

**WASHINGTON STATE BOUNDARY REVIEW BOARD  
FOR  
DOUGLAS COUNTY**

**ORGANIZATION AND RULES OF PRACTICE AND PROCEDURE**

**IN THE MATTER OF ADOPTION OF  
REVISED ORGANIZATION AND RULES  
OF PRACTICE AND PROCEDURE**

**WHEREAS**, pursuant to RCW 36.93.200, the Douglas County Boundary Review Board adopted Rules of Practice and Procedures on February 7, 1979, and amended same on December 6, 1995, now, therefore,

**BE IT HEREBY RESOLVED** by the Douglas County Boundary Review Board that the revised Rules of Practice and Procedure be, and hereby are, adopted as follows:

**I. ORGANIZATION**

**A. OFFICERS AND TERMS**

The Board shall, at the end of its regular meeting each January elect from among its members a Chairman and Vice-Chairman, each of whom shall serve for a period of one (1) year and thereafter until their respective successors have been elected, but the Chairman or Vice-Chairman may be replaced at any time by a vote of three (3) members. The Vice-Chairman shall serve in the absence of the Chairman. In the absence of a Chairman or Vice-Chairman, a Chairman Protem shall be elected by the members present.

**B. COMPENSATION**

Upon attendance at regular or special Board meetings, Board hearings or other Board work as determined by the Chairman or a majority of the Board, each member of the

Board shall be entitled to compensation from the Douglas County Current Expense Fund in accordance with the current compensation rate established in (RCW 36.93.070).

### **C. CORRESPONDENCE**

All correspondence to the Board shall be received at the Boundary Review Board Office, 110 3<sup>rd</sup> St. NE, East Wenatchee, WA 98802

### **D. CHIEF CLERK**

The Boundary Review Board Chief Clerk shall be selected by the Boundary Review Board in accordance with RCW 36.93.070 and shall be accountable to the Board through the Chairman.

### **E. LEGAL COUNSEL**

All questions of law shall be referred by the Board to the Douglas County Prosecuting Attorney unless other legal counsel is designated by the Board as established in (RCW 36.93.070).

## **II. BOARD MEMBERS**

### **A. RESPONSIBILITIES**

It shall be the responsibility of each member to study and be familiar with the following:

- Boundary Review Board Manual as a source of reference, keeping it up to date with new materials as provided;
- Boundary Review Board Act (RCW 36.93);
- Adopted Rules of Practice and Procedure;
- SEPA (RCW 43.21 C) and SEPA Guidelines (WAC 197-11);
- Growth Management Act (RCW 36.70A);
- Appearance of Fairness Doctrine (RCW 42.36).
- Open Public Meetings Act (RCW 42.30);

- Workshops - New members are expected to attend the annual new member workshop held by the State Association of Boundary Review Boards in the Spring after appointment to the Board is made.

## **B. APPEARANCE OF FAIRNESS**

### **1. Ex-Parte Communications**

In accordance with RCW 42.36.060, members shall abstain from any and all communications with persons or governmental or private entities which are, or are expected to be, parties to an action before the Board.

This restriction is limited to matters before the Board, or which may come before this Board. If a member receives a letter or other written communication relating to a matter before the Board from a source other than the Boundary Review Board Office, that member shall transmit the material to the Chief Clerk for inclusion in the record.

Board Members shall avoid conversations with any party to the action except when such conversation is on the record. It shall be the duty and responsibility of each member to disclose at the earliest opportunity any communication between said member and a party to a matter before the Board.

### **2. Public Deliberations**

Members shall avoid conversations on the merits of pending action except when such conversation is on the record as required by the Open Public Meetings Act.

### **3. Disclosure**

It shall be the duty and responsibility of each Member to be familiar with the Appearance of Fairness Doctrine as required under Qualification of Members above, and to disclose at the earliest opportunity any possible violations thereof to the Chair and Counsel. Upon such disclosure, the Member may withdraw from the Board proceedings and, if such action is taken, shall leave the room in which such proceedings ensue. If the Member chooses not to withdraw, the Chair shall, have the Member at the earliest opportunity upon the opening of a public hearing, disclose to the parties present the occurrence and nature of the possible violation.

