOR'S MAP 18-12-04-44 TAXLOT 04003 AS  
PART OF A PROPOSED ANNEXATION**

**RECITALS:**

1. Florence City Code (FCC) Title 10, Chapter 1, Section 2-3 provides that Council may establish zoning and land use regulations that become effective on the date of annexation.
2. The City of Florence was petitioned by property owner, Marion Booth May, on August 16, 2018, for annexation of her property as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
3. The Planning Commission met on October 9, 2018 at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
4. The Planning Commission determined on October 9, 2018, after review of the proposal, testimony, and evidence in the record, that the proposal was consistent with the City's acknowledged Realization 2020 Comprehensive Plan and adopted findings of fact in support of the annexation and zoning assignment.
5. The City Council met in a public hearing on October 23, 2018, after giving the required notice per FCC 10-1-1-6, to consider the proposal, evidence in the record, and testimony received.
6. The City Council deliberated on October 23, 2018 and found that the subject property is plan designated Medium Density in the Realization 2020 Comprehensive Plan and the City Council supported the establishment of city-zoning as Single Family Residential District consistent with Florence Comprehensive Plan and Zoning Code objectives.
7. The City Council adopted Ordinance No. 14, Series 2018 annexing the property as described in the Ordinance title above.

Based on these findings,

**THE CITY COUNCIL OF THE CITY OF FLORENCE ORDAINS AS FOLLOWS:**

1. The City of Florence approves the zoning of the property owned by the petitioner previously described as Single Family Residential as shown on the attached map as Exhibit A.

2. This zoning assignment is based on the Findings of Fact in Exhibit B and evidence in the record.
3. The City shall produce an updated Zoning Map that is filed with the City Recorder and bear the signature of the Planning Commission chairperson as required by FCC 10-1-2-2.
4. The City Recorder is hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office and the Lane Council of Governments.
5. Pursuant to FCC 10-1-2-3, the zoning established by this Ordinance will take effect on the effective date of the annexation approved in Ordinance No. 14, Series 2018.

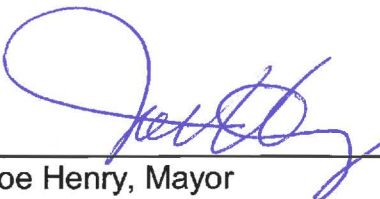
ADOPTION:

First Reading on the 22<sup>nd</sup> day of October, 2018

Second Reading on the 22<sup>nd</sup> day of October, 2018

This Ordinance is passed and adopted on the 22<sup>nd</sup> day of October, 2018.

AYES	5	Councilors Greene, Preisler, Lacer, Woodbury and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	0	

  
\_\_\_\_\_  
Joe Henry, Mayor

Attest:

  
\_\_\_\_\_  
Kelli Weese, City Recorder



**City of Florence**  
**ORDINANCES 14 & 15, SERIES 2018 – Booth May Annexation**  
**EXHIBIT A**

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**Property Description:**

Parcel 3, Partition Plat No. 97-P1038 also known as

Beginning at the Southwest corner of Section 4, Township 18 South, Range 12 West, Willamette Meridian; thence North 22°34'35" West, 652.71 feet; thence North 89°23'40" West, 402.84 feet to the True Point of Beginning; thence North 89°23'40" West, 216.19 feet; thence along a 854.60 foot radius curve to the left (chord bears North 30°35'11" West, 99.27 feet) an arc length of 99.32 feet; thence North 54°04'23" East, 2.53 feet; thence along a 400.00 foot radius curve to the right (chord bears North 60°49'25" East, 94.04 feet) an arc length of 94.26 feet; thence along a 34.95 foot radius curve to the right (chord bears South 69°53'53" East, 47.39 feet) an arc length of 52.08 feet; thence along a 165.00 foot radius curve to the left (chord bears South 42°02'01" East, 84.46 feet) an arc length of 85.41 feet; thence South 56°51'47" East, 30.00 feet; thence along a 160.00 foot radius curve to the left (chord bears South 67°50'41" East, 60.96 feet) an arc length of 61.33 feet; thence South 00°22'00" West, 16.66 feet to the True Point of Beginning, all in Lane County, Oregon.

