



# NONEXPEDITED ANNEXATION APPLICATION INSTRUCTIONS

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## PROCESS

### STEP 1: PREAPPLICATION CONFERENCE

A preapplication conference is required prior to the submission of a nonexpedited annexation application. Please call 503-786-7600 for assistance. All required materials and fees must be submitted at the time of scheduling.

### STEP 2: ANNEXATION PETITION

Petitions by property owners to annex to the City of Milwaukie must meet one of the minimum petition requirements for annexation as described below. If ownership is in question, a title report may be required.

- Consent by the property owners of 100% of the land area of the territory to be annexed and at least 50% of the registered voters, if any, within the territory to be annexed. (100% Ownership Method)
- Consent by the property owners of a majority of the land area of the territory to be annexed and a majority of the registered voters, if any, within the territory to be annexed. (Double Majority Method)
- Consent by a majority of the property owners within the territory to be annexed, whose land represents a majority of the land area of the territory to be annexed and a majority of the assessed value of the territory to be annexed. (Triple Majority Method)

### STEP 3: COUNTY CERTIFICATION

An annexation petition must be accompanied by the following three County-certified documents:

- Certification of Property Ownership
- Certification of Legal Description and Map: *This document must be accompanied by the legal description for the territory and two full-size certified quarter section tax maps.*
- Certification of Registered Voters

The County Assessor certifies all the documents listed in the first two bullets. The County Elections Department certifies the document in the last bullet. If no registered voters reside in the territory to be annexed, the Certification of Registered Voters document still needs to be certified and submitted with the annexation petition.

### STEP 4: ANNEXATION APPLICATION

The Application section on the next page describes the various documents that need to be submitted with a nonexpedited annexation application. Applications are processed by the City's Planning Department at 6101 SE Johnson Creek Boulevard in Milwaukie. Please call 503-786-7630 for assistance. The nonexpedited annexation application fee must be paid, and the required number of copies must be provided, at the time of application submission. Check the preapplication conference notes for fee information and the number of copies to submit.

### STEP 5: ANNEXATION DECISION

A nonexpedited annexation is a land use action and requires review by the Planning Commission and review and approval by the City Council at public hearings.

### STEP 6: POSTDECISION NOTIFICATION AND FILING

If approved by City Council, the requested zoning and land use designations are applied to the territory. The annexation is not effective, however, until it is filed with the Secretary of State. The City, Metro, and the State work together to notify all affected agencies, providers, and individuals.

## APPLICATION

To apply for a nonexpedited annexation and zone designation request, an applicant must submit an annexation application, as described below, and pay the required fee. If the requested zone designation constitutes a zone change, a transportation impact study (TIS) may be required in addition to the annexation application materials listed below. A zone change occurs when the requested zone designation does not correspond with the City's automatic zone designation for the territory, as listed in the table on page 3, Zoning and Land Use Designations for Boundary Changes.

A nonexpedited annexation application includes the following documents. Check with the Planning Department for the number of copies you will need to submit. Documents marked with an asterisk (\*) are attached.

Some of the documents provided with this packet are specific to the 100% ownership annexation method. See Planning for the different Annexation Petition and Property Ownership documents you will need to submit if your petition is by double or triple majority consent.