### **4. Procedures to be followed by Board/Chairman with reference to Appearance of Fairness: Ex-Parte Communications and Disclosure**

Upon discovery of the existence of Ex-parte Communications, as contemplated under RCW 42.36.060, the Chairman or Board Member shall, at each and every subsequent hearing on the proposal:

- a) Place on the record the substance of any written or oral ex-parte communication concerning the decision or action; and

- b) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his/her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

### III. NOTICE OF INTENTION

All Notices of Intention shall be submitted following the appropriate format, which shall be furnished by the Chief Clerk upon request. The following procedures are to be followed by a City, Town, Special Purpose District or Lead Agency for the purpose of annexation. All correspondence to the Boundary Review Board shall be addressed to the Chief Clerk, 110 3<sup>rd</sup> St. NE, East Wenatchee, WA 98802 (Phone 509-884-3537 FAX 509-884-5973)

#### A. PRIOR TO FILING THE NOTICE OF INTENTION

##### 1. Legal Description

A legal description and maps of each Notice of Intention shall have a dated, signed and stamped approval of a civil engineer licensed in the State of Washington, land surveyor licensed in the State of Washington, or Douglas County Road Engineer. The legal description may be altered according to the process described in RCW 36.93.103 (3).

##### 2. Environmental Review

- *NOTE: Municipal Annexations and Incorporations are exempt from SEPA Review.*

In accordance with WAC 197-11-970 the Determination of Nonsignificance (DNS) needs to be completed. The 2nd box in the middle of this form should be checked (where it says "This DNS is issued under...") and where it says "Comments must be submitted by \_\_\_\_\_" -- this date should be fifteen (15) days from the day the form is mailed to all those parties deemed affected by

the proposed annexation such as:

1. Douglas County Transportation and Land Services
2. Washington State Department of Ecology
3. Douglas County Special Districts, i.e. Fire, Water, Sewer, etc.

The answers from these agencies are then made a part of your annexation packet.

### **3. Environmental Checklist**

The Environmental Impact Statement (EIS) Checklist shall be completed prior to filing. The answers to EIS questions may be typed on a separate sheet and attached to the EIS questions. The environmental review of the proposed action must be completed by the proponent prior to consideration of the proposed action to be included with the DNS and forwarded to the appropriate agencies. The replies from these agencies are made a part of your annexation packet along with the DNS.

## **B. FILING OF NOTICE OF INTENTION**

### **1. Format**

The Notice of Intention form shall be furnished by the Chief Clerk and is attached and incorporated herein by reference.

### **2. Filing Fee**

A filing fee of fifty dollars (\$50.00) shall be paid by the initiator of a proposed action in accordance with RCW 36.93.120.

### **3. Manner of Filing**

The Notice of Intention form and the required exhibits shall be submitted in person or by mail to the Boundary Review Board Chief Clerk for determination of sufficiency. When deemed sufficient, the original and ten copies of the Notice of Intention and exhibits specified by the Chief Clerk as well as the filing fee of fifty dollars (\$50.00) shall be submitted.

### **4. Contiguous Parcels Only**

A Notice of Intention may describe more than one (1) parcel of land as long as the boundary of the area is defined by a single continuous line.

## **C. OFFICE PROCEDURES**

### **1. Effective Date of Filing**

Upon determination by the Boundary Review Board Chief Clerk that according to RCW 36.93 and the Board's Rules of Practice and Procedure, the Notice of Intention is sufficient and the filing fee is paid, the Chief Clerk shall file the Notice of Intention and assign a file date and number. This constitutes an official filing.

**2. Refusal of Notice of Intention**

Failure to provide the items required by these rules or RCW 36.93 shall constitute sufficient cause for the Chief Clerk to refuse to accept a Notice of Intention for filing.

**3. Routing**

Upon assigning a file date and number to a Notice of Intention, the Chief Clerk shall route the Notice of Intention and required exhibits to the appropriate county departments and agencies and any interested party upon request to the Board office, for review and comment as per RCW 36.93 and other applicable statutes.

**4. Notice to the Board**

The Chief Clerk shall forward a copy of the Notice of Intention and required exhibits to each Board member and Legal Counsel, along with a copy of the next meeting agenda, no later than five (5) days prior to the next meeting of the Board.

**5. Declaration as Void**

A Notice of Intention received by the Boundary Review Board Office and not officially filed within one (1) year, due to noncompliance with law or the Board's Rules of Practice and Procedure is declared null and void.

**6. Withdrawal**

Any Notice of Intention filed with the Boundary Review Board may be withdrawn by the initiator at any time prior to the Board having taken jurisdiction over the matter or the Chairman having signed a waiver form. In no case shall a filing fee be refunded in the event of withdrawal of a Notice of Intention.

**D. BOARD ACTION**

**1. Review Waiver**

(RCW 36.93.110) If a proposed annexation is less than ten (10) acres and less than two million (\$2,000,000.) in assessed valuation, the Chairman may waive the forty-five (45) day waiting period.

**2. Approval After Forty-Five (45) Days**

If forty-five (45) days has elapsed without the Board's invoking its jurisdiction or having had it invoked, the proposed action shall be deemed approved as prescribed in RCW 36.93.100.

**3. Written Notification**

The Chief Clerk shall notify the initiator in writing when the proposed annexation is deemed to be approved.

