

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**FILED**

AT OREGON NO. PA 933

AUG 28 1987

) IN THE MATTER OF REVISING POLICY  
) NO. 11, CHAPTER II, SECTION 'B'  
) GROWTH MANAGEMENT AND THE URBAN  
) SERVICE AREA OF THE EUGENE-  
) SPRINGFIELD METROPOLITAN AREA  
) GENERAL PLAN.

County Clerk

*[Handwritten signature]*  
For Lane County, Oregon

WHEREAS, the Lane County Board of Commissioners has adopted the Eugene-Springfield Metropolitan Area General Plan by Ordinance 9-80 and amendments thereto by Ordinance Nos. 9-80A; 856; 885; 893; 895; 901; 904; 907; 924; and 932; and

WHEREAS, Chapter 12 Lane Code and Chapter IV Eugene-Springfield Metropolitan Area General Plan establish procedures for amending the Plan; and

WHEREAS, on March 9, 1987, the Eugene City Council (Ordinance No. 19450) adopted an amendment to the Metropolitan Area General Plan by removing the words "developed urban" from the lead paragraph to Policy 11, and deleting Policy 11a and Policy 11c, Chapter II, Section B, Growth Management and Urban Service Area; and

WHEREAS, the Lane County Planning Commission held a public hearing on March 17, 1987, and recommends approval of the proposed policy amendment; and

WHEREAS, the Lane County Board of Commissioners has held a public hearing to consider the proposal; NOW

THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Policy 11, Chapter II, Section B Growth Management and the Urban Service Area of the Eugene-Springfield Metropolitan Area General Plan is hereby amended to read:

11. When the following criteria are met, either Springfield or Eugene may annex land which is not contiguous to its boundaries.
  - a. the area to be annexed will be provided an urban service(s) which is (are) desired immediately by residents/property owners.
  - b. the area to be annexed can be serviced (with a minimum level of services as directed in the Metropolitan Plan) in a timely and cost-efficient manner and is a logical extension of the city's service delivery system.
  - c. the annexation proposal is accompanied by support within the area proposed for annexation from the owners of at least half the land area in the affected territory.

While not part of the Ordinance, the Board of County Commissioners adopt the Findings set forth in attached Exhibits 'A', 'B', and 'C' in support of this action.

ENACTED this 26 day of August, 1987.

*Bill Rogers*

Chairperson, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5-26-87 Lane County  
*Stephen J. Weber*  
OFFICE OF LEGAL COUNSEL

IN THE LANE COUNTY PLANNING COMMISSION

RESOLUTION ) IN THE MATTER OF REVISING  
 ) POLICY NO. 11, CHAPTER II,  
 ) SECTION 'B' GROWTH MANAGEMENT  
 ) AND THE URBAN SERVICE AREA OF  
 ) THE EUGENE-SPRINGFIELD METRO-  
 ) POLITAN AREA GENERAL PLAN.

WHEREAS, Chapter 12, Lane Code, establishes procedures and criteria for amending the Comprehensive Plan for Lane County; and

WHEREAS, the Planning Commission has held a public hearing and otherwise duly performed its duties in regards to a referral from the City of Eugene to amend Policy No. 11, Chapter II, Section 'B' Growth Management and the Urban Service Area of the Eugene-Springfield Metropolitan Area General Plan; NOW

THEREFORE, BE IT RESOLVED that Policy No. 11, Chapter II, Section 'B' Growth Management and the Urban Service Area of the Eugene-Springfield Metropolitan Area General Plan be revised to read:

- 11. When the following criteria are met, either Eugene or Springfield may annex land which is not contiguous to their boundaries.
  - a. the area to be annexed will be provided an urban service(s) which is (are) desired immediately by residents/property owners.
  - b. the area to be annexed can be serviced (with a minimum level of services as directed in the Metropolitan Plan) in a timely and cost-efficient manner and is a logical extension of the City's service delivery system.


Further, the Planning Commission adopts as findings those contained in Exhibit 'A' and 'B' attached;

Further, the Secretary of the Planning Commission is hereby directed to deliver this Resolution and a report to the Board of County Commissioners forthwith.