Document	Notes (where applicable)
1. City of Milwaukie Nonexpedited Annexation Application*	
2. Annexation petition (for 100% ownership method)*	
3. Vicinity map(s)	The vicinity map(s) should show that the territory to be annexed is contiguous to the existing City limits.
4. Two <u>full-size</u> County Assessor quarter section maps	Full-size maps can be purchased from the County Assessor. The territory to be annexed should be outlined in red on both maps.
5. One <u>reduced</u> County Assessor quarter section map	The reduced map should be 8.5" x 11" in size, and the territory to be annexed should be outlined in red.
6. Metes and bounds legal description	This description should be inserted in, or attached to, the Annexation Petition. A lot, block, and subdivision description may be submitted in lieu of the metes and bounds description if the area is platted and this is acceptable to the County Assessor. If the legal description contains any deed or book and page references, legible copies of these documents must be submitted with the legal description.
7. Clackamas County certification: a. Property ownership (for 100% ownership method)* b. Legal description and map* c. Registered voters*	
8. List of current and proposed urban service provider districts (including addresses)	District-based service providers include, but are not limited to, providers of sanitary sewer, water, fire protection, law enforcement, parks and recreation, and transit. This information can be obtained from the County Assessor's Rate Book at their office or online (by referencing the tax code associated with the territory to be annexed).
9. List of current urban service provider franchises (including addresses)	Franchise-based service providers include, but are not limited to, providers of cable, natural gas, electricity, telecommunications, and garbage collection.
10. Notice list*	This list should contain all property owners and all registered voters in the territory to be annexed, including those that have not signed the Annexation Petition.
11. Code section narrative	A list of all applicable code sections is provided on the next page. The actual code language that needs to be addressed is included in the last section of this packet.
12. Transportation Impact Study (may be required if a zone change is requested)	
13. Census form*	This should be attached to the Annexation Petition.

## CODE SECTIONS

The following list identifies all applicable code sections that must be addressed in the annexation application narrative. All applicable Milwaukie Municipal Code (MMC), Metro Code, and Milwaukie Comprehensive Plan (MCP) sections are available upon request. Please check with City staff for guidance on how to address a specific code or policy section.

- MMC 19.1102.2.C.1–5
- MMC 19.1102.3.A–F
- MMC 19.902.4.B, which references MMC 19.902.3.B
- MMC 19.902.6.B
- MCP Chapter 6
- Metro Functional Plan
- Metro Chapter 3.09<sup>1</sup>

## ZONING AND LAND USE DESIGNATIONS

Please consult with the City's Planning Department if you have any questions about the allowed uses or development standards that are associated with the proposed zoning designation. It is possible, for example, that upon annexation, existing uses or structures may not conform to the City's development code. Nonconforming uses and structures are allowed to continue and be maintained in reasonable repair but are not allowed to undergo alteration or extension without staff or Planning Commission review and approval. Uses or structures that were not legally established in the County are not made legal upon annexation to the City.

from Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
Existing County Zoning Designation	Assigned City Zoning Designation	Assigned City Land Use Designation
R-20	R-10	Low density residential
R-15	R-10	Low density residential
R-10	R-10	Low density residential
R-8.5	R-7	Low density residential
R-7	R-7	Low density residential
MR1	R-5	Moderate density residential
MR2	R-2	Medium density residential
PMD	R-1-B	High density residential
HDR	R-1-B	High density residential
SHD	R-1	High density residential
C2	R-O-C	Commercial/high density use
C3	C-G	Commercial
OC	C-L	Commercial
RTL	C-L	Commercial
PC	C-CS	Commercial
I2	M	Industrial
I3	M	Industrial
BP	BI	Industrial
OSM	R-10/CSU	Public

<sup>1</sup> MMC 19.1102.2.C.1 references Metro 3.09.040 and MMC 19.1102.2.C.2 references Metro 3.09.050(d)



**PLANNING DEPARTMENT**  
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Milwaukie OR 97206

PHONE: 503-786-7630  
FAX: 503-774-8236  
E-MAIL: [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov)  
WEB: [www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

# Nonexpedited Annexation Application

## RESPONSIBLE PARTIES:

File #: \_\_\_\_\_

**APPLICANT** (owner or other eligible applicant):

Mailing address: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone(s): \_\_\_\_\_ E-mail: \_\_\_\_\_

**APPLICANT'S REPRESENTATIVE** (if different than above):

Mailing address: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone(s): \_\_\_\_\_ E-mail: \_\_\_\_\_

## SITE INFORMATION:

Address(es): \_\_\_\_\_ Map & Tax Lot(s): \_\_\_\_\_ Property size: \_\_\_\_\_

Existing County zoning: \_\_\_\_\_ Proposed City zoning: \_\_\_\_\_

Existing County land use designation: \_\_\_\_\_ Proposed City land use designation: \_\_\_\_\_

