

ORDINANCE # 1475

AN ORDINANCE ADOPTING AN UPDATE OF THE ANNEXATION CODE FOR THE CITY OF
FERNDALE.

WHEREAS, the City Council indicated a need for clarification in the description of the annexation process; and

WHEREAS, the update explicates the information required by the applicant and provides more detail for the decision making bodies; and

WHEREAS, on April 23, 2008, the Ferndale Planning Commission held a public hearing on the proposed annexation code update and recommended approval;

NOW, THEREFORE, the City Council of the City of Ferndale does ordain as follows:

Section 1: The following shall be adopted as section 13.38 ANNEXATIONS of the Ferndale Municipal Code.

**Chapter 13.38
ANNEXATION**

Sections:

- 13.38.010 Purpose and planning context.
- 13.38.020 Annexation goals.
- 13.38.030 General.
- 13.38.040 Unincorporated islands.
- 13.38.050 Municipal boundaries.
- 13.38.060 Zoning.
- 13.38.070 Extension of services.
- 13.38.080 Annexation of developed properties.
- 13.38.090 Annexation of resource lands.
- 13.38.100 Information required.

- 13.38.110 Methods of proposing annexation.
- 13.38.120 Annexation process.
- 13.38.130 Effective date of annexation.

13.38.010 Purpose and planning context.

The Growth Management Act (GMA) requires that cities and counties cooperatively determine Urban Growth Areas (UGAs). When added together, the UGA for Ferndale must be large enough to hold the urbanized growth which is expected to occur over the next 20 years. The primary purpose of this chapter is to establish a framework for phased growth within the City of Ferndale. The guidance contained herein is intended to ensure the efficient delivery of public services to new development as it occurs in a manner that is most beneficial to the citizens of the community.

UGAs are intended to achieve several important objectives. To the extent that annexation policies are used to support the goals and purposes of UGAs, they become an important component of the City's policies relative to the GMA. UGAs identify lands that will be developed for urban uses and land that will potentially become annexed into the City. This identification of developable lands provides knowledge to landowners and government agencies, allowing them to plan and invest in urban areas.

While some land within the UGA is either unsuited for urban development or has important resource values that will be protected, most of the area within the UGA will be developed for urban uses. The designation of UGAs also makes the provision of public facilities easier by providing for contiguous and compact urban lands.

UGAs also protect rural areas, resource lands, and large areas of fish and wildlife habitats outside of the UGA boundaries. Property owners know they can invest in rural and natural resource uses on these lands without worrying about the encroachment of urban uses outside of the UGA boundary.

13.38.020 Annexation Goals.

1. Ensure that there are urban densities within the City's corporate limits, per the City of Ferndale Comprehensive Plan.
2. Supply sufficient, safe and suitable residential, commercial, and industrial land to meet the projected future needs for Ferndale over the next 20 years.
3. Ensure an orderly outward extension of public services, facilities, and publicly owned utilities.

13.38.030 Annexation – General Considerations.

The City of Ferndale will consider annexation of contiguous properties within its UGA. Those properties whose physical location would promote "leap frog" annexation, resulting in noncontiguous City limits, will not be considered. Timing of annexation proposals will be determined based on what is most beneficial to the citizens of the community. Benefit to the community shall be determined through cost/benefit calculations and other factors included in FMC 13.38.020 and the City's Comprehensive Plan (Urban Growth Area/Annexation).

The City shall endeavor to apply consistent and appropriate zoning based on impacted residents' desires, surrounding zoning densities, existing facilities, anticipated future facilities, and the City's desired direction for future development. Newly annexed territory shall assume its equitable share of the City's bonded indebtedness.

13.38.040 Unincorporated islands.

The City of Ferndale shall encourage annexation of unincorporated islands within its UGA. To the extent possible, the City shall not allow annexations that create new unincorporated islands or unincorporated areas substantially surrounded by annexed areas. The City shall consider annexations that lessen the size of existing unincorporated islands if it is not feasible to annex the entire island.

13.38.050 Municipal boundaries.

To maintain efficient City service provision, Ferndale shall discourage annexations that would result in irregular City boundaries. Annexations shall include the largest practicable area contiguous to City limits that still results in logical City boundaries.

13.38.060 Zoning.

Ferndale shall only approve annexations that lie completely within the UGA and whose proposed zoning are consistent with the City's Comprehensive Plan. The land use designations specified in the Comprehensive Plan shall be used as guidance by the Planning Commission in determining the recommended zoning classification. The land use designations, as determined by the City Council through their acceptance of the annexation, shall remain on the annexed properties for five years following annexation.

13.38.070 Extension of services.

Ferndale will only support extensions of public water, sewer, and/or storm drainage services outside the City limits when demonstrated as an emergency by the Health Department and subsequently approved by City Council. Ferndale will consider the existing boundaries of special purpose districts when reviewing annexation proposals. Affected districts will be notified and provided the opportunity to comment on annexation proposals.

