



# Rules of Practice and Procedure

## Boundary Review Board

BE IT HEREBY RESOLVED by the Washington State Boundary Review Board for Grays Harbor County that the **Rules of Practice and Procedure** pursuant to RCW 36.93.200, adopted on September 3, 2008 and February 4, 2009, are hereby revised and re-adopted on February 9th, 2022 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 Chair and Vice Chair, each of whom shall serve for a period of one year and thereafter until their respective successors have been elected, but the Chair or Vice Chair may be replaced at any time by a vote of the majority of the Board members present. The Vice Chair shall serve in the absence of the Chair.

### B. COMPENSATION

Upon attendance at regular or special Board meetings, Board hearings or other Board work as determined by the Chair or a majority of the Board, each member of the Board shall be entitled to compensation from the Grays Harbor County Current Expense Fund at the rate of \$50.00 per day for time devoted to the work of this Board.

### C. CORRESPONDENCE

All correspondence to the Board shall be received at the Boundary Review Board Office, 100 West Broadway Suite 1, Montesano, Washington 98563.

### D. CHIEF CLERK

The Boundary Review Board shall have a Chief Clerk as per RCW 36.93.070 and shall be accountable to the Board through the Chair. The Chief Clerk of the Boundary Review Board shall be the Clerk of the Board of the County Commissioners unless otherwise determined by the Boundary Review Board. The Washington State Association of Boundary Review Boards has adopted a staff policies and procedures manual to more fully describe the responsibilities of the Boundary Review Board staff.

### E. LEGAL COUNSEL

All questions of law shall be referred by the Board to the Prosecuting Attorney's Office.

## II. Board Members

### A. QUALIFICATIONS

It shall be the duty and 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**;
- Adopted Internal Office Policies;
- Appearance of Fairness Doctrine (RCW 42.36);
- Open Public Meetings Act (RCW 42.30); and
- Washington State Appellate and Supreme Court Cases with reference to any of the above.

## **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 expected to be, parties to an action before the Board.

This restriction is limited to matters before the Board, or which may come before the 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 Clerk for inclusion in the record.

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 publicly disclose at the earliest opportunity any communication between said member and a party to a matter before the Board.

### **2. Disclosure**

It shall be the duty and responsibility of each member to disclose at the earliest opportunity any possible ex parte communications thereof to the Chair and Legal Counsel. Upon such disclosure, the member may withdraw from the Board proceedings and shall leave the room in which such proceedings ensue. If a member chooses not to withdraw, the Chair shall, at the earliest opportunity upon the opening of a public hearing, disclose to the parties present the occurrence and nature of the possible violation.

### **3. Procedures to be followed by Board/Chair with regards to Appearance of Fairness, Ex-Parte Communications, and Disclosure**

Upon discovery of the existence of ex-parte communications, the Chair shall, at each and every subsequent hearing on the proposal request that the member;

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

# III. Notices of Intention

## A. FORMAT

### 1. Notice of Intention Forms

All Notices of Intention shall be submitted following the appropriate format, which shall be furnished by the Clerk upon request. The applicant shall supply all supporting documentation deemed necessary by the Board to describe a pending action which shall include but not be limited to:

- A certified legal description and map
- Assessor's map
- Vicinity map
- Proof of petitions
- Proof of assessed valuation
- Affidavit of publication of legal notice advertising public hearing
- Minutes of public hearing
- Resolution or Ordinance
- SEPA-required documents

Furthermore, copies of the petition and Assessor verification are required for Petition Method annexation. The Notice of Intention form currently in use is attached to these rules as Attachment 1 and incorporated herein by reference.

### 2. Environmental Review (SEPA)

The initiator of a proposed action as the lead agency shall perform its duties according to the State Environmental Policy Act (RCW 43.21C and WAC 197-11) and submit documentation of its completed environmental review with each Notice of Intention. This provision does not apply to actions exempted under RCW 43.21C.

If the initiator is not the lead agency, the initiator of the proposed action must determine the lead agency and cause such agency to complete its duties pursuant to RCW 43.21C and WAC 197-11 prior to filing the Notice of Intention. If the lead agency determines that a proposal is exempt, the reason and citation of the appropriate SEPA guidelines must be submitted with each Notice of Intention.

### 3. Legal Description

The legal description and maps of each Notice of Intention shall have the signed approval of an engineer licensed in the State of Washington, a land surveyor licensed in the State of Washington, or the County Engineer. The legal description may be altered according to the process described in RCW 36.93.130 (3).

### 4. Contiguous Geographic Area Only

The only geographic area that a Notice of Intention shall describe is one with a boundary defined by a single continuous line.

