

Memo Date: November 15, 2007  
First Reading Date: November 28, 2007  
Second Reading/Public Hearing Date: December 12, 2007



**TO:** Board of County Commissioners  
**DEPARTMENT:** Public Works, Land Management Division, Planning Department  
**PRESENTED BY:** Stephanie Schulz, Planner  
**AGENDA ITEM TITLE:** ORDINANCE NO. \_\_\_\_ -07 / IN THE MATTER OF ADOPTING PROVISIONS TO ASSUME AUTHORITY FOR SPECIAL DISTRICT BOUNDARY CHANGES AS MANDATED BY SENATE BILL 417 AND DECLARING AN EMERGENCY.

**I. MOTION:**

For November 28, 2007: Move approval of the first reading and setting the second reading and public hearing on Ordinance No. \_\_\_\_ for December 12, 2007 at 1:30 p. m.

For December 12, 2007: Move approval of Ordinance No. \_\_\_\_ -07.

**II. ISSUE/PROBLEM:**

Senate Bill (SB) 417, passed by the 2007 legislature, abolishes the Lane County Boundary Commission on July 1, 2008, and requires Lane County to assume authority for Special District boundary changes on January 2, 2008. The Board is being asked to conduct a public hearing and consider adoption of an Ordinance to assume these functions and powers, and adopting an order to establish fees for program cost recovery effective January 2, 2008.

**III. DISCUSSION**

**A. Background**

The Boundary Commission is a state-appointed body that serves as the decision maker for boundary change applications for city and special districts in Lane County, and for applications for extraterritorial extensions of water or sewer service. Senate Bill 417 transfers responsibility for boundary changes to the applicable local jurisdictions. Boundary changes initiated on and after January 2, 2008, will be processed under Oregon Revised Statutes (ORS) 195, 198, 221 or 222. Lane County, under ORS 198, will assume responsibility for decisions and processing of any new special district formations, and annexations and withdrawals of property from special districts. Requests to form, dissolve, merge, consolidate, or add a function to a district will be under the authority of Lane County, as well as the incorporation of a new city.

The passage of SB 417 not only shifts the responsibility of boundary decisions to the local jurisdictions, it also changes the rules under which boundary change requests must be processed. State statutes under ORS 199 that established the Lane County Boundary Commission included specific requirements and procedures unique to the boundary commission process. With the abolition of the Lane County Boundary Commission, changes in jurisdictional boundaries of Special Districts in Lane County will be processed by the County according to procedures under ORS 198 and other applicable state laws.

**B. Ordinance Updates**

The attached Ordinance \_\_\_\_ -07 would adopt Lane Code language that defines the responsibilities outlined in ORS 198 and SB 417. (Attachment 1, Exhibit A) The code describes extensive procedures, requirements and draft provisions developed to date by county staff involved in district boundary actions.

Special district boundary change applications initiated on or after on January 2, 2008, are the responsibility of the County.

**C. Recommendation**

The Lane Code DRAFT language and key policy issues were presented to the Lane County Planning Commission for their evaluation in a work session and public hearing held on November 6, 2007 and continued to November 20, 2007. The Planning Commission discussed the Key Policy Considerations Memo (Attachment 2) and their recommendation and DRAFT minutes will be provided in a supplemental memo.

**V. FOLLOW-UP:**

Notice of Board action will be provided to DLCD and all interested parties.

Should the Board choose Option 3 staff will continue to work on revisions to the lane code language and return to the Board for a third reading and adoption on a date certain.

**VI. ATTACHMENTS:**

Should additional written materials or testimony be produced concerning this item, the information will be delivered to the Board in a supplemental memo or delivered at the hearing.

1. Ordinance No. \_\_\_\_-07  
Exhibit A Lane Code \_\_\_\_
2. Policy Considerations Memo – LCPC response
3. Planning Commission Minutes (supplemental)  
November 6, 2007 Work session & Public Hearing  
November 20, 2007 Continued Public Hearing and Deliberations
4. Comments received in response to notice and referral

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO.

IN THE MATTER OF ADDING CHAPTER 19 OF LANE  
CODE TO ADD PROVISIONS TO ASSUME  
AUTHORITY FOR SPECIAL DISTRICT BOUNDARY  
CHANGES AS MANDATED BY SENATE BILL 417 AND  
DECLARING AN EMERGENCY

**WHEREAS**, the 2005-2007 Oregon legislature passed Senate Bill 417 that dissolves the Lane County Boundary Commission on July 1, 2008, and transfers responsibility for boundary changes in Lane County to the applicable local jurisdictions; and

**WHEREAS**, Lane County is the local jurisdiction responsible for special district boundary changes as outlined in ORS Chapter 198; and

**WHEREAS**, the Lane County Planning Commission conducted public hearings on November 6 and 20, 2007, and recommended the Board enact Lane Code Chapter 19 to implement ORS Chapter 198; and

**WHEREAS**, the Board conducted a hearing on December 12, 2007, and is now ready to take action:

**NOW, THEREFORE**, the Board of County Commissioners of Lane County ordains as follows:

Lane Code is hereby amended by adding new sections in Chapter 19 as follows:

**REMOVE THESE SECTION(S)**

None

**INSERT THESE SECTION(S)**

19.005 through 19.160  
as located on pages 19-1 through 19-15  
(a total of 15 pages)

Said sections(s) are attached hereto and incorporated herein by reference. The purpose of these additions is to enact Lane Code provisions to assume authority for special district boundary changes as mandated by Senate Bill 417.

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect on January 2, 2008.

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
Chair, Board of County Commissioners

\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 11/27/07 Lane County

  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

Lane Code  
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## Chapter 19

### SPECIAL DISTRICT BOUNDARY CHANGES

#### 19.005 Intent and Purpose.

The intent and purpose of this chapter is to establish procedures related to boundary changes for special districts in Lane County pursuant to ORS Chapter 198 and Lane County Home Rule.

#### 19.010 Definitions.

For the purpose of considering district boundary changes, the following definitions apply:

Affected City. A city, city-county or cities, named in a petition, for which a boundary change is proposed or a city, city-county or cities, named in an order, for which a boundary change is proposed or ordered.

Affected County. Each county that contains or would contain any territory for which a formation or a change of organization is proposed or ordered or that contains all or any part of a district for which a change of organization is proposed or ordered.

Affected District. Each district named in an application that contains or would contain territory for which a formation or a change of organization is proposed or ordered.

Affected Territory. Territory described in an application. Affected territory also means an area within the urban growth boundary of a city that is otherwise eligible for annexation to that city and in which there exists an actual or alleged danger to public health.

Annexation. Includes the attachment or addition of territory to, or inclusion of territory in, an existing district.

Application. Materials as required by the applicable Application Submittal Requirements sections of this chapter that result in the initiation of a boundary change proceeding.

Cadastral Map. A map prepared by the assessor's office showing bearings and distances.

Change of Organization. The annexation or withdrawal of territory to or from a district, the merger or consolidation of districts or the dissolution of a district.

Consolidation. The uniting or joining of two (2) or more districts into a single new successor district.

County Board. The board of county commissioners.

County Clerk. The county clerk of the affected county.

Dissolution. Includes disincorporation, extinguishment or termination of the existence of a district and the cessation of all its corporate powers, except for the purpose of winding up the affairs of the district.

Elector. Individuals registered to vote at an address located within the affected territory.

Filing Agency. The county board, district board, city council or other public officer or agency designated by the principal Act to receive or take the first action on a petition for a boundary change.

Filing. Submittal of materials to initiate the boundary change process.

Formation. Incorporation, organization or creation of a district.

Inhabited Territory. Territory within which there reside twelve (12) or more persons who have been registered to vote within the affected territory for at least thirty (30) days prior to the date a proceeding is commenced.

Landowner or Owner of Land. Any person shown as the owner of land on the last assessment roll. If the person no longer holds the title to the property, then the terms mean any person entitled to be shown as owner of land on the next assessment roll, or, when land is subject to a recorded written agreement of sale, memorandum, or other notice of written agreement of sale, the terms mean any person shown in the agreement as purchaser to the exclusion of the seller. Landowner or owner of land includes any public agency owning land. Owner also means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll.

Legal Description. As defined in ORS 308.225(2). A legal description shall consist of a series of courses in which the first course shall start at a point of beginning. Each course shall be identified by bearings and distances and, when available, refer to deed lines, deed corners and other monuments, or, in lieu of bearings and distances, be identified by reference to:

- (1) Township, range, section, or section subdivision lines of the U.S. Rectangular survey system;
- (2) Survey centerline or right-of-way lines of public roads, streets, or highways;
- (3) Ordinary high water or ordinary low water of tidal lands;
- (4) Right-of-way lines of railroads;
- (5) Any line identified on the plat of any recorded subdivision defined in ORS 92.010;
- (6) Donation land claims; or
- (7) Line of ordinary high water and line of ordinary low water of rivers and streams, as defined in ORS 274.005, or the thread of rivers and streams.

Legal Representative.

- (1) An officer of a corporation duly authorized, by the bylaws or a resolution of the board of directors of the incorporation, to sign for and on behalf of the corporation; and
- (2) A guardian, executor, administrator or other person holding property in the trust capacity under appointment of court, when authorized by an order of court, which order may be made without notice.

Merger. The extinguishment, termination and cessation of the existence of one or more districts by uniting with and being absorbed into another district.

Notice. Includes an ordinance, resolution, order or other similar matter providing notice which ORS 198.705 to 198.955 authorize or require to be published, posted or mailed.

Petition. Refers to a written request for action on a proceeding authorized by ORS Chapter 198.

Principal Act. The law, other than ORS 198.510 to 198.600, applicable to a district.

Proceeding. A proceeding for formation or change of organization to consider a boundary change pursuant to ORS 198.705 to 198.955.

Special District. Any of the districts in ORS Chapter 198, also listed in LC 19.160 Special Districts.

Uninhabited Territory. Territory within which there reside less than twelve (12) electors who were residents within the territory thirty (30) days prior to the date a proceeding is commenced.

Withdrawal. Includes the detachment, disconnection, or exclusion of territory from an existing city or district.

## INITIATING METHODS

### 19.020 Formation.

A request for the formation of a new district may be initiated as follows:

- (1) Order of the affected county board setting forth:
  - (a) The intention of the county board to imitate the formation of a district and citing the principal Act.
  - (b) The name and boundaries of the proposed district.
  - (c) The date, time and place of a public hearing on the proposal.
- (2) Petition signed by not less than:
  - (a) Fifteen (15) percent of the electors or 100 electors, whichever is the greater, registered in the affected territory; or
  - (b) Fifteen (15) owners of land or the owners of ten (10) percent of the acreage, whichever is the greater number of signers, within the affected territory.

### 19.021 Annexation.

A request to annexation territory to a district may be initiated as follows:

- (1) Resolution of the affected county board, affected district board, or any other public agency if authorized by the principal Act.
- (2) Petition signed by not less than:
  - (a) Fifteen (15) percent of the electors or 100 electors, whichever is the lesser, registered in the area proposed to be annexed; or
  - (b) Fifteen (15) owners of land or the owners of ten (10) percent of the acreage, whichever is the greater number of signers, within the area proposed to be annexed.
- (3) Petition signed by all of the owners of all land in the affected territory or signed by a majority of the electors registered in the affected territory and by the owners of more than half of the land area in the affected territory.
- (4) Petition signed by the owner of a parcel of land to annex that land to a district as authorized by ORS 198.857(2).

### 19.022 Withdrawal.

A request to withdraw territory from a district may be initiated as follows:

- (1) Resolution of the affected county board, affected district board, or any other public agency if authorized by the principal Act.
- (2) Petition signed by not less than:
  - (a) Fifteen (15) percent of the electors or 100 electors, whichever is the lesser, registered in the area proposed to be withdrawn; or
  - (b) Fifteen (15) owners of land or the owners of ten (10) percent of the acreage, whichever is the greater number of signers, within the area proposed to be withdrawn.

### 19.023 Dissolution of Active District.

The dissolution of an active district may be initiated as follows:

- (1) Resolution of the affected county board, affected district board, or any other public agency if authorized by the principal Act.
- (2) Petition signed by not less than:
  - (a) Fifteen (15) percent of the electors registered within the district; or
  - (b) Owners of fifteen (15) percent of the acreage within the district.

**19.024 Dissolution of Inactive District.**

The dissolution of an inactive district may be initiated as follows:

- (1) Resolution of the county board; or
- (2) By county board action if notified by the Secretary of State or the Department of Revenue that a district failed to file reports required by ORS 294.555 or 297.405 to 297.555 for three (3) consecutive years.

**19.025 Merger or Consolidation.**

The merger or consolidation of two (2) or more districts may be initiated as follows:

- (1) By duplicate petitions filed by the electors of two (2) or more districts with the boards of districts; or
- (2) By duplicate petitions filed by the electors of two (2) or more districts with the boards of a districts and by the electors of a city with the city governing body; or
- (3) By duplicate petitions filed the electors of a single district with the district board and by the electors of a city with the city governing body; or
- (4) By each district board adopting a resolution; or
- (5) If the merger or consolidation proposes to join a city to the successor district, the city governing body must also adopt a resolution approving it.

## **FORMATION**

**19.030 General Process.**

The process for formation of a district will include the following:

- (1) A required pre-application meeting with county staff will be held. A pre-application fee will be due at the time of the pre-application meeting.
- (2) A prospective petition will be developed by the applicants (refer to LC 19.040 Prospective Petition Requirements).
- (3) Once the prospective petition is approved by the county clerk, signature gathering may begin (refer to LC 19.040 Prospective Petition Requirements).
- (4) Signed petition signature pages are submitted to the county clerk that will be verified by the county clerk or the county assessor, whichever is appropriate (refer to LC 19.045 Submittal of Required Signatures and Certification).
- (5) The application will be reviewed and determined if complete by the Director of the Land Management Division (refer to LC 19.055 Application Completeness Review).
- (6) Once the application is deemed complete, the county board will provide notice and hold hearings to determine if the district should be formed and set an election if required or requested (refer to LC 19.070 Public Hearings).