## PROPOSAL (describe briefly):

## LIST OF ALL CURRENT UTILITY PROVIDERS:

Check all that apply (do not list water or sewer service providers)

**Cable, internet, and/or phone:** ☐ Comcast ☐ CenturyLink (formerly Qwest)

**Energy:** ☐ PGE ☐ NW Natural Gas

**Garbage hauler:** ☐ Waste Management ☐ Mel Deines ☐ Hoodview Disposal and Recycling  
☐ Wichita Sanitary ☐ Oak Grove Disposal ☐ Clackamas Garbage

☐ Other (please list): \_\_\_\_\_

## SIGNATURE:

**ATTEST:** I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_

**CONTINUED ON REVERSE**

**THIS SECTION FOR OFFICE USE ONLY:**

<b>File #:</b>	<b>Fee: \$</b>	<b>Receipt #:</b>	<b>Rcd. by:</b>	<b>Date stamp:</b>
<b>Associated application file #'s:</b>				
<b>Neighborhood District Association(s):</b>				
<b>Notes</b> (include discount if any):				

**NONEXPEDITED ANNEXATION  
PETITION OF OWNERS OF 100% OF LAND AREA  
AND PETITION OF AT LEAST 50% OF REGISTERED VOTERS**

**TO: The Council of the City of Milwaukie, Oregon**

**RE: Petition for Annexation to the City of Milwaukie, Oregon**

We, the petitioners (listed on reverse), are property owners of and/or registered voters in the territory described below. We hereby petition for, and give our consent to, annexation of this territory to the City of Milwaukie.

This petition includes a request for a City zoning designation of \_\_\_\_\_ and a City land use designation of \_\_\_\_\_.

The territory to be annexed is described as follows:

***(Insert legal description below OR attach it as Exhibit "A")***

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

# PETITION SIGNERS

NOTE: This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

\*PO = Property Owner    RV = Registered Voter    OV = Owner and Registered Voter

## **CERTIFICATION OF PROPERTY OWNERSHIP OF 100% OF LAND AREA**

I hereby certify that the attached petition contains the names of the owners<sup>1</sup> (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.

**Name** \_\_\_\_\_

**Title** \_\_\_\_\_

**Department** \_\_\_\_\_

**County of** \_\_\_\_\_

**Date** \_\_\_\_\_

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<sup>1</sup> Owner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If a parcel of land has multiple owners, each consenting owner shall be counted as a percentage of their ownership interest in the land. That same percentage shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.



## **CERTIFICATION OF LEGAL DESCRIPTION AND MAP**

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map \_\_\_\_\_) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

**Name** \_\_\_\_\_

**Title** \_\_\_\_\_

**Department** \_\_\_\_\_

**County of** \_\_\_\_\_

**Date** \_\_\_\_\_

## **CERTIFICATION OF REGISTERED VOTERS**

I hereby certify that the attached petition contains the names of at least 50% of the electors registered in the territory proposed for annexation as described in the attached petition.

**Name** \_\_\_\_\_

**Title** \_\_\_\_\_

**Department** \_\_\_\_\_

**County of** \_\_\_\_\_

**Date** \_\_\_\_\_

# NOTICE LIST

(This form is NOT the petition)

**LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.**

	Name of Owner/Voter	Mailing Street Address Mailing City/State/Zip	Property Address Property Description (township, range, ¼ section, and tax lot)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

Name of Owner/Voter	Mailing Street Address	Property Address
	Mailing City/State/Zip	Property Description <small>(township, range, ¼ section, and tax lot)</small>
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		