**City of Florence**  
**ORDINANCES 14 & 15, SERIES 2018 – Booth May Annexation**  
**EXHIBIT A**

**Current & Proposed Zoning Map/Boundary Map**

**Map 18-12-04-44 Taxlot 04003**

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Zoning Assignment and Annexation

**Current - None**



**Proposed – Single Family Residential**



**FINDINGS OF FACT**  
**Ordinances 14 & 15, Series 2018**  
**Exhibit “B”**

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**Public Hearing Date:** October 22, 2018

**I. PROPOSAL DESCRIPTION**

**Proposal:** Annexation

A request for the City of Florence to annex property from Lane County into the City.

Rezoning

Upon annexation, the property needs to be zoned with a city zoning district. The corresponding zoning district matching the property’s plan designation is Single Family Residential.

**Petitioners/Applicant:** Marion Booth-May

**Applicant Representatives & Associated Property (described in Exhibit A):**

Assessor’s Map 18-12-04-44 Taxlot 04003  
Rob Ward for Property Owner

**Comprehensive Plan Map Designation:** Medium Density Residential

**Surrounding Land Use / Zoning:**

**Site:** Vacant | Suburban Residential/Mobile Home District (Interim Urban Combining District Overlay)

**North:** Single-family residence / Suburban Residential/Mobile Home District (Urban Combining District Overlay)

**South:** Single-family residence | Suburban Residential/Mobile Home District (Urban Combining District Overlay)

**East:** Single-family residence/Vacant/Heceta Junction Lakes | Suburban Residential/Mobile Home District (Urban Combining District Overlay)

**West:** Single-family residences | Suburban Residential/Mobile Home District (Interim Urban Combining District Overlay)

**Streets / Classification:** West – Rhododendron Dr. / Urban Major Collector (County jurisdiction); South – None; East – None; North – None

## **II. NARRATIVE**

The applicant has petitioned for the annexation of her vacant property from Lane County jurisdiction to City of Florence jurisdiction. There are no electors residing on the property. The petition was received on August 16, 2018. The application was deemed complete on August 16, 2018.

State law requires signatures from at least 50% of the property owners and electors of the subject property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). The City has received a signed petition from the property owner and will process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). The annexation and zoning assignment will be processed as a quasi-judicial zone amendment with a hearing.

The property is not currently served by Heceta Water PUD, but has those services available within the Rhododendron Dr. right-of-way. After annexation, the property will be provided City services such as sewer and police protection from adjacent Rhododendron Dr. The property is within the Siuslaw Rural Fire Protection District. The property will continue to be served by existing water and fire protection districts by which it is currently served.

## **III. PUBLIC NOTICE**

Notice of the Planning Commission’s public hearing was mailed on September 18, 2018 to property owners within 300 feet of the proposed annexation areas. Notice was published in the Siuslaw News on September 29<sup>th</sup> and October 3, 2018. On October 3, 2018 notices were posted at Florence Public Works, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

Notice of the City Council’s public hearing was published in the Siuslaw News on October 13, 2018 and October 17, 2018 as well as posted on the City of Florence website. The week of October 8, 2018 notices were posted at Florence Public Works, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

### **Public Comments:**

At the time of this report, the City had received no written public comments on the proposal.

## **IV. REFERRALS**

On September 18, 2018, referrals were sent to the Florence Public Works, Building, and Police Departments; Lane County Transportation, Surveyor, Land Management and Environmental Health Departments; Department of Land Conservation and Development; the U.S. Post Office; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Heceta Water PUD; Central Coast Disposal; County Transfer and Recycling; and Siuslaw Valley Fire and Rescue.