**19.035 Pre-application Meeting.**

A pre-application meeting is required and shall be held with county staff to discuss the formation process. County staff that may be involved in this meeting include county clerk, county assessor, county counsel, and Director of the Land Management Division. A pre-application fee will be required at the time of the meeting as required in Lane Manual.

**19.040 Prospective Petition Requirements.**

A prospective petition will include:

- (1) Statement that the petition is filed pursuant to ORS 198.705 to 198.955.
- (2) State the names of the affected districts and all affected counties.
- (3) Designated the principal Act of each affected district.
- (4) State the nature of the proposal.



- (5) State whether the territory subject to the petition is inhabited or uninhabited.
- (6) If the district board members are elected, state the number of members on the board.
- (7) Include a proposed permanent rate limit for operating taxes sufficient to support the services and functions described in the economic feasibility statement required by ORS 198.759.
  - (a) A tax rate limit need not be included if no tax revenues are necessary to support the services and functions described in the economic feasibility statement.
  - (b) The tax rate limit must be expressed in dollars per thousand dollars of assessed value.
  - (c) The tax rate must be calculated for the latest tax year for which the assessed value of the proposed district is available.
  - (d) A special district may have a tax rate limitation in the principal Act.
- (8) Set forth any proposed terms and conditions, if any, to which a proposed formation is to be subject.
- (9) Request that proceedings be taken for the formation process.
- (10) If any part of the territory subject to the proposed formation is within a city, must include a certified copy of a resolution of the governing body of the city approving the proposed formation.
- (11) A description of the boundaries of the territory proposed to be included in the district that includes:
  - (a) A legal description as defined in LC 19.010 Definitions in printed form and electronically in Microsoft Word or a compatible format, including evidence of preliminary review by the Department of Revenue (DOR);
  - (b) Cadastral maps as defined in LC 19.010 Definitions, with the boundary of the proposed district highlighted; and
  - (c) An electronic list of all applicable map and tax lot numbers, and associated assigned site addresses.
- (12) Chief petitioners may propose a name for the new district.
- (13) File an economic feasibility statement that forms the basis for the proposed permanent rate limit for operating taxes required by ORS 198.750(1)(g). The economic feasibility statement will contain:
  - (a) A description of the services and functions to be performed or provided by the proposed district;
  - (b) An analysis of the relationship between those services and function and other existing or needed government services; and
  - (c) A proposed first year line item operating budget and a projected third year line item operating budget for the new district that demonstrates its economic feasibility.
- (14) Designate chief petitioners including names and addresses, with signatures of the chief petitioners.

The text, cover, and signature sheets for a prospective petition must be approved in writing by the county elections official prior to the chief petitioners circulating the petition. Each petition sheet needs to include the following:

- (1) Printed name of person signing.
- (2) Signature of person.
- (3) Date of signing.
- (4) Place of residence, when signing as an elector.
- (5) Number of acres, when signing as a landowner.

(6) Include on the petition signature sheets opposite each signature, whether the signers of the petition are landowners within the district or electors registered in the district, or both.

(7) The petition signature circulators are required to certify that each person who signed the petition did so in the presence of the person circulating the petition.

(8) The following will be attached to each signature sheet:

(a) Filed perspective petition, excluding the list of map and tax lots, and

(b) Description of the boundaries of the territory proposed to be included in the district and shown on a general vicinity map of the proposed district.

Eligible electors are active registered voters as determined from the electronic list of map and tax lots, cadastral maps, and legal description required in LC 19.040(11) Prospective Petition/Cover and Signature Sheets. A petition for formation will be signed as described in LC 19.020 Initiating Requirements - Formations.

#### **19.045 Submittal of Required Signatures and Certification.**

(1) The signatures will not be accepted for filing unless a bond, cash deposit, or other security deposit in the amount of \$100.00 per precinct accompanies the petition signature sheets. The total amount will be determined once the specific boundaries of the proposed district are established. The cash deposit will be accompanied by a form prescribed by the Secretary of State and will include the names and addresses of all person and organizations providing any part of the cash deposit and the amount provided by each, and a statement signed by the chief petitioners that if the cost of the attempted formation exceeds the deposit, the chief petitioners will pay the amount of the excess costs.

(2) Each person circulating the petition shall certify on each petition signature sheet that every person who signed the petition did so in the presence of the person circulating the petition. (Note: This must include the signature of the circulator and the date signed, which cannot be prior to any dates signed by the registered voters on the petition sheet.)

(3) A petition will not be accepted for filing (validation of signatures) unless the signatures have been secured within six months of the date on which the first signature on the petition was affixed.

(4) When a petition for formation includes a proposed rate limit for operating taxes, the petition shall be filed not later than 180 days before the date of the next primary election or general election at which the petition for formation will be voted on.

(5) The petition is not considered filed until the required signatures are verified, within 10 days after the date a petition is offered for the filing. The county clerk will determine the requisite number of qualified signers:

(a) If registered votes, the county clerk will examine the petition and certify the qualified signers.

(b) If landowners, the county assessor will examine the petition and determine if signed by the required number of qualified signers.

(6) Petitions that are required to be filed with the county board shall be filed with the county clerk of the principal county.

(7) If the required signatures have not been met, the county clerk will notify the chief petitioners and may return the petition to the petitioners.

(8) If the required signatures have been met, the county clerk (if registered voters) or assessor (if landowners) will attach a certification to that affect that is filed with the Director of the Land Management Division for completeness review and determination. A public hearing must be held not less than 30 days or more than 50 days after the date the petition is filed.

**19.050 Application Submittal Requirements.**

An application for a district formation must contain the information described in LC 19.040 Prospective Petition Requirements and LC 19.045 Submittal of Required Signatures and Certification. In addition, the following is required:

- (1) A fee as established by the county board to recover the costs of processing the application as established in Lane Manual.
- (2) If requested by the Director of the Land Management Division, additional information needed by the county board to adequately evaluate the proposed formation.

**19.055 Application Completeness Review.**

Prior to determining if an application is sufficiently filed, the Director of the Land Management Division will determine:

- (1) If the proposed formation is a land use action;
- (2) That all application submittal requirements are met;
- (3) If the legal description accurately describes the boundaries of the proposed district as it is shown on the cadastral maps;
- (4) That the list of tax lots is accurate and complete; and
- (5) If additional information is needed, county will communicate what is needed to the chief petitioners.

Once the application is deemed complete, the Director will notify the chief petitioners of the determination.

**19.060 Decision Criteria.**

The county board will consider the following criteria when evaluating the proposed formation.

- (1) The land is not within a district formed under the same principal Act;
- (2) The land included in the proposed district can reasonably be served by the facilities or services provided by the district;
- (3) The proposed formation meets the criteria in ORS 199.462; and
- (4) The proposed formation is consistent with the Lane County Rural Comprehensive Plan, the Eugene-Springfield Metropolitan Area General Plan, other applicable comprehensive plans, and adopted land use regulations or agreements as required for the county board to adequately evaluate the proposed boundary change.

**19.065 Notice of Public Hearings.**

Notice for the public hearing will be given by the Director of the Land Management Division as follows:

- (1) Published by two insertions in one or more newspapers of general circulation, the first publication at least fifteen (15) days before the hearing and the last publication at least five (5) days prior to the hearing; and
- (2) Posted on or near the doors of the meeting room of the county board, any official public bulletin board, and one other public place for not less than five (5) successive days not less than fifteen (15) days prior to the date of the hearing.
- (3) The notice must state:
  - (a) The purpose for which the district is to be formed.
  - (b) The name and boundaries of the proposed district.
  - (c) The time and place of the hearing on the proposed district.
  - (d) That all interested persons may appear and be heard.
- (4) A final hearing date must be set twenty (20) to fifty (50) days from the date of the formation order, using the same notice requirements in this section.

**19.070 Public Hearing.**

At the hearing, the county board may:

- (1) Approve as submitted, modify and approve, or deny the application.
  - (a) Property not included in the proposed district that will benefit from inclusion in the proposed district may be included, subject to the notice provisions in ORS 198.805(2).
  - (b) Property included in the proposed district that will not benefit and is uninhabited, may be excluded from the affected territory.
- (2) The hearing may be continued up to four (4) weeks without additional notice. At the end of the four (4) weeks, a decision to accept or reject the proposed formation or to give notice of further hearings must be made.

After the hearing, the county board shall:

- (1) Make a determination to approve or deny the application and adopt findings consistent with ORS 199.462 and the criteria in LC 19.060 Decision Criteria.
- (2) If required, order that an election will be held and set the date.
- (3) If the county board approves the proposed formation, the county will enter an order so declaring that sets forth the name of the district and the boundaries as determined by the board. The order will fix a place and a time, not less than twenty (20) nor more than fifty (50) days after the date of the order, for a final hearing on the proposed formation. The order will declare that if written requests for an election are not filed by the final hearing date, the board, at the final hearing, will enter its order creating the district. Notice of the final hearing will be given as provided in LC 19.065 Notice of Public Hearings.
  - (a) An election may not be held unless written requests for an election are filed at or before the hearing by not less than fifteen (15) percent of the electors or 100 electors, whichever is the lesser number, registered in the proposed district.
- (4) If no election is requested, the county board will enter an order creating the district.
- (5) If an election is requested, the county board will order that an election be held to submit to the electors the question of forming the district. The election will be conducted as required by ORS Chapters 198, 250, 255, and the principal Act.
- (6) After the results of the election are certified to the county board, an order declaring the outcome of the election to form or not form the district will be issued. The order will be entered within 30 days after the date of the election. The order will state the name and purpose of the district, describe its boundaries, and declare the district formed. The order will also canvass the votes for members of the district board.

**ANNEXATION AND WITHDRAWAL****19.075 Pre-application Meeting.**

A pre-application meeting is required and shall be held with county staff to discuss the annexation and/or withdrawal process. County staff that may be involved in this meeting include county clerk, county assessor, county counsel, and Director of the Land Management Division. A pre-application fee will be required at the time of the meeting as required in Lane Manual.

**19.080 Petition and Signatures.**

When a proceeding to annex or withdraw territory is initiated by petition, the petition shall:

- (1) Include signatures collected on a form approved by the county clerk.
- (2) Be filed with the county clerk. The county clerk will accept or reject the petition submitted by electors. If the petition is submitted by property owners, the

petition will be reviewed by the county assessor. The county assessor will accept or reject the petition submitted by property owners.

(3) If the petitions are sufficient and the application is deemed complete, the county clerk will forward the petition to the county board.

### **19.085 Application Submittal Requirements.**

An application under this section shall contain the following information:

- (1) A fee as established by the county board to recover the costs of processing the application as established in Lane Manual.
- (2) Vicinity map identifying the affected territory and the existing district boundaries.
- (3) Assessor's maps, to scale, of the affected territory. The assessor's maps shall have identified those parcels for which written consents have been acquired and adjacent right-of-way to be annexed or withdrawn, if any.
- (4) Petitions completed and signed by all consenting property owners or electors within the affected territory. Signatures must be collected within six (6) months of the date on which the first signature was obtained.
- (5) Legal description of the affected territory. One (1) printed copy of the description shall be provided, along with the description provided in an electronic form, in Microsoft Word.
- (6) Specific information on each tax lot within the affected territory shall include:
  - (a) Current assessed valuation shown on latest available county assessor's tax rolls.
  - (b) Acreage of all property in the affected territory.
  - (c) Map and tax lot number of all property in the affected territory.
- (7) Addresses of all dwelling units and businesses located within the affected territory and names of all residents and whether they are registered voters.
- (8) The following information shall be supplied in the application:
  - (a) Existing land uses.
  - (b) Existing zoning.
  - (c) Existing improvements (public or private): water; streets; sanitary sewer; storm drainage; parks; fire protection (both structural and timberland); electrical
  - (d) A list of special districts serving the affected territory: domestic water supply; rural fire protection; park and recreation; school; water control; and other if not named here.
  - (f) Written statement indicating compliance with the criteria contained in LC 19.095 Decision Criteria.
- (9) Property owners' (and agents') names, addresses and map and tax lot numbers within the affected territory, typed on mailing labels.
- (10) Documentation of approval of the boundary change by the board of the affected district. The district shall also indicate if the affected territory can be served.
- (11) If any part of the affected territory is within a city, a certified copy of the resolution of governing body of the city approving the petition.
- (12) A security deposit referenced in ORS 198.785, if required.
- (13) If requested by the Director of the Land Management Division, additional information needed by the county board to adequately evaluate the proposed boundary change.

### **19.090 Application Completeness Review.**

Prior to determining if an application is sufficiently filed, the Director of the Land

Management Division will determine:

- (1) If the proposed boundary change is a land use action;
- (2) That all application submittal requirements are met;
- (3) If the legal description accurately describes the boundaries of the proposed boundary change as it is shown on the cadastral maps;
- (4) That the list of tax lots is accurate and complete; and
- (5) If additional information is needed, county will communicate what is needed to the applicant.

Once the application is deemed complete, the Director will notify the applicant of the determination.

#### **19.095 Decision Criteria.**

The county board will consider the following criteria when evaluating the proposed boundary change.

- (1) The land is not within a district formed under the same principal Act;
- (2) The affected territory can reasonably be served or continued to be served by the facilities or services provided by the district;
- (3) No land included in the affected territory will be removed if the land is benefited.
- (4) The boundary change is consistent with the Lane County Rural Comprehensive Plan, other applicable comprehensive plans, and other adopted land use regulations or agreements as required for the county board to adequately evaluate the proposed boundary change.

#### **19.100 Notice of Public Hearings.**

Notice for the public hearings will be given by the Director of the Land Management Division as follows:

- (1) Published by two (2) insertions in one or more newspapers of general circulation within the affected district. Published notice shall begin at least fifteen (15) days prior to the hearing date and the last publication shall be made at least five (5) days prior to the hearing date.
- (2) Notice shall be posted in three (3) public places. The notice shall be posted for not less than 5 successive days, starting not less than fifteen (15) days before the hearing date.
- (3) The notice must state:
  - (a) The purpose for the application.
  - (b) The name and boundaries of the affected district.
  - (c) The time and place of the hearing on the application.
  - (d) That all interested persons may appear and be heard.