13.38.080 Annexation of developed properties.

The City shall not support annexation of developed parcels unless they meet the following criteria:

- A. Properties with existing, properly functioning septic tank drain field systems shall not be required to connect to City sewer until one of the following events occurs and at that time shall be required to connect:
 - 1. Upon determination by the county health department that the existing septic system cannot function properly and City sewer service is within 200 feet of the property.

2. Upon determination by the county health department that the existing septic system must be expanded to accommodate the use and City sewer service is within 200 feet of the property.
- B. Failed septic systems (or systems deemed undersized for the use) shall not be repaired or replaced with another septic system.
- C. Existing subdivisions with lots of less than 0.5 acres must extend sewer at time of annexation.

13.38.090 Annexation of resource lands.

Annexations to the City shall avoid conversion of active resource lands whenever possible. Agricultural lands over 10 acres in size shall not be annexed into the City unless the property owner consents to the annexation and commits to converting the agricultural property into urban land uses within 18 months following the annexation (City of Ferndale – Comp. Plan, 2007). "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by *RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production (RCW 36.70A.030(2)).

13.38.100 Information required.

In order to adequately assess the merits of annexation proposals, the following information should be gathered, analyzed and presented during City consideration of annexation proposals. This information, together with a similar analysis of the impacts on property owners within the area being proposed for annexation, should be made publicly available,

- A. **Statistical Data.** Provide necessary facts including acreage; number of residential units; businesses; industries; estimated population; street mileage, paved and unpaved, public and private; assessed valuations; existing utility services; existing parks and playgrounds; schools and public buildings.
- B. **Maps.** Prepare maps to show present and proposed city boundaries relative to the urban service area, general land use patterns, existing and proposed land use designations, present major trunk water mains and proposed extensions, present sewer interceptors and proposed extensions, existing streets, and existing public areas such as playgrounds and schools.
- C. **Public Services and Infrastructure.** Demonstrate that adequate public services, facilities, and publicly owned utilities are available or can be cost-effectively provided to proposed and existing development. Public Services include, but are not limited to police protection, fire protection, public works (garbage, water, sewer, maintenance, etc.), parks and recreation, animal control, planning and building services, schools. Ensure the extended public services and infrastructure are consistent with the Comprehensive Plan and that transportation facilities are up to City standards.

- D. **Cost-Revenue Analysis.** The anticipated revenues should be compared with anticipated costs, including both projected additional annual operating expenses and major capital expense. The cost-revenue analysis should be projected for 5 years in order to gain an understanding of the impact which development of the newly annexed areas would have.
 - E. **Critical Areas.** Demonstrate reduced impacts from flooding, encourage efficient stormwater management, and ensure that the critical areas of Ferndale are protected and preserved.
 - F. **Community Identity.** Consider citizens' concerns and proposed annexation relative to surrounding areas.
 - G. **Procedural Compliance.** Complete annexations following the guidance provided FMC 13.38.120 and in the City/County Interlocal Agreement related to annexations.
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13.38.110 Methods of proposing annexation.

The following methods of annexation are available to the citizens of the City of Ferndale (see 13.38.120). Refer to the RCW for full explanation of methodologies.

- A. Voter majority petition method annexation (RCW 35A.14.420)
- B. Sixty percent petition method annexation (RCW 35A.14.120)
- C. Election method, initiated by 10 percent petition (RCW 35A.14.120)
- D. Election method, initiated by City Council resolution (RCW 35A.14.015)
- E. Annexation for Municipal Purposes (RCW 35A.14.300)
- F. Annexation of Federally Owned Areas (RCW 35A.14.310)
- G. Annexation of Unincorporated Islands (RCW 35A.14.295)

13.38.120 Annexation process.

1. **Meeting with Planning Staff.** Proponents, or their representatives, shall meet with the City planning staff to discuss the best method of proposing annexation for the particular application, general annexation procedures, area-specific issues, recommended acreage size, logical boundaries of the annexation area, proponent's proposed zoning designations, and other areas of potential concern. Planning staff will provide interested parties with forms and procedural requirements relative to the proposed annexation.
2. **Neighborhood Meeting.** Proponents of an annexation shall complete the following at their own expense prior to submitting a Notice of Intent to Annex document with the City:
Pre-meeting:
 - a. Obtain a list of all property owners within the proposed area of annexation and within 300 feet from the boundaries of the proposed area of annexation from the Whatcom County assessor;
 - b. Notify, via U.S. mail, all property owners identified above of the neighborhood meeting not less than 14 or more than 30 days prior to the date of the neighborhood meeting;

- c. Advertise in a newspaper of general circulation for two consecutive weeks prior, include the time and place of the neighborhood meeting to discuss the proposed intent to annex;
- d. Post a public notice of the time and place of the neighborhood meeting at City Hall, the Ferndale library, the Ferndale Post office, and the proposed site not less than 14 or more than 30 days prior to the date of the meeting;
- e. Provide written Notice of Intent to Annex and notice of the neighborhood meeting to the Whatcom County Planning Department, submit a copy to the City;
- f. Provide an affidavit to the City verifying compliance with the required notification and public outreach contained in subsections (2) (a) through (f) of this section.

