



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD | OREGON CITY, OR 97045

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
 Assistants

February 6, 2020

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 19-008
Annexation to Clackamas County Service District No. 1

Purpose/Outcomes	<i>Conduct Public Hearing/Approve Order</i>
Dollar Amount and Fiscal Impact	<i>None</i>
Funding Source	<i>Not Applicable</i>
Duration	<i>Permanent</i>
Previous Board Action	<i>None</i>
Strategic Plan Alignment	<i>Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries</i>
Contact Person	<i>Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel</i>
Contract No.	<i>Not Applicable</i>

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 19-008 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.855, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains .50 acres, one single family dwelling and is valued at \$167,271.

REASON FOR ANNEXATION

The property owners desire sewer service to serve the existing single-family dwelling.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-19-008, annexation to Clackamas County Service District No. 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nate Bodarman", with a long, sweeping underline that extends to the right.

Nate Bodarman
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving
Boundary Change
Proposal No. CL 19-008



Order No. _____

Whereas, This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1; and

Whereas, It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, It further appearing that this matter came before the Board for public hearing on February 6, 2020 and that a decision of approval was made February 6, 2020.

NOW THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 19-008 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of February 6, 2020.

DATED this 6th day of February, 2020.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains .50 acres, one single family dwelling and is valued at \$167,271.
2. The property owners desire sewer service to serve the existing single family dwelling within the City of Happy Valley.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

4. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in Finding No. 7 below. No concept plans cover this area.

5. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall " . . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195." ORS 197.015 says

"Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is inside the City of Happy Valley and has a zoning designation of R-10 single family. The existing development is compatible with this designation.
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. WES, as the service provider for the District, has an 8 inch sewer line in SE 152nd Avenue which can serve the site.
11. The Sunrise Water Authority provides water service to the property.
12. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
14. The area to be annexed receives parks and recreation service from either the City of Happy Valley or North Clackamas Parks and Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

EXHIBIT 'B'

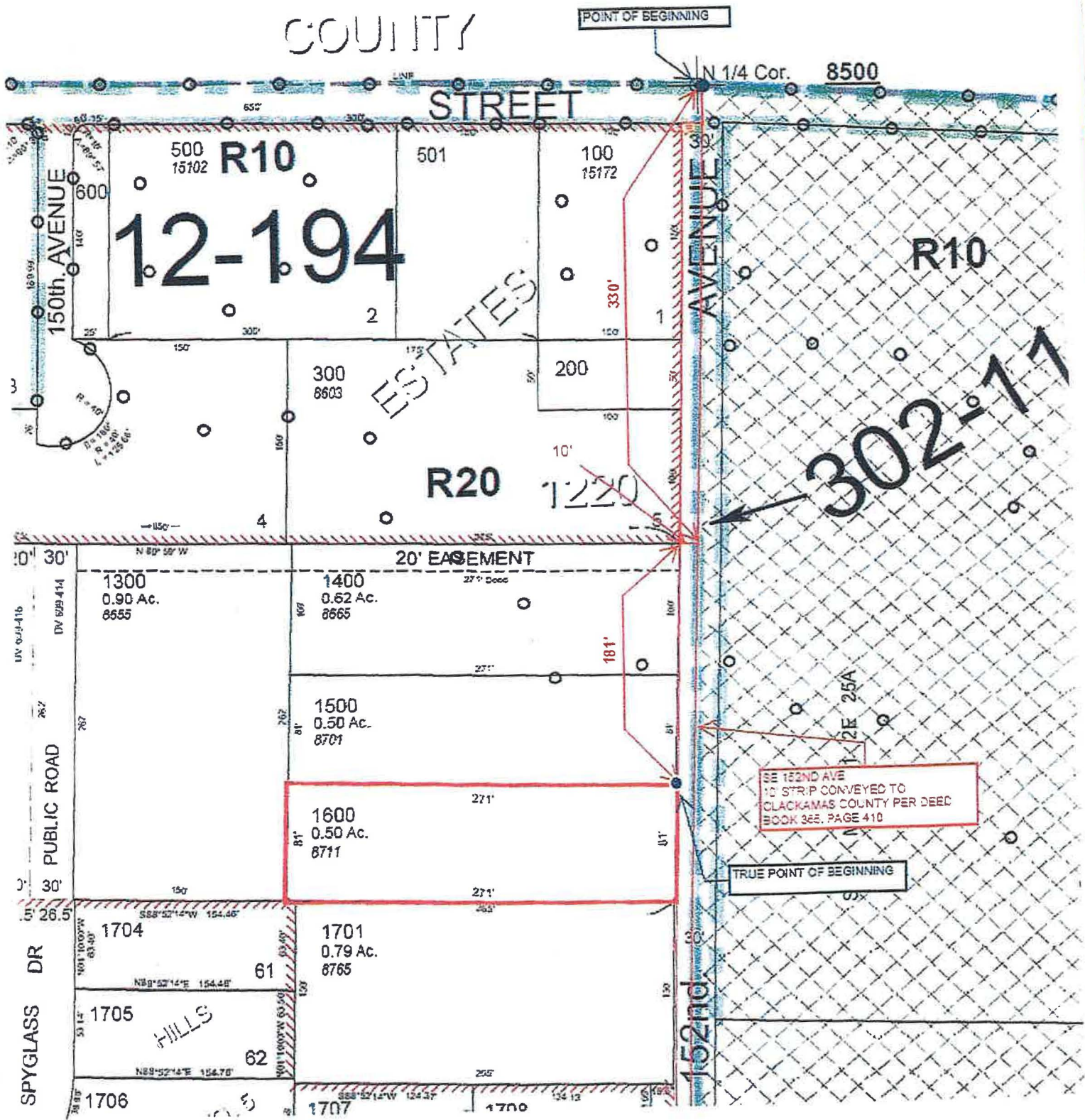
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

