



# INCORPORATION GUIDE

A Guide to City Incorporation in Oregon

Revised 1/2007

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## INTRODUCTION

This manual is designed for use by citizens in unincorporated areas who believe the needs or circumstances of their area have changed in such a way that county government alone is no longer able to respond adequately to local needs or conditions. The manual is designed to help those residents define the unique circumstances or needs of their area and match those needs or conditions with a wide range of possible governmental forms ranging from creation of a new city to just becoming a stronger advocate for the area's needs with county government. There is no intention to suggest one form of government over another. In fact, residents should consider incorporation as the most extreme response to their needs – to be considered only if the other alternatives available to them prove insufficient in meeting local needs or desires. Generally, the reader will see, incorporation is most justified when the needs and desires of residents in the area are for a full range of governmental services or there is strong desire for local control which can only be met by becoming a city. Short of those fairly unique characteristics, there are a number of other alternatives available to area residents, that may actually serve local needs better than becoming a city.

This manual first attempts to outline briefly the various forms of local government available to solve problems that may be encountered in unincorporated areas. Next, the manual suggests methods for measuring needs, citizens' desires and potential future development of the area in question, by relying on extensive assistance of area residents. This process can help determine whether the area's needs are limited and can be satisfied by county government, a single purpose district or whether there are a broad range of services needed and desired that may require incorporation.

If incorporation appears to be the answer, the manual further defines the process to be followed in incorporating a city.

Finally, the manual lists resources of assistance and information from state and local agencies that can help area residents in matching the area's needs with alternative forms of local government.



## Chapter 1

### INCORPORATION AND ALTERNATIVES

Incorporation gives residents greater control over local affairs and provides a financing and delivery device for urban services. On the other hand, becoming a city causes fundamental changes in the social character of the area. Becoming a city can create social strains, particularly in smaller communities, even while important service needs are met. Some alternatives to becoming a city are outlined below. They may require no governmental change or the creation of special districts to meet specific service needs.

#### **Ask the County for Help**

The county may be able to respond to your area's needs. The key to that response may be better communication of your needs to county officials. Elected county officials have regularly scheduled open meetings and office hours. In addition to local procedures to seek your involvement, local governments are required by many state and federal laws to provide full opportunity for citizen involvement. The opportunity for seeking assistance is there.

#### **County Service Districts**

The county may not be able to respond directly, but may offer to participate with the unincorporated community in the formation of a county service district. Some counties, as a matter of policy, have chosen not to create county service districts. The county board's position should be determined before proceeding.

County service districts may provide one or more of the following services: comprehensive planning; sewage facilities; drainage works; street lighting; public parks and recreation services; diking and flood control; water supply; solid waste disposal (except in Clackamas, Multnomah and Washington Counties); agricultural educational extension services; animal control; and emergency medical services. The following additional services may be established: fire prevention and protection; enhanced law enforcement services; hospital and ambulance services; library services; vector control; cemetery maintenance; roads; and weather modification. Additional functions from the list may be added after the initial formation by vote.

Actual districts vary in size from neighborhood to countywide service areas. They offer a similar range of functions.

The county board always functions as the governing board of a county service district. They are responsible for all of its operations. Many counties appoint an area advisory committee, although the law does not require one.

A county service district may be initiated by the county or by initiative petition. The petition must be signed by 15 percent or 100 registered voters in the proposed district, whichever number is greater.

Unlike proposed cities, county service districts may be disapproved by the county if it determines no benefit would result. Economic, demographic and social trends and projections, past and predicted physical development of land, and compliance with state land use goals and laws must be considered in determining benefit. An election on forming a county service district is not automatic.

County service districts have the authority to issue bonds and to raise money through district property taxes, property assessments, service or user charges, and connection charges. The manner of financing construction, maintenance and operation of the services is subject to referendum by 10 percent of the voters in the district. County service districts are subject to the local budget procedures prescribed by state law.

### **Special Service Districts**

Special districts are another alternative. They vary from county service districts in that they are usually single purpose in function and have their own elected or appointed board. Exceptions are park and recreation districts and water supply districts which, with voter approval, may add fire protection. ORS 198 lists 29 different types of special districts. They are governed by appointed or elected boards up to nine members. The authority of the districts are defined by statute. They are initiated in the same fashion as county service districts and local budget law also applies.

If an area's problems are multiple, it could require several districts with separate boards to provide services. This tends to make coordination among various special districts more difficult and makes citizen involvement more difficult when there are several districts, each with its own elected officials and budget.

### **Join a Nearby City**

Annexation should also be considered when the unincorporated community is close to an existing city. If the area is within the urban growth boundary of a city, an estimate should be made about when possible annexation could be expected. The city should be asked for a timetable for the extensions of facilities, the level of service to be provided and the projected cost to the new area as well as the entire city. If the unincorporated area is outside the urban growth boundary, the existing city can be asked to determine if the comprehensive plan might be amended to allow for future annexation of the unincorporated area. Such amendment would allow full study of the advantages and disadvantages of annexation. Cities within three miles can veto an incorporation. The results of an annexation feasibility inquiry may influence the exercise of that veto. ORS 221.034.

## **City Incorporation**

If the area needs a broad range of services or if citizens in the area believe that the provision of one service will precipitate the need for others, consideration should be given to becoming a city. In addition to providing a device for delivering and financing public services, a major function for a city is to provide a means of broad local self-government that is not available through special service districts.

Oregon cities are general purpose governments with broad powers. With a few exceptions (the major one being land use planning) there are no requirements that cities provide specific services. A city is a vehicle for local determination of the level and type of public services and regulation. However, if some services such as water, sewer, police and building inspection are chosen, state and federal standards apply. Also, if a city is in a county of more than 100,000 population and wishes to receive state shared revenues after its third year of existence, it must provide directly or by contract four “urban” services.



## Chapter 2

### FEASIBILITY STUDY

If the county is unable to respond to your area's needs and you still want to review the other alternatives mentioned in Chapter 1, a thorough study of the area and its present and future needs is in order. The decision to create or reject incorporation or some other change in governmental status should be an educated one. That education begins with establishing a study area and gathering together all available community information from history and attitudes to a map of soils suitable for septic tanks. The education begins with actual collection of the information and continues through sharing it with others in the community. The goal of the initial study should not be to justify a pre-determined course of action. Rather it should be to provide as complete an understanding of the area as possible so that alternative courses of action can be measured and community direction developed.

This chapter spells out in some detail an extensive list of items to be examined before incorporating. Don't let the list overwhelm you. You can do as much of it—or as little of it—as you wish. The broader the study, the more informed a decision on incorporation can be. On the other hand, size, location and development of an area can suggest elimination of some items and placing less emphasis on others. A study for an area of 200 people might be quite simple while a study for an area of 5,000 people would likely be more extensive.

Residents will be the primary source of information; open community discussion should be the primary activity. Participants in the past efforts to develop community goals and effect major changes in governmental status all stress the need to contact all residents at the beginning and then provide continuing opportunities to exchange ideas throughout the process. Non-resident property owners will not have a vote in any incorporation election, but they do have a stake in what happens and should be asked to participate. Efforts to involve area residents at this stage will pay dividends when final review of incorporation alternatives take place.