# CONFIDENTIAL

## Census Form

Date \_\_\_\_\_

Use one form per housing unit

CITY OF MILWAUKIE, OREGON

ADDRESS \_\_\_\_\_

### HOUSING TYPE:

Single Unit Structure ☐

Multiple Unit Structure ☐

Trailer or Mobile Home ☐

### TENURE:

Owner Occupied ☐

Renter Occupied ☐

Vacant ☐

Seasonal ☐

### RESIDENTS:

Last Name

First Name

Respondent \_\_\_\_\_

2) \_\_\_\_\_

3) \_\_\_\_\_

4) \_\_\_\_\_

5) \_\_\_\_\_

6) \_\_\_\_\_

7) \_\_\_\_\_

8) \_\_\_\_\_

9) \_\_\_\_\_

10) \_\_\_\_\_

POPULATION RESEARCH CENTER

**PORTLAND STATE  
UNIVERSITY**

(503) 725-3922

# NONEXPEDITED ANNEXATION CODE EXCERPTS

## MILWAUKIE MUNICIPAL CODE SECTIONS

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### 19.1102.2 Annexation Petition

- C. An annexation petition shall include the completed petition form and thirteen copies of each of the following, except for each drawing submitted there shall be twelve at the original scale and one copy reduced to an eight and one-half inch by eleven-inch paper size.
1. The minimum petition requirements of Metro Code Section 3.09.040;
  2. A narrative that addresses the approval criteria set forth in Subsection 19.1102.3 and Metro Code Subsections 3.09.050(d) and, if applicable, (e);
  3. Vicinity, legal, and other descriptive maps necessary to show compliance with Subsection 19.1102.3 and Metro Code Section 3.09.040. This shall include two county assessor's quarter section maps on which the territory to be annexed has been outlined in red;
  4. Metes and bounds legal description for the area to be annexed, including road right-of-way where appropriate. Lot and block legal description may be used if the territory includes only platted area and does not include any street right-of-ways.
  5. Census forms or demographic information about the area to be annexed.

**19.1102.3 Annexation Approval Criteria.** The city council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria.

- A. The subject site must be located within the city urban growth boundary;
- B. The subject site must be contiguous to the existing city limits;
- C. The requirements of the Oregon Revised Statutes for initiation of the annexation process must be met;
- D. The proposal must be consistent with Milwaukie comprehensive plan policies;
- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d) and, if applicable, (e).
- F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

### 19.902.4 Comprehensive Plan Map Amendments

Changes to the maps of the Milwaukie Comprehensive Plan shall be called Comprehensive Plan map amendments.

#### B. Approval Criteria

Changes to the maps of the Milwaukie Comprehensive Plan shall be evaluated against the approval criteria in Subsection 19.902.3.B. A quasi-judicial map amendment shall be approved if these criteria are met. A legislative map amendment may be approved if these criteria are met.

### 19.902.3 Comprehensive Plan Text Amendments

#### B. Approval Criteria

Changes to the Milwaukie Comprehensive Plan may be approved if the following criteria are met:

1. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.
2. The proposed amendment is in the public interest with regard to neighborhood or community conditions.
3. The public need is best satisfied by this particular proposed amendment.

4. The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.
5. The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

#### **19.902.6 Zoning Map Amendments**

##### **B. Approval Criteria**

Changes to the Zoning Map shall be evaluated against the following approval criteria. A quasi-judicial map amendment shall be approved if the following criteria are met. A legislative map amendment may be approved if the following criteria are met:

1. The proposed amendment is compatible with the surrounding area based on the following factors:
  - a. Site location and character of the area.
  - b. Predominant land use pattern and density of the area.
  - c. Expected changes in the development pattern for the area.
2. The need is demonstrated for uses allowed by the proposed amendment.
3. The availability is shown of suitable alternative areas with the same or similar zoning designation.
4. The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.
5. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.
6. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.
7. The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.
8. The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

# MILWAUKIE COMPREHENSIVE PLAN

## CHAPTER 6: CITY GROWTH AND GOVERNMENTAL RELATIONSHIPS CITY GROWTH ELEMENT

### Goal Statement:

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To identify the City's future planning and service area, establish the respective responsibilities for reviewing and coordinating land use regulations and actions within the area, and determine the most cost-effective means to provide the full range of urban services within the area.

