



Date January 28, 2025  
To: Mayor and City Council  
From Forrest Sanderson, AICP and CFM  
Re: ANNEXATION SUMMARY

I have been requested to provide a summary of Annexation Powers and some guidance as to when the City should require the annexation of certain properties to the City of Sidney. In all instances, the decision to annex property is a business decision and the question should be – Is the decision in the best interest of the City of Sidney? To fully consider this question, you must take into account the impact on all city funds especially your enterprise funds as the cost of construction of new water and sewer mains and possibly additional snow removal and solid waste equipment can be budget busters.

In the perfect world, anytime a property owner requests to be connected to or provided a service by the City of Sidney, the property should be annexed into the city and the city should never extend the services beyond the limits of the city. As we all know, the world is not a perfect place and there should be a few exemptions to the rule but remember that when we are discussing annexation, we are making a business decision.

Most typical types of annexation and restrictions, if any:

**Annexation of Contiguous Property.** Typically, City Initiated. This process is typically used to annex larger areas of developed property where the extension of city services is deemed necessary or in the public interest. Actions are potentially subject to protest and may be rejected by owners or voters.

**Annexation of Wholly Surrounded Property.** Always City Initiated. This process exists where parcels of land have been complexly surrounded by the City but have not been included. The premise is that these surrounded areas benefit from city services but do not pay for the benefits. Wholly surrounded properties do not have the right to protest the annexation action unless they are ‘protected uses’ such as Industrial, Agricultural, Manufacturing, Golf or Country Club to name a few.

**Annexation by Petition.** Always Landowner Initiated. The process allows landowners to ‘petition’ for inclusion into the municipality. The main driver for the petition is the desire to gain access to one or more public utility services. While the desire is always have 100% of the owners on board with the action as few as 1/3 of the owners may submit a petition for annexation provided that an election of the electors of the city and the area to be annexed must be held. The election requirements are eliminated if 50% of the resident landowners or if 50% owners of the land area support the petition for annexation. There are some conditional restrictions on the use of petition annexation but those restrictions can be overcome if 100% of the protected class of land support

The City of Sidney is an equal opportunity provider.

the annexation and the annexation is consistent with the Growth Policy. THIS IS PROBABLY THE MOST COMMON TYPE OF ANNEXATION SEEN BY MID SIZED MUNICIPALITIES IN MONTANA.

Annexation with the Provision of Services. Typically Landowner Initiated. This is probably the most complicated annexation process because it is predicated on a belief that annexation choices are only based on increasing the municipality's tax base and that some areas purposefully underserved by municipal services or that there are areas deriving unfair benefits from municipal services and not paying their fair share. This is the only annexation process that requires action by the city council and commitments to the outlined processes. If the municipality fails to comply with the timelines or process the question of annexation is taken over by the District Court.

#### Limitations of Annexation Power

Without question, whenever the question of extension of city services and annexation is raised with respect to 'the protected class of properties' the answer has to be all in or all out. This is because these protected properties cannot be forced to annex into the city unless 100% of the owners support the annexation. I am not 100% certain that we can enforce a waiver of annexation on a protected class of property, especially if the ownership were to change. As such, anytime a property classified as 'protected' for annexation purposes requests a city service it should be annexed or the service denied!

Remember that when you annex property you are also required to annex the full width of any and all public roads and parks within the annexation area or on the perimeter of the properties being annexed at the same time.

Lastly, you must plan to provide the same level of municipal services that are available to other members of the municipality (Roads, Water, Sewer, Garbage, Police, Fire, Ambulance etc.). The services do not all have to be available on day 1 following the annexation but you must have and follow a plan to provide the services in a reasonable amount of time.

#### Summary:

I hope this helps with your future discussions surrounding annexation. I would be more than willing to sit down with the City Council or a standing committee of the Council the next time I am in Sidney for other topics to discuss annexation in greater detail.