The citizens initiating the effort will most likely find themselves considered the study steering committee. If the group is not representative of the community, an immediate effort should be made to make it so. Otherwise, community discussion may question how objective the study is rather than its substance.

Community acceptance will be strengthened by having as many people as possible involved in the actual data collection and presentation. Pride of authorship has value as it translates into continuing citizen commitment. There's also a considerable monetary value in volunteer efforts and products, i.e., if volunteers don't do it you may have to hire someone to get the work done. It is often quite helpful to assign specific study components to subcommittees with a steering committee member functioning either as advisor or chairman. Try to assign volunteers to committees where their daily experience can be used.

Very early in the process all local governments and local government organizations existing in the area should be asked to comment on the proposed study area and the study elements. They should also be asked to help develop a list of existing plans, reports and data that include the area and for possible assistance in the study effort. This early contact should eliminate the necessity of reinventing wheels that already exist.

Early contact should also be made with electrical, natural gas and telephone utilities serving the area. As part of their planning for service expansion they often do extensive community studies and are willing to share information about their existing and projected service areas.

Elementary and secondary schools often have courses dealing with local government. Teachers and students alike usually welcome an opportunity to have the actual community as the laboratory, and community fact-finding efforts as the assignments. When the scope of the community fact-finding study is determined, the local school districts should be asked if the study elements can be presented to the school staff so they can decide whether and how they might participate in the study. In addition to the actual work products, the students will gain first hand knowledge of an important community issue.

Colleges and universities often offer academic credit for community studies. University assistance could include the services of graduate interns in administration, an economics class doing a cost-benefit analysis on service delivery, a political science class designing a public opinion survey and many others. You should show them your study outline to help them see how they might be part of the effort.

### **Setting the Study Area Boundary**

The boundary of the initial study area should be tentative in name and fact. Its purpose is to define the area in which facts will be gathered, not to etch in stone the city limits. Its tentative nature, however, should not detract from its importance to the effort. Anticipate the inquiries of a county board asking for a demonstration of benefit to property by being included or excluded from a city or a district. If questions exist about particular areas, the study could be designed to illustrate effects from alternate boundaries.

Boundaries of the elementary school district or attendance area and special or county service districts should be examined before designating the study area. Their boundaries represent community needs and decisions. The use of existing district boundaries may also facilitate fact finding.

Both developed and developing areas should be examined for inclusion. The growth rate will influence the amount of vacant land included.

The sense of community should be an additional test in designating the study area. Care should be taken at the study stage, however, not to gerrymander the study boundary to exclude known pockets of opposition. At this stage excluding part of the area from the study on the basis of potential opposition could distort the results.

## **Fact Sharing Process**

Maps will probably be the best way to share much of the community information. The county assessor's maps are a good resource. A community-wide base map should be developed and, depending upon the area's size, may need to be divided by neighborhood. These can then be used at community and neighborhood meetings to demonstrate characteristics of the area and how public services might be provided.

At a minimum, the base map should include major streets, streams, public parks, schools and existing governmental boundaries. As additional information is gathered, it may be placed on the map, illustrated on plastic overlays or displayed on additional maps. Relationships are easier to demonstrate if separate maps are similarly scaled.

Aerial photographs are also helpful. The county planning department, the state transportation department and the federal government often use them and are willing to share. If the photos have been taken over a period of years, growth rate and impacts will be graphically illustrated.

The local and regional newspapers serving the area should be provided information as it is gathered. They will be an important link during the fact-finding process. They often are willing to print questionnaires as well as write news stories. Their editorial comments, if any, will undoubtedly influence the ultimate community choice of direction. Their editorial stance will be enhanced by having been part of the fact finding and sharing process.

Depending on the nature of your area, written flyers may be helpful in informing and surveying residents. They should be used to supplement and complement personal contact and open discussion, not replace it.

## **Population**

Population information will be available from a number of sources. The county should have recent figures from comprehensive planning efforts. In some areas, the council of governments maintains the most recent figures used by all agencies. U.S. Bureau of Census data dating to the 1940 census, is maintained by and available from Portland State University (PSU). Enrollment and census figures from the local school district will also be helpful in establishing trends. Electric, gas and telephone utilities serving the area will often share information about past and current service loads as well as their service projections for the area. They also maintain vacancy statistics. Of course, a door to door survey will provide the most accurate population information. The other sources will provide a means of making comparisons and projections.

The goal should not just be to determine the total population but also its characteristics. Such information as age groups, place of employment, length of residency, owner/renter occupied status, and nature of housing would be valuable. The customary method in predicting future population is to plot the historical patterns. Longtime residents will be able to assist in describing the reasons for the patterns.

## **Economic Characteristics**

The economic character of the community will need to be determined in order to judge its capacity to support growth and services. The county planning department will have maps for your use showing the zoning by parcel. More generalized county land use maps are also available. The assessed value of the area by parcel will be available from the County Assessor. Historical assessments and sales trends are useful public information and may be obtained from the county. County building permits should also be reviewed for information on area growth.

An inventory of current land uses can be accomplished through a walking or driving survey. Information about changes in use that have occurred through the years cannot be easily discerned, however. Again the memories of the long time residents will be important in documenting change.

The community being studied does not exist in isolation from its neighbors. The use and the ownership pattern of the surrounding territory could also be useful information. If a community's economic activity is primarily based in agriculture and forestry, it raises questions about where urban growth should occur. If some bordering lands are in federal or state ownership, large tract exclusive farm use zoning or small tract rural residential, these are considerations that affect the question of incorporation.

The Employment Division of the Department of Human Resources is the primary source of labor force data on a countywide basis. Their information is by place of work so the best information about the resident work force characteristics should be sought as part of the door to door survey or in visits to principal employers in the area. If an economic development district or port district exists in your area, they should be asked what economic data and analysis they use for your area. Businesses within the study area should be asked about their current and projected level of operations including payroll, employees and volumes. Financial institutions and chambers of commerce are additional resources.

## **Geographic Features**

The natural characteristics of the area are equally important to the decision. For example, elevations will affect the feasibility, design, placement and cost of sewer, water and storm systems, streets, and housing. Geologic hazards can eliminate some areas for development and influence placement of public facility grids. Flooding patterns of the area's waterways have similar impacts. Soil types and lot sizes are critical to whether or not septic tanks can continue to serve the community. In the surrounding territory, prime agricultural designation is a limiting factor to future urban expansion of the area. The capacity of the area's existing water supply as well as the potential of additional ground and surface water should also be researched. The county planning, public works and surveying departments should have the most recent natural resource information. Other sources of information about the area's geography are listed in Appendices A and B.

Natural resources determine opportunities as well as limitations for development. Local resource-based industries themselves as well as the employee organizations should also be asked about how they visualize their future community role.

### **Community Plans**

The county comprehensive plan is much more than a map. It's a series of general and specific goals and objectives that guide both private and public development and conservation decisions within the county. The plan will be valuable to a fact-finding study, not only in providing the county goal framework, but in its documentation of the local data and assumptions upon which the plan is based.