## IV. MEETINGS AND HEARINGS

### A. MEETINGS

#### 1. Regular Meeting Dates

Regular meeting dates of the Washington State Boundary Review Board for Douglas County shall be held on the fourth Wednesday of every other month, (January, March, May, July, September, November), commencing on or about the hour of 7:00 p.m. or other time set by the Board or Chairman at 110 3<sup>rd</sup> St. NE, East Wenatchee, WA, 98802, except if the regular meeting day is a legal holiday, such meeting shall be held on the next business day.

The Board shall meet at other such times and/or places as the Chairman, Vice-Chairman or any three (3) members may determine from time to time and shall provide public notice as required in RCW 42.30. The Chairman, or in his/her absence, the Vice-Chairman, may cancel any regular or special meeting if it appears that there is no business which reasonably required the attention of the Board. All meetings of the Board shall be open to the public except as provided by law.

#### 2. Agenda

The Chief Clerk shall prepare the Agenda one (1) week preceding a Board meeting. The Agenda shall contain a summary of all matters then known to require Board action.

#### 3. Rules of Order

Except as modified by these Rules of Practice and Procedure, all meetings of the Board shall be conducted in accordance with Robert's Rules of Order.

#### 4. Resolutions and Motions

All official actions of the Board shall be resolutions or motions and shall be reduced to writing and incorporated in the official minutes of the Board. Upon request, such minutes shall be available to any interested party.

#### 5. Participation by Chairman

The Chairman may make or second any motion, present and discuss any matter as a member of the Board, and shall be entitled to vote on all matters.

## **6. Voting**

In the absence of objections, the Chairman may order a motion unanimously approved. Any member not voting on roll call in an audible voice shall be recorded as voting in favor of the motion. Unless requested by member, the Chairman need not take a roll call vote. Any member voting on a hearing decision shall have been present during all sessions of the hearing or modification hearing, or listened to all recordings or read the transcripts of the proceedings and state so on the record.

## **7. Quorum**

A quorum (a majority of the Board) is necessary for transaction of any business by the Board.

## **8. Attendance**

Attendance at all meetings and all public hearings is a statutory requirement for Board members. Members unable to attend any meeting shall so notify the Chief Clerk prior to the meeting.

## **9. Postponements or Adjournments**

The Chairman may postpone or continue any matter at any time, or the Board may adjourn to any particular time and place subject to notice as provided by law.

# **B. INVOKING JURISDICTION**

## **1. Review Fee**

If the jurisdiction of the Board is invoked pursuant to RCW 36.93.100, the person or entity requesting review, except the Boundary Review Board itself, shall attach a fee of two hundred dollars (\$200.00) which shall be paid to Douglas County and deposited in the Douglas County current expense fund, in accordance with RCW 36.93.120.

## **2. Hearing Set**

When there has been a request for review and the jurisdiction of the Board has, therefore, been invoked, the Board shall by motion set the date, time and place for a public hearing on the proposal.

## **3. Withdrawal of Request**

A request for review filed pursuant to RCW 36.93.100 (2) by the county or governmental unit may NOT be withdrawn without the consent of the Board. The request for review fee will not be refunded. A request for review may NOT be withdrawn after the time, date and place has been set for review.

## **4. Additional information for Review**

After jurisdiction has been invoked as provided in RCW 36.93.100, the Board may direct the Chief Clerk to seek additional information from the initiator(s) of the action.



## **C. PUBLIC HEARINGS**

### **1. Transcripts**

All public hearings before the Board shall be recorded verbatim. Minutes of the public hearing, or portion thereof, shall be made available upon the request of any person or governmental unit to the Chief Clerk and payment of a reasonable cost thereof.

### **2. Oath**

The Chief Clerk shall administer the oath according to RCW 5.28.020 or RCW 5.28.050, if so requested by the Board.

## **D. HEARING TESTIMONY**

### **1. Responsibilities of Chairman**

The Chairman shall preside at all hearings of the Board and shall determine the order of the witnesses to appear before the Board. The Chairman may also, with the approval of the Board, direct the Chief Clerk to issue subpoenas to any public officer to testify, and to compel the production of any records, books documents, public records or public papers.

### **2. Witness Guidelines**

- a) Any initiator of a proposed action, agent or employee of a governmental unit, or other interested person may appear before the Board in person or be represented by any duly authorized person or persons.
- b) Any person desiring to address the Board must be recognized first by the Chairman, then shall step to the rostrum and give his/her name and address to the Chief Clerk and then name(s) of the person(s) or governmental unit on whose behalf he/she appears.
- c) The Chairman may, in the interest of facilitating the business of the Board, limit the amount of time to be allowed to any person, group or governmental unit.

### **3. Exhibits**

- a) Any document or exhibit must be submitted to the Chief Clerk for labeling prior to giving testimony. A speaker must identify any document or exhibit by its assigned number and title.
- b) Any written position statement regarding a proposed action by a governmental unit reviewed before the hearing by the Chief Clerk shall automatically be made an exhibit at the hearing.

