

City of West Linn
PRE-APPLICATION CONFERENCE MEETING
SUMMARY NOTES
March 20, 2014

SUBJECT: Proposed annexation and zone change to R-7 for 23128 Bland Circle.

ATTENDEES: Applicants: Johnny and Laurie Coppedge, Dave Saxe
Staff: Peter Spir (Planning), Khoi Le (Engineering)
Neighborhood representative: Roberta Schwarz

The following is a summary of the meeting discussion provided to you from staff meeting notes. Additional information may be provided to address any "follow-up" items identified during the meeting. These comments are PRELIMINARY in nature. Please contact the Planning Department with any questions regarding approval criteria, submittal requirements, or any other planning-related items. Please note disclaimer statement below.

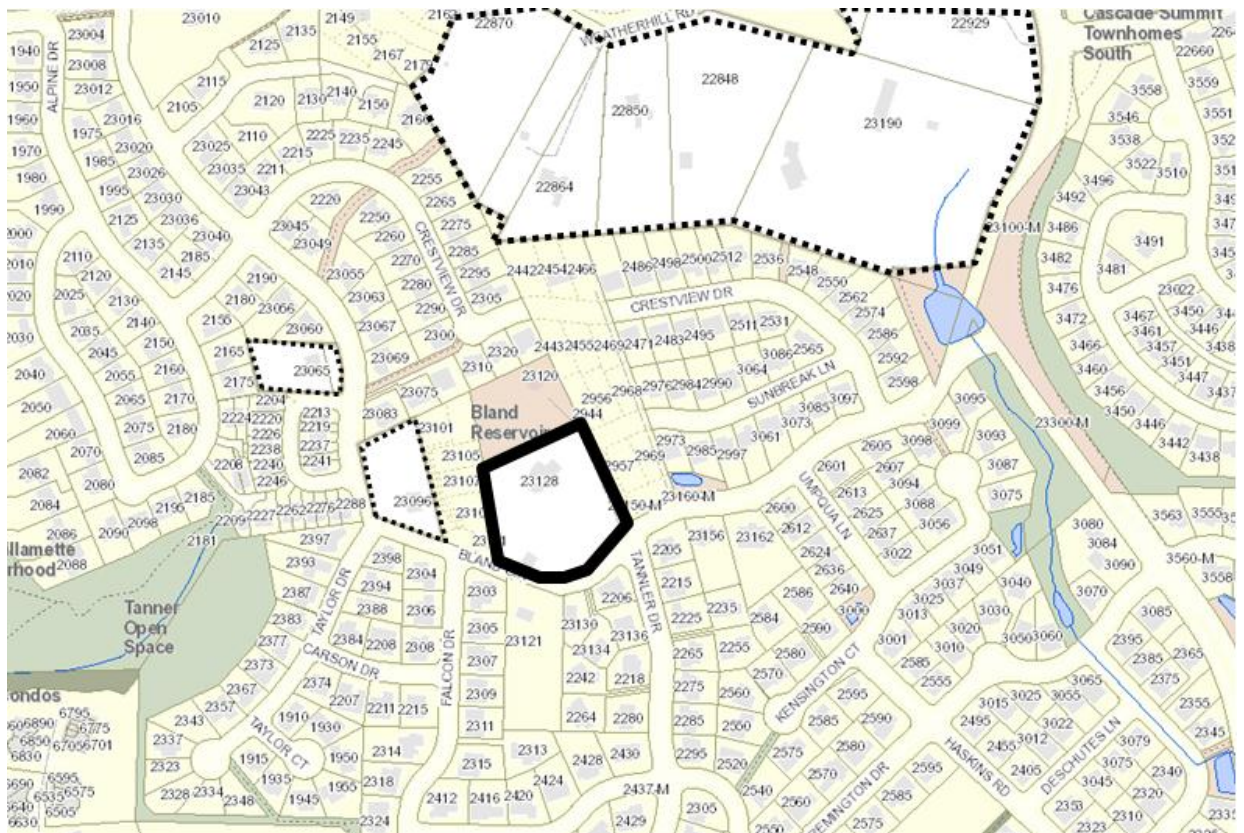
OVERVIEW

The applicant proposes to annex approximately 2.1 acres (91,874 square feet) of land at 23128 Bland Circle (Assessor's Map 21E35B tax lot 500). The proposed site is located to the north of Bland Circle and is one of several unincorporated parcels that comprise an "island" surrounded by the City. It is well within the Urban Growth Boundary. Staff recommends that the property be zoned R-7 (7,000 square foot minimum lot size-single family residential), consistent with adjacent R-7 zoning.



The recent approval of subdivisions to the west and east, including the planned extension of Sunbreak Lane to this property, provides clear indication of the future of this property. However, there is no subdivision plan proposed at this time. Any future subdivision application will require a separate pre-application conference.

Annexations in West Linn follow a two-step public hearing process and require voter approval. In the first step, the land use aspects of the annexation are considered by City Council at a public hearing. The second step involves the consideration of other policy issues, also by City Council at a second public hearing, and refers the annexation to the voters. Annexations are subject to the requirements in Chapter 81, Boundary Changes, in the Community Development Code (CDC), and Section 2.915-2.960 in the Municipal Code, Metro Code Chapter 3.09 and ORS 222.



The map above identifies the subject property with a solid line. Other nearby unannexed "islands" are shown with thinner dashed lines.

From 2003-2009 the City had 21 annexation applications. Two of the applications were denied at Step II by the City Council. The other 19 were approved by the voters. One of the annexations denied at Step II was approved the following year. The City has not had an annexation application since 2009.