Meeting of March 17, 1987

AYES: Eysenbach, Wolf, Anderson,  
Edmunson, Grier

ABSENT: Long

  
 Vice-Chairperson

**EXHIBIT 'A'**  
**Ordinance No. PA 933**

The following findings are applicable to Lane Code, Chapter 12.050, criteria (changed circumstances) for amending the Comprehensive Plan:

1. On November 12, 1986, the Court of Appeals held that ORS (Oregon Revised Statutes) 199.490(2)(a) triple majority annexation are unconstitutional.
2. Like other Cities in the State, Eugene relied on triple majority annexations in its annexation program.
3. The City of Eugene has extended sanitary sewer service beyond its city limits. Property owners of undeveloped non-contiguous land, who wish to develop with urban services cannot do so because of Policy 11, Chapter II, Section B of the Eugene-Springfield Metropolitan Area General Plan.
4. The Metro Plan contains a number of policies in the Growth Management and the Urban Service Area section of Chapter II, Fundamental Principles, that pertain to annexations. For example:
  - a. Land inside the urban growth boundary may convert from urbanizable to urban only through annexation to a city and delivery of key urban facilities in an orderly and efficient manner (Policy 7).
  - b. Urban services to unincorporated areas must be provided through annexation if possible (Policy 20).

EXHIBIT 'B'  
Ordinance No. PA 933

FINDINGS FOR APPLICABLE STATEWIDE PLANNING GOALS

The following findings are made in connection with amending the lead paragraph to Policy 11 and deleting Policy 11.a. and Policy 11.c. in Chapter II, Section B, Growth Management and the Urban Service Area, in the Metropolitan Area General Plan for Eugene, Springfield, and Lane County. These amendments remove the requirements that non-contiguous annexations must be, (1) limited to developed urban land, and (2) processed as triple majority annexations.

**Goal 1. Citizen Involvement.**

1. On January 12, 1987, the Eugene Planning Commission held a public meeting and recommended adoption of the amendments to the Eugene City Council.
2. The City Council held a public hearing on this matter on March 9, 1987, after providing notice of the pending amendments in the Register-Guard, a local newspaper of general circulation. The City also provided individual notices to chartered neighborhood groups, affected utilities, and other interested parties. Notices included descriptions of the amendments as well as information about the date, time, and place of the City Council public hearing.
3. Before the subject amendments can become effective, they will also have to be approved by the Lane County and Springfield governing bodies. That will provide additional opportunities for citizen involvement.
4. On March 17, 1987, the Lane County Planning Commission held a public hearing and recommended approval of the proposed amendments.
5. On May 13, 1987, the Lane County Board of Commissioners held a public hearing on the proposed policy amendments. Notice of the hearing was published in the Eugene Register Guard, a local newspaper of general circulation.

**Goal 2. Land Use Planning.**

1. The Metro Plan was adopted by Eugene, Springfield, and Lane County by ordinance in 1982. It has subsequently been amended by ordinance.
2. Metro Plan areas within the urban growth boundary were acknowledged by the Land Conservation and Development Commission in August, 1982. The remainder of the Metro Plan received acknowledgement in November, 1985.
3. Consistent with the requirement to maintain a land use planning process and coordinated policy framework for land use decisions and actions, the subject amendments were referred to all affected public service delivery agencies in the metropolitan area before adoption to ensure their

operations would not be adversely impacted.

**Goal 9. Economy of the State.**

1. The subject amendments will allow commercial and industrial development of parcels that are not necessarily contiguous to the City's existing boundaries if they can be provided with services as specified in the Metro Plan.
2. Non-contiguous undeveloped commercial and industrial properties will be available to respond to the needs of expanding enterprises as well as new businesses and industries.
3. These amendments will allow annexation of non-contiguous undeveloped properties designated for commercial or industrial uses thereby enhancing local employment opportunities and the ability to diversify the local economy.

**Goal 10. Housing.**

The subject amendments will increase the number of areas available for housing as designated in the Metro Plan. That will help provide buildable lands in response to the need for adequate housing units in terms of numbers, price ranges, and rent levels.