### 5. Filing Fees

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

## **6. 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 Clerk for determination of sufficiency. When deemed sufficient by the Clerk a filing fee of \$50.00 shall be submitted.

## **B. OFFICE PROCEDURES**

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

Upon determination by the Boundary Review Board 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 Clerk shall file the Notice of Intention and assign a file date and number.

### **2. Routing**

Upon assigning a file date and number to a Notice of Intention, the Clerk shall route the Notice of Intention and required exhibits to the appropriate agencies for review and comment as per RCW 36.93 and other applicable statutes.

### **3. Posting**

The Clerk shall post the completed Notice of Intention to the BRB website for public viewing. If the annexation is perceived to be of public interest additional posting and advertisements of the proposal can be made to the neighboring property owners or other agencies as deemed necessary by the Board or Clerk.

### **4. Notice to the Board**

The Clerk shall forward a copy of the Notice of Intention and required exhibits to each Board member and Legal Counsel.

### **5. 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 Chair having signed a waiver form. Notices of Intention may be withdrawn thereafter with the consent of the Board. In no case shall a filing fee be refunded in the event of withdrawal of a Notice of Intention.

## **C. BOARD APPROVAL**

### **1. Preliminary Consideration by Board**

After time to notify and allow response from property owners and affected agencies, a Notice of Intention shall be placed on the Board's agenda for preliminary consideration. At this meeting, the Board shall consider filed Notices of Intention and comments received in writing.

### **2. Review Waiver**

If a proposed annexation is less than ten (10) acres and less than two million dollars (\$2,000,000) in assessed valuation, the initiator may petition the Chair to waive the 45-day review period, and after...

Allowing for response from affected agencies, the Chair, after the recommendation of the majority of the Board present, shall base his/her decision to waive the review period upon the following: the Notice of Intention; written comments received from potentially affected jurisdictions or residents; and the factors and objectives stated in RCW 36.93.170 and .180 as they affect the proposed action.

The Chair may then by written statement declare that the 45-day review period is not necessary, in which case the annexation is approved immediately. This action must be voted on and approved at a meeting by a quorum of the Board.

### **3. Approval After 45 Days**

If forty-five days have 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. The initiating agency must then adopt a final Ordinance/Resolution to adopt the annexation.

### **4. Written Notification**

The Clerk shall notify the initiator in writing when the proposed action is deemed to be approved. Copy of this approval along with the Notice of Intention shall be sent to the County Assessor and County Auditor for updating maps and election information.

## **IV. Meetings and Hearings**

### **A. MEETINGS**

#### **1. Regular Meeting Dates**

Regular meetings of the Washington State Boundary Review Board for Grays Harbor County shall be held on the first Wednesday of each month, commencing on or about the hour of 3:00 PM at 100 West Broadway Suite #1, Conference Room No. 1, Montesano, Washington, except if the regular meeting day is a legal holiday, such meeting shall be held on the following Wednesday. During special circumstances a remote/electronic meeting may occur with information on the agenda for how the public may attend.

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

#### **2. Agenda**

The Clerk shall prepare the agenda for all Board meetings. Agendas shall contain a summary of all matters then known to require Board action. The agenda shall be posted on the BRB website and sent to the Board members at least 24 hours in advance of the meeting.

#### **3. Rules of Order**

Except as modified by these **Rules**, 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 and signed by the Board. Upon request, such minutes shall be communicated to any interested party.

#### **5. Participation by Chair**

The Chair 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 Chair 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 a motion. Unless requested by a member, the Chair 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.

The affirmative vote of the majority of the Board present, or a negative vote of the majority of the Board present shall be required for any action of the Board.

## **7. Quorum**

A quorum for the transaction of any business by the Board shall be the majority of the Board. In the absence of the Chair and Vice Chair, a Chair Pro tem shall be selected by the members present to serve as Chair.

## **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 Clerk prior to the meeting.

## **9. Postponements or Adjournments**

The Chair 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 the County Treasurer and deposited in the Grays Harbor County Current Expense Fund.

## **2. Review Procedure EXCEPT for Incorporations**

In accordance with RCW 36.93.100, the Board shall review and approve as submitted; modify; or disapprove as submitted any of the actions set forth in RCW 36.93.090 when any of the following shall occur within 45 days of the filing of a Notice of Intention:

- a. Any governmental unit affected, or the County files a request for review.
- b. A petition requesting review is filed and is signed by
  - i. Five percent of the registered voters residing within the area which is being considered for the proposed action (as determined by the Board in its discretion subject to immediate writ of certiorari to the Superior Court), or
  - ii. An owner or owners of property consisting of five percent of the assessed valuation within such area.
- c. The majority of the members of the Board present concur with a request for review when a petition requesting review is filed by five percent of the registered voters who deem themselves affected by the action and reside within one-quarter mile of the proposed action but not within the jurisdiction proposing the action.