A portion of Section 25, Township 1 South, Range 2 East, of the Willamette Meridian, in the City of Happy Valley, County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the one-quarter section corner on the North line of said Section 25, which point is the Northeast corner of the Christian Deardorff and wife Donation Land Claim, as described in US Patent recorded in Deed Book 30, Page 31, said county; thence South along the East line of the Northwest one-quarter of said Section, a distance of 330 feet; thence West 10 feet to a point on the West line of a roadway now known as S.E. 152nd Avenue, said West line also being the West line of that 10 foot strip of land conveyed to Clackamas County for road purposes by Deed recorded in Deed Book 365, Page 410, said County; thence South along the West line of said 10 foot strip 181 feet to a point which is the true point of beginning of the lands hereby conveyed; thence West 271 feet; thence South 81 feet; thence East 271 feet to the West line of said 10 foot strip; thence North along said West line of said 10 foot wide strip 81 feet to the point of beginning.

EXHIBIT 'C'

COUNTY



N.E. 1/4 N.W. 1/4 SEC. 25 T. 1S. R. 2E. W.M.
 CLACKAMAS COUNTY



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD | OREGON CITY, OR 97045

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
 Assistants

February 6, 2020

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 19-009
Annexation to Clackamas County Service District No. 1

Purpose/Outcomes	<i>Conduct Public Hearing/Approve Order</i>
Dollar Amount and Fiscal Impact	<i>None</i>
Funding Source	<i>Not Applicable</i>
Duration	<i>Permanent</i>
Previous Board Action	<i>None</i>
Strategic Plan Alignment	<i>Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries</i>
Contact Person	<i>Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel</i>
Contract No.	<i>Not Applicable</i>

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 19-009 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.855, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains .70 acres, one single family dwelling and is valued at \$199,898.

REASON FOR ANNEXATION

The property owners desire sewer service to serve the existing single-family dwelling.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

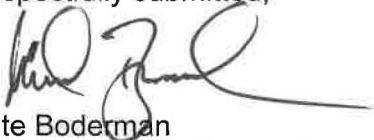
There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-19-009, annexation to Clackamas County Service District No. 1.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving
Boundary Change Proposal
No. CL 19-009



Order No. _____

Whereas, This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1; and

Whereas, It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, It further appearing that this matter came before the Board for public hearing on February 6, 2020 and that a decision of approval was made February 6, 2020.

NOW THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 19-009 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of February 6, 2020.

DATED this 6th day of February, 2020.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains .70 acres, one single family dwelling and is valued at \$199,898.
2. The property owners desire sewer service to serve the existing single family dwelling.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

4. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Finding No. 7 below. No concept plans cover this area.

- 5. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
- 6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall " . . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195." ORS 197.015 says "Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.
8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
9. WES, as the service provider for the District, has an 12 inch sewer line in SE 142nd Avenue which can serve the site.
10. The Sunrise Water Authority provides water service to the property.
11. The area receives police service from the Clackamas County Sheriff's Department.
12. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
13. The area to be annexed receives parks and recreation service from the North Clackamas Parks and Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 8 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plan (Clackamas County Comprehensive Plan) and concludes this proposal complies with it. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