It will be helpful to review public facility plans, county capital improvement programs, and economic development plans developed within the last 15 years as well as the current ones. It will assist in developing an understanding of the assumptions that led to past decisions and the impact of those actions. The community facts developed as part of this study should be compared with past assumptions.

The zone code, including the subdivision ordinance and county rural development policies, also need to be reviewed. An examination of how the documents have been used by the county planning staff, planning commission, and board in recent zoning decisions may be as revealing as reviewing the substance of the codes and policies themselves. Measure 37 may also play a factor in the consideration of incorporation. This initiative measure, adopted in 2004 and now codified as ORS 192.506, would apply to a new city's land use regulations. Those regulations that diminish the value of real property within the city would require the city to compensate the land owner or waive the regulation.

### **Existing Public Services**

The study should include a list and evaluation of public services currently provided to the area by the county and special districts as well as federal and state programs. The analysis should include an estimate of service costs to area residents and a description of the method used in financing past improvements. In addition, the current provider should be asked what services would still be available if the area's governmental status were changed by annexation, incorporation or formation of a district. The survey of services type, including current and potential level, adequacy, and cost of services could include some or all of the following: police protection; fire protection; planning, zoning; building inspection and permits; water service; sewerage disposal; garbage disposal and collection; parks and recreation; library services; elderly and low income housing assistance; street planning, construction and maintenance; street lighting; storm drainage; nuisance abatement; and animal control.

### **Tax Effort**

The tax rate and boundaries for the various taxing districts in the area should be noted. The nature of the levies (i.e., with the tax base, rate levies, serial levies, annual operating levies or

bond retirement), should be included. The continuing tax obligation to existing districts if the area becomes a city should be determined, as well as the total general government tax in the area, as compared to the \$10 limitation. In addition, state and federal revenues available to the city should also be explored. See Chapter 3 for details.

### **Governing Bodies**

The study needs to include a list and description of boards, commissions and advisory groups that make decisions concerning the study area. The inquiry should focus not only on who makes decisions but the mechanism, if any, for communication and coordination.

### **Survey Area Residents**

A survey of area residents is important to identification of public sentiment for additional services or increased local control. Such a survey can also indicate the willingness to pay the additional taxes or fees such services may require.

### **Community Review**

It is important for those who gather the facts to assemble them for community presentations. The hard data and perceptions of community attitudes need to be shared in a series of informal meetings that encourage discussion and provide for consensus building. Citizens should have a non-threatening environment as they inquire about their community and share their thoughts. The goal is to assess of community needs. It should be based on facts, but it must be tested against how the residents feel about their community. The primary indicator for change will be a community-wide belief that there are unmet needs. If the community reaction to the fact finding study is one of satisfaction with the performance of existing institutions, a study of different governmental approaches would not seem to be warranted. If the results reinforce the sense of need that prompted the study, the next steps should include refining the list of the area's service needs and possible boundaries.

Contact with a city that has incorporated in recent years is helpful. The most recent incorporation was the City of Keizer in 1982. In addition, city staff and elected officials can be helpful as you collect information and think through the idea of incorporating. Resource persons from state and federal agencies and the League of Oregon Cities can be asked to attend community meetings to answer questions of area residents. Other publications relating to city government are identified in Appendix C.

Remember, while this list of study items seems long, it should be adapted to local conditions. Information required to study the feasibility of incorporating a relatively small, remote area will be much less than the information required for a proposal affecting a larger area in one of the state's metropolitan areas.

## Chapter 3

### WHAT WILL IT COST?

The list of needs in your feasibility study should receive careful community discussion. As the community facts and attitudes are discussed, continuing opportunities should exist for adding or deleting needs. For example, many citizens may not list storm water runoff as a problem. Problems of future water supply and quality are also not easily discernible, but the cost of service expansion or improvement could be significant.

General operating start up costs such as office personnel, space and equipment, meeting space, the official census and insurance should be estimated. Portland State's Population Center can estimate the census cost. A local general insurance agent can estimate property and tort liability premiums. City County Insurance Services has insurance and liability information.

As the community moves from describing needs to ranking them in terms of importance, the issue of cost and who will pay should rightfully be raised.

Comparison cities and districts can provide rough comparisons of cost figures although precise comparisons are almost impossible to make. Efforts should be made to find existing cities and districts that are similar in population, geographic location, assessed value, nature of development and need for public facilities. The League of Oregon Cities should be able to assist in this selection.

When seeking comparison cities and districts, be sure to relate the level, cost and method of financing of services to the total costs to residents. Personal visits with comparison communities can aid the analysis. If your area anticipates considerable growth, a similar look might be given to a community that resembles your population estimate 10 and 20 years from now.

Budget totals by each function from the comparison communities should be made available for community review. Their source of revenues should also be provided.

If your area is within or near special service or county service district, inquiry should also be made about the cost of remaining within the district or contracting with the district. Many cities are within fire or park and recreation districts. Some rural fire protection districts also contract with the cities for service.

The county should be approached about their willingness to provide additional services on a contractual basis and an estimate of contract costs. Even though the fact finding stage included a discussion of county services, the question needs to be raised again so the community cost of providing, contracting or doing without the service can be computed. Some counties provide minimal services to a newly incorporated city, feeling a primary responsibility to serve residents in the unincorporated area. Your discussions with the county

should not only include their willingness to continue present services to your area, but also their future capacity and willingness to provide enhanced services to serve urbanizing areas. The experiences of other cities in the county will aid in predicting available types and levels of service in the future, if you incorporate.

### **Estimating Revenues**

The ledger sheet should not only include the cost but also the revenues available for financing services. After the city's population is certified by the Portland State Population Research Center, state shared cigarette, liquor and gas taxes will automatically be distributed to the city on a per capita basis in monthly installments. The amount of the current allocation will be available from the League of Oregon Cities. Each spring, the League publishes estimated revenues for the next fiscal year each spring. Beginning with its fourth year, a city in a county with over 100,000 people must provide at least four of the following services to continue to be eligible for state shared revenues: police protection; fire protection; street construction, maintenance and lighting; sanitary sewers; storm sewers; planning, zoning and subdivision control; one or more utility services. The new city is automatically considered to be providing four or more services until the fourth year.

Cigarette and liquor revenues may be used for general purposes. Gas tax revenues are restricted to the road system and related activities. This includes the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas. Cities currently receive a share of cigarette tax, liquor tax revenues, and state highway funds. None of these funds are available for special districts.

### **State Revenue Sharing**

A percentage of the available state liquor funds is distributed to cities as state revenue sharing. A city must have levied property taxes in the prior year to be eligible. State revenue sharing can be used for any purpose. Cities must report annually on its use. Also, a city must hold two public hearings, one before the council, before requesting these funds. The formula for distribution considers population, local property tax effort and per capita income. The amount allocated to a comparison city could provide guidance in predicting future revenue from this source.

### **User Fees**

If such services as water, sewer and recreation are expected to be provided, the fees should be estimated. Also, anticipated fees for processing land use requests and building permits should be listed. If business licenses and utility franchises fees are planned they too should be considered.

