



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

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PROCEDURES FOR FILING PETITION FOR ANNEXATION

Owners of property and registered voters living within Bellingham's Urban Growth Area (UGA) may petition the City Council to annex their land and/or residences, but are required to follow the procedures listed below. Filing a petition and application for annexation requires a variety of fees and a lengthy process, but does not guarantee that an annexation petition will be approved by the City Council.

It is very important for property owners and registered voters to understand that signing a petition for annexation is an acknowledgement that they are requesting that their property be:

- ✓ Assessed for City services, such as police, fire, library, museum, road maintenance, etc;
- ✓ Assessed for existing City indebtedness, such as bonds, levys, and loans;
- ✓ Regulated in compliance with the Bellingham Municipal Code; and
- ✓ Possibly responsible for infrastructure improvements as a condition of annexation.

This information must be displayed at the top of all petition forms. The signature of a property owner or registered voter will serve as a legal acknowledgement of this request to the City.

The Annexation Process

1. Pre-application Meeting with Planning Staff Required

Proponents of annexation need to meet with a long-range planner in the City Planning Department to discuss general annexation procedures, area-specific issues and details, and recommended acreage size and logical boundaries for proposed annexation areas. Generally, the City does not annex single parcels, but considers annexation of larger contiguous areas within the Bellingham UGA. Planning staff will provide interested parties with forms, procedural requirements, and suggestions for holding a neighborhood meeting as described below.

2. Neighborhood Meeting to Explain Annexation Proposal

Proponents of annexation need to complete the following at their own expense:

- ❑ Obtain a list of all registered voters within the area from the Whatcom County Auditor;
- ❑ Obtain a list of all property owners within the area from the Whatcom County Assessor;
- ❑ Arrange and advertise a neighborhood meeting to discuss the proposed annexation;
- ❑ Notification of the meeting must be mailed to all property owners and registered voters in the proposed annexation area at least 14 days prior to the date of the meeting;
- ❑ Public notice of the meeting must be posted at a few highly visible locations within the proposed annexation area at least 14 days prior to the date of the meeting; and
- ❑ Conduct a neighborhood meeting to discuss the proposed annexation (A City representative will be present to answer procedural and technical questions).

3. Annexation Application and Notice of Intent to Annex

Once the neighborhood meeting has been conducted, proponents of annexation must provide:

- ❑ A completed application for annexation;
- ❑ Confirmation that the neighborhood meeting has been conducted;
- ❑ A complete list of property owners in the proposed annexation area;
- ❑ A complete list of registered voters in the proposed annexation area;
- ❑ A map depicting the proposed annexation area;
- ❑ A legal description of the proposed annexation boundaries;
- ❑ A "Notice of Intent" form, available from the Planning Department, with signatures in favor of annexation representing owners of not less than 10% of the acreage **or** not less than 10% of the residents or registered voters in the proposed annexation area;
 - ◆ If the proposed annexation area is not inhabited by residents, then only owners of not less than 10% of the acreage must sign the petition;
 - ◆ The Board of Directors of a school district (The school district board may initiated an annexation under this method only if school property constitutes all of the property for which annexation is being proposed. RCW 28A.335.110); and
- ❑ Pay the required fees for annexation.

4. City Council Meeting to Initiate the Annexation Process

Once an application for annexation has been determined to be complete, the Planning Department will send written notice to the City Council announcing the intention to commence annexation proceedings. Upon receipt of notification, the City Council is to set a date (within 60 days after the filing of the notice) for a public meeting to determine:

- A. Whether the City will accept, reject, or geographically modify the proposed annexation;
- B. Whether it will require the simultaneous adoption of a comprehensive plan, if such a plan has been prepared and filed as provided for in RCW 35.13.177 and 35.13.178;
- C. Whether it will require the assumption of all or any portion of existing City indebtedness by the area to be annexed; and
- D. Whether any specific infrastructure or improvements will be required as a condition of annexation to the City of Bellingham.

The decision of the Council whether to “accept” the proposed annexation is entirely within the Council’s discretion. By accepting the proposed annexation, the Council is not committing itself to ultimately annexing the territory proposed when a sufficient petition is presented to it. The decision to accept merely allows the annexation to go forward procedurally. If the Council rejects the proposed annexation, the initiating parties have no right of appeal.

5. Legal Sufficiency of an Annexation Petition

If the City Council accepts the initial annexation proposal as supported by the notice of intent, the annexation proponents must then circulate a petition form to collect signatures of those in favor of annexation. In order to meet the legal sufficiency requirements, the petition must:

- A. Include a map of the annexation boundary and clearly state the specific conditions of annexation (as listed in 4. A. – D., above) at the top of the petition form;
- B. Be signed by the owners of not less than 51% of the acreage ***and*** 51% of the registered voters within the proposed annexation area;
 - ◆ If the proposed annexation area is not inhabited by residents, then only owners of not less than 10% of the acreage must sign the petition;
 - ◆ The Board of Directors of a school district (The school district board may initiated an annexation under this method only if school property constitutes all of the property for which annexation is being proposed. RCW 28A.335.110);
- C. Be forwarded to the Whatcom County Assessor. The Assessor will determine if the petition has legal sufficiency for property ownership and issue a Certificate of Sufficiency stating such; and
- D. Be forwarded to the Whatcom County Auditor. The Auditor will determine if the petition has legal sufficiency for registered voters and issue a Certificate of Sufficiency stating such.

