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DRAFT

ORDINANCE NO. 2012 –10

**AN ORDINANCE ANNEXING TO THE CITY OF LINCOLN CITY APPROXIMATELY  
246 ACRES OF LAND IN THE ROADS END AREA OF LINCOLN COUNTY  
CONTIGUOUS TO THE CURRENT LINCOLN CITY BOUNDARY; WITHDRAWING  
APPROXIMATELY 246 ACRES OF LAND FROM THE LINCOLN COUNTY  
LIBRARY DISTRICT, ROADS END SANITARY DISTRICT, AND ROADS END  
WATER DISTRICT**

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

**Section 1. Findings – Annexation Area.** The City Council finds:

- A. The land described in the Legal Description for Annexing Certain Property to the City of Lincoln City, attached hereto as “Exhibit A”, shown as indicated on the map attached hereto as “Exhibit B”, and consisting of the tax lots listed on “Exhibit C” attached hereto, is territory contiguous to the corporate boundary of Lincoln City. The land is referred to as the “Annexation Area”. The Annexation Area is within the City’s Urban Growth Boundary. If there is a conflict between any of “Exhibit A”, “Exhibit B”, and “Exhibit C”, “Exhibit A” shall govern.
- B. ORS 222.120 and 222.170 give the City the power and authority to annex by declaration territory that is contiguous to the corporate boundary of the City, with the consent of more than half of the owners of property within the territory who own more than half of the land in the territory which represents more than half of the assessed value of the land.
- C. There are approximately 907 tax lots in the Annexation Area. The City has received consents to annexation and waiver of time limitation on such consents from approximately 500 property owners, who own approximately 53% of the land in the territory, constituting 62% of the assessed value of the land in the territory.
- D. The Annexation Area consists of approximately 907 tax lots and a total area of approximately 246 acres. Of the 907 tax lots, approximately 706 are developed with residential uses. The remaining lots are undeveloped.
- E. Individual properties in the Annexation Area receive City water service as a special service.

1 F. The Annexation Area is served by the Roads End Sanitary District. The City by agreement  
2 treats the waste from the RESD system and disposes of such waste.

3 G. With the exception of the Roads End State Park which is zoned PF, the current zoning for  
4 the Annexation Area is Lincoln County Residential Zone R-1-A.

5 H. The City Council has considered, in relation to annexation of the Annexation Area, a  
6 number of matters including but not limited to:

- 7 1. The need for orderly, economic provision for public facilities and services;
- 8 2. The urbanization of the area which is presently developed with more than 700  
9 homes;
- 10 3. As agreed to in an agreement between the City of Lincoln City and the Roads  
11 End Sanitary District, and by agreement between the City of Lincoln City and  
12 the (original) Roads End Water District which expired in 2003, the City  
13 provided water as a special service to individual properties in the urban  
14 growth area of Roads End. The City has provided water service pursuant to  
15 adopted ordinances that provide for water service in exchange for the property  
16 owner's consent to annex, with an agreement to waive the time limitation on  
17 such consent;
- 18 4. The applicable provisions of the City's Comprehensive Plan, Comprehensive  
19 Plan Urbanization Policy 5(g), which states: "Annexation of sites within the  
20 UGB shall be reviewed by the planning commission and shall be in  
21 accordance with relevant Oregon Statutes," and Comprehensive Plan Public  
22 Services and Utilities Policy, Individual Public Facility Policy I(1), which  
23 states: "Connection to or extension of public facilities (i.e. water and sewer) to  
24 areas outside existing city limits, but within the adopted Urban Growth Area  
25 boundary shall be conditional upon annexation to the City of Lincoln City,  
26 unless such service is provided for by written contract executed prior to  
27 December 1, 1990. The requirement for annexation may be satisfied by the  
28 execution and recording of an irrevocable consent to annexation and waiver of  
29 time limitation of such annexation consent by the owner(s) of record",

- 1           5. The need to annex land that is largely urbanized and developed and  
2           appropriate for receiving services from the City, which has planned to provide  
3           such services;
- 4           6. The need for an annexed area to be of adequate dimension so as to maximize  
5           the utility of the land resource and enable the logical and efficient extension of  
6           services to the annexed area.