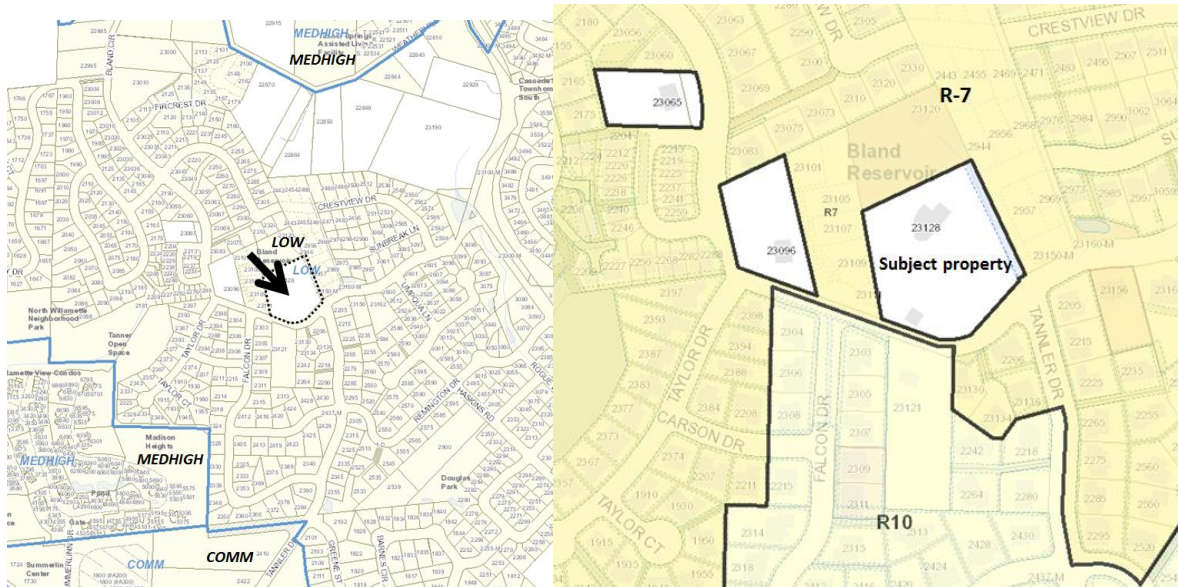
SITE CONDITIONS

The property has an average slope of 10 percent from its high point of 530 feet at the north or rear of the property down to Bland Circle which has an elevation of 500 feet. The property is home to a stand of trees, predominantly conifers, which enclose a large single family home. Several of the trees are likely to be classified as significant. There is also a small accessory structure at the south west corner of the property near Bland Circle.



ZONING

The Comprehensive Plan is shown at left below. It indicates that this property is to be developed as Low Density residential. The zoning map is shown at right below. An R-7 zoning designation would be consistent with the comprehensive plan’s low density designation and with surrounding properties to the north, east, and west and partially to the south.



Direction	Comprehensive Plan designation	Zoning	Land Use
West	Low density residential	R-7	5 lot subdivision under development
East	Low density residential	R-7	11 lot subdivision under development
North	Low density residential	R-7	Bland water reservoir (City property)
South	Low density residential	R-7 and R-10	Single family homes

UTILITIES AND STREETS

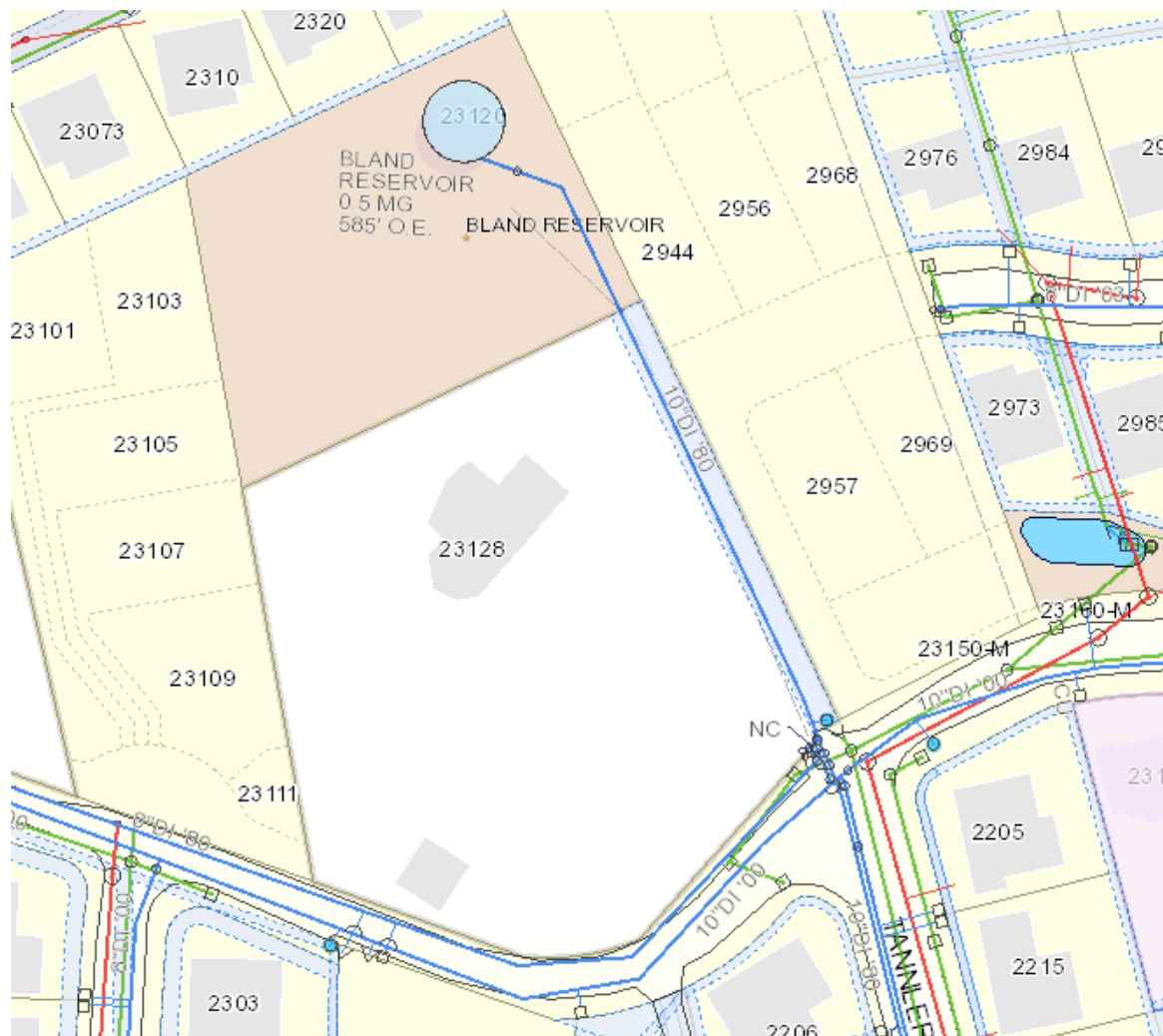
The existing house relies on a well water plus septic tank and drainfield. Both are understood to be in good working order. At such time that the property is annexed, the applicant will be required to connect to City sewer lines. The property owners may keep their well service and are not required to hook up to City water if that is their wish.

In accordance to City Water Master Plan, future development of this property can be served by the Horton Pressure Zone. Horton Pressure Zone can adequately serve customers at ground elevations between 340 and 620. This property ranges from 500 to 530 foot elevation.

The developer of the Sunbreak subdivision is expected to extend an eight inch water line to the east edge of the subject property where it will connect to an existing ten inch water line from the Bland Reservoir. The ten inch line runs down the east edge of the property to Bland Circle. (blue lines on the map below).

Sewer is available at the corner of Tannler Drive and Bland Circle (red lines on the map below). Sunbreak subdivision was recently approved and included plans to extend a sanitary sewer line down the west edge of that subdivision to Bland Circle. If that line is installed prior to annexation, it would provide the appropriate connection. (*Connection of the house at 23128 Bland Circle to sanitary sewer is required at, or concurrent with, the time of annexation. The City Engineer may allow a reasonable extension of that period to accommodate the connection with the Sunbreak subdivision's sanitary sewer line.*)

At such time that the site is subdivided, it is reasonable to anticipate that over 5,000 square feet of new impervious surface will be created which will require storm water collection, treatment and detention. After detention, storm water may be directed into existing surface storm facilities (green lines on the map below) on Bland Circle.



