

Common Questions About Annexation of Residential Areas

Enclosed are some answers to common questions we have received in the past about annexation of residential areas. The circumstances of each potential annexation may vary greatly, so these answers may or may not be applicable in each case. At the end of this memo is a list of contacts and phone numbers if you have any further questions.

What is the review process for annexations?

Once an annexation is proposed and the property owners are notified, the Planning Department then prepares a report and recommendation to the Planning Commission for their review and consideration. The staff report is available to the public one week before the hearing after 3:00 p.m. The Planning Commission then holds a public hearing. The Planning Commission is a nine-member, citizen board that will make a recommendation to the City Council on whether the annexation should be approved or denied.

The Planning Commission meets every other Wednesday at 1:00 p.m. in City Council-County Board Chamber on the first floor of the City-County Building at 555 South 10th Street. The meeting is open to the public and anyone may testify before the Planning Commission or send a letter to the Commission in advance. The meeting will also be broadcast live on public access cable channel 5 and streaming live on the City's website at www.lincoln.ne.gov.

Once the Planning Commission makes its recommendation, an additional public hearing will be held by the City Council, approximately 19 days after the Planning Commission takes action.

What is the City's Annexation Policy?

One of the main principles of the Comprehensive Plan Vision is stated in the "One Community Vision" (page 1.2 of the Plan). One part of this main principle of the Plan is that residences and businesses should be inside the City of Lincoln, equally participating in the costs and benefits of the Lincoln community.

The current Comprehensive Plan provides guidance on the issue of annexation. On pages 12.14-12.15 of the 2040 Comprehensive Plan it states the following:

"Annexation policy is a potentially powerful means for achieving many of the goals embodied in the

Plan's Vision. Annexation is a necessary and vitally important part of the future growth and health of Lincoln. The annexation policies of the City of Lincoln include but are not limited to the following:

- *The provision of municipal services must coincide with the jurisdictional boundaries of the City –in short, it is not the intent of the City of Lincoln to extend utility services (most notably, but not necessarily limited to, water and sanitary sewer services) beyond the corporate limits of the City.*
- *The extension of water and sanitary sewer services should be predicated upon annexation of the area by the City. City annexation must occur before any property is provided with water, sanitary sewer, or other potential City services.*
- *The areas within Tier I Priority A that are not annexed serve as the future urban area for purposes of annexation per state statute and are appropriate for immediate annexation upon final plat. These areas have approved preliminary plans.*
- *To demonstrate the City's commitment to the urbanization of land in Tier I Priority B, the City should annex land in Priority B that is contiguous to the City and generally urban in character, as well as land that is engulfed by the City. Land that is remote or otherwise removed from the limits of the City of Lincoln will not be annexed. Annually, the City should review for potential annexation all property in Priority B for which basic infrastructure is generally available or planned for in the near term.*
- *Annexation generally implies the opportunity to access all City services within a reasonable period of time. Voluntary annexation agreements may limit or otherwise outline the phasing, timing or installation of utility services (e.g., water, sanitary sewer), and may include specific or general plans for the private financing of improvements to the infrastructure supporting or contributing to the land uses in the annexed area. The annexation of large projects may be done in phases as development proceeds.*
- *The character of existing residential areas should be respected as much as possible during the annexation process. When low density "acreage" areas are proposed for annexation due to the City's annexation policy, additional steps should be taken to ease the transition as much as possible, such as public meetings, advance notice and written explanation of changes as a result of annexation. In general, many aspects of acreage life may remain unchanged, such as zoning or covenants. However, any annexation of existing residential areas will include some costs that must be the responsibility of property owners.*
- *Plans for the provision of services within the areas considered for annexation shall be carefully coordinated with the Capital Improvement Program of the City and the County.*
- *Each town in Lancaster County will have their own procedures for annexation."*

The Comprehensive Plan is the City's guide for decisions regarding both development and annexation. The 2040 Lincoln/Lancaster County Comprehensive Plan contains both guidelines on annexation and a phasing plan for development. The city has adopted "2040 Priority Growth Areas," a figure of which is shown on page 12.6 of the 2040 Comprehensive Plan. Typically the City is considering areas in the first growth tier (Tier I) and identified as Priority A for annexation of areas with approved plans. Priority B is land in Tier I that does not have approved preliminary plans and is considered the first phase of growth beyond Priority A.

Tier I reflects the "Future Service Limit," where urban services and inclusion in the city limits are anticipated by 2040. The City has adopted Tier II as the area delineated for further urban growth, as infrastructure planning often requires a 50 year or more timeline of planning for water and sanitary sewer services. Tier III reflects adjacent future urban growth even further into the distance, both in time and geography.