#### **19.105 Public Hearings.**

A public hearing must be held not less than thirty (30) days nor more than fifty (50) days after the date the application is deemed complete. At the hearing, the county board may:

- (1) Approve as submitted, modify and approve, or deny the application.
  - (a) Property not included in the affected territory, as submitted, that will benefit from inclusion in the affected territory may be included, subject to the notice provisions in ORS 198.805(2).
  - (b) Property included in the affected territory, as submitted, that will not benefit and is uninhabited, may be excluded from the affected territory.

After the hearing, the county board shall:

- (1) By board order make a determination and adopt findings in support.
- (2) If required, order that an election be held and set the date.
- (3) If the county board approves the application, the county will enter an order so declaring that sets forth the name of the affected district and the boundaries as determined by the board. The order will fix a place and a time, not less than twenty (20) nor more than fifty (50) days after the date of the order, for a final hearing on the application. The order will declare that if written requests for an election are not filed by the final hearing date, the board, at the final hearing, will enter its order approving the application. Notice of the final hearing will be given as provided in LC 19.100 Notice of Public Hearings.
  - (a) An election may not be held unless written requests for an election are filed at or before the final hearing by not less than fifteen (15) percent of the electors or 100 electors, whichever is the lesser number, registered in the affected territory.
- (4) If no election is requested, the county board will enter an order approving the application.
- (5) If an election is requested, the county board will order that an election be held to submit to the electors the question of forming the district. The election will be conducted as required by ORS Chapters 198, 250, 255, and the principal Act.
- (6) The results of the election will be certified to the county board, which will by board order declare the outcome of the election.
- (7) No election is required under the following conditions:
  - (a) Petition is signed by all the owners of land in the affected territory, or
  - (b) Petition is signed by a majority of the electors registered in the affected territory and by the owners of more than half of the land area; or
  - (c) Petition is signed by the owner of a parcel of land consenting to the annexation of that land.

## **DISSOLUTION OF ACTIVE DISTRICT**

### **19.110 Pre-application Meeting.**

A pre-application meeting is required and shall be held with county staff to discuss the annexation and/or withdrawal process. County staff that may be involved in this meeting include county clerk, county assessor, county counsel, and Director of the Land Management Division. A pre-application fee will be required at the time of the meeting as required in Lane Manual.

### **19.115 Petition and Signatures.**

When a proceeding is initiated by petition, the chief petitioners shall:

- (1) File a prospective petition with the county clerk.
- (2) Collect signatures on an approved form, within six (6) months from when the first signature was obtained.
- (3) File the petition with the county clerk. The county clerk will accept or reject the petition within ten (10) days from receipt.
- (4) If the petitions are sufficient and the application is deemed complete, the county clerk will forward the petition to the Director of the Land Management Division and the secretary of the affected district or with any other district officer who can with reasonable diligence be located.

### **19.120 Responsibility of the District Board and Election.**

- (1) When dissolution proceedings have been initiated, the district board shall:
  - (a) Make findings of fact and plan of dissolution described in LC 19.125 Application Requirements;

(b) Call an election within the district boundary, which shall be held on the next available election date in ORS 255.345 for which the filing deadline can be met. The question submitted to the electors is whether the district shall be dissolved, its indebtedness liquidated and its assets disposed of in accordance with the proposed dissolution and liquidation plan.

(c) No election shall be held until the plan for liquidation contains a plan for payment of the nonassenting holders of debt.

(d) After the election, declare the district dissolved if electors so voted that the district be dissolved and proceed with implementing the liquidation plan.

(e) After the election, declare that the dissolution and cause the election results to be a part of the record if electors so voted to reject the proposed dissolution.

(f) Cause the election requests to be certified to the county board.

(2) A district order approving the dissolution shall be filed with the Department of Revenue, Secretary of State, county assessor, county clerk, and the chief petitioner.

### **19.125 Application Requirements.**

An application for dissolution of an active district shall contain the following information and other information as needed for the county board to adequately evaluate the application:

(1) A fee as established by the county board to recover the costs of processing the application as established in Lane Manual.

(2) Vicinity map identifying the area of the district proposed for dissolution.

(3) Assessor's maps of the proposed dissolution area. The assessor's maps shall have identified those parcels for which signatures have been acquired.

(4) Legal description of the affected territory. One printed copy of the description shall be provided, along with the description on a computer disk or provided in some other electronic form, in Microsoft Word or a compatible format.

(5) Findings of fact prepared by the district board that includes the following. The plan of dissolution and liquidation shall be filed with the county clerk not later than thirty (30) days after the initiation of the dissolution proceeding.

(a) The amount of each outstanding bond, coupon and other indebtedness, with a general description of the indebtedness and the name of the holder and owner of each, if known;

(b) A description of each parcel of real property and interest in real property and, if the property was acquired for delinquent taxes or assessments, the amount of such taxes and assessments on each parcel of property;

(c) Uncollected taxes, assessments and charges levied by the district and the amount upon each lot or tract of land;

(d) A description of the personal property and of all other assets of the district; and

(e) The estimated cost of dissolution.

(6) Plan of dissolution and liquidation prepared by the district board that may include the provisions of transfer and conveyance of all assets of the district to any other district or, in the case of a county service district, to the county in which the district is located, which has the authority to and agrees to assume the outstanding indebtedness of the dissolving district, if any, and to continue to furnish similar services to the inhabitants of the district.

### **19.130 Responsibility of the County Board when no Election is Required.**

An election shall not be required and the county board shall declare the district dissolved, if the county board finds that:



- (1) Dissolution is in the interest of the people of the county; and
- (2) The territory within the affected district is uninhabited;
- (3) The district has failed regularly to elect district board members in accordance with the principal Act; or
- (4) For a county service district, dissolution is required due to the absence of public need for continuation of the district.
- (5) A county order approving the dissolution shall be filed with the Department of Revenue, Secretary of State, county assessor, county clerk, the affected district, and the chief petitioner.

### **DISSOLUTION OF INACTIVE DISTRICT**

#### **19.135 Responsibility of the County Board.**

The county board shall:

- (1) Within five (5) days after initiation of the dissolution by a resolution of the county board, file a copy with the district's secretary, if any, or with any other district officer who can with reasonable diligence be located.
- (2) Within thirty (30) days after initiation of the dissolution after receiving the notice in LC 19.024(2) Initiating Methods, initiate proceedings to dissolve the district. The county board may appoint three residents of the district to assist in locating the assets, debts, and records of the district.
- (3) Within sixty (60) days after initiation of the dissolution, must prepare a financial statement for the district and file it with the county clerk.

#### **19.140 Notice of Public Hearing.**

A public hearing date must be set twenty-one (21) to thirty (30) days from the date the financial statement for the district is filed, required in LC 19.135(3) Responsibility of the County Board.

#### **19.145 Public Hearing.**

After the hearing, the county board shall:

- (1) Determine whether the district is operating as an active district and will issue an order as appropriate.
- (2) Become the board of trustees for the dissolved district.

### **MERGER/CONSOLIDATION**

#### **19.150 Responsibility of the District Boards and Election.**

As required by ORS 198.885 to 198.915, the governing boards of the affected entities review, analysis, and cause an election, if required, to occur on the question of merging or consolidating.

### **BOARD ORDERS**

#### **19.155 Filing Board Orders.**

Within ten (10) days after a document referred to below is entered, adopted or executed, the board will file copies of the order with the Department of Revenue, the Secretary of State, the county clerk, and the county assessor of each affected county.

- (1) An order of formation under ORS 198.810 to 198.840.
- (2) An order of annexation under ORS 198.810 to 198.840.
- (3) An order of withdrawal under ORS 198.875.

- (4) A resolution of merger under ORS 198.910.
- (5) A resolution of consolidation under ORS 198.910.
- (6) The statement executed by the board of trustees of a dissolving district under ORS 198.945.

The documents referenced above will include:

- (1) Findings adopted by the board, if required,
- (2) Legal description, if required, and
- (3) Map showing the general area of the affected territory and cadastral maps with the affected territory highlighted as described in the legal description.

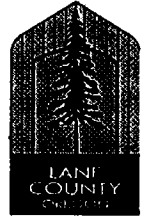
### SPECIAL DISTRICTS

#### 19.160 Special Districts.

	<u>Type of district</u>	<u>Enabling Oregon Statute(s)</u>
(1)	People's Utility District	ORS 261
(2)	Domestic Water Supply	ORS 264
(3)	Cemetery Maintenance District	ORS 265
(4)	Park and Recreation District	ORS 266
(5)	Mass Transit District	ORS 267.010 to 267.390
(6)	Transportation District	ORS 267.510 to 267.650
(7)	Metropolitan Service District	ORS 268
(8)	Translator District	ORS 354.605 to 354.715
(9)	Library District	ORS 357.216 to 357.286
(10)	County Road District	ORS 371.055 to 371.110
(11)	Special Road District	ORS 371.305 to 371.360
(12)	Road Assessment District	ORS 371.405 to 371.535
(13)	Highway Lighting District	ORS 372
(14)	Health District	ORS 440.305 to 440.410
(15)	9-1-1 Communications District	ORS 401.807 to 401.874
(16)	Sanitary District	ORS 450.005 to 450.245
(17)	Human Services District	ORS 450.010
(18)	Sanitary Authority or Water Supply Authority	ORS 450.600 to 450.989
(19)	County Service District	ORS 451
(20)	Vector Control District	ORS 452.020 to 452.170
(21)	Rural Fire Protection District	ORS 478
(22)	Geothermal Heating District	ORS 523
(23)	Irrigation District	ORS 545
(24)	Drainage District	ORS 547
(25)	Diking District	ORS 551
(26)	Water Improvement District	ORS 552
(27)	Water Control District	ORS 553
(28)	Corporation for Irrigation, Drainage, Water Supply or Flood Control	ORS 554
(29)	Weather Modification District	ORS 558.200 to 558.440
(30)	Soil and Water Conservation District	ORS 568.210 to 568.808 and ORS 568.900 to 568.933
(31)	Port District	ORS 777.005 to 777.725 and ORS 777.915 to 777.953
(32)	Port of Portland	ORS 778.010

No legislative format is provided as Lane Code Chapter 19 is all new text.

## MEMORANDUM



Date: November 20, 2007  
 To: Lane County Board of Commissioners  
 From: Stephanie Schulz, Planner, Land Management Division  
 RE: ORDINANCE NO. \_\_\_\_-07 / IN THE MATTER OF ADOPTING PROVISIONS AND FEES TO ASSUME AUTHORITY UNDER SENATE BILL 417 FOR SPECIAL DISTRICT BOUNDARY CHANGES AS MANDATED BY SENATE BILL 417 AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

=====

The Lane County Planning Commission considered the following policy issues in developing a recommendation to the Board regarding assumption of special district boundary change responsibilities as mandated by Senate Bill 417.

**What should application fees be?**

- **Should applications for special district boundary changes have fees that provide full cost recovery?**
- **Should fees for special district formation be the same as fees for annexation of property to a special district?**

**Response:** The LCPC supports full cost recovery for all applications. The fee structure presented (SUP, Notice, Pre-app) could be evaluated after gaining experience with the type and number of applications processed annually. The LCPC did voice a concern about having the same fee apply to a single property owner requesting annexation to a district for fire protection as the fee for a county-wide special service district. They suggest batch processing individual property applications (e.g., fire district annexations) as a way to consolidate costs and increase efficiencies in application processing.

**Should all applications be required to have a public hearing or should there be an expedited process for some applications? If so, what criteria would be used to determine which of the proposals gets an expedited process?**

**Response:** The LCPC majority supported hearings on all applications. However, concern was expressed by some that having a hearing for single property annexations to a fire district might be excessive. The expedited process was not supported. However, the LCPC did support batch processing of individual applications with a hearing. They did not address criteria for an expedited process.

**Should Lane County enter into an IGA with the cities of Eugene and Springfield to delegate to them authority to perform the special service district changes (Metro Wastewater SD and Willamalane Parks SD) that need to occur when the city annexes new territory? (The Lane County Boundary Commission was able to do the annexations and special district changes concurrently.) Are there any concerns that should be addressed within the IGA with the cities (e. g. roads, etc.)?**

**Response:** The LCPC was split on an IGA with Eugene and Springfield as a tool to simplify and expedite the process. The testimony at the hearing came primarily from River Road / Santa Clara residents, with their long history of annexation into the city of Eugene. The LCPC unanimously supports transparency in process with broad public notice and public hearings. The LCPC agreed that an IGA could be a good outcome of discussion with the cities of Eugene and Springfield, but should not be the starting point of the discussion. They also agreed that access to an efficient system for boundary changes is important to maintain and that access should not be limited because of unreasonably high fees or a burdensome and lengthy process.

**Special district boundary changes may result in a land use decision. Should a separate decision process be used for those applications that involve a land use decision or should the land use decision be made part of the boundary change process? (Some applications might involve Comprehensive Plan provisions or land use regulations.)**

**Response:** The LCPC was not unanimous in their view on whether all applications would be land use decisions at the time of boundary change. They were in agreement that the process should have public notice and public hearings for opportunity for neighbors to comment. They recommend the Board adopt the initial fee structure as proposed, and at the beginning, use the Statute (ORS 198) as the criteria for applications received by the County, and have staff continue to refine the DRAFT Code language attached to the Ordinance.



Date: November 20, 2007  
To: Lane County Planning Commission  
From: Stephanie Schulz, Planner, Land Management Division  
RE: ORDINANCE NO. \_\_\_\_ -07 / IN THE MATTER OF ADOPTING  
PROVISIONS AND FEES TO ASSUME AUTHORITY UNDER SENATE  
BILL 417 FOR SPECIAL DISTRICT BOUNDARY CHANGES AS  
MANDATED BY SENATE BILL 417 AND ADOPTING SAVINGS AND  
SEVERABILITY CLAUSES.

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Written input to the LCPC Hearing public record, which closed November 20, 2007.