#### **4. Examination of Witnesses**

Cross-examination of an expert witness may be conducted under the following conditions and procedures:

- a) The Chairman may allow cross-examination of expert witnesses where it is possible that matters of vital significance to the fact finding process may be glossed over, obscured or omitted in a recital-like presentation of technical subjects and expert opinion. The Chairman should allow the cross-examination of expert witnesses where the following factors are present:
  - The hearing has assumed distinctly adversary proportions;
  - Expert witnesses are called and complex, technical and disputed factors are involved in the proposal.
- b) When allowed, cross examination shall be permitted to a reasonable degree and should be limited to the subject matter of the direct examination/testimony.

#### **5. Rebuttal by Proponents**

Following the presentation or arguments by opponents to a proposed action, a brief rebuttal may be made by proponents in accordance with the following:

- a) Chairman may limit the time allowed for rebuttal, and
- b) Rebuttals shall not be a summary or closing statement, nor shall it contain additional information.
- c) No surrebuttal shall be allowed.

### **E. BOARD DECISION**

#### **1. Basis for Decision**

The basis for the Board's decision shall be as set forth in RCW 36.93.170 (factors to be considered by the Board, and RCW 36.93.180 (objectives to be met by the Board). The decisions of the Board must be consistent with the Growth Management Act (RCW 36.70A).

#### **2. Hearing Decision**

The Board shall file its written decision within forty (40) days after the conclusion of the final hearing on a proposal but in no event shall it be more than one hundred twenty (120) days after the filing of a request for review. The proponent and the Board may agree to any extension of the one hundred twenty (120) day period.

The decision shall be filed with the Board of County Commissioners and the Chief Clerk of each governmental unit directly affected. The decision shall indicate whether the proposed change is approved, denied or modified and if modified, the terms of such modification, in accordance with RCW 36.93.160 (4).

There is an appeal period of thirty (30) days following the filing of the Board's written decision with the County Legislative Authority during which time, an appeal may be filed with the Douglas County Superior Court.

## **V. FINAL FILING OF ANNEXATION ORDINANCE/RESOLUTION**

After receiving the final approval from the Boundary Review Board, the final Ordinance/Resolution may be filed with Douglas County as follows:

### **A. FINAL ORDINANCE/RESOLUTION**

1. Final Ordinance/Resolution shall contain a signed and stamped legal description, as required in Section III, subsection A, 1.
2. Final Ordinance/Resolution shall give the date of publication of final ordinance.
3. Final Ordinance/Resolution shall give the effective date of annexation.
4. Final Ordinance/Resolution shall have the initiator's seal or be notarized.
5. Final Ordinance/Resolution shall contain a map of the annexation area.
6. The Chief Clerk of the Boundary Review Board shall file the final Ordinance/Resolution with the Auditor's office. The appropriate filing fee shall accompany the final Ordinance/Resolution for filing. The proper cover sheet is required by the Auditor's office for filing purposes.

### **B. MANNER OF FILING**

The original and ten (10) copies of the final Ordinance/Resolution with the appropriate filing fee shall be submitted in person, or by mail, to the Chief Clerk.

### **C. FILING FEE**

Filing fee is set by the Douglas County Auditor's office. The check shall be made payable to "Douglas County".

#### **D. DISTRIBUTION**

1. The Chief Clerk will distribute final recorded Ordinance/Resolution to the appropriate county governmental departments.
2. A recorded copy of the final Ordinance/Resolution shall be returned to the initiator at the time of filing for distribution to all other entities.
3. The original recorded Ordinance/Resolution will be returned to the initiator upon request by the Auditor's office in four (4) to six (6) weeks after the final ordinance has been microfilmed.

#### **E. VALIDITY**

Approvals given to annexation requests will be valid for one (1) year from the date of said approval. After expiration of the one (1) year's time period, an uncompleted annexation must be resubmitted to the Boundary Review Board for approval, in light of changing conditions and changed circumstances.

### **VI. AMENDMENTS**

Any rule of Practice or Procedure of the Boundary Review Board may be added, amended, or repealed at any time by not less than a majority of the members present at any regular or special meeting. No such action shall be taken without ten (10) days prior written notice of such meeting, which notice shall be given in such form and in the manner as prescribed by RCW 36.93.200.

### **VII. EFFECT OF RULES**

These rules shall supersede any prior conflicting rules heretofore adopted by the Douglas County Boundary Review Board and shall be supplementary to those requirements and provision of Chapter 36.93 of the Revised Code of Washington and other applicable laws. If any provision of these rules or its application to any persons or circumstances is held invalid, the remainder of these rules, or the application of the provision to other persons or circumstances, shall not be affected.