**Referral Comments:**

At the time of this report, the City had received the following comments:

Tom Turner, Chief of Florence Police Dept. states: *“The Florence Police Department has the capacity to provide police response to the area north of Heceta Beach Road on 4th and the area east of Driftwood Shores if incorporated into the City of Florence. We provide 24 hour a day/365 days a year full police coverage for the City of Florence. Currently F.P.D. responds to the surrounding areas, outside of our jurisdiction (as part of a mutual aid agreement) at this time to provide emergency police response if needed for the Lane County Sheriff’s Office and the Oregon State Police. We have been operating in this capacity for many years. Incorporating this new area would not be extending our services or capacity as we already respond to many of the surrounding areas and properties, both in and out of the City of Florence, as a normal course of our business. ”*

Mike Miller, Florence Public Works Department, states:

*Total sewer system capacity is currently 1.3 million gallons per day (mgd) dry weather flow. Our current average dry weather flow is 0.745 mgd, which equates to 0.555 mgd of excess flow capacity.*

*Regarding providing sanitary sewer service, it is the policy of the city of Florence to provide sanitary sewer service to any property within the City’s wastewater service area. However, the property owners are to pay for sewer main extension, manholes, construction, connection fees, engineering fees, street opening permits and any other fees necessary for the connection to the public sewer system for the project.*

Monica Witzig, Lane County Public Works Dept., states:

*Thank you for the opportunity to review and comment on the request. Given that development is not proposed at this time, Lane County Transportation Planning will not request conditions of approval related to impacts to Rhododendron Drive. As informational items related to future development:*

- *Rhododendron Drive is within Lane County jurisdiction and ownership.*
- *City of Florence access management standards apply to future development per Lane Code Chapter 15.137(6)(a), 15.138(2).*
- *Because Rhododendron Drive is a Lane County road, staff offers the following Lane Code standards in the case that the City of Florence defers to the Lane Code. Lane Code Chapter 15.138 requires at least 400 feet between road approaches on the same side of the road. If a new driveway were to be constructed on the subject property, the spacing between driveways would not meet this requirement. Access to the property via the existing, shared driveway within the adjacent property (18-12-04-44-04002) is encouraged for safety reasons due to the classification of Rhododendron Drive (Urban Major Collector) and the speed of travel on the road (45-55*



*mph). However, each property has a right to independent access (Lane Code 15.138(2), (3)).*

- If joint access is pursued and granted, Lane County approval of a Facility Permit may be required to ensure that the existing approach can accommodate future development. An access easement should also be required.*
- If a separate access is proposed, Lane County approval of a Facility Permit will be required.*
- Any work within the right-of-way of Rhododendron Drive will require Lane County approval of a Facility Permit. A Facility Permit is required when facilities or development occurs within the right-of-way of a County Road. Facilities and development include, but are not limited to: road improvements; sidewalks; new or reconstructed driveway or road approach intersections; utility placements; excavation; clearing; grading; culvert placement or replacement; stormwater facilities; or any other facility, thing, or appurtenance [LC 15.205(1)]. For more information about Facility Permits, please call 541.682.6902 or visit: <http://www.lanecounty.org/Departments/PW/Engr/RightofWay/Pages/rowpermits.aspx>*
- Stormwater runoff from private property must not be directed to the Lane County road right-of-way surface or into any Lane County drainage facility, including roadside ditches.*

## **V. APPLICABLE REVIEW CRITERIA**

### Annexation

#### **Oregon Revised Statutes (ORS)**

222.111; 222.120; 222.125; and 222.170 (2)

#### **Florence Realization 2020 Comprehensive Plan**

Chapter 14: Urbanization, Policies 1, and 3 through 7

### Zone Assignment

#### **Florence Realization 2020 Comprehensive Plan**

Chapter 2: Land Use, Policy 5; Residential Policies 7, 8 & 10; and Section on Residential Plan Designations

#### **Florence City Code (FCC)**

Title 10: Zoning Regulations

Chapter 1: Zoning Regulations, Sections 10-1-1-6-4, 10-1-2-3, and 10-1-3

Chapter 11: Single Family Residential District

## **VI. FINDINGS OF FACT**

The following findings support Ordinances 14 and 15, Series 2018 and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code and State Statutes.