### **Property Taxes**

With voter approval, a city may levy a tax for operating expenses or retiring bonds. Any obligation that area residents may currently have from special or county district bond sale

remains after incorporation. If the area is withdrawn from the district, however, taxes for operating expenses of the district do not continue.

### **The Balancing Act**

The community's feasibility study should now include a social, physical and economic community description, an appraisal of community goals, a list and description of perceived needs, estimates of costs for services to meet those needs and estimates of possible revenues. Within that framework, decisions should now be made about existing and projected boundaries. The "fit" of alternative forms of local government can then be measured against the community's fiscal capacity and goals.



## **Chapter 4**

### **BOUNDARY SELECTION**

The county will make the final boundary determination based on benefit. The boundary submitted by the community should therefore demonstrate benefit by including within its findings recognition of such factors as the following: existing service district boundaries and urban development; limits to future growth; capacity to provide services; community sentiment.

The boundary will establish an expectation for urban services from the property owners and residents within the proposed city limits. This expectation for services should be considered when deciding how much vacant land to include.

The urbanization goal of the Land Conservation and Development Commission will not apply to the incorporation. It will, however, apply to future annexations, so it should be considered in planning logical future service areas, particularly drainage areas for sewers.

The legal description of the exterior boundaries of the city must be described on the incorporation petition.

Legislation in 2005 precludes using a boundary that would encompass certain industrial property in Jackson County unless the owner of the property consents. 2005 Or.Laws Chapter 539 § 8.



## Chapter 5

### INCORPORATION PROCEDURES & ELECTIONS

The legislature enacted the first Oregon Incorporation Act in 1893. The current act is in ORS 221.010 to 221.110. Those sections set out the procedural requirements for creating a new city from unincorporated territory. A newly incorporated city may also be created through consolidation of existing cities, an existing city and unincorporated territory, or from both. Those procedural requirements are found in ORS 222.210 to 222.310.

#### **General Requirements**

People in an area with at least 150 residents that is outside of an existing city may incorporate a new city. ORS 221.020.

1. *Petition* - Petitioners must use an incorporation petition form approved by the Secretary of State. The petition must be filed with the county clerk before it is circulated in the unincorporated area. ORS 221.031. The Secretary of State has adopted city incorporation forms by administrative rule. OAR 165-004-0005. For further instructions on filing a petition for incorporation, see appendices D and E.

ORS 221.031(2) requires that the petition contain:

- (a) The names and addresses of not more than three chief petitioners, who must be electors registered within the boundaries of the proposed city,
- (b) The name of the proposed city,
- (c) A proposed permanent tax rate that would generate operating tax revenues sufficient to support an adequate level of municipal services, and
- (d) A map of the exterior boundaries of the proposed city.

Secretary of State Form SEL 701 meets these requirements.

A copy of the petition must be attached to each signature page. ORS 221.031(3). No more than 20 signatures will be counted on each sheet. Secretary of State petition Form SEL 702 meets these requirements and is attached.

2. *City Resolution* - Formal comment by nearby or overlapping special or county service districts is not required. If the area to be incorporated includes special or county service districts, however, there are public hearing and notice requirements if the districts are to be withdrawn from the city. See, ORS 222.524, 222.460(4). If the entire area of a district is within the boundary of a new city, the district will cease to exist upon incorporation of the city. ORS 222.510. The new city assumes the assets, liabilities, obligations and functions of the district. If only part of a district is within the city, the city remains part of the district unless it takes specific action to withdraw from the district.

ORS Chapter 195 requires the new city to enter urban service coordination agreements with special districts. These agreements must be in place before the first periodic review for the new city's comprehensive plan. The agreements will be facilitated by the county or the Metropolitan Service District (Metro). Proposed city incorporations within the boundaries of Metro may face additional requirements. *See*, Metro Code 3.09.130.

3. *Economic Feasibility Statement* - ORS 221.035 requires filing an economic feasibility statement for the proposed city with the county clerk along with the incorporation petition. The economic feasibility statement must form the basis for the proposed permanent tax rate for operating revenues as required by ORS 221.031(2). ORS 221.035(2) requires that the statement contain:

- (a) A description of the services and functions to be performed or provided by the proposed city;
- (b) An analysis of the relationship between those services and functions and other existing or needed government services; and
- (c) Proposed first and third year budgets for the new city demonstrating its economic feasibility.

4. *County Commission* - Incorporation petitions must be filed with the county commission once they have been signed by 20% of the electors registered in the area proposed for incorporation, or 10% of the electors if the proposed area is in a county with a population over 300,000. All petition signatures must be obtained within six months of the date of filing under ORS 221.031 (i.e., the initial date of authorization for circulation by the county clerk).

The county commission must set a public hearing time and place, and give the required notice under ORS 221.040(1). At the public hearing, persons may present oral and written objections to granting the petition, forming the proposed city, or the permanent tax rate. The county commission may alter the boundaries of the proposed city to add all territory that may be benefitted. It may not exclude any land that would be benefitted by the proposed city. The county commission may not include any land that in its judgment will not be benefitted. *Millersburg Dev. Corp. v. Mullen*, 14 Or. App. 614 (1973).

The Oregon Supreme Court has held that the determination of which land is benefitted is a legislative rather than a judicial decision. The county commission may not be overruled unless it is without rational basis. However, the county commission may not determine that no part of the proposed area would be benefitted to avoid an incorporation election. *McManus v. Skoko*, 255 Or. 374, 380 (1970).

If the commission determines that any land has been improperly omitted and the owner is not at the hearing, the commission must continue the hearing and give notice to the non-appearing owner. The owner must show cause why the land should not be included in the proposed city. ORS 221.040(2).

5. *Election* - After the final hearing if the county commission approves the petition, it must order an incorporation election. The order must set the election date at the next primary or general election not sooner than 90 days after the date of the order. ORS 221.040(3) requires that the order contain:

- (a) The boundaries of the proposed city,
- (b) The requirement that the ballot contain a street description of the boundaries and the proposed permanent tax rate, and
- (c) The date of the election in the proposed city.

ORS 221.050(1) requires the election of five city council members for the proposed city at the same election as the incorporation proposal.

The general election provisions in ORS Chapters 246 to 260 govern the council election except:

- (a) there is no primary election for city council candidates,
- (b) candidate petitions or declarations must be filed not sooner than 100 days and not less than 70 days before the election,
- (c) the filing fee is \$25, and
- (d) a nominating petition must contain the signature of at least 25 electors in the incorporation area or at least 10% of the electors in the area, whichever is less. ORS 221.050(2).

ORS 221.050(3) requires that the ballot title for the election comply with the standards for form of ballot titles at ORS 250.036.

The county commission must proclaim the results of an election favoring incorporation within 30 days of the election date. The commission must also declare which city council candidates are elected. The results favor incorporation if a majority of the votes cast favor incorporation and (a) at least 50% of the electors eligible to vote cast a ballot, or (b) the election was part of a general election in an even-numbered year. ORS 221.050(4).

If the election results favor incorporation:

- (a) The area proposed in the election notice is incorporated as a city from the election date,
- (b) The proposed rate limit is the permanent tax rate for the new city, and
- (c) The five council members elected must take office not later than the 10<sup>th</sup> day after the county commission proclamation. ORS 221.050(5).