- Exhibit 1: Dale Ledyard, McKenzie Fire District
- Exhibit 2: City of Eugene Principal Planner Kurt Yeiter Memo to Eugene PC
- Exhibit 3: Synopsis of Other City Annexation Procedures (Other Oregon Cities)
- Exhibit 4: SB 417 Floor Speech testimony from Representative Chris Edwards
- Exhibit 5: Rob Handy, River Road/Santa Clara Citizen providing followup written input for the LCPC from his oral testimony given at LCPC on 11-06-07.
- Exhibit 6: Kate Perle, Wendover Street, Eugene
- Exhibit 7: Goal One Coalition, Laurie Siegel comments on DRAFT Code

Special District Boundaries  
JRD -07  
Date 10-30-07  
Exhibit No. 1

**SCHULZ Stephanie E**

**From:** Dale Ledyard [dledyard@mckenziefire.com]

**Sent:** Tuesday, October 30, 2007 2:14 PM

**To:** SCHULZ Stephanie E

**Subject:** Boundary Commission

I am writing about the concerns of the Fire District in regards to issues about boundaries and annexations of property into the fire district. In the past, the fire district has referred people to the lane County Boundary Commission i.e. Paula Taylor when questions arose about annexing their property into the fire district. Will the process for annexation be the same once the County takes over the duties? Where do we direct people who have questions about property boundaries especially the question about whether the property is within the fire district boundaries? I would think that most special districts within Lane County would have the same questions. As far I as I know, most of us directed citizens to the Boundary Commission, if we could not answer questions. Dale Ledyard, McKenzie Fire & Rescue

11/19/2007

ORD

Date

Exhibit No.

*Special District Boundaries*

*-07*

*11-16-07*

*2*



Planning & Development  
Planning

City of Eugene  
99 West 10<sup>th</sup> Avenue  
Eugene, Oregon 97401  
(541) 682-5377  
(541) 682-5572 FAX  
[www.eugene-or.gov](http://www.eugene-or.gov)

# MEMORANDUM

**Date:** October 22, 2007  
**To:** Eugene Planning Commission  
**From:** Kurt Yeiter, Principal Planner  
**Subject:** Annexations under Boundary Commission

This memorandum is prepared in response to a Planning Commission request on October 16, 2007, for more information regarding the dissolution of the Lane County Local Government Boundary Commission.

## BACKGROUND

The Lane County Local Government Boundary Commission is a state agency established in 1969 to review certain types of local government boundary changes. This commission is currently the only boundary commission remaining in Oregon. Its seven members, who are residents of Lane County, are appointed by the Governor for four-year terms. The Governor attempts to make appointments so geographic sections of Lane County are represented on the commission. The commission is currently staffed through the Lane Council of Governments (LCOG).

The purposes of the commission are to simplify the local government system and guide urban expansion. Boundary changes include minor boundary changes, such as annexations to or withdrawals from cities or districts, or transfers of territory from one city to another city, or one district to another district. Major boundary changes include mergers, consolidations, formations, and dissolutions of cities or districts.

Nearly all decisions affecting the City of Eugene in recent years were minor boundary changes (i.e., individual properties annexing to the city) and a few extraterritorial extensions of water or sewer lines outside the city limits. In all cases, pursuant to their standards of review, the Boundary Commission used adopted Metro Plan policies as a basis of their decisions inside the Eugene-Springfield Metro Plan area.

Metro Plan direction regarding urbanization can be summarized by the following two Fundamental Principles:

- The *Metro Plan* and most of its elements are oriented to and require that urban development occur in a compact configuration within the metropolitan UGB.
- The *Metro Plan* is based on the premise that Eugene and Springfield, the two existing



cities, are the logical providers of services accommodating urban levels of development within the UGB.

More information about the Boundary Commission is attached.

### **REASONS BEHIND THE DISSOLUTION**

The Boundary Commission provides an impartial forum for resolution of local jurisdictional questions. For minor boundary changes inside the Eugene-Springfield Urban Growth Boundary, the Commission's options are limited by their standards of review.

The Boundary Commission duties for basic annexations are rather narrow. The criteria focus on the availability of urban services and consistency with annexation policies adopted in the Metro Plan. In addition, annexation applications rarely involve future development proposals. For residents who want to discuss more comprehensive issues, such as a re-evaluation of adopted annexation policies or future development strategies for specific neighborhoods, the Boundary Commission may have provided a frustrating forum for airing those views because the issues are outside the Commission's purview.

As the sole boundary commission remaining in this state, Lane County's was a frequent topic during legislative sessions. The reasons for abolishing the Boundary Commission that city staff and legislators regularly heard include:

- The commissioners are not locally elected;
- The process may be slower or more expensive;
- There is little flexibility in their decisions due to their criteria;
- They are strict defenders of the adopted comprehensive plans;
- They are opposed by special districts because the annexation process usually results in fewer properties inside special districts' boundaries; and
- The rest of the state gets by without a boundary commission.

### **STREETS**

The inclusion of street segments with the annexation of private property has been especially contentious in the River Road and Santa Clara neighborhoods. Two memoranda are attached to provide background around the City's practices. For some residents, street annexations exacerbate several fears:

1. That the lands inside the UGB are increasingly tied to the city and city services;
2. That the city will modify the streets to current city standards, thereby changing the neighborhood character, and assess residents for the costs; and
3. That the streets will connect to surround "islands of unincorporated properties" that can be more easily annexed by the city against the wishes of the property owners.

There may be further explanation provided by testimony submitted in response to the City's proposed annexation legislation. Staff will be available to address those if needed.

### **Attachments:**

- A: Synopsis Lane County Local Government Boundary Commission
- B: Memorandum about street annexations, dated March 24, 2006
- C: Memorandum about street annexations, dated September 14, 2006

**SYNOPSIS**  
**LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION**

(OREGON REVISED STATUTES 199.410 TO 199.540)

The boundary commission is a state agency which reviews certain types of local government boundary changes. There is currently one boundary commission in Oregon—the Lane County Local Government Boundary Commission located in Lane County. The boundary commission was established by state law in 1969.

**Purposes of Commission**

The purposes of the commission are to simplify the local government system and guide urban expansion by:

1. Guiding the creation and growth of cities and special districts.
2. Preventing illogical extensions of local government boundaries.
3. Assuring adequate quantity and quality of public services and the financial integrity of each unit of local government.

**Commissioner Membership**

Seven members, who are residents of Lane County, are appointed by the Governor for four-year terms. Local elected or appointed officials cannot be members of the boundary commission. No more than two can be principally engaged in real estate and no more than two in the same kind of business, occupation, trade or profession. The Governor attempts to make appointments so geographic sections of Lane County are represented on the commission.

**Jurisdiction Over Certain Types of Units**

The commission has jurisdiction over the boundaries of cities; domestic water districts (ORS 264); rural fire protection districts (ORS 478); sanitary districts (ORS 450.005 to 450.245); sanitary authorities, water authorities or joint water and sewer authorities (ORS 450.600 to 450.989); park and recreation districts (ORS 266); highway lighting districts (ORS 372); vector control districts (ORS 452.020 to 452.170); county service districts (ORS 451); metropolitan service districts (ORS 268); geothermal heating districts (ORS 523); corporations organized for the purpose of supplying water for domestic use (ORS 554); library districts (ORS 357.216 to 357.286); and special road districts (ORS 371.305 to 371.360).

The commission also has jurisdiction over the formation of new private water and wastewater companies or community systems and the extension of services outside their boundaries.

The boundary commission does not have authority over all local boundary changes. For example, school districts, port districts, people's utility districts (except for supplying water), and hospital districts are not subject to the boundary commission law.

## **Two Kinds of Boundary Changes**

The law distinguishes two kinds of boundary changes—major and minor.

1. Major boundary changes are mergers, consolidations, formations and dissolutions of cities and districts.
2. Minor boundary changes are annexations to or withdrawals from existing cities or districts; transfers are also defined as minor boundary changes.

## **Other Reviews**

The commission must also review a district proposal to assume a new function and review the extension of water or wastewater service (including individual connections) outside the boundaries of cities, special service districts, or private water companies.

## **Procedural Requirements for Boundary Changes\***

1. The boundary commission receives a voter or property owner petition, a resolution from the governing body, initiating a proposal or the boundary commission initiates a boundary change.
2. Staff undertakes a study.
3. Boundary commission conducts one or more public hearings.
4. Commission makes a decision—to approve the proposal as submitted; modify the proposal to include or exclude property; or deny the proposal.
5. Enter a final order stating findings and reasons for the decision.
6. File the final order with the Secretary of State, county recorder, county assessor, city or district recorder, and Department of Revenue.
7. Expedited procedure—an optional, simplified, shortened procedure which can be used for routine, noncontroversial annexations and wastewater and water extraterritorial extensions. Under this procedure, a public hearing may not be necessary.

---

\* These procedures have been simplified for this synopsis. For more details, please contact the boundary commission office.

## **Standards of Review**

1. Provide an impartial forum for resolution of local jurisdictional questions. Consider the effects of the boundary change on other units of governments. *ORS 199.410(1)(b) and 199.410(3)(c)*
2. Consider the orderly determination and adjustment of local government boundaries to best meet the needs of Lane County and Oregon. Consider alternative solutions where intergovernmental options are identified and make decisions based on the most effective long-range option among identified alternatives. *ORS 199.410(1), 199.410(2), and 199.410(3)(a)*

3. Make boundary commission determinations which are consistent with acknowledged local comprehensive plans. Assure an adequate quality and quantity of public services required in the comprehensive plan to meet existing and future growth. For major boundary change, there must be assurance that the proposed unit of government is financially viable. *ORS 199.410(1)(d), 199.410(3)(b) and (d)*
4. Consider the comprehensive plan's economic, demographic, and sociological trends and projections and its environmental policies, pertinent to the proposal. *ORS 199.410(3)(d) and 199.462(1)*

#### **Public Assistance**

The boundary commission staff is available to answer questions regarding the boundary commission, boundary change procedures, and other matters related to the boundary commission. Forms and instructions for various boundary changes are available at the office. It is always helpful to make an appointment when seeking assistance.

#### **For more information, please contact:**

Lane County Local Government Boundary Commission  
99 East Broadway, Suite 400  
Eugene, Oregon 97401-3111  
(541) 682-4425  
FAX (541) 682-2635

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*Last Saved: November 16, 2007*



City of Eugene  
99 West 10<sup>th</sup> Avenue  
Eugene, Oregon 97401  
(541) 682-5377  
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# MEMORANDUM

**Date:** March 24, 2006  
**To:** Mayor Piercy and City Council  
**From:** James R. Carlson, 682-5524  
Assistant City Manager  
**Subject:** **STREET ANNEXATIONS**

Councilor Ortiz requested an explanation of the city's policies regarding annexation of streets in response to public hearing testimony by Rob Handy, Chairperson of the River Road community organization, on March 13, 2006.

First, it is important to recognize that the city's policies related to street annexations apply citywide. There is increased impact and awareness in the River Road and Santa Clara areas because that is where the majority of annexations to Eugene occur, and where the fragmented city limits pattern increase the need for coherent services within the street rights-of-way.

Currently, all annexations of private property are initiated by the property owner, usually because of their desire to divide the property into multiple development sites, build or start a new use on the property, or request services that only the city can provide.

**Regulatory Framework.** The basis of the City's street annexation recommendations stem from fundamental principles and policies contained in the Eugene-Springfield Metro Plan:

*The Metro Plan is based on the premise that Eugene and Springfield, the two existing cities, are the logical providers of services accommodating urban levels of development within the UGB. [River Road and Santa Clara areas are located within the Eugene UGB.]*

*To effectively control the potential for urban sprawl and scattered urbanization, compact growth and the urban (UGB) service area concepts are, and will remain, the primary growth management techniques for directing geographic patterns of urbanization in the community. In general, this means the filling in of vacant and underutilized lands, as well as redevelopment inside the UGB.*

*The Metro Plan and most of its elements are oriented to and require that urban development occur in a compact configuration within a prescribed urban service area. Elaboration of this principle is treated in sections B, C, D and E of this chapter, and the Public Facilities and Services Element in Chapter III.*

*Land within the UGB may be converted from urbanizable to urban only through annexation to a city when it is found that:*

- a. A minimum level of key urban facilities and services can be provided to the area in an orderly and efficient manner.*
- b. There will be a logical area and time within which to deliver urban services and facilities. Conversion of urbanizable land to urban shall also be consistent with the Metro Plan.*

*Annexation to a city through normal processes shall continue to be the highest priority.*

The Metro Plan also contains policies that support the annexation of properties to the city if new development is proposed or new demand to city services are requested.

Previous efforts to incorporate portions of the River Road/Santa Clara area into an independent city, thereby bypassing the need for Eugene services, failed.

In 1986, the Cities of Eugene and Springfield entered into Urban Transition Agreements with Lane County that transferred from the County to the Cities administration for building and land use within the urbanizable portion of the UGB.

Why Annex at All? Urban services are generally available throughout River Road and Santa Clara. Therefore, annexation is the preferred method of allowing development to occur in a manner consistent with the adopted Metro Plan policies. It is the City of Eugene's practice (and Metro Plan policy) to pursue only voluntary annexations of private property where possible. There is a long history of noncontiguous annexations in the River Road and Santa Clara areas because noncontiguous annexations allow individual properties to develop without the need to annex other properties involuntarily.

Street Annexations. It is the City's policy to include within annexation proposals any appropriate and logical public street segments. This practice has evolved over the years, in part because by not doing so created an even worse patchwork of disconnected street segments. The practice of annexing appropriate and logical public street segments aids in the delivery of urban services to incorporated properties, is a logical part of the transition from County to City services within the UGB, and simplifies the development review process (e.g., only one set of standards will apply for the applicant, only one government from which to obtain permits, etc.).

In reviewing a particular street segment for possible annexation, the City considers several factors, including the following:

1. Is the street segment appropriate and logical?
2. Does the street segment abut the subject site? To facilitate development of a site, streets providing immediate access to site should be annexed. On corner lots both streets are considered.
3. Does the street segment have logical ends, preferably street intersections? Typically the segment should be at least one block long.
4. Does the annexation help emergency response or avoid confusion?