Bland Circle is classified as a collector. Sunbreak Lane is a local street and is to be extended to this property's east lot line and ultimately connected to Bland Circle. Improvements to both streets to city standards can be expected, if and when, this property is subdivided.

MOST INTENSIVE LAND USE PERMITTED OUTRIGHT ON THE SITE IF ANNEXED

The requested annexation does not involve a subdivision request. However, in order to provide City Council with an understanding of the potential outcomes of annexation it should be reported that under an R-7 designation, and assuming that the existing house remains (including the surrounding gardens and sport court), the 91,874 square foot property, less about 29,000 square feet for the existing house and yard, could yield approximately five additional lots for single family detached residential units after a further 20% deduction for ROW, flag lot stems or other means of lot access.

The potential number of lots for single family detached residential units would increase if the existing house were removed. In that case, the property could yield up to 10 single family residential lots after a 20% deduction for ROW, flag lot stems or other means of lot access.

If the property were developed as single family attached residential housing (two dwelling units side by side) and assuming that the existing house remains (including the surrounding gardens and sport court), the 91,874 square foot property could yield eight units at 5,500 square feet per unit (four attached). The potential number of single family residential attached housing would increase if the existing house were removed. In that case, the property could yield up to 14 units (seven attached) after a 20% deduction for ROW, flag lot stems or other means of lot access.

CDC Section 12.030 through 12.060 lists other permitted uses, uses allowed by prescribed conditions and conditional uses in the R-7 zone. Given the location, size of property and value of this property, those uses are unlikely to be pursued.

For the sake of further discussion, the narrative will be based on the assumption that the house will be removed and single family detached residential units will be the preferred building type based on the surrounding single family detached residential development.

PHYSICAL IMPACTS

The development of a maximum of 10 single family detached homes on this site would provide a continuation of the development pattern that surrounds this property consistent with the Comprehensive Plan. Although the property has frontage on Bland Circle, access would be via Sunbreak Lane which would be extended down to Bland Circle. Anticipated physical improvements could include: construction of half street improvements including a curb, planter strip and sidewalk along Bland Circle and Sunbreak Lane. These improvements would enhance multi-modal connectivity. Improved line of sight for westbound traffic on Bland Circle can be

expected. Improvements at Bland Circle and Tannler Street will create a four-way, right angle intersection.

ENVIRONMENTAL IMPACTS

As noted above, the site is sloped with a mixed stand of mature conifers and deciduous tree. Development of up to 10 single family detached homes will require adherence to the Community Development Code (CDC) and the requirement that up to 20 percent of the site can be set aside for the protection of the site's significant trees. It is only through the annexation of the site that the City is able to protect these trees and apply its environmental standard.

SOCIAL IMPACTS

As noted above, construction of up to ten homes on this site would result in a development substantially consistent with the character of this area. The residents of this site, if annexed, would have the opportunity to fully participate in the affairs of City government, and in return would be subject to the same City regulations and standards as the surrounding areas already within West Linn.

ECONOMIC IMPACTS

Development of the site could benefit surrounding businesses during the construction period and might employ local workers. In the event the site is developed for dwellings, a use that supports employees, or a use that draws people to the area, it would provide a source of customers for local businesses. While it is not possible to determine all of the long-term economic impacts of an annexation, Staff can provide an accurate summary of the System Development Charges (SDC's) and related fees that would be collected, if the subject site is developed. Assuming ten single family homes were to be constructed on the property, the SDC's to be collected would be as follows¹:

Streets: Any future development of the site will be required to pay SDC's for improvement of significant citywide streets. The current charge is \$7,168 per new dwelling unit, resulting in a Street SDC total of \$ 71,680 for ten homes. Additionally, the City's roadway maintenance fee would be applied to development on this site to help pay for ongoing maintenance of City streets. The pedestrian /bike SDC of \$1,597 would yield \$15,970.

Water: The developer of this site will be required to pay Water SDC's for improvements to the City's overall water system. Assuming that the nine homes utilize a 5/8" water meter, the City would receive \$7,750 per home, or a total of \$77,500. Standard utility charges for any new development will also pay for city-wide water system maintenance and improvements.

¹ Note: The total amount of SDC's for water and sewer that must be paid by the developer is greater than the number shown in the report. This report only identifies that portion of the total amount that is payable to the City of West Linn. Additional SDC's are collected from the applicant for water and sewer charges for both the South Fork Water Board (water) and the Tri-City Service District (sewer). These numbers only apply to March 2014.

Sanitary Sewer: A Sewer SDC for citywide sewer facilities will be collected for any future development of the site. The City would receive \$3,108 per home. Assuming ten homes, the total Sewer SDC's collected *for the City* would be \$31,080. Utility charges for any new development will also help pay for city-wide sewer system maintenance and improvements.

Storm Drainage: The City of West Linn collects Stormwater SDC's for citywide storm drainage facilities as well. The exact amount of the Stormwater SDC that will be due is based on the amount of impervious surface area of the development, therefore at this time only an estimate of the amount that will be paid is possible. Based on our experience with similar projects, Staff estimates that the total Stormwater SDC's for the development of ten homes would be \$10,830.

Parks: Any development of the property will require payment of Parks SDC's. Assuming nine homes are developed on the site, the City would collect \$9,484 per each home, for a total of \$94,840. Additionally, the City has a utility fee that will be applicable to any new development on this site to help pay for ongoing maintenance of City parks.

Schools: The West Linn-Wilsonville School District imposes a construction impact fee of \$1.00 per square foot, which will be paid for by any new residences developed on this site. Property taxes paid by any new residences will help pay for ongoing operation of the district's school system.

Fire Protection: West Linn is part of the Tualatin Valley Fire & Rescue District (TVF&R). Development on this site will not materially affect TVFR's to provide effective police service to the community.

Police Services: Development on this site will not materially affect the city's ability to provide effective police service to the community.

General City Services: General City services are financed through property tax revenues. This property and residence currently have an assessed value of \$660,383. Any new residences would significantly increase assessed values and thus proportionally increase tax revenues.

Building Permit: For a 3,000 square foot home, the building permit is about \$4,000 for a total of \$40,000 for ten new homes.

Other: If the property is not subdivided, the property owner should still anticipate an increased assessed valuation of the property for tax purposes because of its increased development potential. The applicant should contact the Clackamas County Tax Assessor's Office for more details.