ORS 221.061 requires that the new city pay from its general fund for all expenses of the election, and for the expenses for the legal description of the incorporation petition. If the incorporation is not approved by the voters, all expenses of the election and the legal description must be paid from the general fund of the county.

### **Additional Requirements Within Three Miles of City and Outside Urban Growth Boundary**

ORS 221.034 was added to the incorporation statutes in 2001. It applies when the area to be incorporated is within three miles of an existing city, and outside a city or metropolitan urban growth boundary. Under this section the incorporation petition must be accompanied by an affidavit signed by a chief petitioner stating that 10% of the electors within the area favor the proposed incorporation. It must also state that the chief petitioners have discussed the proposed city, including expansion of urban growth boundaries, with neighboring cities. See Appendix E for additional information.

ORS 221.034(2)(c) requires that the economic feasibility statement required by ORS 221.035 contain:

- (a) a plan and provision for cost-effective urban services at a minimum level adequate to meet current needs and projected growth,
- (b) a proposed permanent tax rate for operating revenues for the urban services, and
- (c) a plan for residential development at or above urban density of a similar existing city within county, or within three miles of the Metro boundary.

Under ORS 221.034(2)(d) if the proposed city is required to complete a public facility plan and a transportation systems plan, it must demonstrate the ability to provide urban services to meet current needs and projected growth. This requirement may be met with urban services agreements with cities or districts under ORS 195.060.

ORS 221.034(3) provides that if the council of a neighboring city determines that the proposed incorporation adversely affects the existing city, the council may ask the county commission to reject the petition and terminate the incorporation proceedings. The city objections must be heard and considered by the county commission at a public hearing held under ORS 221.040.

If at the hearing the county commission finds either that any of the requirements of ORS 221.034(2) are not met, or that the proposed incorporation will adversely affect a neighboring city, the county commission must order the termination and prepare findings and reasons for its order. ORS 221.034(4).

The county commission order is subject to review by the Land Use Board of Appeals as provided in ORS 197.830 to 197.845. ORS 221.034(5). But see, Metro Code 3.09.060 *et seq.* that requires appeals to the Metro Boundary Appeals Commission of contested final boundary change decisions. This seems to apply to city incorporation decisions made by the Clackamas, Multnomah, and Washington county commissions.

### **Additional Requirements for Lane County**

Lane County is within the only remaining local government boundary commission. Incorporation petitions for cities proposed within Lane County must use Secretary of State form SEL 702A. A certified copy of the incorporation petition must be filed with the boundary commission within 10 days of its filing with the county commission. ORS 199.476. The petition must be accompanied by an economic feasibility analysis and an estimate of the tax rate derived from the analysis. Unless the boundary commission approves the economic feasibility analysis, the county clerk cannot authorize the circulation of the petition. Additionally, for proposed cities within Lane County, each signature page of the petition must contain a statement that the economic feasibility analysis was approved by the boundary commission, that the analysis is available for inspection at the offices of the boundary commission, and that, subsequent to the gathering of the petitioners, the boundary commission must review and approve the proposal prior to submission at an election. See Appendix E for details.

### **Procedures for Rural Unincorporated Community**

ORS 221.036 was also added to the incorporation statutes in 2001. It applies to areas that include a rural unincorporated community outside of Metro's urban growth boundary, but which are in the process of being included in the Metro urban growth boundary. If a notice of intent to prepare an economic feasibility statement or incorporation petition has been filed for the area, it may continue incorporation under ORS 221.034 before the area is included in the Metro acknowledged urban growth boundary. The area proposed for incorporation may also include lands within the Metro urban growth boundary. See Appendix E for more information.



## Chapter 6

### THE COUNCIL

As explained earlier, the five initial city council members are elected at the incorporation election, and take office within 10 days of the county commission proclamation of the election results. ORS 221.050.

The two members receiving the highest number of votes have terms ending the first Monday in January following the second general election after incorporation. The terms of the other three councilors end the first Monday in January following the first general election after incorporation. ORS 221.090.

Once a city is incorporated under ORS 221.010-221.100, then ORS 221.110-221.140 provides the legal basis for city council decisions until city voters adopt a home rule charter. *Davidson Baking Co. V. Jenkins*, 216 Or. 51 (1959).

ORS 221.120 provides that the council may fill council vacancies by appointment for the remainder of the term. The powers of the city are vested with the council. A majority of the council members constitutes a quorum for council decisions. To have legal effect a majority of the council must approve council decisions. The council must meet at least once each month.

The council must appoint one of its own members to serve as mayor. The council must appoint a mayor at its first meeting of each odd-numbered year. The mayor's term is two years. The mayor is the council presiding officer and must sign all ordinances passed by the council. ORS 221.130.

The council may appoint a municipal judge and any other city officers it deems necessary. City officers may be removed at the discretion of the council, and their compensation is set by the council. City officers have the duties assigned by the council. ORS 221.140.

ORS 221.160 provides for special elections to fill council vacancies whenever the number of remaining city council members is insufficient for a quorum.



## **Chapter 7**

### **COUNCIL MEETINGS**

#### **Call for Meeting**

City councils are “governing bodies” and must comply with provisions of the Oregon Public Meeting Law. ORS 192.610–192.690. This law applies to all city council meetings. Council meetings must be held in a place where there is no discrimination on the basis of race, creed, color, sex, age, national origin or disability. ORS 192.630. The council organizational meeting may be initiated by a call for a special council meeting that is circulated for the signatures of the council members. At least 24- hour notice of the meeting is required and it must meet the requirements of ORS 192.640.

#### **Election of Mayor**

ORS 192.650 requires the recording of the vote of each council member. This includes election of the mayor. The council may choose to vote by signed ballots. Voice or hand voting is sufficient as long as it is recorded.

#### **Minutes and Council Rules**

ORS Chapter 192 also prescribes that minutes must include the attendance and the disposition of all motions, resolution, orders and ordinances proposed. The substance of any discussion should be recorded in the minutes. Verbatim transcripts are not required.

The League of Oregon Cities has sample council rules for agendas and order of business.

#### **Census**

The city’s monthly share of state shared revenues does not begin until the local census has been taken and certified by the Population Center of Portland State University. Contact with Portland State should take place so the city council can approve the census request at its very first meeting.

#### **Budget**

The expenditure of money by a city requires an approved budget. For this reason, the budget process should begin immediately. The council must appoint a budget officer and the citizen members of the budget committee. The budget committee is made up of the governing body and an equal number of citizens. The term of the citizens is three years and the initial terms are staggered, so that about one-third of the terms end each year.

Cities are subject to the Local Budget Law as set out in ORS Chapter 294. This law establishes procedures for the annual preparation, adoption, and administration of the budget

and prescribes opportunities for citizen involvement. The Local Budget Unit of the Department of Revenue explains the requirements in their Local Budget Manual. The Oregon Municipal Finance Officers Association has developed supplementary materials to assist the budget officer and budget committee.