How would this affect taxes?

Typically the property tax levy is greater after annexation due to the addition of the City of Lincoln levy. After annexation the property would not have to pay the property tax of a rural fire district. If a property is not currently in the Lincoln Public School District (LPS), upon annexation it would transfer to LPS. Property owners would no longer pay the general levy of the school district that they are currently in, but would now pay the LPS general levy. However, according to state statutes, any property that was in a school district at the time of a bond election must continue to pay on that district's bond until it is retired, even after property transfers to another district.

Since 1998, the City of Lincoln and Lincoln Public Schools have had an agreement that provides that any area annexed by the City of Lincoln would not have to pay for LPS school bonds approved prior to annexation while it is still paying for the school bond of another school district. All property annexed will be subject to all future bonded indebtedness of LPS that are approved after the date of annexation.

In addition, vehicles owners will be required to pay the City's wheel tax and motor vehicle property tax at time of registration or renewal. Also, for any properties that tie into the City's water or waste water system, there are impact fees payable at time of connection.

Will homeowners be able to keep their septic systems or sewage lagoons?

According to City Ordinance "Sewage from any building or premises shall be discharged directly into the community sewerage system when the system is available and within 300 feet from the building or premises measured along a street, alley, or easement to the encasement of the sewer system." (Section 24.38.080(a)) The system must be properly abandoned within six months per Section 24.38.080(c). If the city sewer system is more than 300 feet away or is not available, the homeowner may retain the septic system.

Any property owner within an area could request the City create a sanitary sewer assessment district for the purpose of having a sanitary sewer line constructed. However, this assessment district would have to first be approved by the City Council after a public hearing. The City Council could then approve or deny the assessment district. If a district is approved, the city constructs the sewer line and abutting property owners pay the assessment over a twenty-year period.

Will homeowners be able to keep their wells?

Yes. Wells are allowed inside the city limits as long as the owner pays the fee for and obtains a biennial permit from the Lincoln/Lancaster County Health Department. The well must meet city standards for construction and not be contaminated. In addition, if the premise is also supplied with city water an approved backflow device must be installed on the service line supplying city water and must have an annual backflow inspection performed by a grade 6 water operator registered with the Lincoln Water System. Costs for this inspection must be paid for by the property owner.

Even if a city water main is available and adjacent to the property, the homeowner is not required to connect to the city water service. If a property owner chooses to hook up to city water, they could maintain their well for purposes of watering their lawn, etc., but it still would be subject to permit and fee requirements and must meet city standards.

Any property owner within the area could request the City create a water line assessment district for the purpose of having a water line constructed within the area. However, this assessment district would have to be first approved by the City Council after a public hearing. The City Council could then approve or deny the assessment district. If a district is approved, the city constructs the water line and abutting property owners pay the assessment over a twenty-year period.

How would fire service be handled?

Currently, properties outside of the city limits are served by a rural fire district. After annexation, the city fire department would handle all emergency and fire calls to the area. Since the fire department has a quicker response time in most cases, often there can be a benefit to residents in emergencies and a savings to the property owner on home owners insurance.

In the past, the City Fire Department has found that there were three options for providing fire protection to low density residential areas that currently don't have city water mains in place:

- Option 1 Work with a rural fire district to provide tanker water in the event of a fire. The Fire Dept. stated that this option provides a lesser level of service than city standards and does not provide a long term solution for this area if it is within the city limits.

Option 2 The City could purchase a tanker truck to bring water to the site. This type of truck could cost \$60,000 to \$120,000. If it is needed in just one area, it could be housed out of a nearby station. However, the City currently does not have a facility capable of housing or staffing a water tanker. If annexation sites were spread throughout Lincoln, then multiple trucks might be needed.

Option 3 Install water lines and fire hydrants by assessment district. Property owners would be assessed the cost to build the water improvements and would pay the assessment over a 15 year period. This provides both water service and city standard fire protection to all residents. The Lincoln Fire Department typically recommends this option.

How could this affect streets in an area?

Once public streets are annexed, the City is responsible for minimum maintenance of the streets. The City will pay for graveling unpaved streets. The City is responsible for snow removal.

Annexation does not require that the streets be brought up to city standard paving with curb and gutter. The city has numerous miles of streets that have been inside the city limits for decades and remain unpaved. For streets that end in cul-de-sacs or are dead-end streets that receive little traffic, the city has not pursued requiring these streets to be paved.