ANNEXATION PROCESS

Petition Submittal

1. Petitioner attends pre-application conference.
2. Petitioner submits three copies of the following:
 - a. Responses to:
 - i. Municipal Code Section 2.920 and 2.905(2)(b)(i);
 - ii. Community Development Code (CDC) 81.040 and 81.050; and
 - iii. Metro Code 3.09.040, 3.09.050 and 3.09.045(D) and, if applicable (E).
 - b. Petition form (attached)
 - c. 11x17 ¼ section assessor maps with the subject parcel/lot(s) noted per Oregon Department of Revenue (DOR) specifications.
http://www.oregon.gov/dor/PTD/docs/boundary-change_504-405.pdf
 - d. Legal description of the property to be annexed. *(According to Oregon Department of Revenue (DOR), the point-of-beginning of the legal description must be clear. The point-of-beginning is best described by bearing and distance from a section corner, a donation land claim (DLC) corner, or another well monumented corner. Bearings and distances must be given for each course around the boundary description. Most deed references are inadequate as point-of beginning or point-of-call for a boundary change description. If a deed reference is used as a point-of-call, include a copy of the deed. However, a description that consists solely of the landowner's deed or deeds is seldom adequate. Tax lot numbers cannot be used for the legal description.)*
 - e. Verification of property ownership through Clackamas County Assessor's Office on forms provided by the City, based on property owner/address list from submitted petition (see attached form).
 - f. Verification of elector's signatures (if applicable) through Clackamas County Elections Department on forms provided by the City (same form as (e) above).
 - g. Completed and signed Development Review Application form
(http://westlinnoregon.gov/sites/default/files/fileattachments/planning/page/5585/development_review_application_rev._2011.07.pdf) (see also attached)
 - h. The City of West Linn's fee for an annexation is \$15,000 plus \$1,000 for every acre up to \$20,000 (excluding any applicable election costs, County, Metro, Tri-City, DOR, etc. fees which are the responsibility of the applicant).

Step 1: After Petition Submittal is Declared Complete

1. Staff schedules a City Council hearing within 45 days of the date that a complete application has been submitted. Annexation petitions in the Step 1 process will be considered by the City Council at a public hearing. Petitions to annex that do not receive Step 1 approval by the City Council will not proceed to Step 2. As a result, the annexation request will not be submitted to the voters. The City Council Step 1 decision may be appealed by a necessary party (i.e., a city, county, or district serving the area) to the Metro Boundary Appeals Commission. An appeal by any other person proceeds to the Land Use Board of Appeals (LUBA).
2. Staff sends notice to DLCD of the zoning map/plan amendment at least 35 days prior to the first hearing.
3. Staff mails public notice and posts site 20 days prior to public hearing. (*See Municipal Code for notice requirements*)
4. Staff prepares a staff report available to public at least 15 days prior to public hearing.

Step 1: Public Hearing Procedures

1. For the Step 1 process, the City Council considers the land use aspects of the annexation criteria in Chapter 81 of the CDC and that the property meets the criteria in Municipal Code Section 2.920 and Metro Code section 2.920(1). The requirements of the Oregon Revised Statutes for initiation of the annexation process shall be met. As part of the Step 1 process, a final land use decision regarding the applicable City zone (e.g. R-7) will be made according to Municipal Code section 2.955 and CDC section 81.055. The City zone shall be applied when the annexation is approved by voters.
2. Staff mails the final order within five working days following the decision. Necessary parties can appeal to Metro Boundary Appeals Commission, and citizens can appeal to Land Use Board of Appeals (Metro Boundary Appeals Commission appeal period is 10 days and LUBA is 21 days).

Step 2: Public Notice

1. Staff schedules a City Council public hearing after the appeal period ends for Step 1.
2. Staff mails notice of the Step 2 hearing to property owners within 500 feet of the site not less than 20 days prior to the public hearing. Notice in the newspaper is required. (*See Municipal Code 2.950(2) (iii-iv) and Metro section 3.09.030 for specific notice requirements*).

Step 2: Public Hearing Procedures

1. This step involves consideration of referral to voters and policy issues by the City Council. The City Council will hold at least one public hearing on the annexation request, at which time any interested person may appear and be heard on the question of whether the annexation request should be presented to the voters.
2. For the Step 2 process, the City Council has the authority to approve or deny placing an annexation before the voters based upon, but not limited to, the following:
 - Taxation
 - Infrastructure
 - Environmental impacts
 - Housing supply
 - School capacity
 - Availability of park land
3. Within 45 days following the public hearing(s), unless a continuance is announced, the City Council will render a decision that the application be approved and submitted to the voters at the next appropriate election as determined by the Council, or that it be denied. The City Council may deny an annexation at the Step 2 hearing even though the annexation has received approval through the Step 1 process. The City Council's decision in the Step 2 process cannot be appealed.

Ballot Measure

1. All annexation requests that have received final approval through the Step 1 and Step 2 process will be referred to the voters. Up to four elections can be held per year in March, May, September, and November. The Council prefers annexations to be placed on a single ballot each year. The applicant shall be responsible for all costs incurred by the City in processing the application, including election costs, with the following exceptions:
If there are other City items in the same election, the applicant shall be responsible only for a pro-rata portion of any shared costs.
2. If the election is concurrent with the May primary or November general election of an even-numbered year, the applicant is not responsible for any election costs.
3. If the City Council approves the property to be placed on the ballot, the information must be submitted to the Clackamas County Elections office at least 60 days prior to the next election (use form SEL 802: "Notice of City Measure Election"). Therefore, if the target election date is November 2014, the submittal material must be submitted to the Clackamas County Elections office by September 1, 2014.

4. Staff shall also prepare and submit an explanatory statement for the voter pamphlet per Municipal Code section 2.940(3) and ORS 222.130.

5. Staff shall post a sign on the property to be annexed per Municipal Code section 2.940(4).

Post Annexation Vote Approval

1. If the voters approve the annexation, staff prepares and distributes adopting resolution declaring results of vote to City Departments including the Finance Department and City Clerk as well as property owners within annexation boundaries. Staff shall also submit the election result and annexation to Metro and necessary parties.

2. Applicant submits a legal description and map of the annexed property and filing fees to Oregon Department of Revenue (DOR) per ORS 308.225. DOR must approve the legal description and map before the annexation proceeds to Metro.

3. Applicant submits the following to Metro within 30 days of the decision/vote per Metro section 3.09.030(E):

- i. Final approval from DOR or the "Notice to Taxing Districts"
- ii. Annexation Order, Ordinance or Resolution
- iii. A valid legal description of the annexation
- iv. A map clearly showing the current boundary (if available) and the proposed annexation area
- v. Any additional pertinent documents including staff comments and findings (if available)

4. A filing and mapping fee is charged by Metro for each annexation and boundary change application according to the following schedule:

- \$150 Less than 1.0 acre
- \$250 1.0 to 5.0 acres
- \$300 5.1 to 40.0 acres
- \$400 Greater than 40.0 acres

5. Metro will map the annexation and make the appropriate notifications to the Secretary of State's Archives Division, the county elections supervisor, and the county assessor. Please note that an annexation is not in effect until filed with the Secretary of State (subject to ORS 222.180 and/or ORS 222.750). Please contact Linda Martin at 503-797-1843 or at linda.martin@oregonmetro.gov

6. Annexation to Tri-City Service District.

Subsequent to annexation to the City of West Linn, the applicant must apply to annex the same parcel(s) to the Tri-City Service District. Please contact Clackamas County's Water Environment Services Department for further information.