5. Would the street segment improve access to the development site along a logical network of City streets? Are City standards for speed, access, or connectivity preferred near the development site? If so, annexation of an entire street length will be considered.
6. Look for opportunities to provide logical service connections between separate incorporated areas (e.g., an unincorporated street should not be the only separation between two city areas). Many services are provided within the street rights-of-way, such as water, sanitary sewers, stormwater, cable and other communication networks, and street trees. Street segments that will provide improved access and more seamless services to more than one incorporated area would be recommended.

In general the City does not try to annex half street widths, unless that method will help eliminate existing gaps in the street network.

In Summary. While recognizing that current annexation procedures in River Road and Santa Clara creates certain short-term issues, the overall process is logical if viewed from the premise that the River Road and Santa Clara areas will eventually annex entirely to the City, as planned for by the Metro Plan.

The Metro Plan generally anticipates that all lands within the Urban Growth Boundary will eventually be served by the city, that the city will eventually provide all services. Annexation of appropriate and logical public street segments helps knit together the "Swiss cheese" effect of long-term individual noncontiguous annexations into a recognizable pattern that helps provide better, more consistent transportation, utilities, and emergency services for growing urban areas.

Please contact me @682-5524 or via e-mail ([james.r.carlson@ci.eugene.or.us](mailto:james.r.carlson@ci.eugene.or.us)) if you have questions or need additional information.



City Manager's Office

City of Eugene  
 777 Pearl Street, Room 105  
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## MEMORANDUM

**Date:** September 14, 2006

**To:** Mayor Piercy and City Council

**From:** Dennis M. Taylor, 682-5510  
 Assistant City Manager

**Subject:** **CITY COUNCIL ASSIGNMENT RESPONSE: CLARIFY AND EXPLAIN REASON  
 BEHIND CITY'S PRACTICE OF DOING STREET ANNEXATIONS**

Attached to this memo is the March 30, 2006, memorandum responding to a previous question about street annexations. That memo contains information regarding the regulatory framework, urban transition intergovernmental agreements, why the City annexes streets, and the service impacts of street annexations. In summary, the March 30 memo explains that cities are the logical providers of urban services and most urban services are provided on, under, or via the street right-of-way. The Metro Plan generally anticipates that all lands within the urban growth boundary will eventually be served by the City. Annexation of appropriate and logical public street segments enables the City to provide better, more consistent transportation, utilities, and emergency services for growing urban areas.

This memo will attempt to describe the process that City staff uses to determine which street segments to request for inclusion in annexations being considered by the Lane County Local Government Boundary Commission.

Essentially, all annexations to the City of Eugene being processed by the Lane County Local Government Boundary Commission are initiated by the property owner and submitted directly to the Boundary Commission. These are considered to be voluntary annexations. City staff reviews each annexation request separately, prior to it being submitted to the Boundary Commission, to ensure that the property meets the requirements for annexation (e.g. inside the urban growth boundary, services can be provided).

As a part of that review, City staff looks at any streets abutting the subject property to determine whether it would be appropriate to request the inclusion of right-of-way with the application. The Boundary Commission statutes do not require any jurisdictional approvals to add right-of-way to an annexation request. The City does request comments from other jurisdictions, especially Eugene Water & Electric Board (EWEB) and Lane County, to determine what services are provided via the right-of-way and whether there is any concern related to the inclusion of right-of-way in the proposal. City staff also met recently with Lane County and EWEB staff to determine whether annexation of right-of-way is supported by these agencies and determined that it is supported.

The priorities for inclusion are arterial and collector streets where there are already significant properties within the City abutting the street. These streets have the most traffic and are the routes used most frequently by police and fire services. (Recent examples would be portions of Coburg Road, Royal Avenue, River Road, Irvington Road, Spring Creek Drive, Scenic Drive, River Loop 1 and River Loop 2, Park Avenue, and N. Park Avenue)



On arterials and collectors, staff looks at including whole blocks (i.e., intersection to intersection), several blocks or the entirety of the street within the urban growth boundary to make it clear which sections of streets are in the city. This improves the ability of all service providers to determine who is responsible for maintenance of infrastructure and delivery of services.

On local streets, we focus on streets where a significant amount of front-footage is adjacent to properties already in the city. We would look at the streets which provide access to the subject property where annexation would result in efficiencies in the development permitting process and service delivery areas.

We still believe that annexation of whole blocks is more logical than annexing only the portion of the street immediately adjacent to the subject property. We might include less than a block if the property is adjacent to the existing city limits and annexation of a segment of street would expand the contiguous area of the city. We only request the inclusion of the full width of streets because annexing less than the full width causes numerous service delivery problems.

The Metro Plan contains a policy specifying that the urban growth boundary is located on the outside of any street right-of-way, which leads to the recommendation of including perimeter streets so as not to leave a narrow "gap" between the city limit and urban growth boundary where public services are provided.

There has been an average of 28 annexations per year since 2000 (195 total) with the majority of these occurring in the River Road and Santa Clara area. The City requested the inclusion of street right-of-way in about half of these annexations. The Boundary Commission approved all but three of these requests.

7

**Annexation Procedures**  
**Synopsis of Other City Processes**

Special District Boundaries  
ORD \_\_\_\_\_  
Date 11-16-07  
Exhibit No. 3

**Ashland**

- Code addresses voluntary and non-voluntary annexations
- Most applications involve Planning Commission and Council action for any form of annexation (voluntary or non-voluntary)
- Alternate process offered to voluntary applicants, following ORS 222 provisions

**Medford**

- Process relies heavily on ORS 222
- Code provides for voluntary or non-voluntary annexations through public hearing process with the City Council

**Metro**

- Staff report to City Council for findings
- Allows expedited process by right for double majority (voluntary) annexations
- Public hearings available if service provider contests expedited review

**Portland**

- Staff provide report/recommendation to City Council
- Expedited process for voluntary annexations

**Gresham**

- Staff report to City Council
- If expedited process requested, Council's decision is done as consent or business item (resolution)
- If it goes to hearing it will be an ordinance

**Salem**

- Voluntary and non-voluntary annexations addressed
- Primarily voter annexation process

**Klamath Falls**

- Voluntary and non-voluntary annexations addressed
- Public hearing process with Planning Commission and City Council for any form of annexation (voluntary or non-voluntary)

## SB 417 A Floor Speech

SB 417 A comes to you from your committee on Government Accountability and Information Technology where it received a unanimous "do-pass" recommendation. It was passed out of the senate on a 28-1 vote.

This bill abolishes the Lane County boundary commission, the only commission of its kind in the state. Last session a similar bill drew support from 11 of 12 Lane county cities and only Eugene expressed concerns. This session, Eugene has taken a neutral position, and in fact was a part of the work group that was commissioned to work out the details of this bill. Also on that work group were representatives from the Lane County Board of Commissioners, The League of Oregon Cities, the Mayor of Cottage Grove and a citizen representative from the River Road/Santa Clara Property owners association.

This bill represents a unanimous consensus of that work group.

The boundary commission is comprised of seven members, appointed by the governor. SB 417 A will turn the duties of the boundary commission back over to the cities and the county. SB 417 A eliminates an extra layer of government, restores local electoral accountability to local boundary decisions, and brings Lane county into the 21<sup>st</sup> century with regard to these government processes.

Again, it passed the senate 28-1, the Government Accountability committee unanimously and was crafted with a smooth transition in mind for the local entities it will affect.

I urge your support for this simple bill.

*Special District Boundaries*  
ORD       -07        
Date 11-19-07  
Exhibit No. 4

## **SB 417 A Floor Speech**

In 1969 three local boundary commissions were created by the legislature with the goal of controlling fragmented service boundaries in Oregon's most populated areas: Multnomah, Marion and Lane counties. Determining that boundary commissions were a duplication of government, the legislative assembly disbanded the Marion County Boundary Commission in the mid 1980's and the Multnomah County Boundary Commission in 1999.

**SCHULZ Stephanie E**

S.D. Boundaries (58417)  
 ORD -07  
 Date 11-20-07  
 Exhibit No. 5

**From:** Rob Handy [rhandy@efn.org]**Sent:** Monday, November 19, 2007 4:50 PM**To:** SCHULZ Stephanie E

**Cc:** ebecker3@comcast.net; ursjimc@aol.com; LISA ARKIN; SHAPIRO Howard (SMTP); jozef zdzienicki; Stephen Dignam; nancyn@efn.org; SULLIVAN John (SMTP); Todd Johnston; HOWE Kent; MILLER Keir C; YOUNG Kim A; HANLEY Tim (SMTP); dledyard@mckenziefire.com; SEGEL Lauri (SMTP)

**Subject:** Testimony: 11-20-07 LCPC Special Districts Boundary discussion

Dear Lane County Planning Commissioners

Re: Post-Boundary Commission Transitions

Thank you for your work on the ordinance. Here are some issues I raised at the recent public hearing. Additionally, some questions for your further consideration:

## 1) DEFINITIONS

- a) Legal Description: include nearest street address, not just tax lot number. Make it easier for the public to understand, deliberate and participate.
- b) Elector: flesh out further. Make it easier for the public to understand, deliberate and participate.
- c) Extraterritorial: flesh out further
- d) Double/ Triple Majority: write plain English version. Make it easier for the public to understand, deliberate and participate.
- e) Add to DEFINITIONS and define: Island, Contiguous, Non-Contiguous, Urban Growth Boundary.

## 2) PUBLIC NOTICE/ HEARINGS

- a) Require 30 days notice prior to the date the County Commission considers the Planning Director's recommendation.
- b) Require public notice to owners and occupants at and within 500 feet of the subject property, and at the two nearest major intersections.
- c) Require 30 days notice prior to a public hearing.
- d) Require notice be e-mailed to the Chairs of the River Road Community Organization (RRCO) and Santa Clara Community Organization (SCCO), County chartered neighborhood groups, as well as to all Special Districts.
- e) Require all applications have public hearings.

## QUESTIONS

11/20/2007

- a) Please explain and further document findings and assumptions around the proposed application of ORS 198?
- b) Boundary changes have land use decision impacts. Please explain how these impacts will be addressed in the Land Use Code and in the public processes.
- c) What process and findings will the County use to address the public interest when the City of Eugene is transferred the jurisdiction of County roads or other rights-of-way?
- d) What are pros and cons for allowing annexation- effective dates to be delayed for up to 10 years?
- e) What are the implications of the County role in reviewing or not reviewing other City's roles in annexation procedures?
- f) Please clarify confusion pursuant to County acting on ORS 198, while the City of Eugene is acting pursuant to ORS 222. Explain why County thinks delegating annexation responsibility to the cities via MOU or IGA is in the best public interest? Why does not the County wish to be a more active decision maker in these situations?
- g) How can the County best collaborate with the city of Eugene to best improve transparency and accountability to the residents of River Road and Santa Clara, long impacted by lack of cohesive representation at the City and County, complicated by the extra level of government with the Boundary Commission?
- h) How can responsiveness of County government to it's constituents in River Road and Santa Clara be of the highest interest, in addition to staff interests in smoothness and efficiency?
- g) How can the County mitigate the impact of Cities annexing properties and that affect on the viability of Special Districts with those withdrawals from their taxing base?
- h) State statutes allow jurisdictions to be more stringent than State law. Is Lane County doing everything possible to craft an ordinance responsive to accountable and transparent governance for it's citizens?
- i) Will the ordinance be in compliance with al functional comprehensive plans?
- f) Do the Planning Commissioners have a thorough understanding of the County's options and responsibilities under ORS 198?

Thank you,

Rob Handy  
455 1/2 River Road  
Eugene, OR. 97404

On Nov 19, 2007, at 9:59 AM, SCHULZ Stephanie E wrote:

There will be time at the LCPC worksession for an update and discussion of the Code amendments for special district boundary changes.

Boundary Special Districts  
ORD - 07  
Date 11-20-07  
Exhibit No. 6

November 20, 2007  
Lane County Planning Commission  
Comments regarding annexation code provisions

Planning Commission,

The history of annexations in Santa Clara and their effects are closely related to the boundary commission and its way of working within our neighborhood. Much of the boundary commission's work exacerbated tensions and hostility due to a perceived lack of transparency. This lack of transparency can be directly tied to an inadequate noticing process. The proposed Lane Code regarding annexations falls short in those same areas.

The Notice of Public Hearings section only calls for two insertions in newspapers and posting in 3 public places (none of them necessarily within the area to be annexed) both 15 days prior to a hearing. This is not commensurate with noticing for other land use changes and hearings within the county. We respectfully ask for this section to be substantially changed in these ways to create a more transparent process and to bring the proposed annexation process to a level commensurate with other land use changes in the county.

- Notice of a public hearing or planning director's recommendation mailed at least 30 days prior mailed to all owners and occupants of property within 500 feet of affected property and to the affected community organization(s).
- Notice of a public hearing conspicuously posted for two successive weeks in 4 public places in the county with one of those places being the subject property and two others being the closest intersection of arterials/collectors.
- Public hearings for all annexation requests

Although staff believes that annexations will largely be the work of cities and that only the withdrawal and dissolution of service districts will fall to the county, we encourage you to study the proposed code regarding annexations that the City of Eugene is working on. The processes are more clearly laid out step by step and will hopefully create a dynamic wherein the public is better informed of possible changes and capable of responding in appropriate ways and at the appropriate time in the process.

Some additional questions to consider:

- How will the county and the city better coordinate around the workings of these incremental annexations such that the county is best serving the county residents?
- We want the county to be an active participant, not abdicate the governance of the county residents to the city via MOUs and IGAs. How can the county be more involved in the annexation process as it affects residents of Santa Clara and River Road?

November 20, 2007  
Lane County Planning Commission  
Comments regarding annexation code provisions

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- As I monitor the process the City of Eugene is following, it is clear they are operating from ORS 222, but the county is using ORS 198. How will this affect the ability of the two entities to coordinate around annexations?
- Where in the land use code will these proposed code changes fall? Boundary changes have land use impacts and need to be addressed with a level of thoroughness commensurate with other land use actions.

