

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

**RESOLUTION NO. 2022-38**

**A RESOLUTION OF THE CITY OF LINCOLN CITY APPROVING AN APPLICATION FOR  
EXCEPTION TO THE LIMITATION ON PROVIDING WATER SERVICE OUTSIDE THE CITY  
LIMITS UNDER LINCOLN CITY MUNICIPAL CODE SECTION 13.12.050B(6) AFFECTING  
PROPERTY ON SCHOONER CREEK ROAD, LINCOLN COUNTY, IDENTIFIED AS LINCOLN  
COUNTY TAX LOT 07-11-25-00-00115-00, KREUTZER, APPLICANT**

**Recitals**

A. Lincoln City Municipal Code (LCMC) Section 13.12.050B provides that:

1. Outside City Limits. The utility is not required to construct or provide service to water mains specifically for uses outside the city limits, except where required to do so by written agreement. Individual service connections may be permitted, by option of the utility, on those mains owned and operated by the utility outside the city limits.

B. LCMC Section 13.12.050B(6) provides in pertinent part:

*6. Limitation on Properties to which Service Will Be Provided. Except where service is required by written agreement, connections to the water system shall be limited to one connection serving one residential dwelling or its equivalent, for each lot as in existence on August 5, 1980, or, if within the boundaries of the former Roads End Sanitary District, as in existence on June 28, 2003, unless the city council by resolution has approved an application for an exception to this limitation as applied to a particular property. In deciding whether to approve an exception, the city council shall consider those factors it deems appropriate to the particular proposed exception, including but not limited to:*

*a. Whether the proposed exception will enhance the city's ability to annex land within the urban growth boundary at such time that the city determines that annexation is in the best interests of the city;*

*b. Whether the proposed annexation will enhance the city's ability to provide public facilities and services in a timely, orderly, and efficient manner; and*

*c. Whether the proposed exception, on balance, will enhance the city's ability to implement relevant goals and policies of the city's comprehensive plan.*

*Notwithstanding any other provision of this code, an exception for water service outside the Urban Growth Boundary shall not be permitted by Council, unless the Planning Director, has first determined in a properly noticed land use decision (LCMC 17.77.080), that the request for extension of water service does not violate*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38

C. Applicant, through legal counsel, has submitted a letter to the City of Lincoln City requesting a connection to city water, despite being outside the city limits and outside the urban growth boundary. The applicant has water from a small creek, but the water source is not reliable.

D. The prerequisite land use decision that the extension of water service to this property will not violate OAR 660-011-0065 (*Water Service to Rural Lands*) has been made by the Planning Director. No appeal has been filed before the September 5, 2022 appeal deadline.

E. The City Code provides the following guidance for the Council’s decision:

*In deciding whether to approve an exception, the city council shall consider those factors it deems appropriate to the particular proposed exception, including but not limited to:*

*a. Whether the proposed exception will enhance the city’s ability to annex land within the urban growth boundary at such time that the city determines that annexation is in the best interests of the city;*

*b. Whether the proposed annexation will enhance the city’s ability to provide public facilities and services in a timely, orderly, and efficient manner; and*

*c. Whether the proposed exception, on balance, will enhance the city’s ability to implement relevant goals and policies of the city’s comprehensive plan.*

F. The City Council finds the proposed exception will permit the lawful connection and the delivery of water service as a special service to the existing dwelling at 2515 S. Schooner Creek Road and may be approved for good cause. Water service is available at the location and the situation presents a hardship.

G. The Council has considered the factors listed in LCMC 13.12.050B.6 (and finds and determines that factors (a) and (b) above are not appropriate considerations for this request, as the subject property is outside the city limits and not likely to be annexed, unless brought into the urban growth boundary. The proximity of the water trunk line to the residence is owing to practical aspects of siting and developing a water plant and water line on Schooner Creek and not on a plan for the efficient expansion of services within the urban growth boundary.

H. The connection of the subject property on balance will enhance the city’s ability to implement relevant goals and policies of the comprehensive plan, specifically,

1 Council finds and determines that it is efficient to "infill" water connections to the  
2 existing line and Council finds that Urbanization Policy 5j: "Lincoln City will not  
3 provide utility services outside the UGB to properties beyond existing connection,  
4 (1979)." is not violated, because the property to be served is within the boundaries of  
5 existing connections on Schooner Creek. (i.e., it is closer to the City limits than  
6 connections made in Resolution 2019-05 and Ordinance 2012-14 (adding water  
7 service via a surcharge to seven properties located "further out").  
8

- 9 I. The applicant will pay all applicable City system development charges, to include  
10 water and parks and recreation SDCs pursuant to LCMC Section 13.08.050; therefore  
11 approval of the exception will enhance the City's ability to provide public facilities  
12 and services in a timely, orderly, and efficient manner.  
13  
14 J. The City Council finds that the proposed exception on balance will enhance the City's  
15 ability to implement relevant goals and policies of the City's comprehensive plan.  
16

17 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN CITY,**  
18 **AS FOLLOWS:**

19  
20 **Section 1.** The recitals set forth above are true and correct, are adopted by Council and  
21 incorporated herein by this reference.  
22

23 **Section 2.** The City Council approves the application by Ms. Linda Kreutzer for exception under  
24 LCMC Section 13.12.050. B. (6) for good cause based on the Findings adopted in Section 1.  
25

26 **Section 3.** Lincoln City will provide water service to the property described in Exhibit A upon  
27 the terms and conditions set forth in a written agreement and meeting all requirements under  
28 City ordinances for delivery of water service as a special service outside the City and the UGB, to  
29 be executed between Applicant and the City of Lincoln City.  
30

31 **Section 4.** This resolution shall be recorded in the deed records of Lincoln County, Oregon,  
32 with respect to the property described in Exhibit A.  
33

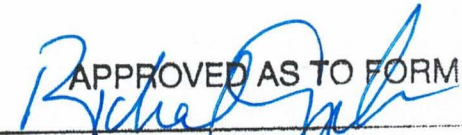
34 **Section 5. Effective Date.** This resolution shall take effect immediately upon its passage and  
35 remain effective until replaced.  
36

37 **PASSED AND ADOPTED** by the City Council of the City of Lincoln City this 12<sup>th</sup> day of  
38 September, 2022.

39   
40 \_\_\_\_\_  
SUSAN WAHLKE, MAYOR

41 ATTEST:

42   
43 \_\_\_\_\_  
44 JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Richard Appicello, City Attorney