

ANNEXATION

Idaho Code Section 67-6526

Area of impact

- (a) The governing board of each city shall adopt by ordinance a map identifying an area of city impact within the unincorporated area of the county. A separate ordinance providing for application of plans and ordinances for the area of city impact shall be adopted. An area of city impact must be adopted before a city may annex adjacent territory. This separate ordinance shall provide for one of the following:
 - i. Application of the city plan and ordinances adopted under this chapter to the area of city impact.
 - ii. Application of the county plan and ordinances adopted under this chapter to the area of city impact.
 - iii. Application of any mutually agreed upon plan and ordinances adopted under this chapter to the area of city impact.
- (b) If (a) has not been complied with, the city may demand compliance by providing written notice to the county of said demand for compliance. Once a demand has been made, the city shall select its representative within 30 days, and procedures then commence. The county commissioners and 3 elected city officials designated by the mayor and confirmed by the council within 30 days select 3 city residents. These 9 people shall by majority vote recommend to the city and county boards an area of city impact together with plan and ordinance requirements. The recommendation shall be submitted to the governing boards within 180 days after selection of the 3 members.
- (c) If 2 or more cities have overlapping areas of city impact, the cities involved shall negotiation boundary adjustments. If they can't agree, the board of county commissioners recommends adjustments which shall be adopted by ordinance by the cities upon notice and hearing. If a city objects to the recommendation, the county shall conduct an election.
- (d) Areas of city impact remain fixed until both governing boards approve renegotiation. If they can't agree, judicial review occurs.
- (e) Prior to negotiation of areas of city impact, the governing boards shall submit the questions to the planning and zoning commission for recommendation. Each commission has a reasonable time fixed by the governing board to make its recommendations.

Annexation

Idaho Code Section 50-222

- (1) Legislative intent. Cities should be able to annex lands which are reasonably necessary to assure the orderly development of cities in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services, to enable the

orderly development of private lands which benefit from the cost-effective availability of municipal services in urbanizing areas and to equitably allocate the costs of public services in management of development on the urban fringe.

(2) General authority. Cities have the authority to annex land into a city upon compliance with the procedures required in this section. In any annexation proceeding, all portions of highways lying wholly or partially within an area to be annexed shall be included within the area annexed unless expressly agreed between the annexing city and the governing board of the highway agency providing road maintenance at the time of annexation. The city shall not have the power to declare such land, lots or blocks a part of the city if they will be connected to such city only by a shoestring or strip of land which comprises a railroad or highway right-of-way.

(3) 3 categories of annexation:

a. Category A

- i. All private landowners have consented to annexation. Or
- ii. Any residential lands of less than 100 privately owned parcels, irrespective of surface area, which are surrounded on all sides by land within a city or which are bounded on all sides by lands within a city and by the boundary of the city's area of impact. Or
- iii. The lands are those for which owner approval must be given pursuant to subsection (5)(b)(v).
- iv. Written consent is required only for voluntary Category A annexations. Consent cannot be implied for Category A.

b. Category B

- i. The subject lands contain less than 100 separate private ownerships and platted lots of record and where not all such landowners have consented to annexation. Or
- ii. The subject lands contain more than 100 separate private ownerships and platted lots of record and where landowners owning more than 50% of the area of the subject private lands have consented to annexation prior to the commencement of the annexation process. Or
- iii. The lands are the subject of a development moratorium or a water or sewer connection restriction imposed by state or local health or environmental agencies; provide such lands shall not be counted for purposes of determining the number of separate private ownerships and platted lots of record aggregated to determine the appropriate category.

c. Category C

- i. Annexations where the subject land contains more than 1100 separate private ownerships and platted lots of record and where landowners owning more than 50% of the area of the subject private lands have not consented to annexation prior to commencement of the annexation process.

(4) Evidence of consent to annexation. Consent shall be valid only when evidenced by written instrument consenting to annexation executed by the owner or the owner's authorized agent. Written consent to annex lands must be recorded in the county

recorder's office to be binding upon subsequent purchasers, heirs, or assigns of lands addressed to the consent. Lands need not be contiguous or adjacent to the city limits at the time the landowner consents to annexation for the property to be subject to a valid consent to annex; however, no annexation of lands shall occur, irrespective of consent, until such land becomes contiguous or adjacent to such city.