Applicable criteria and policies are shown in **bold text**, followed by findings of consistency in plain text.

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## FLORENCE REALIZATION COMPREHENSIVE PLAN

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### Chapter 2: Land Use

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#### Policies

5. **“The City shall conduct an internal review at least once every three years to assess the capacity of sewer, water and stormwater systems including three-year projections of additional consumption using a three percent growth rate.”**

The annexation proposal is consistent with this policy because the provision of city utility services to the annexation area is based on the most up-to-date assessment of the projected capacity of these systems, assuming a 3 percent growth rate. This policy directs that the City conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including annexed property. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Documentation of recent study results in the record confirm that the City has the capacity to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy.

#### Residential

##### Goal

**To create residential living environments that satisfy a wide variety of local and regional population needs and desires and add long-term community value.**

- Policy 7. Residential development shall be discouraged in areas where such development would constitute a threat to the public health and welfare, or create excessive public expense. The City continues to support mixed use development when care is taken such that residential living areas are located, to the greatest extent possible, away from areas subject to high concentrations of vehicular traffic, noise, odors, glare, or natural hazards.**

Currently, this land is zoned Suburban Residential/Mobile Home by Lane County and is undeveloped. The implementing zone for this area is Single Family Residential.

- Policy 8. Existing residential uses in residential zoning districts and proposed residential areas shall be protected from encroachment of land uses with characteristics that are distinctly incompatible with a residential environment. Existing residential uses in commercial and industrial zones shall be given the maximum practicable protection within the overall purposes and standards of those districts.**

**Policy 10. Single family residential uses (including manufactured homes) shall be located in low and medium density residential areas, and shall be discouraged from high density residential areas to protect that land for the intended uses.**

There is no existing use on the proposed annexation site. Any future development will be in accordance with the implementing zoning district, Single Family Residential.

### **Medium Density Residential**

**The Medium Density Residential designation is intended for areas where existing lot sizes are in the neighborhood of 5,000 – 6,500 square feet, and for the majority of developable land remaining in the City, as well as urbanizable lands east of Highway 101. The corresponding zoning district is Single Family Residential. Single family homes and manufactured homes meeting certain minimum standards are allowed. Duplexes are a conditional use.**

The applicant has proposed the annexation and zone assignment of Single Family Residential. This proposal meets all the requirements of this zone such as minimum lot size and width outlined in Title 10 Chapter 11.

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## **Chapter 14: Urbanization**

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### **Goal**

**To provide for an orderly and efficient transition from County/rural land uses to City/urban land uses.**

This proposal is consistent with this Urbanization goal because the proposed annexation provides for an orderly and efficient transition from County/rural land uses to City/urban land uses, as follows:

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City limits via right-of-way to the south; it is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area. The annexation will allow the provision of City sewer to the property being annexed. All connections to the sewer line will be funded through system development charges, connection fees, and property owner investment. This financing method allows for cost-effective service delivery to all users of the system.
- The provision of sewer service will allow the property owners to avoid future septic drain field repairs and inefficient use of open space contained within the lots to be annexed for the drain field.

## Annexation Policies

- 1. The procedures of ORS 222.840 et. Seq. (Health Hazard Abatement) shall be initiated if needed to remove dangers to public health. In the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize the “island annexation” procedures set forth by ORS 222.750.**

The proposed annexation has been initiated by the property owner in order to receive City services and has not been initiated in order to abate a health hazard. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The City has received a signed petition from the property owner. This policy criterion is met.

The proposed annexation is not an island annexation because the territory to be annexed is contiguous with the Florence city limits.