**Goal 11. Public Facilities and Services.**

1. The Metro Plan provides that land inside the urban growth boundary may convert from urbanizable to urban through annexation to a city and delivery of key urban facilities and services in an orderly and efficient manner. The subject amendments would not alter this requirement.
2. Non-contiguous undeveloped area annexations will be subject to efficient and timely urban service delivery in the same fashion and to the same extent as contiguous annexations.

**Goal 14. Urbanization.**

Non-contiguous annexations of areas designated for urban uses would enhance efficient use of developable lands within the urban growth boundary as opposed to early pressure to convert rural land to urban uses.



# Council of Governments

NORTH PLAZA LEVEL PSB/125 EAST EIGHTH AVENUE / EUGENE, OREGON 97401 / TELEPHONE (503) 687-4283

## MEMORANDUM

May 6, 1987

TO: Steve Cornacchia, County Commissioner

FROM: Roy Burns and Steve Gordon

SUBJECT: **NON-CONTIGUOUS ANNEXATION POLICY LANGUAGE  
ALTERNATIVES**

### Background

At the April 21 meeting, the Commissioners considered Ordinance No. PA 933 and discussed Eugene's proposed Metropolitan Plan amendments to Growth Management Policy 11 dealing with non-contiguous annexations to cities. At that meeting, you indicated a desire that existing subsection (c) requiring triple majority property owner consent be retained in some form. The alternatives below are presented for your consideration. A brief analysis accompanies each. Attached is a summary of the seven methods for initiating annexations in boundary commission areas. The analysis of alternatives sometimes references one or more of these seven methods. Eugene, Springfield and Lane County have jointly evaluated possible options.

### History

A brief history of Oregon annexation law's evolution may be helpful. Prior to 1893, city annexations required approval of the Oregon Legislature. After 1893, the statutes provided a procedure for annexation to cities. After home rule amendments were implemented in 1906, the powers of cities were broadened, and annexations became a matter of general law. However, since home rule powers are limited to city areas, a city's power to extend its boundaries is a statutory power.

Since 1931, Oregon's annexation statutes have been liberalized in terms of methods of initiating annexations. For example, seven methods of initiating annexations now exist in boundary commission areas. The triple majority method evolved from a requirement that previously required unanimity. It was amended to triple two thirds consent, and subsequently amended to require a simple triple majority. These changes at least partly reflected the increasing awareness that cities needed to have workable annexation alternatives if they were to provide urban services within boundaries that reflected economic and efficient provision of those services.

In Oregon's four boundary commission counties, noncontiguous city and district annexations are allowed. In the remaining 32 counties, annexations to cities and certain kinds of districts must be contiguous. The ability to annex noncontiguous land reflects the legislature's recognition that complex circumstances exist in the major metropolitan areas. Noncontiguous annexation, when coupled with the ability to extend key services outside city

limits represents a major tool in promoting economic development. Often future residential, commercial and industrial siting can take place well in advance of contiguity; it may take several years for intervening properties to annex. Noncontiguous annexations are also a tool which Eugene has identified as being necessary to connect existing users to the sanitary sewer system in River Road-Santa Clara in order to meet the State's connection schedule. The major concern with noncontiguous annexations in the past has been the orderly and efficient delivery of emergency services. In the age of advanced technology and communications, many of the past obstacles to responding to emergency calls have been eliminated. This is especially true in Lane County with our advanced computer addressing and emergency response systems. The best parallel example of successful noncontiguous annexations is that of the United States of America which now functions as a unit with two noncontiguous states.

Along with the liberalization of methods for initiating annexations came the addition of standards to be applied, both through legislative amendments and through case law (e.g., reasonableness and consistency with comprehensive plans). In summary, existing Policy 11(c) represents a move backward from the trend in Oregon law in this century because it imposes extremely rigid requirements on the method of initiating annexation.

Because of the Court of Appeals decision on the triple majority method, it appears that this method may not be used in the future. Two methods, island annexations (Attachment A, #6) and health hazard annexations (Attachment A, #7) are special cases. As a result, only the first four on the attached list are likely to be used in conjunction with non-contiguous annexation proposals.