If the adopted budget calls for a property tax as a revenue source, council may levy by ordinance a tax up to the limit of its permanent tax rate. A permanent tax rate provides continuing taxing authority.

The Local Budget Law is silent about the fiscal actions of a city between the council election and the budget adoption. The city should seek advice from the Local Budget Division of the Department of Revenue about how to handle necessary financial transactions during the interim.

### **Comprehensive Planning**

ORS Chapters 197 and 227 govern the new city's land use planning responsibilities. The city must prepare and adopt a comprehensive plan consistent with the statewide goals adopted by the Land Conservation and Development Commission (LCDC). There are LCDC administrative rules that apply the statewide goals to incorporation and the adoption of a comprehensive plan for the new city. OAR, Chapter 660, Division 14.

The plan must be coordinated with the county and acknowledged by LCDC before it is official. The typical plan contains a generalized map indicating preferred land uses, a series of goals and policies defining those uses, and references to the data and assumptions on which the plan is based. The nature of the plan will directly respond to the complexity of the community.

The council should officially ask the LCDC county coordinator and the field representative to begin the development of a comprehensive planning work program and grant application.

The county coordinator and the area's field representative from the Department of Land Conservation and Development (DLCD) will assist the city in developing a suggested work program. Information gathered for the feasibility study should provide much of the base data for the comprehensive plan and should be shared with the DLCD to assist in determining what tasks still need doing. The work program will be reviewed by the DLCD and a mutually accepted compliance schedule (work program) will be developed.

Historically, the program has provided funds for a portion of the planning effort. Small cities have generally contracted with the county, the local council of governments or a private planning consulting firm to prepare the comprehensive plan.

The opportunity for citizen involvement in all phases of the planning process is a state requirement. The city is required to develop a participation program and submit it to LCDC for approval. It's helpful to involve citizens in designing the involvement strategy.

ORS 227.020 allows but does not require appointment of a city planning commission. A city may choose to have the governing body also serve as the planning commission. If a city does create a planning commission, ORS Chapter 227 provides requirement for the occupational makeup of the commission.

The community can anticipate at least a year for preparation, review and adoption of the plan. ORS 197.757 allows up to four years to accomplish this task.

### **Employee Recruitment**

The first employee as well as all subsequent ones must be chosen under procedures that are job-related and non-discriminatory. The city council should write a job description, and recruit, interview and select on the basis of that description. The Local Government Personnel Institute can provide technical assistance and sample procedures.

### **Insurance**

Arrangements should be made to secure property and liability insurance coverage. Cities and their councils are not immune from suits. The property coverage must come from a private carrier. Liability insurance may be obtained from a private carrier or through the City-County Insurance Services.

### **Intergovernmental Relations**

Other local governments in the area, including the county, other cities, special districts and school districts will have an interest in and be affected by city decisions. These should be contacted early in the incorporation process and can be very helpful.



## Chapter 8

### FORM OF CITY GOVERNMENT

The government provided by ORS Chapter 221 is essentially the weak-mayor form. The legislative and administrative functions, including appointments of city officers and employees, rest with the council. The state statutes may serve indefinitely as the city's "charter". On the other hand, city voters may choose to adopt a city home rule charter that provides for the government structure that better suits local needs and desires.

Almost all of Oregon cities have developed their own charters. Reasons for home rule charter adoption include: direct election of the mayor; delegating authority to the mayor; adding a primary election; increasing the number of council members; nominating the council by district; electing the council by district; filing vacancies by special election; changing length of terms; and establishing a city manager position.

Cities normally appoint a citizen charter committee to suggest charter provisions after extensive public involvement. Since 1947, charter drafting has been guided by model charter prepared and revised by the Bureau of Governmental Research and Service and the League of Oregon Cities (LOC). The most current Model Charter for Oregon Cities was updated by LOC in 2004. The model charter provides for a general grant of powers to the city rather than a list of specific city powers. Most policy decisions are left to ordinances.

Most small Oregon cities have chosen a weak-mayor form of government. Some by ordinance have created the position of city administrator. Medium sized cities generally use a city manager form of government. An exception is Beaverton that has a strong mayor charter. Portland is the only city with a full-time paid commission form of government.

Under a weak-mayor form of city government, the mayor does not appoint administrative personnel, directly supervise employees, have a veto over council ordinances, or appoint committees without council confirmation. All administrative as well as legislative authority rests with the council. Weak mayor cities sometimes create by ordinance a city administrator position to implement council policy.

The strong-mayor form of government makes the mayor the chief executive while leaving the legislative role with the council. In addition to administrative responsibility and authority, the strong-mayor usually has veto power over council ordinances.

Commission government places administrative and legislative responsibility with the same group of three to five elected officials. For their legislative role, Portland's four commissioners and the mayor comprise the city council with the mayor presiding. The mayor chooses which commissioner heads what department to carry out administrative duties.

The council-manager form of government places legislative responsibility with the council (that includes the mayor). The city council appoints the city manager who is responsible for all administration including appointment of city personnel.

Regardless of the form of government or size of city, councils generally consider policy formulation their most important responsibility. That responsibility also includes how their policy is administered. The smaller the city, the more likely it is for the council to be both the policy-setters and the policy-administrators. As a city grows, the council's role usually shifts from doing to supervising and eventually monitoring. The administrative involvement of the council is not just a function of size. It also responds to the interests and time of the council members, as well as constituent expectations. A council member's tasks can include everything from shelving books and cleaning storm drains to representing the city before state agencies and the legislature. Sometimes council tasks are formalized by the use of council committees.

Except for Portland's full-time commissioners and Beaverton's mayor, Oregon's city councils and mayors serve with little or no compensation. Compensation may take the form of a mileage allowance, or a per diem for official meetings or expenses for official functions. Charters may prescribe or prohibit compensation, or they may, as in the Incorporation Act (see Chapter 5) and the model charter, leave it for city council determination.

## **Chapter 9**

### **DISINCORPORATION**

A city may disincorporate if it has no outstanding debt or “other obligation.” The city may surrender its charter, disincorporate and cease to exist if a majority of the city voters authorize it. The election may be called in response to an initiative petition. The procedures are found in ORS 221.621.

Under ORS 221.650 the city has 30 days after the disincorporation election to convey all its property to the county. At the end of 60 days after the election the city ceases to exist.

Disincorporation efforts are rare. The City of Juntura, population 60, disincorporated in 1976 after 63 years as a city. Draperville and Long Martin disincorporated in 1950 and 1968 after less than one year as cities. Waterloo, incorporated in 1893, and rejected disincorporation in a 2002 election.



# Appendix A

## RESOURCE AGENCIES BY SUBJECT AREA \*

(Addresses and phone numbers of agencies are included in Appendix B.  
Number beside each agency name is the numerical listing in Appendix B.)