What about sidewalks, street trees and street lights?

Areas that do not have street lights are not required to install them upon annexation. Ornamental street lights can be done by an assessment district process that requires a majority of the affected owners to sign the requesting petition. The City Council then holds a public hearing on the proposed assessment district and would have to approve it before the ornamental lights could be constructed.

Annexation does not require the installation of sidewalks or street trees either. The City Council has the authority to order sidewalks constructed on any street. Current City policy is to focus sidewalk assessment districts in areas along school routes, arterial streets and areas of significant pedestrian traffic. Again, for streets that end in cul-de-sacs or dead ends, that receive little pedestrian traffic, the city has not pursued requiring sidewalk construction.

Upon what legal basis can the City annex property?

The City of Lincoln's ability to annex property comes from state authorization. The following is a general summary of annexation law in regards to the City of Lincoln:

- the City may at any time annex "contiguous or adjacent" lands,
- according to State statutes "land shall be deemed contiguous although a stream, embankment, strip or parcel of land, not more than 500 feet wide, lies between such land and the corporate limits,
- the Nebraska Supreme Court has voided "strip, corridor or flag" annexations in which the land is adjacent by only a narrow strip or neck of land,
- the City automatically annexes adjacent property upon subdivision if it is in the future urban area and must annex adjacent county roads during an annexation.

How would homeowners with 4 or more small animals be affected?

Fowl and small animals, such as rabbits, kept outside require a permit, and dogs and cats require a license from the Animal Control Division of the Health Department. All cats and dogs must be licensed at six months of age and must have current rabies vaccinations. Please contact the Health Department for more information. Title 6. Animals of the Lincoln Municipal contains the regulations regarding animals in the city limits. It can be found on line at

<http://www.lincoln.ne.gov/city/attorn/lmc/ti06/ch604.pdf> .

Outside the city limits, is it legal to have more cats or dogs than inside the city limits?

Yes, it is. Most properties outside the city limits are much larger in size with most required to have 3 acre lots or 20 acres or more depending on the zoning. A commercial boarding kennel or commercial breeding kennel or obedience training facility or a shelter is required to have a permit from the Bureau of Animal Industry, State Department of Agriculture.

Once inside the city limits, what is the limit on the number of cats or dogs a resident can keep, or does it depend on the number of acres in my lot?

Unless a special permit is obtained, the limit is 3 dogs and 5 cats over six months of age. There is no limit on number of kittens or puppies. Up to 15 cats can be owned with either a hobby kennel or cattery permit (not spayed or neutered) or multi-cat household permit (all spayed or neutered). There is no lot size requirement.

For properties annexed, a commercial dog breeding permit with at least one acre of land may have up to 10 dogs or a multi-dog household permit up to 5 dogs. However, as the dogs are sold, die, or given away, the total must be reduced to 3 dogs (the dogs cannot be replaced). The objective is to reduce the number and yet be able to keep the dogs they had when annexed. If any land of the original annexation is sold, then the number of dogs has to be reduced to the 3 maximum.

Both cat permits and dog permits have special requirements that must be met.

How would homeowners with large animals such as horses be affected?

Owning one or two large animals, such as a horse, within the city limits requires 1 acre of property per horse. For three or more large animals, 1.5 acres per animal is required. Large animals require a permit from Animal Control. If a property owner is annexed, but can't meet these lot area requirements, the large animals may remain under certain conditions, but may not be replaced. Section 6.04.30 of the Lincoln Municipal contains the regulations regarding large animals in the city limits. It can be found on line at <http://www.lincoln.ne.gov/city/attorn/lmc/ti06/ch604.pdf>.

I am currently served by the Lancaster County Rural Water District #1 (RWD). How will the annexation affect this service?

When the City of Lincoln is the applicant proposing annexation, it will be the responsibility of the City to reimburse the RWD, if necessary, for any cost to remove the annexed property from the boundaries of the RWD. However, even if the City has reimbursed the RWD, a property may continue to be served by the RWD until city water mains are extended to the property. The City will not be able to reuse the existing RWD water lines to hook up homes to the city water system.

Can I keep my propane tank inside the city limits?

Yes. The rules and regulations for using and storing propane for residential heating are the same inside the city limits as outside.

Can I keep my barbed wire fence inside the city limits?