Exception to consent: 1. Enclaved lands (totally surrounded by territory of other land). 1. Implied consent for area of all lands connected to a water or wastewater collection system operated by the city if the connection was requested in writing by the owner, or the owner's authorized agent, or completed before July 1, 2008.

(5) Annexation procedures

- a. Category A: lands lying contiguous or adjacent to any city may be annexed by the city if the proposed annexation meets the requirement of Category A. Upon determining that Category A requirements are met, a city may initiate the planning and zoning procedures to establish the comprehensive planning policies, when necessary, and zoning classification of the lands to be annexed.
- b. Category B:
 - i. The lands are contiguous or adjacent to the city and lie within the city's area of impact.
 - ii. The land is laid off into lots or blocks containing not more than 5 acres of land each.
 - iii. Preparation and publication of a written annexation plan, appropriate to the scale of the annexation contemplated, which includes, at a minimum, the following elements:
 1. The manner of providing tax-supported municipal services to the lands proposed to be annexed.
 2. The changes in taxation and other costs, using example, which would result if the subject lands were to be annexed.
 3. The means of providing fee-supported municipal services, if any, to the lands proposed to be annexed.
 4. A brief analysis of the potential effects of annexation upon other units of local government which currently provide tax-supported or fee-supported services to the lands proposed to be annexed.
 5. The proposed future land use plan and zoning designation(s), subject to public hearing, for the lands proposed to be annexed.
 - iv. Compliance with the notice and hearing procedures governing a zoning district boundary change on the question of whether the property should be annexed, the zoning designation to be applied therein. Notice must be published at least 28 days before the initial hearing, and 15 days prior to any subsequent hearing. Mailed notice must be provided at least 28 days before the initial hearing, and 15 days prior to any subsequent hearing to 1) property owners within the area proposed for annexation, 2) property owners within 300 feet of the area proposed for annexation, 3) any additional area impacted by the proposal, and 4) to all political

subdivisions, including school districts providing services within the city and the service area affected. Notice also must be made available to newspapers, radio and tv stations for use as a public service announcement. Notice must also be published on the premises for at least a week before the hearing. Published and mailed notices must specify the procedures and deadlines for citizens to submit written testimony. Mailed notices must include a one page summary of the annexation plan and inform citizens where a complete copy of the plan may be obtained free of charge.

Following the hearing, the council may proceed to consider adoption of the annexation ordinance. Certain express findings must be made on the record, including: the proposed annexation meets with requirements of Idaho Code Section 50-222 and does not fall within the exceptions or conditional exceptions contained in that section, the annexation is consistent with the public purposes stated in the annexation plan and the annexation is necessary for the orderly development of the city. The decision of the council is subject to judicial review. The city clerk must file a certified copy of the ordinance with the county auditor, county treasurer, county assessor and the State Tax Commission. The annexation ordinance becomes effective upon publication in the official newspaper.

- c. Category C: Must meet all the requirements for Category B. Also, the city must obtain consent from the owners of a majority of the land area to be annexed. This requires mailed notice to all private landowners in the area to be annexed, not including those who have consented, either by receiving city water or sewer service or by recorded consent to annex.

Separation of Agricultural Land from Cities: Landowners of agricultural lands may petition the district court for detachment of their property from the city.

Summary of Annexation Statute (Idaho Code § 50-222)

This summary omits some details and special exceptions.⁵⁷

The reader should consult the statute in its entirety.

Category A	Category B	Category C
Definition of category:	All landowners provide written consent. OR Enclaved residential property of < 100 parcels. OR Special cases (fairgrounds, etc.).	< 100 parcels regardless of whether landowners consented. OR > 100 parcels and owners of > 50% (based on land) have provided written or implied consent.

AND

Annexed land is subdivided into lots of 5 acres or less, or Owner has begun to sell land in parcels of 5 acres or less.

OR

Annexed land is completely surrounded by the city.

Requirements and procedures applicable to each category:

All annexed land must be contiguous or adjacent to city (regardless of category).

Need not be within area of city impact. Where all landowners consent, must be included in comprehensive plan.

Must be within area of city impact.

May be annexed unilaterally by ordinance.

City must prepare detailed annexation plan

Requires compliance with procedures for zoning district boundary change; publication and mailing to landowners; hearing; express findings.

So long as appropriate findings are made, annexation may proceed over objection of landowners.

After following procedures above, owners are polled again and over 50% must consent.

Judicial Review:

No judicial review (review by declaratory action only) (very deferential).

By IAPA (somewhat deferential).