### ASSISTANCE AND INFORMATION - PRIMARY RESOURCES

League of Oregon Cities (4)  
Area Council of Governments (2)

### BOUNDARY COMMISSION / REGIONAL GOVERNMENT

Lane County Local Government Boundary Commission (8)  
METRO (6)

### BUDGET

Oregon Department of Revenue (21)  
Oregon Municipal Finance Officers Association (7)  
CENSUS/POPULATION CHARACTERISTICS  
Center for Population Research and Census, Portland State University (10)  
U.S. Census Bureau (25)

### ECONOMIC CHARACTERISTICS

Oregon Economic and Community Development Department (11)  
Employment Division, Oregon Department of Human Services (13)

### ELECTION

County Clerk or Elections Office (3)  
Elections Division, Secretary of State's Office (12)

### EMPLOYMENT PRACTICES

Local Government Personnel Institute (5)  
Oregon Employment Relations Board (14)  
Oregon Bureau of Labor and Industries, Technical Assistance Unit (19)

### ETHICS

Oregon Government Standards and Practices Commission (17)

## FEDERAL AND STATE GRANTS

League of Oregon Cities (4)

## HOUSING

U.S. Department of Housing and Urban Development (27)

Oregon Housing and Community Services (18)

County Housing Authority (3)

## LIABILITY

City/County Insurance Services (1)

## MAPS

County Planning Department or Surveyor (3)

Oregon Department of Transportation, Geographic Information Services (22)

## NATURAL HAZARDS

Oregon Department of Geology and Mineral Industries (16)

Oregon Water Resources Department (24)

## PLANNING

Land Conservation and Development Department (20)

County Planning Coordinator or Department (3)

## TRANSPORTATION

Oregon Department of Transportation (22)

## WASTE TREATMENT AND DISPOSAL SITES

Oregon Department of Environment Quality (15)

## WATER QUALITY

Oregon Department of Environmental Quality (15)

## WATER SUPPLY

Oregon Water Resources Department (24)

# Appendix B

## INFORMATION RESOURCES

### LOCAL GOVERNMENT SOURCES

1. City/County Insurance Services  
1212 Court St NE  
Salem, OR 97301  
Toll-free phone: (800) 922-2684  
Salem phone: (503) 585-1121  
[www.cciservices.com](http://www.cciservices.com)
2. Council of Governments  
Listing by Area (Oregon Blue Book):  
[www.sos.state.or.us/bbook/local/other/other01.htm](http://www.sos.state.or.us/bbook/local/other/other01.htm)
3. County Governments  
General Listing (Oregon Blue Book):  
[bluebook.state.or.us/local/counties/counties.htm](http://bluebook.state.or.us/local/counties/counties.htm)
4. League of Oregon Cities  
PO Box 928  
Salem, OR 97308  
Toll-free phone: (800) 452-0338  
Salem phone: (503) 588-6550  
[www.orcities.org](http://www.orcities.org)
5. Local Government Personnel Institute  
680 State St #180  
Salem, OR 97301  
Phone: (503) 588-2251
6. Metro Regional Center  
600 NE Grande Ave  
Portland, OR 97232  
Phone: (503) 797-1700  
[www.metro-region.org](http://www.metro-region.org)

7. Oregon Municipal Finance Officers Association  
DMH Management Services  
PO Box 13308  
Portland, OR 97213  
Phone: (503) 282-9288  
[www.omfoa.org](http://www.omfoa.org)

### STATE AGENCY SOURCES

8. Boundary Commission, Lane County  
99 E. Broadway, Suite 400  
Eugene, OR 97401  
Phone: (541) 682-4425
9. Building Codes Division  
Dept. of Consumer and Business Services  
350 Winter St NE  
Salem, OR 97301  
Phone: (503) 378-4133  
[www.cbs.state.or.us/external/bcd](http://www.cbs.state.or.us/external/bcd)
10. Center for Population Research and Census  
Portland State University  
PO Box 751  
Portland, OR 97207  
Phone: (503) 725-3922  
<http://www.pdx.edu/prc>
11. Economic and Community Develop. Department  
775 Summer St, Suite 200  
Salem, OR 97301  
Toll-free phone: (800) 233-3306  
Salem phone: (503) 986-0123  
[www.econ.state.or.us/](http://www.econ.state.or.us/)

**STATE AGENCY SOURCES (continued)**

12. Election Division  
Secretary of State  
141 State Capitol  
Salem, OR 97310  
Phone: (503) 986-1518  
[www.sos.state.or.us/elections/elechp.htm](http://www.sos.state.or.us/elections/elechp.htm)
13. Employment Division  
Department of Human Services  
500 Summer St NE  
Salem, OR 97301  
Phone: (503) 945-5944  
<http://www.dhs.state.or.us/employment/>
14. Employment Relations Board  
528 Cottage St NE, Suite 400  
Salem, OR 97301  
Phone: (503) 378-3807  
[www.erb.state.or.us/](http://www.erb.state.or.us/)
15. Department of Environmental Quality  
811 SW 6th Ave  
Portland, OR 97204  
Toll-free phone: (800) 452-4011  
Portland phones: (503) 229-5696  
[www.deq.state.or.us/](http://www.deq.state.or.us/)
16. Department of Geology and Mineral Industries  
800 NE Oregon St, Suite 965  
Portland, OR 97232  
Phone: (503) 731-4100  
[www.oregongeology.com/](http://www.oregongeology.com/)
17. Government Standards and Practices Commission  
100 High St SE, Suite 220  
Salem, OR 97301  
Phone: (503) 378-5105  
[www.gspc.state.or.us/generalinfo.html](http://www.gspc.state.or.us/generalinfo.html)
18. Housing and Community Services  
PO Box 14508  
Salem, OR 97309  
Phone: (503) 986-2000  
[www.hcs.state.or.us/geninfo/index.html](http://www.hcs.state.or.us/geninfo/index.html)
19. Bureau of Labor and Industries  
800 NE Oregon St #32, Suite 1045  
Portland, OR 97232  
Phone: (503) 731-4200 ext. 4  
[www.boli.state.or.us/technical/index.html](http://www.boli.state.or.us/technical/index.html)
20. Dept. of Land Conservation and Development  
635 Capitol St NE, Suite 150  
Salem, OR 97301  
Toll-free phone: (800) 735-2900  
Phone: (503) 373-0050  
[www.lcd.state.or.us/](http://www.lcd.state.or.us/)
21. Local Budget Unit  
Department of Revenue  
955 Center St NE  
Salem, OR 97301  
Phone: (503) 378-4988  
[www.dor.state.or.us/pubs.html#local](http://www.dor.state.or.us/pubs.html#local)
22. Department of Transportation  
355 Capitol St NE  
Salem, OR 97301  
Phone: (503) 986-3200  
[www.odot.state.or.us/home](http://www.odot.state.or.us/home)
24. Water Resources Department  
158 12<sup>th</sup> St NE  
Salem, OR 97301  
Phone: (503) 378-8455  
[www.wrd.state.or.us/](http://www.wrd.state.or.us/)

## **FEDERAL AGENCY SOURCES**

25. Census Bureau  
Department of Commerce  
4700 Silver Hill Rd  
Washington DC 20233  
[www.census.gov](http://www.census.gov)
  
26. Geological Survey  
Department of Interior  
10615 Cherry Blossom Dr  
Portland, OR 97216  
Phone: (503) 251-3470  
[www.usgs.gov](http://www.usgs.gov)
  
27. Dept. of Housing and Urban  
Development  
400 SW 6<sup>th</sup> Ave  
Portland, OR 97204  
Phone: (503) 326-2561  
[www.hud.gov](http://www.hud.gov)



# Appendix C

## PUBLISHED SOURCES OF INFORMATION

### LEAGUE OF OREGON CITIES PUBLICATIONS\*

Model Charter for Oregon Cities, 2004

Home Rule in Oregon Cities, 2006

A Handbook for Oregon City Councilors, 2003.