7       I. Lincoln City Municipal Code §17.12.050 provides that: “Areas annexed to the City will be  
8       classified with the underlying county zoning designation until rezoned by the City.” The  
9       City Council interprets LCMC §17.12.050, read together with Comprehensive Plan  
10      Urbanization Policy 5(g) and the provisions of Title 17, Zoning, Chapters 17.12 Zoning  
11      Districts Established and Chapter 17.88 Amendments, to mean that:

- 12           1. Property in the Annexation Area, if annexed, will have the Lincoln County  
13           zoning designation of Residential Zone R-1-A, (with the exception of the  
14           Roads End State Park, which will retain county PF zoning) and as provided by  
15           LCMC §17.12.050, will retain that zoning designation, rather than having a  
16           standard Lincoln City Title 17 Zoning designation, until and unless rezoned  
17           by ordinance adopted by the City Council;
- 18           2. Except for retention of the Lincoln County Residential Zone R-1-A  
19           underlying zoning designation or in the case of Roads End Sate Park, PF  
20           underlying zoning designation, the Annexation Area, if annexed, will be  
21           subject to all other provisions of LCMC Title 17 and zoning ordinances  
22           including but not limited to overlay zone provisions and procedural and  
23           substantive provisions;
- 24           3. LCMC Chapter 17.88 establishes procedures for amendments to the City  
25           Comprehensive Plan text and map, the Zoning Ordinance text, and the zoning  
26           map affecting areas that are already within the City’s boundaries. It does not  
27           establish procedures for annexation decisions. Rather, in accord with  
28           Comprehensive Plan Urbanization Policy 5(g): “Annexation of sites within  
29           the UGB shall be reviewed by the Planning Commission and shall be in  
30           accordance with relevant Oregon statutes.”; therefore, proposed annexations  
31           must be reviewed by the Planning Commission but in all other respects, the

1                   only required procedures for annexation decisions are those established by  
2                   State statute, in this case ORS 222.170(1), including by cross-reference ORS  
3                   222.120. Under Comprehensive Plan Urbanization Policy 5(g) and LCMC  
4                   §17.12.050, an annexation ordinance automatically, and without any other  
5                   action required, adopts the applicable Lincoln County underlying zoning  
6                   designation for the Annexation Area and the associated Lincoln County  
7                   regulations for that underlying zoning designation, and does not require any  
8                   express amendment of the Comprehensive Plan and Zoning Ordinance text  
9                   and maps.

10  
11                   **Section 2. Findings – Lincoln County Library District.** The City Council finds:

- 12                   A. The Annexation Area is within the Lincoln County Library District. A map of the Library  
13                   District is shown as “Exhibit E”, attached hereto and incorporated herein by reference as  
14                   if fully set forth.
- 15                   B. The Library District is intended to cover only areas in the County that are not inside  
16                   cities. The District raises funds through a property tax operating levy. The County then  
17                   distributes the funds raised to cities within the County that have libraries, with the payers  
18                   of the property tax levy having the right to use the library in the closest city that has a  
19                   library.
- 20                   C. In the event of annexation of the Annexation Area, the owners of the annexed property,  
21                   in paying City property taxes, will contribute their fair share to the cost of operating the  
22                   City’s Driftwood Library. It is not appropriate that they also pay the Library District  
23                   property tax, since that will result in their paying more than their share of the Driftwood  
24                   Library operating costs and is contrary to the purpose for which the Library District was  
25                   established.
- 26                   D. Under ORS 222.520 and 222.524, the City has the authority to withdraw annexed  
27                   property from the Library District.
- 28                   E. Withdrawal of the Annexation Area from the Library District is in the best interests of the  
29                   City.

1       **Section 3. Findings – Roads End Sanitary District.** The City Council finds:

2       A. The Annexation Area is within the Roads End Sanitary District. A map of the boundaries  
3       of the Sanitary District is shown on “Exhibit F”, attached hereto and incorporated herein by  
4       reference as if fully set forth.