### **3. Review Procedure for Incorporations**

The Board shall hold a public meeting within 30 days after notification by the County Commissioners of an incorporation. The meeting shall be held in or near the area proposed for incorporation and advertised at least once in a newspaper of general circulation ten days prior to the meeting.

The purpose of the meeting shall be to allow persons interested in the proposed incorporation an opportunity to state their views on the proposed boundaries, type of city, form of government, name of the proposed city, and population of the proposed city. The Board Chair shall call the meeting to order and shall moderate the discussions.

The proponents have 180 days from the close of the meeting to collect sufficient signatures on a petition as certified by the County Auditor and to file a Notice of Intention with the Boundary Review Board. The Board shall review and approve, modify, or deny (in incorporations under 7,500 population) or recommend against (in incorporations over 7,500 population) a proposed incorporation and file its written decision.

### **4. 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.

### **5. Additional Information for Review**

After jurisdiction has been invoked, the Board through its Clerk may seek additional information from the initiator(s) of the action. In the case of the incorporation of a city or an annexation to a city, the Board may commission an impact study. The study may include the debt structure, finances and contractual obligations of the proposed action; the rights of all affected governmental units on the adjacent areas; the impact of the proposal on mutual economic and social interests; an analysis of the effect of the proposal on the local governmental structure of the County; and address considerations to all alternatives to the action.

### **6. 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.

## **C. PUBLIC HEARINGS**

### **1. Notification**

At least thirty (30) days advance notice must be given to the governing body of each governmental unit having jurisdiction within the boundaries of the territory proposed to be annexed, formed, incorporated, unincorporated, dissolved or consolidated, or within the boundaries of a special district whose assets and facilities are proposed to be assumed by a city or town, and to the governing body of each city within three miles of the exterior boundaries of the entity proposing the action and to the proponent of such change. Notification requirement does not apply to governmental bodies outside of Grays Harbor County.

### **2. Notice and Posting**

Notice shall be published in a newspaper of general circulation in the area of the proposed action at least three times, the last publication of which shall be not less than five days prior to the date set for the public hearing.

Notice shall also be posted in the area affected for five days in ten public places when the area is ten acres or more and in five public places when the area is less than ten acres.

### **3. Transcripts**

All public hearings before the Board shall be recorded. Audio recording of the public hearing, or portions thereof, shall be made available upon the request of any person or governmental unit to the Clerk and payment of the reasonable costs thereof.

### **4. Oath**

The 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 Chair**

The Chair shall preside at all hearings of the Board and shall determine the order of the witnesses to appear before the Board. The Chair may also, with the approval of the Board, direct the 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 Chair, then shall step to the rostrum and give his/her name and address to the Clerk, and the name(s) of the person(s) or governmental unit on whose behalf he/she appears.
- c. The Chair 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 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 received before the hearing by the Clerk shall automatically be made an exhibit at the hearing.

## **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); RCW 36.93.180 (objectives to be met by the Board); RCW 36.70A.020 (Planning goals); RCW 36.70A.110 (Comprehensive plans, urban growth areas); and RCW 36.70A.210 (County-wide planning policies).

### **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 and twenty (120) days after the filing of a request for review. The proponent and the Board may agree to an extension of the one hundred and twenty (120) day period.



The decision shall be filed with the Board of County Commissioners and the 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).

An appeal period of thirty days follows the filing of the Board's written decision with the County Commissioners during which time, an appeal may be filed with the Grays Harbor County Superior Court.

### **3. Validity**

Approvals given to annexations will be valid for three years from the date of said approval. After expiration of the three-year time period, an uncompleted annexation must be re-filed with the Board for approval, in light of changed conditions or circumstances.

Approvals or modifications and approvals given to annexations shall authorize the city, town or special purpose district to proceed to annex only the territory as legally described in the Board's written approval or decision. The approval shall not authorize any other annexation action.

## **V. Amendments**

Any Rule of Practice and Procedure of the Board may be adopted, amended or repealed at any time by a majority of members present at any regular or special meeting providing that no such action shall be taken without twenty (20) days prior notice of such a meeting, where required by RCW 36.93.200.

## **VI. Effect of Rules**

These **Rules** shall supersede any prior **Rules** heretofore adopted by the Washington State Boundary Review Board for Grays Harbor County and shall be in addition to those requirements and provisions of Chapter 36.93 of the Revised Code of Washington and other applicable laws. If any provision of these **Rules** is held invalid, the remainder of these **Rules**, or the application of the provision to other persons or circumstances, shall not be affected. Any change in the law shall immediately supersede any applicable provision herein.