### Objective #1—Unified System of Governance

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To encourage and participate in efforts to define a unified system of governance for the northwest urban area of Clackamas County.

#### Policies

1. The focus of the City's service provision contracts and intergovernmental agreements will be movement toward a unified system of government. A unified system of government is one in which a single entity provides most urban services.
2. The City will participate with the County in preparing a Public Facilities Plan for the provision of services in the northwest urban area.
3. A unified system of governance does not preclude provision of certain services by regional special districts. The City will actively participate in the regionalization of a service when, at a minimum:
  - Direct representation is maintained
  - Service can be delivered more effectively and efficiently in terms of cost, technology, and financing
  - Community identity is improved or maintained
  - Accountability to the community is safeguarded

### Objective #2—Urban Services Area

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To establish an area within which the City will participate in planning, coordinating, and providing services.

#### Policies

1. In 1988 and by agreement with Gladstone and Happy Valley, the City established its urban service planning area as "All of Clackamas County Rural Fire District No. 1, exclusive of that portion of the district generally lying north of Sunnyside Road and to the east of the easterly boundary of the right-of-way of I-205," as the boundaries of the fire district existed in 1987. Happy Valley has since withdrawn from that agreement, but the City maintains that the urban service boundaries as stated in the agreement remain appropriate for urban service planning. The City's urban service planning area is shown on Exhibit A to the Intergovernmental Cooperative Agreement among Gladstone, Happy Valley, and the City, which is part of this comprehensive plan.
2. The City will plan for the eventual delivery of urban services in the City's urban service planning area. Until annexation, services are to be provided by service districts providing service to the area. Upon annexation, delivery of services will be provided by the City or by service districts.
3. The City will coordinate closely with service districts providing services within the area to ensure continuing delivery of effective and efficient urban services. The City will not seek to extend City services into the urban service planning areas of other cities, except at the invitation and agreement of the other city.



Similarly, no other city is to provide service within the City's urban service planning area, except at the invitation and agreement of the City.

4. The City will support the operation of existing service districts until such time as an area is annexed unless other contractual arrangements are made. Service districts operating within the Milwaukie urban service planning area are:
  - a. Clackamas County Rural Fire District #1
  - b. Clackamas River Water District
  - c. Clackamas County Service District #1
  - d. Clackamas County Urban Renewal District
  - e. Clackamas County Service District for Enhanced Law Enforcement
  - f. Clackamas County Service District No. 5 for Streetlights

The City will oppose any expansions of service districts within the City's urban service planning area which have not been agreed to in advance by the City through a coordinated planning program.

### **Objective #3—Annexation**

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To ensure that City annexation policies conform to urban service and growth management policies.

#### **Policies**

1. Areas within the City's urban service planning area shall remain unincorporated until annexed to the City. The City shall plan for eventual annexation of all areas within the City's urban service planning area.
2. The City will only support annexation requests from properties within the City's urban service planning area.
3. The City will deliver services in this area when:
  - The City is able to provide an adequate supply of needed services
  - A majority of residents and property owners within an area to be served desire City services
4. The City will require annexation in order to receive or utilize a City service.
5. All areas encircled (islanded) by City Limit lines will be annexed.

### **Objective #4—Coordinating Land Use and Development**

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To establish, in conjunction with the County, a method for coordinating land use and development decisions within the unincorporated area adjacent to the City.

#### **Policies**

1. The 1990 Urban Growth Management Agreement between the City of Milwaukie and Clackamas County is incorporated in the Milwaukie Comprehensive Plan. The City will continue to work with the County to amend this agreement consistent with the policies in this chapter.
2. The County's Comprehensive Plan will apply to unincorporated areas until annexation or development of intergovernmental agreements giving the City authority for planning. The City will seek agreement for transfer of planning authority, both long-term and current, to the City for areas within the City's urban service planning area.
3. The City will work with Clackamas County and affected special districts to develop mutual agreements to plan and provide for urban services compatible with land uses within the Urban Growth Management Boundary and the City of Milwaukie.