- 3. Conversion of lands within the UGB outside City limits shall be based on consideration of:**

- a) Orderly, economic provision for public facilities and services:**

The proposed annexation is consistent with Policy 3a. because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer, water, storm drainage, streets, fire and police protection, power, and communications. The utility services have the capacity to serve the property within the proposed annexation and the services and facilities can be provided in an orderly and economic manner, as described in detail below. The annexation request is not intended to address details about placement of individual utility lines or other development level utility details.

Sewer: The Florence Public Works Department has evaluated the impact of the possible future residential development and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the proposed uses without negatively affecting existing customers. Currently the Waste Water Treatment Plant has an excess capacity of .555 million gallons daily.

Water: The property is currently undeveloped. The property will eventually be served by a connection to Heceta Water People's Utility District services within the Rhododendron Dr. right-of-way. It is unknown if hydrants are provided nearby.

Stormwater: There will be no change in the handling of stormwater upon annexation. Upon development, the property will be expected to meet City Code, retaining all stormwater on-site.

Streets: The property will be accessed via Rhododendron Dr. which is under County jurisdiction. City jurisdiction ends at Rhody's intersection with Sebastian. The existing and any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding platted street availability. Improvements to the adjacent street will be accomplished in conjunction with improvements to the property.

Fire: Siuslaw Valley Fire and Rescue District currently provides protection services to the annexation area and will continue to do so following the annexation. The City eliminated contractual agreements with Siuslaw Valley Fire and Rescue that previously provided protection services to city residents. Hydrant availability is discussed under the "Water" section above.

Police: Once annexed, the City will provide public safety services. The Florence Police Department will expand their current emergency response service to patrol and respond to calls for the subject property.

Power: Central Lincoln People's Utility District currently provides electricity to the annexation area and will continue to do so following the annexation.

Communications: CenturyLink currently provides phone service to the area and will continue to do so following the annexation. Other utility companies such as Charter and OregonFAST.net provide other communications services and will continue to do so following the annexation. In addition, there are a number of cellular phone companies that provide service in the area.

**b) conformance with the acknowledged City of Florence Comprehensive Plan;**

This proposal is consistent with this policy because the Florence Realization 2020 Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (DLCD) and is the acknowledged Plan for the City of Florence. As demonstrated in these findings of fact, the annexation proposal is in conformance with this acknowledged Plan.

**c) consistency with state law.**

The annexation proposal is consistent with this policy because the proposal is consistent with state law, as presented below in the review of Oregon Revised Statutes.

**4. The City will send a referral requesting comments on annexations to Lane County. The Comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.**

Staff sent referral requests to Lane County on September 18, 2018. On October 1, 2018 Monica Witzig of Lane County Transportation states the following which are informational items bound by the approval:

- *Rhododendron Drive is within Lane County jurisdiction and ownership.*

- *City of Florence access management standards apply to future development per Lane Code Chapter 15.137(6)(a), 15.138(2).*
- *Because Rhododendron Drive is a Lane County road, staff offers the following Lane Code standards in the case that the City of Florence defers to the Lane Code. Lane Code Chapter 15.138 requires at least 400 feet between road approaches on the same side of the road. If a new driveway were to be constructed on the subject property, the spacing between driveways would not meet this requirement. Access to the property via the existing, shared driveway within the adjacent property (18-12-04-44-04002) is encouraged for safety reasons due to the classification of Rhododendron Drive (Urban Major Collector) and the speed of travel on the road (45-55 mph). However, each property has a right to independent access (Lane Code 15.138(2), (3)).*
- *If joint access is pursued and granted, Lane County approval of a Facility Permit may be required to ensure that the existing approach can accommodate future development. An access easement should also be required.*
- *If a separate access is proposed, Lane County approval of a Facility Permit will be required.*
- *Any work within the right-of-way of Rhododendron Drive will require Lane County approval of a Facility Permit. A Facility Permit is required when facilities or development occurs within the right-of-way of a County Road. Facilities and development include, but are not limited to: road improvements; sidewalks; new or reconstructed driveway or road approach intersections; utility placements; excavation; clearing; grading; culvert placement or replacement; stormwater facilities; or any other facility, thing, or appurtenance [LC 15.205(1)]. For more information about Facility Permits, please call 541.682.6902 or visit: <http://www.lanecounty.org/Departments/PW/Engr/RightofWay/Pages/rowpermits.asp>*  
*X*
- *Stormwater runoff from private property must not be directed to the Lane County road right-of-way surface or into any Lane County drainage facility, including roadside ditches.*