Conducting Effective Meetings, 2006.

Recruiting a City Administrator, 2002.

Evaluating a City Administrator, 2002.

### STATE AGENCY PUBLICATIONS

1. Local Budgeting Manual. Oregon Department of Revenue, 2003 (updated periodically).  
Download: <http://www.oregon.gov/DOR/PTD/docs/local-b/504-420.pdf>
2. City Elections Manual. Secretary of State Elections Division, 2006 (updated periodically).  
Download: <http://www.sos.state.or.us/elections/publications/city.pdf>
3. Public Records and Meetings Manual. Oregon Attorney General, 2006 (updated biannually).  
Order Information: <http://www.doj.state.or.us/pros/manual.shtml>
4. Oregon Government Standards and Practices Law: A Guide for Public Officials.  
Oregon Government Standards and Practices Commission, 2003 (updated periodically).  
Download: <http://www.gspc.state.or.us/GSPC/docs/POGUIDE.pdf>
5. Statewide Planning Goals and Guidelines. Oregon Dept. of Land Conservation and  
Development. Download: <http://www.lcd.state.or.us/LCD/goals.shtml>

\* These publications, as well as others, can be ordered or downloaded (if available) on LOC's web site at: <http://www.orcities.org>



# Appendix D

## FILING A PETITION FOR INCORPORATION

File the petition forms (using Secretary of State Forms SEL 701 and SEL 702)\* and economic feasibility statement with County Clerk (of county in which proposed city lies, or, if proposed city lies in more than one county, to the clerk of the county in which the largest part of its territory lies) to be authorized for circulation.

### **Petition Cover Page**

The petition cover page shall contain:

- ✓ The name of the proposed city;
- ✓ Instructions for circulators and signers;
- ✓ A statement that the chief petitioners are legal voters residing within the boundaries of the area proposed for incorporation;
- ✓ A statement of the estimated tax base sufficient to support an adequate level of municipal services;
- ✓ A statement of the estimate of a tax rate in dollars per thousand of assessed value necessary to raise an amount of revenue equal to the proposed tax base, calculated for the latest tax year for which the assessed value of the proposed city is available;
- ✓ A place for the signature, residence address, mailing address (if different), city, state, and zip code of up to three chief petitioners; and
- ✓ Have attached to the cover sheet a map (no larger than 14 by 17 inches in size) indicating the exterior boundaries of the proposed city.

Completing Secretary of State Form SEL 701 fulfills these requirements.

### **Statement of Economic Feasibility**

The statement of economic feasibility shall contain:

- ✓ A description of the services and functions to be performed or provided by the proposed city;
- ✓ An analysis of the relationship between those services and functions and other existing or needed government services; and
- ✓ Proposed first and third year budgets for the new city demonstrating its economic feasibility.

### **Signature Pages**

Signatures must be gathered within 6 months of initial filing. A full and correct copy of the petition cover page (Form SEL 701) and map shall be attached to every sheet of signatures.

The signature sheet shall contain:

- ✓ The title “PETITION FOR INCORPORATION OF THE CITY OF \_\_\_\_\_” with the name of the proposed city filled in;
- ✓ The sub-title “SIGNATURE SHEET”;
- ✓ A statement that the undersigned voters of the area proposed to be incorporated petition the county court to form the city named on the petition and described by the map attached to the petition; The signature, printed name, date of signing, residence address, city or post office and zip code for each person who signs the petition;
- ✓ Statement of circulator that each person who signed the petition did so in his presence and that circulator believes that each individual is a qualified voter in the area proposed to be incorporated; and
- ✓ No more than twenty (20) signatures per page.

Completing Secretary of State Form SEL 702 fulfills these requirements.

\* Contact the Secretary of State, Elections Division for the most current version of forms SEL 701 and 702. Contact information is located on p. 38.

# Appendix E

## ADDITIONAL REQUIREMENTS

### In Lane County

If the proposed city is within the jurisdiction of Lane County, which has the only remaining local government boundary commission:

- ✓ When submitting to clerk for authorization for circulation, the Petition Cover Page (Form SEL 701) shall be accompanied by the economic feasibility analysis required under ORS 199.476. This analysis must be approved by the LGB commission or the county clerk cannot authorize the circulation of the petition.

In Lane County, the Signature Sheet shall contain:

- ✓ The title "PETITION FOR INCORPORATION OF THE CITY OF \_\_\_\_\_" with the name of the proposed city filled in;
- ✓ The sub-title "SIGNATURE SHEET";
- ✓ A statement that the boundary commission has approved the economic feasibility analysis for the area proposed for incorporation, that the analysis is available for inspection at the offices of the commission, and that the commission must review the proposal for incorporation before it is submitted at an election;
- ✓ A statement that the undersigned voters of the area proposed to be incorporated petition the county court to form the city named on the petition and described by the map attached to the petition;
- ✓ The signature, printed name, date of signing, residence address, city or post office and zip code for each person who signs the petition;
- ✓ Statement of circulator that each person who signed the petition did so in his presence and that circulator believes that each individual is a qualified voter in the area proposed to be incorporated; and
- ✓ No more than twenty (20) signatures per page.

Completing Secretary of State Form SEL 702a\* instead of Form 702 fulfills these requirements.

### Rural Unincorporated Territory

If proposed city is **within 3 miles of an existing city, but outside the urban growth boundary**, the petition must be accompanied by an Affidavit stating that:

- ✓ Ten percent of the electors registered in the area proposed for incorporation favor the incorporation; and

- ✓ The chief petitioners have discussed the proposed incorporation with neighboring cities, including discussions about how those cities and the proposed city will allow for expansion of urban growth boundaries (also urban reserve areas).

In addition to the above requirements regarding the Statement of Economic Feasibility, the Statement must also:

- ✓ Indicate that the proposed city must plan for and provide urban services in a cost-effective manner at the minimum level adequate to meet current needs and projected growth;
- ✓ Contain a proposed permanent rate limit for operating taxes to provide revenues for urban services; and
- ✓ Indicate that the proposed city must plan for residential development at or above the same urban density planned for an existing city, within the county, that has a similar geographic area within the existing city's urban growth boundary or, for a proposed city within three miles of Metro's boundary, a minimum urban residential density in accordance with a statewide planning goal and rules pertaining to needed housing for cities within Metro's urban growth boundary.

If the proposed city will be required to complete a public facility plan and a transportation systems plan, the proposed city must demonstrate the ability to provide urban services to meet current needs and projected growth. The proposed city may meet this requirement, in whole or in part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060, to provide the urban services.

\* Contact the Secretary of State, Elections Division for the most current version of forms SEL 702a. Contact information is located on p. 38.