4. The City accepts land use applications at this point in the process.

No neighborhood meeting is required per CDC section 99.038 for annexation; however, informally attending a neighborhood association meeting to explain your plans to annex is usually helpful. The property is in the Savanna Oaks neighborhood. Contact Ed Schwarz, Savanna Oaks NA president at 503-723-5015 at savannaoaksna@westlinnoregon.gov. Any material the applicant has, if any, should be submitted to the neighborhood association at least 10 days before the meeting.

Submittal requirements and approval criteria are identified in ANNEXATION PROCESS above. Submittal requirements may be waived but the applicant must first identify the specific submittal requirement and request, in letter form, that it be waived by the Planning Director and must identify the specific grounds for that waiver. The waiver may or may not be granted by the Planning Director.

N/A is not an acceptable response to the approval criteria. Prepare the application and submit to the Planning Department with deposit fees and signed application form.

Pre-application notes are void after 18 months. After 18 months with no application approved or in process, a new pre-application conference is required.

DISCLAIMER: This summary discussion covers issues identified to date. It does not imply that these are the only issues. The burden of proof is on the applicant to demonstrate that all approval criteria have been met. These notes do not constitute an endorsement of the proposed application. Staff responses are based on limited material presented at this pre-application meeting. New issues, requirements, etc. could emerge as the application is developed. Thus, there is no "shelf life" for pre-apps.

The relevant regulations are online at the following:

- CDC: <http://westlinnoregon.gov/cdc>
- Municipal Code: <http://westlinnoregon.gov/citycode>
- Metro Code 3.09 Local Government Boundary Changes:
http://library.oregonmetro.gov/files//3.09_eff_071112__final.pdf
- Oregon Revised Statutes: <http://www.leg.state.or.us/ors/>

Timeline:

Annexation Process (Simplified)	Estimated time required (+/-) for each phase
Pre-Application Conference	21 days
Preparation of Application to Annex	21 days
City schedules/notices a Step 1 hearing within 45 days of a complete application	45 days
Hold Step 1 hearing*	1 day
21 day LUBA appeal period after Step 1 decision	21 days
If no appeal, schedule Step 2 hearing with 20-day notice	21 days
Hold Step 2 hearing	1 day
Preparation of Annexation Measure	21 days
Submit Annexation measure to Clackamas County Elections 60 days before the election date	60 days
Election	1 day
Post-election filings with Department of Revenue, Metro, Tri-City Service District, Clackamas County Assessor's Office, Secretary of State's Archives Division, the County elections supervisor	30 days
Land Use Applications accepted for annexed property (e.g. Subdivision)	-
	Total time: Approximately eight months

*Steps 1 and 2 may be eligible to be consolidated to reduce processing time by 21 days.

The form below is to be used to satisfy the following submittal requirements:

- e. Verification of property ownership through Clackamas County Assessor's Office on forms provided by the City, based on property owner/address list from submitted petition
- f. Verification of elector's signatures (if applicable) through Clackamas County Elections

To the Council of the City of West Linn, Oregon

We, the undersigned owner(s) of the property described below and/or elector(s) residing at the referenced location, and give consent to, annexation of said property to the City of West Linn. We understand that the City will review this request in accordance with ORS Chapter 222, and applicable regional and local policies prior to approving or denying the request for annexation.

Signature	Printed Name	I am a			Address	Property Description				Date
		PO	RV	OV		Township/ Section	Map	Tax Lot	Precinct	

- PO Property Owner
- RV Registered Voter
- OV Property Owner & Registered Voter

A legal description of the property must be submitted with this petition

Initial _____

P:\devreview\forms\annexation petition 10.09 tz

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT	PROJECT NO(S)	
NON-REFUNDABLE FEE(S)	REFUNDABLE DEPOSIT(S)	TOTAL

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) * | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Lot Line Adjustment (LLA) */** | <input type="checkbox"/> Time Extension * |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) */** | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address:	Assessor's Map No.: []
	Tax Lot(s): []
	Total Land Area: []

Brief Description of Proposal: []

Applicant Name: [] <small>(please print)</small>	Phone: [] []
Address: []	Email: []
City State Zip: []	

Owner Name (required): [] <small>(please print)</small>	Phone: [] []
Address: []	Email: []
City State Zip: []	

Consultant Name: [] <small>(please print)</small>	Phone: [] []
Address: []	Email: []
City State Zip: []	

1. All application fees are non-refundable (excluding deposit). Any overruns to deposit will result in additional billing.
2. The owner/applicant or their representative should be present at all public hearings.
3. A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
4. Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application. One (1) complete set of digital application materials must also be submitted on CD in PDF format. If large sets of plans are required in application please submit only two sets.

* No CD required / ** Only one hard-copy set needed

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

[]		[]	
Applicant's signature	Date	Owner's signature (required)	Date

CITY OF WEST LINN CDC Chapter 81 BOUNDARY CHANGES

Sections:

81.010 PURPOSE

81.030 ADMINISTRATION AND APPROVAL PROCESS

81.040 PETITION

81.050 APPROVAL CRITERIA

81.055 ZONING DESIGNATION

81.060 EXPEDITED PROCESS

81.070 APPEALS

81.010 PURPOSE

The purpose of this chapter is to carry out the provisions of ORS 268.354 and Metro Code Chapter 3.09. This chapter provides standards and procedures for all boundary change proposals and step one review of annexation proposals. The step one review process is a land use decision which shall determine whether the proposed annexation is consistent with the intent of the West Linn Comprehensive Plan and Community Development Code. Step two review for annexation proposals shall follow the procedures outlined in Municipal Code Chapter 2. The step two process is a legislative decision by the City Council that the proposed annexation is appropriate to be placed before the voters for a final decision. For the purpose of this chapter, the term “boundary change” includes the formation, merger, consolidation, or dissolution of a city or district; annexation or withdrawal of territory to or from a city or district, or from a city-county to a city; or an extra-territorial extension of water or sewer service by a city or district. (Ord. 1442, 1999)

81.030 ADMINISTRATION AND APPROVAL PROCESS

A. Boundary change proposals shall be considered by the City Council. The Council decision on the proposal shall be considered the final decision for purposes of compliance with Metro Code Chapter 3.09.

B. Notice of the Council hearing to consider the boundary change proposal shall follow the procedures of CDC 99.080(D) (quasi-judicial amendments), as well as the uniform notice requirements provided in Metro Code Section 3.09.030.

C. A staff report shall be issued prior to the hearing pursuant to the requirements of CDC 99.040 and Metro Code 3.09.050(b).