**6. Annexed properties shall pay systems development charges as required by City Code.**

The applicant will be required to pay the project costs to extend sewer services where they do not currently exist. Future development of the property will necessitate payment of applicable systems development charges. Any undeveloped property and expansions to developed properties will be charged systems development charges commensurate with their impacts on the systems.

**7. As a matter of public policy, Lane County and the City of Florence share a substantial interest in development within the Urban Growth Boundary. In order to receive a full range of urban services provided by the City of Florence, development within the Urban Growth Boundary shall require annexation. However, it is also recognized that until annexation Lane County will retain primary permitting responsibility for those lands.**

Lane County provides services and administers jurisdiction to all properties outside of the City of Florence and within the Urban Growth Boundary. After the completion of annexation, the City of Florence will be the responsible jurisdiction for development of the property, with the exception of maintenance and access off of streets adjacent to the property, which are maintained by Lane County.

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## OREGON REVISED STATUTES

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### ORS 222.111 Authority and procedure for annexation.

**(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is 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. Such territory may lie either wholly or partially within or without the same county in which the city lies.**

The proposed annexation area is located within the urban growth boundary of the City of Florence. The annexation is contiguous to the City from the south for all proposed areas of annexation.

**(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.**

This proposal for annexation of the subject property was initiated by petition to the legislative body of the City by the owners of real property in the territory to be annexed. Written consent was received from the owners of the property to be annexed.

**(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.**

The annexed property will pay property taxes at the same rate as other properties within the City consistent with Oregon laws governing taxation. This proposal for annexation did not include a tax differential schedule as allowed in this statutory section.

**(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.**

The annexation area is within the Siuslaw Valley Fire and Rescue District, which is a rural fire protection district named in ORS 222.510, but not named in ORS 222.465. The annexation area will not be withdrawn from the Fire District and thus will remain within the Siuslaw Valley Fire and Rescue District.

**(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.**

Resolution No. 8, Series 2008, adopted by the City Council, the legislative body of the City, on April 21, 2008, expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

The City received written consents from 100% of the owners within the proposed annexation area, as allowed in ORS 222.170; therefore, an election is not required. There were no electors.

**ORS 222.120 Procedure without election by city electors; hearing; ordinance subject to referendum.**

**(1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.**

Chapter II Section 4 Item (2) (h) of the Charter for the City of Florence lists annexation as one of the City's powers "to annex areas to the City in accordance with State law." The Charter does not expressly require the City to submit a proposal for annexation of territory to the electors of the City for their approval or rejection. Therefore, the City will not be holding an election on this annexation request. Resolution No. 8, Series 2008 expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

**(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.**



Resolution No. 8, Series 2008 expressed the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations will be held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council will hold a duly advertised public hearing on October 9, 2018, after receiving a recommendation from the Planning Commission. The electors of the City may appear and be heard on the question of annexation at that public hearing.

**(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.**

The public hearings were noticed as required. Notice of the Planning Commission public hearing was published in the Siuslaw News on September 29<sup>th</sup> and October 3, 2018. Public noticing for the City Council public hearing was published on October 13, 2018 and October 17, 2018. Notices were posted in four public places in the City at Florence Public Works, Justice Center, Siuslaw Public Library, and Post Office the week of October 8, 2018.