5       B. The Sanitary District is intended to cover areas in the County that are not inside cities.  
6       The Sanitary District owns, maintains and operates sewer lines in the District. By  
7       intergovernmental agreement with the Sanitary District, the City treats and disposes of all  
8       waste from the Sanitary District.

9       C. The Sanitary District raises funds through a property tax operating levy.

10      D. In the event of annexation of the Annexation Area, the owners of the annexed property,  
11      in paying City property taxes, will contribute their fair share to the cost of operating the  
12      City’s sewer system. It is not appropriate that they also pay the Sanitary District property tax,  
13      since that will result in their paying more than their share of the cost of operating the sanitary  
14      sewer system and is contrary to the purpose for which the Sanitary District was established.

15      E. Under ORS 222.520 and 222.524, the City has the authority to withdraw annexed  
16      property from the Sanitary District.

17      H. Withdrawal of the Annexation Area from the Sanitary District is in the best interests of  
18      the City.

19  
20      **Section 4. Findings – Roads End Water District.** The City Council finds:

21      A. The Annexation Area is within the (new) Roads End Water District. A map of the  
22      boundaries of the Water District is shown on “Exhibit G”, attached hereto and  
23      incorporated herein by reference as if fully set forth.

24      B. The Water District is intended to cover areas in the County that are not inside  
25      cities. The Water District does not own a water source or water system.

26      C. Beginning in 1978 by intergovernmental agreement with the then existing  
27      (predecessor or original) Water District, the City provided water service as a  
28      special service to individual properties in the Roads End area. The Water District  
29      was then dissolved in 1978, with the City receiving its assets.

30      D. The successor (new) Water District, which was formed in 2004 for the purpose of  
31      negotiating an annexation agreement with the City of Lincoln City, raises funds

1 through a property tax operating levy, although the Water District does not  
2 provide water and does not have a water source.

3 E. In the event of annexation of the Annexation Area, the owners of the annexed  
4 property, in paying City property taxes, will contribute their fair share to the cost  
5 of operating the City’s water system. It is not appropriate that they also pay the  
6 Water District property tax, since that will result in their paying more than their  
7 share of the cost of operating the water system and is contrary to the purpose for  
8 which the Water District was established.

9 F. Under ORS 222.520 and 222.524, the City has the authority to withdraw annexed  
10 property from the Water District.

11 **Section 5. Annexation.** Based on the adopted findings of this ordinance, including but not  
12 limited to the additional findings adopted in “Exhibit D”, attached hereto and incorporated herein  
13 by reference, the Annexation Area as shown in “Exhibit A”, “Exhibit B”, and “Exhibit C” is  
14 hereby annexed to the City of Lincoln City.

15 **Section 6. Withdrawal of Annexation Area from Lincoln County Library District,  
16 Roads End Water District, and Roads End Sanitary District.** Based on the adopted findings  
17 of this ordinance, including but not limited to “Exhibit D”, attached hereto and incorporated  
18 herein by reference, the City of Lincoln City hereby withdraws the Annexation Area from the  
19 Lincoln County Library District, Roads End Water District, and Roads End Sanitary District.

20 **Section 7. Effective Date.** This ordinance is effective 30 days after the date of its adoption.

21 **Section 8. Implementation.** The City Council delegates to the City Manager the authority to  
22 execute any documents necessary to comply with Lincoln City and state procedures  
23 implementing this ordinance.

24 **Section 9. Severability.** The provisions of this ordinance are severable. If any portion of this  
25 ordinance is held invalid by a court of competent jurisdiction, to the extent provided by law, the  
26 determination that a specific part is invalid shall not affect the validity and effect of the other  
27 provisions, which shall continue to be in full force and effect.

28

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this \_\_\_\_ day of  
2 \_\_\_\_\_, 2012.

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6 DICK ANDERSON, MAYOR

7 ATTEST:

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9 \_\_\_\_\_  
10 CATHY STEERE, CITY RECORDER  
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14 Exhibits

15 A – Legal Description

16 B – Map

17 C – List of Tax Lots

18 D – Additional Findings

19 E – Lincoln County Library District Map

20 F – Roads End Water District Map

21 G – Roads End Sanitary District Map