D. The final decision shall be made by the Council after a public hearing. The decision shall be reduced to writing and shall follow the requirements of CDC 99.110 and uniform hearing requirements of Metro Code Section 3.09.050.

E. Should a proposal for annexation of property to the City obtain final approval through this step one process, the proposal will be set on the agenda of a Council meeting for consideration under the step two process as set forth in Section 2.950(2)(b) through (d) of the Municipal Code. A proposal for any other boundary change shall be considered pursuant to the provisions of State law. (Ord. 1442, 1999)

81.040 PETITION

A. A petition to annex to the City of West Linn may be initiated by a property owner(s) of the area to be annexed, or the City, as set forth in Section 2.950(1) of the City Code.

B. A prerequisite to the filing of an annexation petition is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as specified in CDC 99.030(B) and (C).

C. A petition to annex shall include the completed petition form and three copies of each of the following, except for each drawing submitted, there shall be three copies at the original scale and three copies reduced to a paper size not greater than 11 inches by 17 inches.

1. The minimum petition requirements of Metro Code Section 3.09.040.

2. A narrative which addresses the approval criteria set forth in Municipal Code Section 2.920 and Metro Code Sections 3.09.050(d) and, if applicable, (e).

3. Vicinity, legal, and other descriptive maps necessary to show compliance with Municipal Code Section 2.920 and Metro Code 3.09.040.

D. A petition of any type of boundary change, other than annexation, shall be processed as provided by State law and Metro Code Chapter 3.09.

E. The applicant shall pay the requisite fee. The fee for a boundary change shall be established by resolution of the City Council. (Ord. 1442, 1999)

81.050 APPROVAL CRITERIA

A. The City Council shall approve or deny a boundary change proposal based on findings and conclusions addressing the following criteria:

1. If an annexation, the proposal complies with the requirements of Municipal Code Section 2.920(1); and

2. For all boundary changes, the proposal complies with the criteria of Metro Code Section 3.09.050(d) and, if applicable, (e). (Ord. 1442, 1999)

81.055 ZONING DESIGNATION

A decision on annexation shall also incorporate a decision on a zone change. The applicant may concurrently apply for a comprehensive plan amendment if desired. Any approval of an annexation shall designate the City zone to be applied if the annexation is approved by the voters. The City zone shall be designated based upon the existing West Linn comprehensive plan/land use designation, pursuant to the following table:

COMPREHENSIVE PLAN/LAND USE DESIGNATION	ASSIGNED ZONING DISTRICT
Low Density Residential	R-40, R-20, R-15, R-10 or R-7
Medium Density Residential	R-5 or R-4.5
Medium High Density Residential	R-3 or R-2.1
Mixed Use	MU
Commercial	NC, GC, or OBC
Industrial	GI or CI
Other	FU-10

Where the City Council has discretion to apply zoning, the Council shall consider the following factors in making its decision:

- A. Specific site characteristics such as topography, drainage, and existing vegetation.
- B. The existing zoning and development patterns of surrounding properties.
- C. The capacity of the City to provide road, sanitary sewer, storm drainage, and water service to the site. (Ord. 1442, 1999; Ord. 1528, 2005; Ord. 1590 § 1, 2009)

81.060 EXPEDITED PROCESS

A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.

B. An expedited boundary change proposal shall be considered by the City Council without a public hearing. The Council decision on the proposal shall be considered the final decision for purposes of compliance with Metro Code Chapter 3.09.

C. Petition requirements for expedited applications shall be listed in CDC [81.040](#), except that the initiation of an expedited boundary change petition must follow the requirements of Metro Code 3.09.045(a).

D. Notice of petition for an expedited process must be provided a minimum of 20 days prior to the final decision and shall follow the expedited notice requirements provided in Metro Code Section 3.09.045(b).

E. A brief report shall be issued at least seven days prior to the decision date pursuant to the requirements of Metro Code 3.09.045(c).

F. The City Council shall approve or deny an expedited boundary change proposal based on the criteria listed in CDC [81.050](#).

G. An expedited process cannot be used if a necessary party gives written notice to contest the decision pursuant to Metro Code 3.09.045(b). (Ord. 1442, 1999)

81.070 APPEALS

The City Council decision may be appealed by a necessary party to the Metro Boundary Appeals Commission pursuant to the provisions of Metro Code Section 3.09.070. An appeal by any other person will be processed according to State law.

CITY OF WEST LINN MUNICIPAL CODE

ANNEXATIONS

2.915 Annexation Purpose Statement

(1) The purpose of West Linn Code Sections 2.915 to 2.960 is to establish a two-step process for consideration of annexation requests. The first step involves consideration of the land use aspects of the annexation request. The second step involves consideration of other policy issues and referral to the voters. An annexation to the City shall not be effective unless it is approved by a majority vote among the City's electorate, and is also approved by Metro pursuant to its authority regarding annexations within its boundaries.

(2) The procedures and standards established in this chapter are required for review of proposed annexations in order to:

- (a) Provide adequate public notice, information and sufficient time for public review before annexation hearings and elections;
- (b) Maximize citizen involvement in the annexation review process;
- (c) Establish a system for measuring the physical, environmental, financial and related social effects of the annexation; and
- (d) To fully inform the public of the physical, environmental, financial and related social effects of the annexation.

2.920 Conditions for Annexation –Step 1.

(1) Consideration of a proposal to annex property to the City shall follow a two-step process. Step one shall include review of the land use aspect of the petition pursuant to Community Development Code Section 81.

(2) The following conditions must be met as judged by the City Council upon recommendation of the City Planning Director and City Engineer prior to approval of step one processing of any annexation request:

- (a) The subject site must be located within the Portland Metropolitan Urban Growth Boundary.
- (b) The subject site must have been assigned a City Comprehensive Plan Map designation.
- (c) The subject site must be contiguous to the existing City limits, or separated from it only by a public right-of-way, or a stream, bay, lake or other body of water.
- (d) The requirements of Oregon Revised Statutes for initiation of the annexation process are met.

(e) The subject area has been included within each of the adopted City facility master plans and capital improvement plans and the subject area is planned for all needed City infrastructure.

(3) Prior to the beginning of step two processing of any annexation request, the requestor must verify to the Planning Director that all the prerequisites for step one processing are still satisfied and the annexation request must have received a final step one approval through the land use planning and zoning process as per the provisions of The Community Development Code Chapter 81.

2.930 City Council Annexation Authority – Step 2

Step 2 of the annexation process involves consideration of referral to the voters and other policy issues, and shall follow the provisions outlined in Section 2.950 of this chapter. The City Council has the authority to approve or deny placing an annexation before the voters based upon, but not limited to, matters such as taxation, infrastructure, environmental impacts, housing supply, school capacity, availability of park land and other considerations deemed by the City Council as relevant.

2.935 Submittal Requirements and Deposits:

(1) Applications to the City for initiation of annexation proceedings made by individuals shall be pursuant to the provisions set forth in Chapter 81 of the Community Development Code.