4. The City will work with the County to ensure compatibility in the Urban Growth Management Boundary of both the City and County's Comprehensive Plan land use designations, now and in the future.
5. The process of coordinating land use actions and insuring Plan compatibility between the City and the County for the Urban Growth Management Boundary will be outlined in amendments to the Urban Growth Management Agreement.

#### **Objective #5—Economic Balance in Land Use and Service Demand**

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To maintain an economically advantageous balance of residential, commercial and industrial land base and land use.

##### Policies

1. The City will create an overall growth strategy that targets areas, predicts service demand, indicates budget needs, and projects revenues to ensure that high service demand areas are offset by high revenue producing areas.
2. The City will accept annexations that result in efficient extension of City services, promote a logical city boundary, diminish any service subsidies to unincorporated areas, and promote the City's fiscal health.

#### **Objective #6—Cost of Services**

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To ensure that the cost of urban services provision is paid equitably by all who receive them.

##### Policies

1. The City will examine service contracts and mutual aid agreements to ensure that the City and its taxpayers do not subsidize services provided to areas outside the City.
2. The cost of providing services will be borne by those who require and use them.
3. City services will be extended when the City is assured of recapturing its service investments.

#### **Objective #7—Extension of Services**

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To enable the City to maintain and extend adequate service levels as city growth occurs.

##### Policies

1. The City will participate and cooperate with the County and affected service districts in planning for and providing the delivery of the full range of urban services:
  - Water
  - Development
  - Fire protection
  - Senior service
  - Sanitary sewer
  - Transportation
  - Park and recreation
  - Planning
  - Storm drainage
  - Police protection
  - Library

2. The City will examine and adjust its financial plans and programs to minimize any initial financial burden resulting from the expansion or delivery of services into growth areas.
3. The City will accept a subsidy to growth areas in the short term if there is a long term gain to the City.
4. Service extensions will be made only where the City can provide the service without diminishing its ability to serve existing City residents and businesses.

## **METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN (Functional Plan)**

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### **Title 1—Requirements for Housing and Employment Accommodation**

Title 1 calls for the efficient use of land within the Metro Urban Growth Boundary (UGB). Title 1 directs each city and county in the region to consider actions to increase its housing and employment capacity and to take action if necessary to accommodate its share of regional growth as specified in this title.

### **Title 2—Regional Parking Policy**

Title 2 seeks to preserve the quality of life of the region through compact development and efficient use of land, reduction of vehicle trips per capita and related parking spaces, and protection of air quality through the promotion of non-auto trips.

### **Title 3—Water Quality and Flood Management**

Title 3 calls for the protection of beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

### **Title 4—Industrial and Other Employment Zones**

Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas, Industrial, and Employment Areas.

### **Title 5—Neighbor Cities and Rural Reserves**

The City of Milwaukie is within the Metro UGB boundary. If the property to be annexed is also within the Metro UGB boundary, Title 5 is not applicable.

### **Title 6—Central City, Regional Centers, Town Centers, and Station Communities**

Title 6 seeks to enhance the Central City, Regional Centers, Town Centers, and Station Communities by encouraging development that will improve the critical roles they play in the region and by discouraging development outside these Centers that will detract from those roles. Downtown Milwaukie is a designated Town Center

### **Title 7—Affordable Housing**

Title 7 calls for the voluntary adoption of affordable housing production goals and affordable housing tools and strategies by local jurisdictions.

### **Title 8—Compliance Procedures**

The City of Milwaukie's land use regulations and Comprehensive Plan are in compliance with the Functional Plan. All proposed amendments, including boundary changes, shall be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9).

### **Title 9—Performance Measures**

Title 9 calls for the monitoring of the implementation of the Functional Plan over time. Metro is required to measure and report on implementation progress and outcomes.

### **Title 10—Functional Plan Definitions**

Title 10 provides a glossary of Functional Plan terms.