**(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:**

**(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;**

**(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section;**  
or

**(c) Declare that the territory is annexed to the city where the Department of Human Services, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.**

The proposed annexation is contiguous to the City limits on the western property line through the Rhododendron Dr. right-of-way. The City Council held a public hearing on the annexation request on October 22, 2018. If approved, an Ordinance will be passed, as required under (b) showing that the landowners consented in writing to the annexation consistent with ORS 222.170. This annexation request is not declared due to a finding of public health danger.

**(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.**

The property will not be withdrawn from the Siuslaw Valley Fire and Rescue as discussed above.

**(6) The ordinance referred to in subsection (4) of this section is subject to referendum.**

The Ordinance that would be passed by City Council will be subject to referendum per ORS 222.170 (1) and 222.170 (2).

**(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.”**

The written consent from the property owners were received by the City on a petition requesting annexation to the City.

**ORS 222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]**

**Note: 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.**

The City historically has used ORS 222.120 and never included this section of the statute in the criteria nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute. There is no policy in City Code requiring a hearing for processing an annexation. Policy requires that a state process that requires a majority of consents be required.

**ORS 222.170 Effect of consent to annexation by territory; proclamation with and without city election.**

**(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and**

those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.”

There are no electors within the proposed annexation area. The written consent from the property owner was signed prior to October 9, 2018, and received before the City Council held the required public hearing required by ORS 222.120.

(3) “Annexed properties shall pay system development charges as required by City Code.”

The proposed annexation is consistent with Policy 3 because Florence City Code Title 9 Chapter 1 Section 4-A requires properties annexed to pay system development charges. Systems development charges will be paid upon connection to City utilities and upon further development on the property.

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## **FLORENCE CITY CODE**

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### **TITLE 10: CHAPTER 1: ZONING ADMINISTRATION**

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#### **10-1-1-6: TYPES OF REVIEW PROCEDURES:**

##### **10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)**

#### **D. Notice of Hearing:**

- 1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and comprehensive plan amendments).**

The applicant has proposed an annexation and zoning assignment for their property. There will be at least two public hearings as part of this process.

**10-1-2-3: ZONING OF ANNEXED AREAS:** The City Council may establish zoning and land use regulations that become effective on the date of annexation. This zoning district shall be consistent with the objectives of the Florence Comprehensive Plan and Zoning Code. When zoning is not established at the time of annexation, an interim zoning classification most nearly matching the existing County zoning classification shall be automatically applied until the City Council establishes zoning and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).

The zoning district corresponding to the subject property's Comprehensive Plan designation is Medium Density Residential. The Single Family Residential zone will be assigned upon approval of the request from Council and finalization of the annexation process with the county and state.

### **10-1-3: AMENDMENTS AND CHANGES**

#### **B. Quasi-Judicial Changes:**

- 4. Planning Commission Review: The Planning Commission shall review the application for quasi-judicial changes and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent or inconsistent with and promotes the objectives of the Florence Comprehensive Plan and Zoning Ordinance and is or is not contrary to the public interest. The applicant shall demonstrate that the requested change is consistent with the Comprehensive Plan and Zoning Ordinance and is not contrary to the public interest.**

On October 9, 2018, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearing and were reviewed against the applicable city and state policies. Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the city's urbanization policies. These have been reviewed earlier with supporting findings.

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## **TITLE 10: CHAPTER 11: SINGLE FAMILY RESIDENTIAL DISTRICT**

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**10-10-1: PURPOSE: The Single-Family Residential District is intended to provide a quality environment for medium density, urban, single-family residential uses and other compatible land uses determined to be desirable and/or necessary.**

The vacant property is proposed to be zoned Single Family Residential District. This zone is appropriate as it corresponds to the existing surrounding development pattern and comprehensive plan designation (Medium Density) assigned to the single family residences in this area. No specific code criteria are applicable under this chapter for the annexation or zoning proposal.