(2) The applicant shall be responsible for all costs incurred by the City in processing the application, including the City's anticipated election costs. In the event that other City items are included in the same election, the Applicant shall be responsible only for a pro-rata portion of any shared costs. If the election is concurrent with the primary or general election of an even-numbered year, the applicant is not responsible for any election costs.

2.940 Annexation Elections

(1) All annexation requests that have received a final approval through the step one land use planning and zoning process and City Council step two approval pursuant to Section 2.950 shall be referred to the voters in accordance with the requirements of this Chapter, ORS Chapter 222, and West Linn Charter Section 3.

(2) Annexation elections are normally scheduled once per calendar year. Applications for annexation, including all submittal requirements shall be filed with the City Planning Department. Filing of an annexation application and having the application deemed complete does not obligate the City to place the annexation question before the voters at any particular election. This section does not obligate the City to process an annexation application within any time frame not required by ordinance or state statute. The Council may, in its discretion, place an annexation question before the voters at any election.

(3) The City will provide an explanatory statement for the voter's pamphlet in accordance with ORS 222.130 that includes, at a minimum items (a) through (f) listed below with a maximum text of 500 words:

- (a) A map indicating the boundaries of each territory, including any surrounding features or landmarks (e.g., major streets, streams) that will help voters determine the location of the property;
- (b) A general description of the property proposed to be annexed, including a description of the comprehensive plan designation and zone for the property;
- (c) A description of the likely permitted land uses in the intended zone for the annexed property;
- (d) An unbiased description of any special features of the property that will need to be addressed in future development decisions, such as natural features and environmental constraints;
- (e) A statement informing the public of the right to review the application file at City Hall and that copies will be provided at a reasonable cost; and
- (f) The name of the City representative to contact and the telephone number where additional information may be obtained.

(4) The City shall cause the property under consideration for annexation to be posted with a minimum of one sign. The sign shall provide notice of the annexation election, and shall provide a telephone number and address where more information regarding the annexation can be obtained from the City of West Linn.

(5) The City shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the City to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval.

2.950 Annexation Applications, Process.

(1) With the exception of Health Hazard Annexations governed by ORS 222.840–222.915, all annexation applications are subject to the submittal requirements set forth in Section 2.935, above. There are five ways in which an annexation application may be initiated:

- (a) By Consent of All Owners of Land (ORS 222.125). When all the owners of land in the territory to be annexed consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.
- (b) By Non–Unanimous Triple Majority Consent Petition [ORS 222.170(1)]. When more than half, but not all, of the owners of land in the territory to be annexed, who also own more than half of the land in the contiguous territory and of the real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.

(c) By Non-Unanimous Double Majority Consent Petition [ORS 222.170(2)]. When a majority of the electors registered in the territory proposed to be annexed consent in writing to the annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.

(d) By the City Council on its own motion [ORS 222.111 (2)].

(e) Pursuant to the Health Hazard annexation process [ORS 222.840 to 222.915].

(2) When an annexation application has been properly initiated the following shall apply:

(a) The request shall be processed for step one consideration of land use issues pursuant to West Linn Community Development Code Section 81.

(b) If the request receives final City Council approval through the Step 1 process (CDC Sections 81.010 – 81.070 and 99.000, the City shall proceed with the Step 2 process as follows:

(i) The staff shall prepare a report that summarizes the effect of the annexation based on the most intensive land use permitted by the designated City zone for the site. The staff shall also describe the physical, environmental, social and economic impacts of the annexation on the community as a whole and on the neighborhood of which it will be a part.

(ii) A public hearing shall be set at which any person may appear and be heard on the question whether the annexation request should be presented to the voters.

(iii) Notice of the Step 2 public hearing shall be published in a newspaper of general circulation in the City once a week for two weeks prior to the date of the hearing and shall be posted in four public places in the City for a like period.

(iv) Written notice of the Step 2 public hearing shall be mailed to all owners of property within 500 feet of the exterior boundary of the property proposed for annexation at least 20 days prior to the hearing date.

(c) Within forty-five (45) days following the public hearing, unless a continuance is announced, the City Council shall render a decision that the application be approved and submitted to the voters at the next appropriate election as determined by the Council, or be denied.

(d) Inasmuch as the Step 2 decision to present the annexation question to the voters consists of a legislative decision based upon the best judgment of the City Council, the City Council may deny an annexation based upon its legislative perception of the request even though it has received approval through the step one process. A decision to deny an

annexation shall be specifically stated in the record and noted as a legislative act separate and apart from the quasi-judicial decision in the step one process.

2.955 Zoning Designations.

(1) As part of the Step One process, a final land use decision regarding the applicable City zone will be made according to the following table. Upon approval by the voters of the annexation question, the assigned City zone will become effective.

COMPREHENSIVE PLAN/LAND USE DESIGNATION	ASSIGNED
Low Density Residential	R-7, R-10, R-15, R-20, or R-40
Medium Density Residential	R-5 or R-4.5
Medium High Density Residential	R-3 or R-2.1
Mixed Use	MU
Commercial	NC, GC, or OBC
Industrial	GI or CI

(2) A change to the zone applied to the property by subsection 1 of this section may not be applied for earlier than three (3) years from the date the vote approving the annexation is certified by the County elections officer unless:

(a) The zone change is applied for by the City; or

(b) A majority of the City electorate approve a question that waives the requirement of this subsection.

METRO CODE
CHAPTER 3.09

LOCAL GOVERNMENT BOUNDARY CHANGES

SECTIONS TITLE

- 3.09.010 Purpose and Applicability
- 3.09.020 Definitions
- 3.09.030 Notice Requirements
- 3.09.040 Requirements for Petitions
- 3.09.045 Expedited Decisions
- 3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions
- 3.09.060 Process to Make Boundary Change Effective
- 3.09.070 Changes to Metro's Boundary
- 3.09.080 Incorporation of a City that Includes Territory Within Metro's Boundary
- 3.09.090 Extension of Services Outside UGB

3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS 268.347 to 268.354. This chapter applies to boundary changes within the boundaries of Metro or of urban reserves designated by Metro and any annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary (UGB).

3.09.020 Definitions

As used in this chapter, unless the context requires otherwise:

- A. "Adequate level of urban services" means a level of urban services adequate to support the higher number of dwelling units and jobs specified for the appropriate design type in section 3.07.640A of Title 6 of the Urban Growth Management Functional Plan, or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.
- B. "Affected entity" means a county, city or district for which a boundary change is proposed or is ordered.
- C. "Affected territory" means territory described in a petition.
- D. "Boundary change" means a major or minor boundary change involving affected territory lying within the jurisdictional boundaries of Metro or the boundaries of urban reserves designated pursuant to ORS 195.137 to 195.145.
- E. "Deliberations" means discussion among members of a reviewing entity leading to a decision on a proposed boundary change at a public meeting for which notice was given under this chapter.
- F. "District" means a:
 - 1. Domestic water supply district organized under ORS chapter 264;
 - 2. Park and recreation district organized under ORS chapter 266;

3. Metropolitan service district organized under ORS chapter 268;
4. Sanitary district organized under ORS 450.005 to 450.245;
5. Sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989; or
6. District formed under ORS 451.410 to 451.610 to provide water or sanitary service.