No. Both barbed wire fences and electrically charged fences are prohibited inside the city limits. The electricity to a charged fence would have to be disconnected (Lincoln Municipal Code 9.24.110). A barbed wire fence would have to be removed, however a fence may have barbs more than five feet above surface of the ground when further than 1 foot away from a public way. (Lincoln Municipal Code 9.24.200)

Are there significant differences in the rules regarding weeds for property inside the city limits compared to land outside the city?

Yes, there are significant differences in the rules regarding weeds for property inside the city limits compared to houses just outside the city. The two major differences are:

1. There is no ordinance relating to controlling the height of weeds and worthless vegetation in the County but there is in the City.
2. In the City the landowner is responsible for controlling the height of weeds and worthless vegetation on their property and also on abutting streets and alleys.

More information on weed abatement is available by contacting Brent Meyer at 402-441-7817 or on the web at <http://lancaster.ne.gov/weeds/index.htm>.

Currently our property is not in the Lincoln Public School (LPS) district and my child attends school in another district – what happens after annexation?

After annexation, the property automatically becomes part of the LPS district. Students would then be eligible to start attending LPS schools. However, students can also apply under option enrollment laws to remain at their present school. Parents need to fill out the application paperwork to option their student out of LPS with the LPS Student Services Office. Applications for existing students are very likely to be approved. There is no cost to the family to fill out the paperwork, nor is there any tuition cost to the family to option out.

For additional information on option enrollment or other questions about enrollment, please contact LPS Student Services at 402-436-1680.

My child currently received bus service to attend school in another district. Will that bus service be maintained after annexation?

You should contact your current school district to see if they will maintain service.

After annexation will vehicle owners be required to pay the City wheel tax and motor vehicle tax to the City?

After annexation, vehicle owners will pay the City of Lincoln wheel tax on each vehicle at the time of registration. The wheel tax varies depending on the type of vehicle. As of October 1, 2011 it is \$64.00 per passenger vehicle (nine passengers or less, not for hire). (For a listing of vehicle types & fees, see Lincoln Municipal Code Section 3.20.220 <http://www.lincoln.ne.gov/city/attorn/lmc/ti03/ch320.pdf>.) The wheel tax is used to fund snow removal, street construction and rehabilitation in the city.

The motor vehicle tax will not change for the vehicle owner. The only thing that changes is the way the tax is split between the County, school district and City. Prior to annexation, the City doesn't receive any portion of the motor vehicle tax paid. After annexation, the County receives less of the tax and the City will now receive a portion. But the amount paid by the vehicle owner doesn't change due to annexation.

The Nebraska Council of School Administrators website, provides a good explanation of the motor vehicle tax and how it is divided:

“Under the current system, the motor vehicle tax and fee are still paid at the time of registration. However, the tax paid is now uniform throughout the state and only three types of local governments share in the proceeds. The motor vehicle tax phases out once a vehicle reaches 14 years of age, but the motor vehicle fee is levied throughout the life of the vehicle.

The tax on any particular motor vehicle is the result calculated by multiplying the base rate of tax times a factor that declines with age. The base rate is based on manufacturer's suggested retail price in the case of passenger cars, motorcycles, pickups, vans and SUVs and the manufacturer's rated weight for commercial vehicles. Exemptions from the tax are the same as was the case under the property tax system. These are primarily government vehicles and those used for, religious, educational, and charitable purposes.

The motor vehicle tax is distributed to the city, county, and school system where the vehicle is registered. The school receives 60% of the proceeds with the municipality and county dividing the rest. If the motor vehicle is not registered within any municipality, the county receives both shares. The motor vehicle fee is divided equally between municipalities and counties based on the formula used for distributing motor fuel taxes and other taxes that contribute to the Highway Trust Fund.”

Could I now apply for Handi-Van service?

Yes. Only property inside the city limits can be served by Lincoln's StarTran Handi-Van which provides door-to-door transportation service for individuals who experience disability and who, because of that disability, are unable to ride the regular fixed-routed city bus. There are no age or income restrictions.

Would I now be eligible to apply for home improvement loans from the City?

Yes. There are various programs to help with emergency home repairs, first time home buyers and home improvement loans; however, only property inside the city limits is eligible to apply. There are various programs and income restrictions, so please contact the City of Lincoln Urban Development Department at 402-441-7864 for further information.

For Further information on these specific topics please call:

Septic Systems and Wells

John Chess, Health Department, at 402-441-8027

Streets, Sidewalks, City Sewer and Water

Dennis Bartels, Public Works, at 402-441-7595

Horses, Dogs, Cats and Other Animals

Jim Weverka, Health Department, at 402-441-7900

General Annexation Information 2012.docx