#### Alternatives

1. **The annexation proposal is accompanied by an indication of support by property owners within the area proposed for annexation.**

This language is very flexible and could be used to meet a variety of circumstances when owners desire city services in order to serve existing or future uses. Although it is flexible, this alternative would not allow a city to do less than existing law requires. In fact, it may require more than the statutes require since it implies that all noncontiguous annexations must be accompanied by some indication of property owner support.

2. **The annexation proposal is accompanied by the level of support required under Oregon Revised Statutes.**

This language reflects the legality of the situation given the four methods of initiating annexations within boundary commission areas. There is nothing in this alternative, or any other alternative suggested in this memo, that would allow the city to annex non-contiguous property to which the owner is opposed. That is because Metropolitan Plan Policy 11(b) will continue to require that "The area to be annexed will be provided an urban service(s) which is (are) desired immediately by residents/property owners."

3. The annexation proposal is accompanied by support within the area proposed for annexation from the owners of at least half the land area in the affected territory.

As in Alternative #1, this method requires owner consent. This alternative borrows from the legal requirements of two methods of annexation initiation, triple majority (Attachment A, #5) - which appears to be invalid - and the owner of land (Attachment A, #3). This alternative is more restrictive than the current statutes because it does not include the other three initiation methods, ie, elector (Attachment A, #2), and city or boundary commission resolution (Attachment A, #1 and #4).

4. The annexation proposal is accompanied by support from 100 percent of the owners within the area proposed for annexation.

In boundary commission areas, there is no statutory method of annexation initiation which requires such a high level of consent. This requirement could be extremely detrimental to economic development. For example, if nine owners wanted to connect to a trunk sewer by installing a lateral line in the street in front of their properties, and a tenth owner did not, but the tenth owner's property separated the remaining nine lots from that trunk sewer, this alternative could prevent the city from annexing and servicing the other nine owners despite their wishes.

#### Recommendation

Change Policy 11(c) to include Alternative #3 language. That would require that non-contiguous annexations must be supported by owners of at least half the area. Oregon statute remonstrance provisions requiring an election to validate the annexation would still be required if 10 percent of the resident electors or 100 of those electors, the lesser of the two, file a petition requesting the election. And, as mentioned above, Policy 11(b) would still require that the owners and residents of the area being annexed desire the provision of urban services. This seems to represent a sound system of checks and balances, but would allow the city the flexibility needed to maintain boundaries within which services can be extended efficiently and economically. Eugene staff has reviewed the recommended option, and it is acceptable to them.

Attachment

plgcmpa1

cc Bill Van Vactor  
Gary Chenkin

**METHODS OF ANNEXATION:  
SUMMARY OF EXISTING LAW**

In Boundary Commission Areas (ORS 199):	Prior Consent Required?	Election Option?
1. By resolution of the governing body of the affected city or district [ORS 199.490 (1)(a)]	No	Yes, by Remonstrance
2. By petition signed by 10 percent of the electors registered in the affected territory [ORS 199.490(1)(b)]	Yes	Yes, by Remonstrance
3. By petition signed by the owners of at least one-half the land area in the affected territory [ORS 199.490(1)(c)]	Yes	Yes, by Remonstrance
4. By resolution of a boundary commission having jurisdiction of the affected territory [ORS 199.490(1)(d)]	No	Yes, by Remonstrance
5. By a resolution adopted by the governing body or district upon receiving consent to annex their land in writing from more than half of the owners of land in the territory proposed to be annexed, who also own more than half of the land in the territory proposed to be annexed and of real property therein representing more than half of the assessed value of all real property in the territory proposed to be annexed. ("Triple majority") [ORS 199.490(2)(a)]	Yes	No
6. As provided by ORS 222.750: When territory not within a city is surrounded by the corporate boundaries of the city, or by the corporate boundaries of the city and the ocean shore or a stream, bay, lake or other body of water, except when the territory not within a city is surrounded entirely by water. ("Island annexation") [ORS 199.487(1)]	No	No
7. As provided by ORS 222.840 to 222.915: (Health hazard abatement) [ORS 199.487(1)]; also referenced as (By) findings adopted by the Assistant Director for Health under ORS 222.880 [ORS 199.490(5)(b)]	No	No