6. Amendment of City-County Interlocal Agreement

Once legal sufficiency has been established, Planning Staff will schedule separate meeting dates with the Whatcom County Council and the Bellingham City Council to approve a required amendment to the “City-County Interlocal Agreement Concerning Annexation and Development in the Bellingham UGA.” The required amendment must be approved by both Councils prior to the expiration of the 45-day review period for the Boundary Review Board, described below.

7. Boundary Review Board Review

The City will file a Notice of Intention with the Boundary Review Board (BRB) within 180 days of first proposing the annexation, unless the petition fails to meet legal sufficiency requirements, as listed above. The notice is submitted to the Chief Clerk (BRB) and should contain the action sought, reasons for the proposed action, a legal description of the boundaries proposed to be altered, a county assessor’s map and any additional information or maps requested by the Boundary Review Board. (RCW 36.93.090 and 36.93.130). The following actions are then taken by the Boundary Review Board:

- A. The Notice of Intention is filed by the Chief Clerk. The Chief Clerk reviews the Notice of Intention to determine legal sufficiency and when deemed sufficient, assigns a filing date and file number. The 45-day review period begins on the date it is filed by the Chief Clerk. (RCW 36.93.090)
- B. The Chief Clerk routes the Notice of Intention to agencies, municipalities, county departments, special purpose districts and interested citizens for review and comment. (RCW 36.93.093)
- C. The Notice of Intention is sent to Board members and Board Legal Counsel for review.
- D. The Board Chair may waive the 45-day review period by written statement if the proposed action is an annexation under ten acres and less than two million dollars in assessed valuation. The annexation then may proceed as proposed. (RCW 36.93.105)
- E. If the review period is not waived, the Boundary Review Board considers the proposal and determines if it will invoke jurisdiction (RCW 36.93.100), as described in section 10., below.
- F. If the 45-day review period elapses without the Board’s jurisdiction being invoked, the proposed action is deemed approved. The initiator may then proceed to finalize the proposal under its pertinent laws. (RCW 36.93.100)

8. City Council Public Hearing

If approval is granted by the Whatcom County Boundary Review Board, the Bellingham City Council will hold a public hearing on the annexation request to determine if it is in the City's best interest to annex the property. If approved the property is annexed to the City.

9. Effective Date of Annexation

The annexation, together with any provisions for the assumption of indebtedness, adoption of a comprehensive plan, and special annexation requirements, takes effect on the date set in the annexation ordinance.

10. Invocation of Boundary Review Board (BRB) Jurisdiction

A. If the BRB's jurisdiction can be invoked, as described in section 7.E., above, when:

1. any governmental unit or the county is affected; or
2. the Board receives a petition signed by five percent of the registered voters residing within the area which is being considered for the proposed action; or
3. an owner or owners of property consisting of five percent of the assessed valuation within such area; or
4. three members of the Board 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; or
5. three members of the Board vote affirmatively to invoke jurisdiction except in the case of:
 - a. an incorporation of a special purpose district or change in the boundary of any city, town, or special purposed district;
 - b. the extension of permanent water service outside of its existing corporate boundaries by a city, town, or special purpose district with water mains six inches or less in diameters; or
 - c. the extension of permanent sewer service outside of its existing corporate boundaries by a city, town, or special purpose district with sewer mains eight inches or less in diameter. (RCW 36.93.100)

The Board must act within 120 days of the review request, unless the Board and the annexation initiators agree to an extension. If no decision is made within 120 days and no extension is granted, the proposal is deemed approved.

B. The Board sets the time, date and place of the public hearing. The Chief Clerk provides 30 days written notice to affected governmental units and municipalities within three miles of the proposal, places three legal advertisements in a newspaper of general circulation and posts notices in at least ten locations in the proposed area. (RCW 36.93.160)

- C. A public hearing is held and a verbatim record is made of all testimony and the Board may direct the Chief Clerk to issue subpoenas to any person or agency for testimony or presentation of records. (RCW 36.93.160(4))
- D. The Board hears testimony from affected government units and individuals, closes the public testimony, and then reviews on the record the factors to be considered by the Board (RCW 36.93.170), the objectives of the Boundary Review Board (RCW 36.93.180) and the requirements of the State Environmental Protection Act (RCW 42.21 C and WAC 197-11) and the Growth Management Act (RCW 36.70A). Based on the above, the Board may either approved, modify, or deny a proposal. (RCW 36.93.150)
- E. The Board then has 40 days from the final public hearing but not more than 120 days from the date that jurisdiction was invoked to file its written decision. The written decision addresses the purposed, factors and objectives of the Boundary Review Board Law as well as SEPA considerations. It is filed with the County Commissioners and the clerk of each city or town within three miles of the proposal. Dissenting Board members may file a written minority opinion as a part of the written decisions. (RCW 36.93.160(4))
- F. The Board's decision may be appealed to the Superior Court within thirty days from the date the written decision is filed. The appeal is on the record which means that the Court reviews the exhibits, transcript and Board's written decision rather than conducting a new hearing. (RCW 36.93.160(5))
- G. The Superior Court may affirm the decision of the Board, remand the case for further proceedings or reverse the Board's decision. The Superior Court decision may be appealed to the Court of Appeals or to the State Supreme Court (RCW 36.93.160(6))