Thank you for your consideration,  
Kate Perle

4740 Wendover St  
Eugene, OR 98404

11-20-07  
to: LC PC  
from: Goal One Coalition

Special District Boundaries  
ORD -07  
Date 11-20-07  
Draft Changes 7  
(comments underlined, in parentheses or italics)

Draft Lane Code Language for Special District Boundary Changes  
(SB 417 and ORS 198)  
Last Updated November 13, 2007

**xx.xxx Intent and Purpose**

The intent and purpose of this chapter is to establish procedures related to boundary changes for special districts in Lane County pursuant to ORS Chapter 198 and Lane County Home Rule (We need a copy of these home rule procedures in order to assess their applicability to and consistency with ORS 198)

**xx.xxx Definitions**

For the purpose of considering district boundary changes, the following definitions apply:

Affected city means a city, city-county or cities, named in a petition, for which a boundary change is proposed or a city, city-county or cities, named in an order, for which a boundary change is proposed or ordered. (Not from statute; what document is this definition from?)

Affected county means each county that contains or would contain any territory for which a formation or a change of organization is proposed or ordered or that contains all or any part of a district for which a change of organization is proposed or ordered. (198.705)

Affected district means each district named in an application that contains or would contain territory for which a formation or a change of organization is proposed or ordered. (198.705)

Affected territory means territory described in an application. Affected territory also means an area within the urban growth boundary of a city that is otherwise eligible for annexation to that city and in which there exists an actual or alleged danger to public health.

Annexation includes the attachment or addition of territory to, or inclusion of territory in, an existing district. (198.705)

Application means materials as required by the applicable Application Submittal Requirements sections of this Chapter that result in the initiation of a boundary change proceeding.

Cadastral map means a map prepared by the assessor's office showing bearings and distances.

Change of organization means the annexation or withdrawal of territory to or from a district, the merger or consolidation of districts or the dissolution of a district. (198.705)

Consolidation means the uniting or joining of two (2) or more districts into a single new successor district. (198.705)

County board means the board of county commissioners. (198.705)

County clerk means the county clerk of the affected county.

Dissolution includes disincorporation, extinguishment or termination of the existence of a district and the cessation of all its corporate powers, except for the purpose of winding up the affairs of the district. (198.705)

District? (ORS 198.010, 198.210, 198.330, 198.520, 198.710)

District Officer (198.410)

District Board (198.510, ~~198~~ 198.705((4), )

Elector means individuals registered to vote at an address located within the affected territory.

Filing agency means the county board, district board, city council or other public officer or agency designated by the principal act – what is the principal act? to receive or take the first action on a petition for a boundary change.

Filing means submittal of materials to initiate the boundary change process.

Formation includes incorporation, organization or creation of a district. (198.705)

Inhabited territory means territory within which there reside twelve (12) or more persons who have been registered to vote within the affected territory for at least thirty (30) days prior to the date a proceeding is commenced under ORS 198.705-198.955. (198.705)

Landowner or owner of land means any person shown as the owner of land on the last assessment roll. If the person no longer holds the title to the property, then the terms mean any person entitled to be shown as owner of land on the next assessment roll; or, when land is subject to a recorded written agreement of sale, memorandum, or other notice of written agreement of sale, the terms mean any person shown in the agreement as purchaser to the exclusion of the seller. Landowner or owner of land includes any public agency owning land. [This part is not in the Statute: ~~which may mean the owner of the land is not a person or a corporation, partnership, or estate as shown in the assessment roll, but a public agency, or a person or a corporation, partnership, or estate as shown in the assessment roll, but not a public agency.~~]

Legal description is as defined in ORS 308.225(2). A legal description shall consist of a series of courses in which the first course shall start at a point of beginning. Each course shall be identified by bearings and distances and, when available, refer to deed lines, deed corners and other monuments, or, in lieu of bearings and distances, be identified by reference to:

(1) Township, range, section, or section subdivision lines of the U.S. Rectangular survey system;

(2) Survey centerline or right-of-way lines of public roads, streets, or highways;

(3) Ordinary high water or ordinary low water of tidal lands;

(4) Right-of-way lines of railroads;

(5) Any line identified on the plat of any recorded subdivision defined in ORS 92.010;

(6) Donation land claims; or

(7) Line of ordinary high water and line of ordinary low water of rivers and streams, as defined in ORS 274.005, or the thread of rivers and streams.

Legal representative means:

(1) An officer of a corporation duly authorized, by the bylaws or a resolution of the board of directors of the incorporation, to sign for and on behalf of the corporation; and

(2) A guardian, executor, administrator or other person holding property in the trust capacity under appointment of court, when authorized by an order of court, which order may be made without notice. (198.705)

Merger means the extinguishment, termination and cessation of the existence of one or more districts by uniting with and being absorbed into another district. (198.705)

Notice includes an ordinance, resolution, order or other similar matter providing notice which ORS 198.705 to 198.955 authorize or require to be published, posted or mailed. (198.705)

Petition refers to a written request for action on a proceeding authorized by ORS Chapter 198. Where is this definition from?

Principal Act means the law, other than ORS 198.510 to 198.600, applicable to a district. (198.705)- 198.705 defines principal act as: statutes which describe the powers of a district, including the statutes under which a district is proposed or is operating.

Proceeding means a proceeding for formation or change of organization to consider a boundary change pursuant to ORS 198.705 to 198.955. (198.705)

Special district means any of the districts in ORS Chapter 198 and are listed in section xx.xxx Special Districts Allowed Under ORS Chapter 198 (which section is this?).

Uninhabited territory means territory within which there reside less than twelve (12) electors who were residents within the territory thirty (30) days prior to the date a proceeding is commenced under 198.705 – 198.955. (198.705)

Withdrawal includes the detachment, disconnection, or exclusion of territory from an existing city or district. (198.705)

## INITIATING METHODS

### xx.xxx Formation

A request for the formation of a new district may be initiated as follows:

- (1) Order of the affected county board setting forth:
  - (a) ~~(a)~~ ————— The intention of the county board to ~~imitate~~ initiate the formation of a district and citing the principal Act.
  - (b) The name and boundaries of the proposed district.
  - (c) The date, time and place of a public hearing on the proposal. (198.835)
- (2) Petition signed by not less than:
  - (a) Fifteen (15) percent of the electors or 100 electors, whichever is the greater, registered in the affected territory; or
  - ~~(b)~~ ~~(b)~~ Fifteen (15) owners of land or the owners of ten (10) percent of the acreage, whichever is the greater number of signers, within the territory subject to the petition within the affected territory. (198.755)

ORS 198.880 Formation petition; notice of hearing

198.800 Formation petition; hearing; notice of hearing. (1) A petition for formation must be filed with the county board of the principal county. Before the petition is filed, the petition must be endorsed by any agency required by the principal Act to endorse or approve the petition. If the petition satisfies the requirements of ORS 198.748, 198.749 and 198.750 to 198.775 and is otherwise sufficient under the principal Act, the county board shall:

(a) If the county is within the jurisdiction of a local government boundary commission, file the petition with the boundary commission within 10 days after the petition is filed with the board; or

(b) Set a date for a hearing on the petition. The hearing may not be held less than 30 days or more than 50 days after the date the petition is filed.

(2) The county board shall cause notice of the hearing to be posted in at least three public places and published by two insertions in a newspaper. The notice shall state:

- (a) The purpose for which the district is to be formed.
- (b) The name and boundaries of the proposed district.
- (c) The time and place of the hearing on the petition.

(d) That all interested persons may appear and be heard.

(3) Except as provided in subsection (1)(a) of this section, this section and ORS 198.805 do not apply in areas subject to the jurisdiction of a local government boundary commission.

**198.805 Conduct of hearing; standards for formation; notice to nonappearing landowner; order for dissolution.** (1) At the time stated in the notice, the county board shall hear the petition and determine, in accordance with the criteria prescribed by ORS 199.462, whether the area could be benefited by the formation of the district. The county board may adjourn the hearing from time to time, but not exceeding four weeks in all unless additional notice is given. The county board may alter the boundaries set forth in the petition to either include or exclude territory. The board may not modify the boundaries to:

(a) Exclude from the proposed district land that, in the judgment of the board, could be benefited by inclusion in the proposed district; or

(b) Include in the proposed district land that, in the judgment of the board, could not be benefited by inclusion in the proposed district.

(2) If the county board determines that any land has been improperly omitted from the proposed district and that the owner has not appeared at the hearing, the board shall continue the hearing and shall order notice given to the nonappearing owner requiring the owner to appear before it and show cause, if any, why the land of the owner should not be included in the proposed district. The notice shall be given either by posting and publication, in the same manner as notice of the original hearing and for the same period, or by personal service on each nonappearing owner. If notice is given by personal service, service shall be made at least 10 days prior to the date fixed for the further hearing.

(3) If the county board finds that a proposed county service district may not be needed in the future or that indefinite existence may significantly discourage future boundary changes, it may require dissolution as provided in ORS 451.620. The order for such dissolution shall specify the fiscal year, not later than the 10th fiscal year after the date of the order, in which dissolution shall occur. [1971 c.727 §25; 1987 c.504 §5; 2005 c.747 §2]

**198.810 Order for formation; final hearing; election; voter approval to incur bonded indebtedness.** (1) The county board shall approve, modify or reject a petition for formation using only the criteria set forth in ORS 198.805.

(2) If the county board approves the petition for formation, as presented or as modified, or if the boundary commission considers the petition for formation pursuant to ORS 198.800 (1)(a), approves the petition, as presented or as modified, and transmits its approval to the county board in accordance with ORS 199.480, the county board shall enter an order so declaring. The order shall set forth the name of the district and the boundaries as determined by the board or by the boundary commission. The order shall also fix a place, and a time not less than 20 nor more than 50 days after the date of the order, for a final hearing on the petition. The order shall declare that if written requests for an election are not filed as provided by subsection (3) of this section, the board, at the time of the final hearing, will enter its order creating the district. The board shall cause notice of the hearing to be given by publication.

(3) An election may not be held unless written requests for an election are filed at or before the hearing by not less than 15 percent of the electors or 100 electors, whichever is the lesser number, registered in the proposed district.

(4) Notwithstanding subsections (2) and (3) of this section, if the petition for formation

includes:

(a) A permanent rate limit for operating taxes for the proposed district and the petition is approved by the county board or boundary commission, as presented or as modified, the county shall hold an election on the question of forming the district.

(b) In addition to the permanent rate limit for operating taxes, a separate ad valorem tax for bonded indebtedness for capital construction within the proposed district and the petition is approved by the county board, as presented or as modified, the county shall hold an election on the question of incurring the bonded indebtedness when the election on the question of formation of the district is held. The question on incurring bonded indebtedness may be approved only if electors approve formation of the district, and the ballot measure must clearly state that the bonded indebtedness may be approved only if electors approve formation of the district.

(5) Notwithstanding subsection (3) of this section and ORS 198.815, an order of a boundary commission authorizing a county service district established to provide sewage works to also provide drainage works shall be effective upon the filing of the order with the county board. The order of the boundary commission is subject to referendum by the electors of the county service district in the manner provided for district measures under ORS 255.135 to 255.205. If the order of a boundary commission is referred to the electors, the order does not take effect until the order is approved by a majority of the votes cast on the question and the results of the election are certified. The question in the ballot title for a measure referred under this subsection shall be worded so that an affirmative response to the question corresponds to a vote in favor of authorizing the county service district to provide drainage works. [1971 c.727 §26; 1983 c.83 §10; 1983 c.336 §21; 1989 c.92 §6; 1989 c.374 §1; 1997 c.541 §345; 2001 c.707 §1; 2005 c.747 §3

etc. – other Formation provisions are found in: ORS 198.815 (election on Formation; notices; ballot title when dissolution ordered; election of first board), 198.820 (Order by county board; effect of formation), 198.830 (Petition for formation by all landowners in proposed district), 198.835 (order for formation of district in single county; order for exercise of additional function by county service district)

#### **xx.xxx. Annexation**

A request to annexation territory to a district may be initiated as follows:

(1) Resolution of the affected county board, affected district board, or any other public agency if authorized by the principal Act. (198.850(3))

(2) Petition signed by not less than:

(a) Fifteen (15) percent of the electors or 100 electors, whichever is the lesser, registered in the area proposed to be annexed; or

(b) Fifteen (15) owners of land or the owners of ten (10) percent of the acreage, whichever is the greater number of signers, within the area proposed to be annexed. (198.755)

(3) Petition signed by all of the owners of all land in the affected territory or signed by a majority of the electors registered in the affected territory and by the owners of more than half of the land area in the affected territory. (198.855(3)) Why doesn't this proposal include the annexation by election provisions found in 198.855(1) and (2)?

(4) Petition signed by the owner of a parcel of land to annex that land to a district as authorized by ORS 198.857(2) (Annexation without election by petition of landowner). (198.857(2))

**xx.xxx Withdrawal (198.870)**

A request to withdraw territory from a district may be initiated as follows:

- (1) ~~\_\_\_\_\_~~ (1) Resolution of the affected county board, affected district board, or any other public agency if authorized by the principal Act. (198.850(3)); 198.850 Annexation petition or resolution; delayed effective date for certain annexations; (3) Annexation in lieu of a petition
- (2) Petition signed by not less than:
  - (a) Fifteen (15) percent of the electors or 100 electors, whichever is the lesser, registered in the ~~district area proposed to be withdrawn; or~~
  - ~~(c) \_\_\_\_\_~~ (b) Fifteen (15) owners of land or the owners of ten (10) percent of the acreage, whichever is the greater number of signers, within the ~~area district proposed to be withdrawn.~~ (198.755)

198.875 Election on withdrawal petition. (1) At the time and place set for the final hearing upon the withdrawal petition if the required number of written requests for an election on the proposed withdrawal have not been filed, the county board shall enter an order withdrawing the described area from the district.

(2) If the required number of requests for an election are filed on or before the final hearing, the county board shall call an election in the district upon the question of the withdrawal of the area.