Post-meeting, submit the following to the City:

- g. A sign-in sheet confirming attendance at the neighborhood meeting;
- h. A summary of the issues raised at the neighborhood meeting and the proponents' responses in the form of meeting minutes and an easily discernable audio recording.

3. **Notice of Intent to Annex.** Proponents shall submit a "Notice of Intent to Annex," which shall include all information detailed in FMC 13.38.100. Within 30 days following the submission of the Notice of Intent to Annex and following a meeting in front of the Planning and Judicial Committee, the City Council will vote to accept or reject the notice of intent to annex. If the Council votes to reject the notice of intent, the proponents shall be free to resubmit the notice of intent at any time following six months from the date of rejection, following the procedures outlined herein and following the repayment of all necessary fees.
4. **Petition for Annexation.** Following the acceptance by the City Council of the notice of intent to annex, the petitioners shall complete a petition for annexation on a form provided by the City. An annexation processing fee as contained in the City's most current approved Unified Fee Schedule must be paid at this time.
5. **City Technical Review and Analysis.** Upon receipt of the Petition for Annexation, the City will review the application for completeness. If the application is complete and accurate, the City will issue a Certificate of Petition Completeness within 30 days. Following the issuance of the Certificate of Petition Completeness, the City shall undertake, or cause to be undertaken, a review and analysis of the petition and its conformance with the goals listed in FMC 13.38.020 together with the fiscal impact analysis. The City shall complete this review and analysis in a period not longer than 60 days from issuance of the Certificate of Petition Completeness. If the City is unable to complete the review and analysis within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an

estimated date for completion of the technical review and analysis. If the technical review is to be completed by a third party, that individual shall be responsible for providing the City and the applicant with a similar statement.

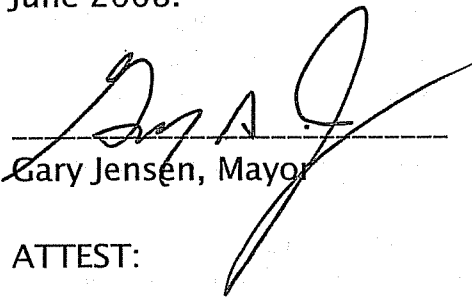
6. **Planning Commission Public Hearing.** Following the completion of the technical review and following the submission of the completed and Petition for Annexation by the proponents, the Planning Commission shall hold a public hearing to consider the annexation proposal. Following the public hearing, the Planning Commission shall forward its recommendation, including a recommendation as to zoning, to the City Council for consideration and final action.
7. **City Council Public Hearing.** Within 30 days of the public hearing before the Planning Commission, the Council shall hold a public hearing and vote to accept or reject the petition for annexation. If the Council votes to reject the Petition for Annexation, the proponents shall be free to resubmit for annexation at a future date and following the repayment of all necessary fees.
8. **Boundary Review Board (BRB) Review.** Following the acceptance of the Petition for Annexation by the City Council and the payment of a City BRB preparation fee as contained in the City's most current approved Unified Fee Schedule, the City shall file a Notice of Intention containing required information (RCW 36.93.130, as amended) with the Boundary Review Board. The Notice of Intention process includes:
 - a. The BRB Chief Clerk reviews the Notice of Intention to determine legal sufficiency and when deemed sufficient, assigns a filing date and file number. A mandatory 45-day review period begins on the date it is filed by the Chief Clerk.
 - b. The Chief Clerk routes the notice of intention to agencies, municipalities, county departments, special purpose districts, and interested citizens for review and comment.
 - c. The BRB Chair may waive the 45-day review period by written statement if the proposed action is an annexation under 10 acres and less than \$2,000,000 in assessed valuation. The annexation then may proceed as proposed.
 - d. If the 45-day review period elapses without the Board's jurisdiction being invoked, the proposed action is deemed approved.
9. **City Council Annexation Ordinance.** Within 30 days of approval by the BRB, the Ferndale City Council shall consider an ordinance annexing the property into the City. If approved, the property is annexed into the City.
10. **Notification of Annexation.** The City shall notify additional State and local agencies, including the Office of Financial Management, of the annexation, and shall complete a population survey of the annexed area within 30 days of the City Council Annexation Ordinance. The City and Whatcom County shall collaborate to review and amend the Inter-local agreement related to annexations as necessary every two years.

13.38.130 Effective date of annexation.

The annexation, together with any provisions for the assumption of indebtedness and any other special annexation requirements, takes effect on the date set in the annexation ordinance.

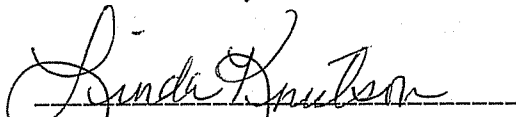
Section 2: This ordinance shall become effective on the sixth day after publication, or after the state agency 60-day review time period, whichever is greater, as set forth by state law.

Approved by the City Council and signed by the Mayor this 16th day of June 2008.



Gary Jensen, Mayor

ATTEST:



Linda Knutson, City Clerk

June 18, 2008
Publication Date - Ferndale Record Journal