G. "Final decision" means the action by a reviewing entity, adopted by ordinance, resolution or other means, that determines compliance of the proposed boundary change with applicable criteria and requires no further discretionary action by the reviewing entity other than any required referral to electors. "Final decision" does not include resolutions, ordinances or other actions whose sole purpose is to refer the boundary change to electors, to declare the results of an election, or to defer or continue deliberations on a proposed boundary change.

H. "Major boundary change" means the formation, merger, consolidation or dissolution of a city or district.

I. "Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a county to a city. "Minor boundary change" also means an extraterritorial extension of water or sewer service by a city or district. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520. "Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a county to a city. "Minor boundary change" also means an extraterritorial extension of water or sewer service by a city or district. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520.

J. "Necessary party" means any county; city; district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory; Metro; or any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory.

K. "Petition" means any form of action that initiates a boundary change.

L. "Reviewing entity" means the governing body of a city, county or Metro, or its designee.

M. "Urban reserve" means land designated by Metro pursuant to ORS 195.137 et seq. for possible addition to the UGB.

N. "Urban services" means sanitary sewers, water, fire, protection, parks, open space, recreation and streets, roads and mass transit.

3.09.030 Notice Requirements

A. The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter provision on boundary changes.

B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing entity shall give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 20 days prior to the date of deliberations. Notice shall be published as required by state law.

C. The notice required by subsection (B) shall:

1. Describe the affected territory in a manner that allows certainty;
2. State the date, time and place where the reviewing entity will consider the boundary change; and
3. State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.

D. A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 days after the time stated in the original notice, notice shall be reissued in the form required by subsection (B) of this section at least five days prior to the continued date of decision.

E. A reviewing entity's final decision shall be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro shall include payment to Metro of the filing fee required pursuant to section 3.09.060. (Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1; Ordinance No. 07-1165A, Sec. 1.)

3.09.040 Requirements for Petitions

A. A petition for a boundary change must contain the following information:

1. The jurisdiction of the reviewing entity to act on the petition;
2. A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
3. For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and
4. For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.

B. A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

3.09.045 Expedited Decisions

A. The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least (Effective 07/11/2012) fifty percent of the electors, if any, within the affected territory. No public hearing is required.

B. The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.

C. At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
3. The proposed effective date of the boundary change.

D. To approve a boundary change through an expedited process, the city shall:

1. Find that the change is consistent with expressly applicable provisions in:
 - a. Any applicable urban service agreement adopted pursuant to ORS 195.065;
 - b. Any applicable annexation plan adopted pursuant to ORS 195.205;
 - c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
 - d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - e. Any applicable comprehensive plan;
 - f. Any applicable concept plan; and
 2. Consider whether the boundary change would:
 - a. Promote the timely, orderly and economic provision of public facilities and services;
 - b. Affect the quality and quantity of urban services; and
 - c. Eliminate or avoid unnecessary duplication of facilities or services.
- E. A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB.

3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

A. The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.

B. Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria identified in subsection (D) and includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

3. The proposed effective date of the boundary change.

C. The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

D. To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (D) and (E) of section 3.09.045.

3.09.060

A. After a reviewing entity makes a final decision on a boundary change, the entity and Metro shall follow the process set forth below:

Process to Make Boundary Change Effective

1. The reviewing entity shall send its final decision, with the map, legal description and other supporting materials required by law, to the Oregon Department of Revenue (DOR);
2. The DOR will review the materials to determine whether they are in final approval form and notify the reviewing entity of its determination;
3. The reviewing entity shall send its final decision, with supporting materials and the DOR approval, to Metro;
4. Metro shall record and map the final decision, with supporting materials and DOR determination, and send it to the Secretary of State (SOS), the reviewing entity, the appropriate county assessor's and elections offices, making the final decision effective on the date of Metro's submittal;
5. The SOS will send its filing letter to Metro;
6. Metro shall post the final decision, supporting materials, the DOR determination and the SOS filing letter at the Metro website.

B. If a reviewing entity notifies Metro that the entity needs expedited treatment of its final decision at the time the entity sends its decision to the DOR, Metro will ensure it completes Step 4 in subsection A within one working day of its receipt of the final decision and DOR determination from the entity.

C. The COO shall establish a fee structure establishing the amounts to be paid by the reviewing entity with submittal of its final decision in Step 3 of subsection A to cover Metro's costs for the services set forth in this section. The COO shall file the fee schedule with the Clerk of the Council and send it to all cities, counties and special districts in the Metro region.

D. Metro shall create and keep current maps of district boundaries and the boundaries of all cities and counties within Metro. The maps and any additional information requested that relates to boundary changes shall be made available to the public at a price that reimburses Metro for its costs.

3.09.070 Changes to Metro's Boundary

A. Changes to Metro's boundary may be initiated by Metro or the county responsible for land use planning for the affected territory, property owners and electors in the territory to be annexed, or

other public agencies if allowed by ORS 198.850(3). Petitions shall meet the requirements of section 3.09.040 above. The COO shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.

- B. Notice of proposed changes to the Metro boundary shall be given as required pursuant to section 3.09.030.

- C. Hearings shall be conducted consistent with the requirements of section 3.09.050.

- D. Changes to the Metro boundary may be made pursuant to the expedited process set forth in section 3.09.045.

- E. The following criteria shall apply in lieu of the criteria set forth in subsection (D) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:
 - 1. The affected territory lies within the UGB;
 - 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
 - 3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.

- F. Changes to the Metro boundary that occur by operation of law pursuant to ORS 268.390(3)(b) are not subject to the procedures or criteria set forth in this section.

3.09.080 Incorporation of a City that Includes Territory Within Metro's Boundary

- A. A petition to incorporate a city that includes territory within Metro's boundary shall comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, and the hearing and decision requirements in subsections (A) and (C) of section 3.09.050, except that the legal description of the affected territory required by section 3.09.040(a)(1) need not be provided until after the Board of County Commissioners establishes the final boundary for the proposed city.

- B. A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.07.

- C. The following criteria shall apply in lieu of the criteria set forth in section 3.09.050(D). An approving entity shall demonstrate that:
 - 1. Incorporation of the new city complies with applicable requirements of ORS 221.020, 221.031, 221.034 and 221.035;
 - 2. The petitioner's economic feasibility statement must demonstrate that the city's proposed permanent rate limit would generate sufficient operating tax revenues to support an adequate level of urban services, as defined in this chapter and required by ORS 221.031; and
 - 3. Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or

has failed to act within the time specified in that statute.

3.09.090 Extension of Services Outside UGB

Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.