(3) If an election is called and a majority of the votes cast at the election is in favor of the withdrawal of the designated area from the district, the county board shall enter an order withdrawing the area from the district. If the majority of the votes cast is against withdrawal, the county board shall enter an order declaring the results of the election. In either case, the county board shall cause a copy of the order to be filed with the secretary of the district. [1971 c.727 §40]

**198.880 Effect on withdrawn area**

**198.882 Tax relief to withdrawn area; conditions for relief; ultimate liability**

**xx.xxx Dissolution of Active District (198.920?)**

The dissolution of an active district may be initiated as follows:

- (1) ~~\_\_\_\_\_~~ (1) Resolution of the affected county board, affected district board filed with the county board, , , , or any other public agency if authorized by the principal Act. (198.850(3) ); (198.850 Annexation petition or resolution; delayed effective date for certain annexations); (3): 3) In lieu of a petition, annexation may be initiated by resolution of the district board or of the county board.  
and 198.920(2) & (3))

- (2) Petition signed by not less than:

- (a) Fifteen (15) percent of the electors registered within the district; or

(b) Owners of fifteen (15) percent of the acreage within the district.  
(198.755(5) & 198.920(1))

**xx.xxx Dissolution of Inactive District (198.330-.365 contains many more directive provisions than is reflected in this section from staff, including provisions for continuation or termination of district [198.360], county board as trustees for inactive district; distribution of assests; levy of tax to meet debts [198.365]**

The dissolution of an inactive district may be initiated as follows:

- (1) Resolution of the county board; or
- (2) By county board action if notified by the Secretary of State or the Department of Revenue that a district failed to file reports required by ORS 294.555 or 297.405 to 297.555 for three (3) consecutive years.

**xx.xxx Merger or Consolidation (198.885 – 198.915)**

The merger or consolidation of two (2) or more districts may be initiated as follows:

- (1) By duplicate petitions filed by the electors of two (2) or more districts with the boards of the districts to be merged or consolidated; or
- (2) By duplicate petitions filed by the electors of two (2) or more districts with the boards of a districts and by the electors of a city with the city governing body; or
- (3) By duplicate petitions filed the electors of a single district with the district board and by the electors of a city with the city governing body; or
- (4) By each district board adopting a resolution; or
- (5) ~~—~~ (5) If the merger or consolidation proposes to join a city to the successor district, the city governing body must also adopt a resolution approving it.

.(198.895(4))

The electors of one district and a city may initiate proceedings to join the city to the district by filing duplicate petitions with the board of the district and the governing body of the city

198.885(5) - Merger or consolidation also may be initiated by resolution adopted or approved by two or more district boards. If the merger or consolidation under this subsection includes a proposal to join a city to the surviving or successor district, the governing body of the city also must adopt or approve a resolution. A resolution adopted or approved under this subsection shall contain all the matters required to be stated in a petition to merge or to consolidate.

## FORMATION

**xx.xxx General Process (which statutory provisions does this section address?)**

The process for formation of a district will include the following:

- (1) A required pre-application meeting with county staff will be held. A pre-application fee will be due at the time of the pre-application meeting.
- (2) A prospective petition will be developed by the applicants (refer to section xx.xxx Prospective Petition Requirements).



(3) Once the prospective petition is approved by the county clerk, signature gathering may begin (refer to section xx.xxx Prospective Petition Requirements).

(4) Signed petition signature pages are submitted to the county clerk that will be verified by the county clerk or the county assessor, whichever is appropriate (refer to section xx.xxx Submittal of Required Signatures and Certification).

(5) The application will be reviewed and determined if complete by the Director of the Land Management Division (refer to section xx.xxx Application Completeness Review).

(6) Once the application is deemed complete, the county board will provide notice and hold hearings to determine if the district should be formed and set an election if required or requested (refer to section xx.xxx Public Hearings).

#### **xx.xxx Pre-application Meeting**

A pre-application meeting is required and shall be held with county staff to discuss the formation process. County staff that may be involved in this meeting include county clerk, county assessor, county counsel, and Director of the Land Management Division. A pre-application fee will be required at the time of the meeting as required in Section xx of Lane Manual.

#### **xx.xxx Prospective Petition Requirements**

A prospective petition will include:

(1) Statement that the petition is filed pursuant to ORS 198.705 to 198.955. (198.750(1)(a))

(2) State the names of the affected districts and all affected counties. (198.750(1)(b))

(3) Designated the principal Act of each affected district. (198.750(1)(c))

(4) State the nature of the proposal. (198.750(1)(d))

(5) State whether the territory subject to the petition is inhabited or uninhabited. (198.750(1)(e))

(6) If the district board members are elected, state the number of members on the board. (198.750(1)(f))

(7) Include a proposed permanent rate limit for operating taxes sufficient to support the services and functions described in the economic feasibility statement required by ORS 198.759. (198.750(1)(g))

(a) A tax rate limit need not be included if no tax revenues are necessary to support the services and functions described in the economic feasibility statement.

(b) The tax rate limit must be expressed in dollars per thousand dollars of assessed value.

(c) The tax rate must be calculated for the latest tax year for which the assessed value of the proposed district is available.

(d) A special district may have a tax rate limitation in the principal Act.

(8) Set forth any proposed terms and conditions, if any, to which a proposed formation is to be subject. (198.750(1)(h))

(9) Request that proceedings be taken for the formation process. (198.750(1)(i))

(10) If any part of the territory subject to the proposed formation is within a city, must include a certified copy of a resolution of the governing body of the city approving the proposed formation. (198.750(1)(j))

(11) A description of the boundaries of the territory proposed to be included in the district that includes:

(a) A legal description as defined in xx.xxx Definitions in printed form and electronically in Microsoft Word or a compatible format, including evidence of preliminary review by the Department of Revenue (DOR);

(b) Cadastral maps as defined in xx.xxx Definitions, with the boundary of the proposed district highlighted; and

(c) An electronic list of all applicable map and tax lot numbers, and associated assigned site addresses.

(12) Chief petitioners may propose a name for the new district. (198.750(3))

(13) File an economic feasibility statement that forms the basis for the proposed permanent rate limit for operating taxes required by ORS 198.750(1)(g). (198.749, 198.765(1))  
The economic feasibility statement will contain:

(a) A description of the services and functions to be performed or provided by the proposed district; (198.749(1))

(b) An analysis of the relationship between those services and function and other existing or needed government services; and (198.749(2))

(c) A proposed first year line item operating budget and a projected third year line item operating budget for the new district that demonstrates its economic feasibility. (198.749(3))

(14) Designate chief petitioners including names and addresses, with signatures of the chief petitioners. (198.760(1))

The text, cover, and signature sheets for a prospective petition must be approved in writing by the county elections official prior to the chief petitioners circulating the petition. Each petition sheet needs to include the following:

(1) Printed name of person signing. (198.760(1))

(2) Signature of person. (198.760(1))

(3) Date of signing. (198.760(1))

(4) Place of residence, when signing as an elector. (198.760(1))

(5) Number of acres, when signing as a landowner. (198.760(1))

(6) Include on the petition signature sheets opposite each signature, whether the signers of the petition are landowners within the district or electors registered in the district, or both. (198.750(1)(i))

(7) The petition signature circulators are required to certify that each person who signed the petition did so in the presence of the person circulating the petition. (198.750(4))

(8) The following will be attached to each signature sheet: (198.748)

(a) Filed perspective petition, excluding the list of map and tax lots, and

(b) Description of the boundaries of the territory proposed to be included in the district and shown on a general vicinity map of the proposed district.

Eligible electors are active registered voters as determined from the electronic list of map and tax lots, cadastral maps, and legal description required in xx.xxx Prospective Petition/Cover and Signature Sheets. A petition for formation will be signed as described in section xx.xxx Initiating Requirements - Formations.

#### **xx.xxx Submittal of Required Signatures and Certification**

(1) The signatures will not be accepted for filing unless a bond, cash deposit, or other security deposit in the amount of \$100.00 per precinct accompanies the petition signature sheets. The total amount will be determined once the specific boundaries of the proposed district are established. The cash deposit will be accompanied by a form prescribed by the Secretary of State and will include the names and addresses of all person and organizations providing any part of the cash deposit and the amount provided by each, and a statement signed by the chief petitioners that if the cost of the attempted formation exceeds the deposit, the chief petitioners will pay the amount of the excess costs. (198.775)

(2) Each person circulating the petition shall certify on each petition signature sheet that every person who signed the petition did so in the presence of the person circulating the petition. *(Note: This must include the signature of the circulator and the date signed, which cannot be prior to any dates signed by the registered voters on the petition sheet.)* (198.750(4))

(3) A petition will not be accepted for filing (validation of signatures) unless the signatures have been secured within six months of the date on which the first signature on the petition was affixed. (198.765(1))

(4) When a petition for formation includes a proposed rate limit for operating taxes, the petition shall be filed not later than 180 days before the date of the next primary election or general election at which the petition for formation will be voted on. (198.765(1))

(5) The petition is not considered filed until the required signatures are verified, within 10 days after the date a petition is offered for the filing. The county clerk will determine the requisite number of qualified signers: (198.765(2))

(a) If registered votes, the county clerk will examine the petition and certify the qualified signers. (198.765(2))

(b) If landowners, the county assessor will examine the petition and determine if signed by the required number of qualified signers. (198.770)

(6) Petitions that are required to be filed with the county board shall be filed with the county clerk of the principal county. (198.725 and 198.765(2))

(7) If the required signatures have not been met, the county clerk will notify the chief petitioners and may return the petition to the petitioners. (198.765(2))

(8) If the required signatures have been met, the county clerk (if registered voters) or assessor (if landowners) will attach a certification to that affect that is filed with the Director of the Land Management Division for completeness review and determination. (198.765(3)) A public hearing must be held not less than 30 days or more than 50 days after the date the petition is filed. (198.800(1))

**xx.xxx Application Submittal Requirements**

An application for a district formation must contain the information described in section xx.xxx Prospective Petition Requirements and section xx.xxx Submittal of Required Signatures and Certification. In addition, the following is required:

(1) A fee as established by the county board to recover the costs of processing the application as established in Section xx of Lane Manual.

(2) If requested by the Director of the Land Management Division, additional information needed by the county board to adequately evaluate the proposed formation.

**xx.xxx Application Completeness Review**

Prior to determining if an application is sufficiently filed, the Director of the Land Management Division will determine:

- (1) If the proposed formation is a land use action;
- (2) That all application submittal requirements are met;
- (3) If the legal description accurately describes the boundaries of the proposed district as it is shown on the cadastral maps;
- (4) That the list of tax lots is accurate and complete; and
- (5) If additional information is needed, county will communicate what is needed to the chief petitioners.

Once the application is deemed complete, the Director will notify the chief petitioners of the determination.

#### **xx.xxx Decision Criteria**

The county board will consider the following criteria when evaluating the proposed formation.

- (1) The land is not within a district formed under the same principal Act; (198.720(2))
- (2) The land included in the proposed district can reasonably be served by the facilities or services provided by the district; (198.720(3))
- (3) The proposed formation meets the criteria in ORS 199.462; and
- (3) The proposed formation is consistent with the Lane County Rural Comprehensive Plan, the Eugene-Springfield Metropolitan Area General Plan, other applicable comprehensive plans, and adopted land use regulations or agreements as required for the county board to adequately evaluate the proposed boundary change.

#### **xx.xxx Notice of Public Hearings**

Notice for the public hearing will be given by the Director of the Land Management Division as follows:

- (1) Published by two insertions in one or more newspapers of general circulation, the first publication at least fifteen (15) days before the hearing and the last publication at least five (5) days prior to the hearing; and (198.730 and 198.800(2))
- (2) Posted on or near the doors of the meeting room of the county board, any official public bulletin board, and one other public place for not less than five (5) successive days not less than fifteen (15) days prior to the date of the hearing. (198.730 and 198.800(2))
- (3) The notice must state:
  - (a) The purpose for which the district is to be formed.
  - (b) The name and boundaries of the proposed district.
  - (c) The time and place of the hearing on the proposed district.
  - (d) That all interested persons may appear and be heard. (198.800(2))
- (4) A final hearing date must be set twenty (20) to fifty (50) days from the date of the formation order, using the same notice requirements in this section.

#### **xx.xxx Public Hearing**

At the hearing, the county board may:

- (1) Approve as submitted, modify and approve, or deny the application.

(a) Property not included in the proposed district that will benefit from inclusion in the proposed district may be included, subject to the notice provisions in ORS 198.805(2).

(b) Property included in the proposed district that will not benefit and is uninhabited, may be excluded from the affected territory.

(2) The hearing may be continued up to four (4) weeks without additional notice. At the end of the four (4) weeks, a decision to accept or reject the proposed formation or to give notice of further hearings must be made. (198.805(1))

After the hearing, the county board shall:

(1) Make a determination to approve or deny the application and adopt findings consistent with ORS 199.462 and the criteria in section xx.xxx Decision Criteria. (198.810(2))

(2) If required, order that an election will be held and set the date. (198.810(4))

(3) If the county board approves the proposed formation, the county will enter an order so declaring that sets forth the name of the district and the boundaries as determined by the board. The order will fix a place and a time, not less than twenty (20) nor more than fifty (50) days after the date of the order, for a final hearing on the proposed formation. The order will declare that if written requests for an election are not filed by the final hearing date, the board, at the final hearing, will enter its order creating the district. Notice of the final hearing will be given as provided in section xx.xxx Notice of Public Hearings. (198.810(2))

(a) An election may not be held unless written requests for an election are filed at or before the hearing by not less than fifteen (15) percent of the electors or 100 electors, whichever is the lesser number, registered in the proposed district.

(4) If no election is requested, the county board will enter an order creating the district. (198.815(1))

(5) If an election is requested, the county board will order that an election be held to submit to the electors the question of forming the district. The election will be conducted as required by ORS 198, 250, 255, and the principal Act. (198.815(1))

(6) After the results of the election are certified to the county board, an order declaring the outcome of the election to form or not form the district will be issued. The order will be entered within 30 days after the date of the election. The order will state the name and purpose of the district, describe its boundaries, and declare the district formed. The order will also canvass the votes for members of the district board. (198.820(1) and (3))

## **ANNEXATION and WITHDRAWAL**

### **xx.xxx Pre-application Meeting**

A pre-application meeting is required and shall be held with county staff to discuss the annexation and/or withdrawal process. County staff that may be involved in this meeting include county clerk, county assessor, county counsel, and Director of the Land Management Division. A pre-application fee will be required at the time of the meeting as required in Section xx of Lane Manual.