### **Title 11—Planning for New Urban Areas**

Title 11 provides a planning process for areas brought into the Metro UGB. The City has been within the Metro boundary since the inception of the UGB. Title 11 is not applicable if the area to be annexed is also within the UGB.

**Title 12—Protection of Residential Neighborhoods**

Title 12 seeks to provide adequate levels of public services and to protect the region's existing residential neighborhoods from crime and from air, water, and noise pollution.

**Title 13—Nature in Neighborhoods**

Title 13 seeks to: (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system—from stream headwaters to their confluence with other streams, rivers, and their floodplains—in a manner that is integrated with upland wildlife habitat and the surrounding urban landscape; and (2) control and prevent water pollution for the protection of the public health and safety and to maintain and improve water quality throughout the region.

## CHAPTER 3.09

## LOCAL GOVERNMENT BOUNDARY CHANGES

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3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS 268.354. This chapter applies to all boundary changes within the boundaries of 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).

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 07-1165A, Sec. 1.)

3.09.020 Definitions

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

(a) "Affected entity" means a county, city or district for which a boundary change is proposed or is ordered.

(b) "Affected territory" means territory described in a petition.

(c) "Boundary change" means a major or minor boundary change involving affected territory lying within the jurisdictional boundaries of Metro or the boundaries of the urban reserves designated by Metro prior to June 30, 1997.

(d) "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.

(e) "District" means a district defined by ORS 198.710 or any district subject to Metro boundary procedure act under state law.

(f) "Final decision" means the action by a reviewing entity whether adopted by ordinance, resolution or other means which is the determination of compliance of the proposed boundary change with applicable criteria and which requires no further discretionary decision or 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 or to declare the results of an election, or any action to defer or continue deliberations on a proposed boundary change.

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

(h) "Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a city-county to a city. "Minor boundary change" also means an extra-territorial 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.

(i) "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.

(j) "Petition" means any form of action that initiates a boundary change.

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

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

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1; Ordinance No. 02-972A, Sec. 1; Ordinance No. 07-1165A, Sec. 1.)

### 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.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 02-972A, Sec. 1; Ordinance No. 07-1165A, Sec. 1.)

### 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 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 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.

(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; and
  - (E) Any applicable comprehensive 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 outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.

(Ordinance No. 99-803, Sec. 1. Amended by Ordinance No. 07-1165A, Sec. 1.)

### 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 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.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1; Ordinance No. 02-964, Sec. 4; Ordinance No. 07-1165A, Sec. 1.)

### 3.09.060 Ministerial Functions of Metro

(a) Metro shall create and keep current maps of all service provider service areas and the jurisdictional boundaries of all cities, counties and special districts within Metro. The maps shall be made available to the public at a price that reimburses Metro for its costs. Additional information requested of Metro related to boundary changes shall be provided subject to applicable fees.

(b) The Metro Chief Operating Officer shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor and elections officer, the Oregon Secretary of State and the Oregon Department of Revenue. Notification of public utilities shall be accomplished as provided in ORS 222.005(1).

(c) The Metro Chief Operating Officer shall establish a fee structure establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, and for related services. The fee schedule shall be filed with the Council Clerk and distributed to all cities, counties and special districts within the Metro region.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 02-972A, Sec. 1; Amended and renumbered by Ordinance No. 07-1165A, Sec. 1.)

### 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 Chief Operating Officer 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.

(Ordinance No. 99-818A, Sec. 5. Amended by Ordinance No. 02-972A, Sec. 1; Ordinance No. 04-1033A, Sec. 1; Amended and renumbered by Ordinance No. 07-1165A, Sec. 1.)

### 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, the hearing and decision requirements in subsections (a), (c), and (e) 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 3.01.

(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 indicates that the city must plan for average residential density consistent with Title 1 and Title 11 of the Urban Growth Management Functional Plan; 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.

(Ordinance No. 04-1033A, Sec. 1. Amended and renumbered by Ordinance No. 07-1165A, Sec. 1.)