### **xx.xxx Petition and Signatures**

When a proceeding to annex or withdraw territory is initiated by petition, the petition shall:

- (1) Include signatures collected on a form approved by the county clerk.
- (2) Be filed with the county clerk. The county clerk will accept or reject the petition submitted by electors. If the petition is submitted by property owners, the petition will be reviewed by the county assessor. The county assessor will accept or reject the petition submitted by property owners.
- (3) If the petitions are sufficient and the application is deemed complete, the county clerk will forward the petition to the county board.

**xx.xxx Application Submittal Requirements**

An application under this section shall contain the following information:

- (1) A fee as established by the county board to recover the costs of processing the application as established in Section xx of Lane Manual.
- (2) Vicinity map identifying the affected territory and the existing district boundaries.
- (3) Assessor's maps, to scale, of the affected territory. The assessor's maps shall have identified those parcels for which written consents have been acquired and adjacent right-of-way to be annexed or withdrawn, if any.
- (4) Petitions completed and signed by all consenting property owners or electors within the affected territory. Signatures must be collected within six (6) months of the date on which the first signature was obtained.
- (5) Legal description of the affected territory. One (1) printed copy of the description shall be provided, along with the description provided in an electronic form, in Microsoft Word.
- (6) Specific information on each tax lot within the affected territory shall include:
  - (a) Current assessed valuation shown on latest available county assessor's tax rolls.
  - (b) Acreage of all property in the affected territory.
  - (c) Map and tax lot number of all property in the affected territory.
- (7) Addresses of all dwelling units and businesses located within the affected territory and names of all residents and whether they are registered voters.
- (8) The following information shall be supplied in the application:
  - (a) Existing land uses.
  - (b) Existing zoning.
  - (c) Existing improvements (public or private): water; streets; sanitary sewer; storm drainage; parks; fire protection (both structural and timberland); electrical
  - (d) A list of special districts serving the affected territory: domestic water supply; rural fire protection; park and recreation; school; water control; and other if not named here.
  - (f) Written statement indicating compliance with the criteria contained in section xx.xxx, Decision Criteria.
- (9) Property owners' (and agents') names, addresses and map and tax lot numbers within XXX feet of the affected territory, typed on mailing labels.
- (10) Documentation of approval of the boundary change by the board of the affected district. The district shall also indicate if the affected territory can be served.
- (11) If any part of the affected territory is within a city, a certified copy of the resolution of governing body of the city approving the petition.
- (12) A security deposit referenced in ORS 198.785, if required.

(13) If requested by the Director of the Land Management Division, additional information needed by the county board to adequately evaluate the proposed boundary change.

#### **xx.xxx Application Completeness Review**

Prior to determining if an application is sufficiently filed, the Director of the Land Management Division will determine:

- (1) If the proposed boundary change is a land use action;
- (2) That all application submittal requirements are met;
- (3) If the legal description accurately describes the boundaries of the proposed boundary change as it is shown on the cadastral maps;
- (4) That the list of tax lots is accurate and complete; and
- (5) If additional information is needed, county will communicate what is needed to the applicant.

Once the application is deemed complete, the Director will notify the applicant of the determination.

#### **xx.xxx Decision Criteria**

The county board will consider the following criteria when evaluating the proposed boundary change.

- (1) The land is not within a district formed under the same principal Act;
- (2) The affected territory can reasonably be served or continued to be served by the facilities or services provided by the district;
- (3) No land included in the affected territory will be removed if the land is benefited.
- (4) The boundary change is consistent with the Lane County Rural Comprehensive Plan, other applicable comprehensive plans, and other adopted land use regulations or agreements as required for the county board to adequately evaluate the proposed boundary change. (198.850(2))

#### **xx.xxx Notice of Public Hearings**

Notice for the public hearings will be given by the Director of the Land Management Division as follows:

- (1) Published by two (2) insertions in one or more newspapers of general circulation within the affected district. Published notice shall begin at least fifteen (15) days prior to the hearing date and the last publication shall be made at least five (5) days prior to the hearing date. (198.730 and 198.800(2))
- (2) Notice shall be posted in three (3) public places. The notice shall be posted for not less than 5 successive days, starting not less than fifteen (15) days before the hearing date. (198.730 and 198.800(2))
- (3) The notice must state:
  - (a) The purpose for the application.
  - (b) The name and boundaries of the affected district.
  - (c) The time and place of the hearing on the application.
  - (d) That all interested persons may appear and be heard. (198.800(2))

#### **xx.xxx Public Hearings**

A public hearing must be held not less than thirty (30) days nor more than fifty (50) days after the date the application is deemed complete. At the hearing, the county board may:

- (1) Approve as submitted, modify and approve, or deny the application.
  - (a) Property not included in the affected territory, as submitted, that will benefit from inclusion in the affected territory may be included, subject to the notice provisions in ORS 198.805(2).
  - (b) Property included in the affected territory, as submitted, that will not benefit and is uninhabited, may be excluded from the affected territory.

After the hearing, the county board shall:

- (1) By board order make a determination and adopt findings in support. (198.850(2))
- (2) If required, order that an election be held and set the date. (198.855)
- (3) If the county board approves the application, the county will enter an order so declaring that sets forth the name of the affected district and the boundaries as determined by the board. The order will fix a place and a time, not less than twenty (20) nor more than fifty (50) days after the date of the order, for a final hearing on the application. The order will declare that if written requests for an election are not filed by the final hearing date, the board, at the final hearing, will enter its order approving the application. Notice of the final hearing will be given as provided in section xx.xxx Notice of Public Hearings. (198.810(2) and 198.855)
  - (a) An election may not be held unless written requests for an election are filed at or before the final hearing by not less than fifteen (15) percent of the electors or 100 electors, whichever is the lesser number, registered in the affected territory.
- (4) If no election is requested, the county board will enter an order approving the application. (198.815(1))
- (5) If an election is requested, the county board will order that an election be held to submit to the electors the question of forming the district. The election will be conducted as required by ORS Chapters 198, 250, 255, and the principal Act. (198.815(1))
- (6) The results of the election will be certified to the county board, which will by board order declare the outcome of the election. (198.855)
- (7) No election is required under the following conditions: (198.855)
  - (a) Petition is signed by all the owners of land in the affected territory, or
  - (b) Petition is signed by a majority of the electors registered in the affected territory and by the owners of more than half of the land area; or
  - (c) Petition is signed by the owner of a parcel of land consenting to the annexation of that land.

## DISSOLUTION OF ACTIVE DISTRICT

### xx.xxx Pre-application Meeting

A pre-application meeting is required and shall be held with county staff to discuss the annexation and/or withdrawal process. County staff that may be involved in this meeting include county clerk, county assessor, county counsel, and Director of the Land Management Division. A pre-application fee will be required at the time of the meeting as required in Section xx of Lane Manual.



#### **xx.xxx Petition and Signatures**

When a proceeding is initiated by petition, the chief petitioners shall:

- (1) File a prospective petition with the county clerk.
- (2) Collect signatures on an approved form, within six (6) months from when the first signature was obtained.
- (3) File the petition with the county clerk. The county clerk will accept or reject the petition within ten (10) days from receipt.
- (4) If the petitions are sufficient and the application is deemed complete, the county clerk will forward the petition to the Director of the Land Management Division and the secretary of the affected district or with any other district officer who can with reasonable diligence be located.

#### **xx.xxx Responsibility of the District Board and Election**

- (1) When dissolution proceedings have been initiated, the district board shall:

(a) Make findings of fact and plan of dissolution described in section xx.xxx Application Requirements;

(b) Call an election within the district boundary, which shall be held on the next available election date in ORS 255.345 for which the filing deadline can be met. The question submitted to the electors is whether the district shall be dissolved, its indebtedness liquidated and its assets disposed of in accordance with the proposed dissolution and liquidation plan.

(c) No election shall be held until the plan for liquidation contains a plan for payment of the nonassenting holders of debt.

(d) After the election, declare the district dissolved if electors so voted that the district be dissolved and proceed with implementing the liquidation plan.

(e) After the election, declare that the dissolution and cause the election results to be a part of the record if electors so voted to reject the proposed dissolution.

(f) Cause the election requests to be certified to the county board.

(2) A district order approving the dissolution shall be filed with the Department of Revenue, Secretary of State, county assessor, county clerk, and the chief petitioner.

#### **xx.xxx Application Requirements**

An application for dissolution of an active district shall contain the following information and other information as needed for the county board to adequately evaluate the application:

(1) A fee as established by the county board to recover the costs of processing the application as established in Section xx of Lane Manual.

(2) Vicinity map identifying the area of the district proposed for dissolution.

(3) Assessor's maps of the proposed dissolution area. The assessor's maps shall have identified those parcels for which signatures have been acquired.

(4) Legal description of the affected territory. One printed copy of the description shall be provided, along with the description on a computer disk or provided in some other electronic form, in Microsoft Word or a compatible format.

(5) Findings of fact prepared by the district board that includes the following. The plan of dissolution and liquidation shall be filed with the county clerk not later than thirty (30) days after the initiation of the dissolution proceeding.

(a) The amount of each outstanding bond, coupon and other indebtedness, with a general description of the indebtedness and the name of the holder and owner of each, if known;

(b) A description of each parcel of real property and interest in real property and, if the property was acquired for delinquent taxes or assessments, the amount of such taxes and assessments on each parcel of property;

(c) Uncollected taxes, assessments and charges levied by the district and the amount upon each lot or tract of land;

(d) A description of the personal property and of all other assets of the district; and

(e) The estimated cost of dissolution.

(6) Plan of dissolution and liquidation prepared by the district board that may include the provisions of transfer and conveyance of all assets of the district to any other district or, in the case of a county service district, to the county in which the district is located, which has the authority to and agrees to assume the outstanding indebtedness of the dissolving district, if any, and to continue to furnish similar services to the inhabitants of the district.

#### **xx.xxx Responsibility of the County Board When no Election is Required**

An election shall not be required and the county board shall declare the district dissolved, if the county board finds that:

(1) Dissolution is in the interest of the people of the county; and  
(2) The territory within the affected district is uninhabited;  
(3) The district has failed regularly to elect district board members in accordance with the principal Act; or

(4) For a county service district, dissolution is required due to the absence of public need for continuation of the district.

(5) A county order approving the dissolution shall be filed with the Department of Revenue, Secretary of State, county assessor, county clerk, the affected district, and the chief petitioner.

### **DISSOLUTION OF INACTIVE DISTRICT**

#### **xx.xxx Responsibility of the County Board**

The county board shall:

(1) Within five (5) days after initiation of the dissolution by a resolution of the county board, file a copy with the district's secretary, if any, or with any other district officer who can with reasonable diligence be located.

(2) Within thirty (30) days after initiation of the dissolution after receiving the notice in section xx.xxx (2) Initiating Methods, initiate proceedings to dissolve the district. The county board may appoint three residents of the district to assist in locating the assets, debts, and records of the district.

(3) Within sixty (60) days after initiation of the dissolution, must prepare a financial statement for the district and file it with the county clerk.

#### **xx.xxx Notice of Public Hearing**

(1) A public hearing date must be set twenty-one (21) to thirty (30) days from the date the financial statement for the district is filed, required in section xx.xxx (3) Responsibility of the County Board.

#### **xx.xxx Public Hearing**

After the hearing, the county board shall:

- (1) Determine whether the district is operating as an active district and will issue an **Order** as appropriate.
- (2) Become the board of trustees for the dissolved district.

### **MERGER/CONSOLIDATION**

#### **xx.xxx Responsibility of the District Boards and Election**

As required by ORS 198.885 to 198.915, the governing boards of the affected entities review, analysis, and cause an election, if required, to occur on the question of merging or consolidating.

### **BOARD ORDERS**

#### **xx.xxx Filing Board Orders**

Within ten (10) days after a document referred to below is entered, adopted or executed, the board will file copies of the order with the Department of Revenue, the Secretary of State, the county clerk, and the county assessor of each affected county.

- (1) An order of formation under ORS 198.810 to 198.840.
- (2) An order of annexation under ORS 198.810 to 198.840.
- (3) An order of withdrawal under ORS 198.875.
- (4) A resolution of merger under ORS 198.910.
- (5) A resolution of consolidation under ORS 198.910.
- (6) The statement executed by the board of trustees of a dissolving district under ORS 198.945.

The documents referenced above will include:

- (1) Findings adopted by the board, if required,
- (2) Legal description, if required, and
- (3) Map showing the general area of the affected territory and cadastral maps with the affected territory highlighted as described in the legal description.

### **SPECIAL DISTRICTS**

#### **xx.xxx Special Districts Allowed Under ORS Chapter 198**

Type of district:

	Enabling Oregon Statutes
(1) People's Utility District	261
(2) Domestic Water Supply	264
(3) Cemetery Maintenance District	265

(4) Park and Recreation District	266
(5) Mass Transit District	267.010 to 267.390
(6) Transportation District	267.510 to 267.650
(7) Metropolitan Service District	268
(8) Translator District	354.605 to 354.715
(9) Library District	357.216 to 357.286
(10) County Road District	371.055 to 371.110
(11) Special Road District	371.305 to 371.360
(12) Road Assessment District	371.405 to 371.535
(13) Highway Lighting District	372
(14) Health District	440.305 to 440.410
(15) 9-1-1 Communications District	401.807 to 401.874
(16) Sanitary District	450.005 to 450.245
(17) Human Services District	450.010
(18) Sanitary Authority or Water Supply Authority	450.600 to 450.989
(19) County Service District	451
(20) Vector Control District	452.020 to 452.170
(21) Rural Fire Protection District	478
(22) Geothermal Heating District	523
(23) Irrigation District	545
(24) Drainage District	547
(25) Diking District	551
(26) Water Improvement District	552
(27) Water Control District	553
(28) Corporation for Irrigation, Drainage, Water Supply or Flood Control	554
(29) Weather Modification District	558.200 to 558.440
(30) Soil and Water Conservation District	568.210 to 568.808 and 568.900 to 568.933
(31) Port District	777.005 to 777.725 and 777.915 to 777.953
(32) Port of Portland	778.010

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