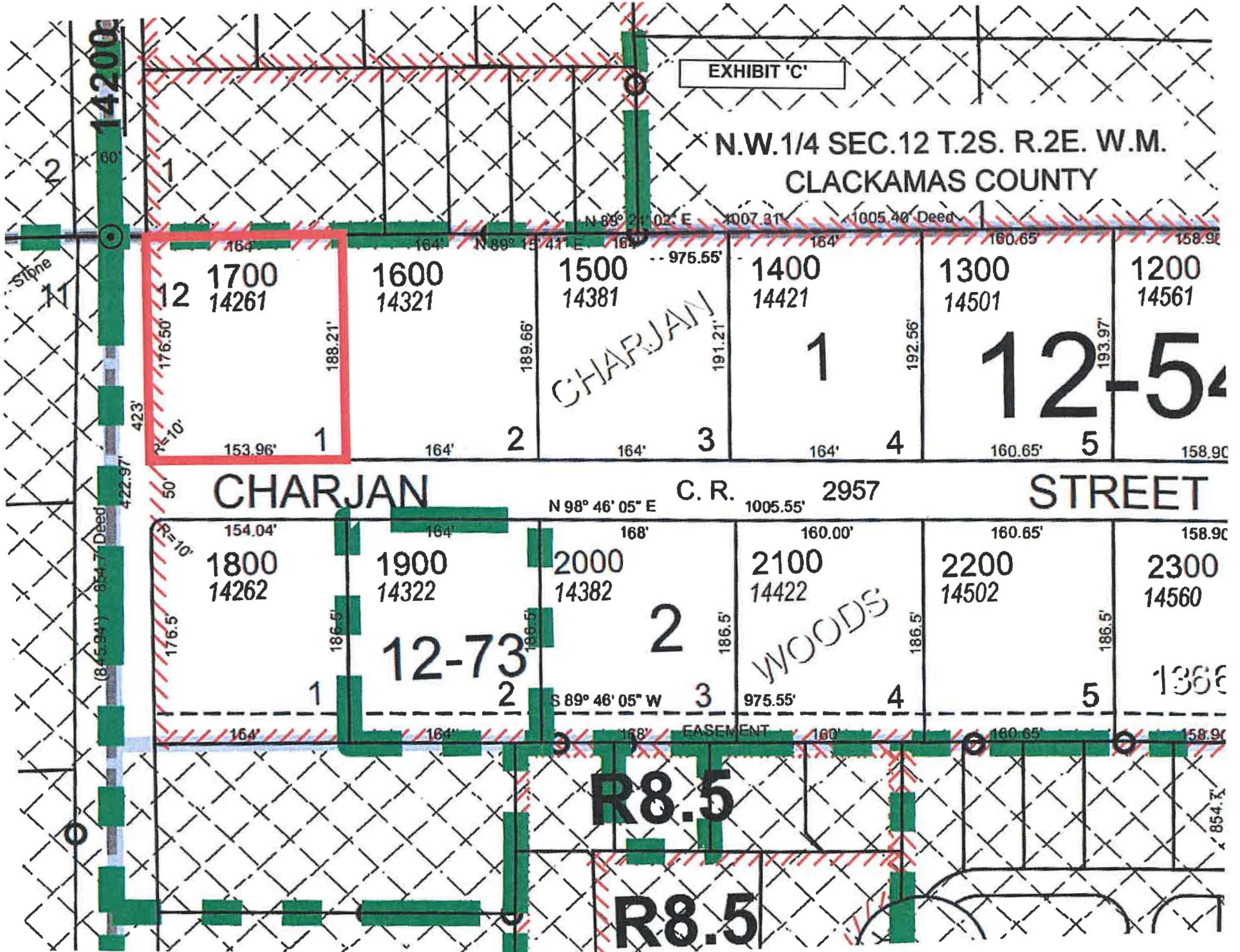
EXHIBIT B

CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

A tract of land located in the Northwest One-Quarter of Section 12, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon and being more particularly described as Lot 1, Block 1 of Charjan Woods, Plat No. 1366, Clackamas County, Oregon.

EXHIBIT 'C'

N.W. 1/4 SEC. 12 T.2S. R.2E. W.M.
CLACKAMAS COUNTY



12 1700 14261	1600 14321	1500 14381	1400 14421	1300 14501	1200 14561
1	2	3	4	5	

1800 14262	1900 14322	2000 14382	2100 14422	2200 14502	2300 14560
1	2	3	4	5	

R8.5

R8.5



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

January 29, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

First reading of Ordinance XX-2020
Amending County Code
Chapter 2.05, Personnel Policies and Procedures for Clackamas County Employees
and Declaring an Emergency

Purposes/Outcome	To amend County Code Chapter 2.05 to remove provisions related to personnel matters for employees working as "Limited Term Appointments"
Dollar Amount and Fiscal Impact	Costs savings of aligning limited term appointments with grant funding are not easily calculated. No increased cost associated with the change.
Funding Source	Not applicable.
Duration	Indefinite until amended.
Previous Board Action	County Code 2.05.030, which defines Limited Term Appointments has been amended six times since its codification in 2000, most recently 2014. This matter was presented at Issues on January 14, 2020.
Strategic Plan Alignment	Build Public Trust through Good Government
Contact Person	Andrew Narus, Assistant County Counsel

Background:

Currently, the Clackamas County Code provides certain terms and conditions of employment for "Limited Term Appointment," which are appointments to positions that have been "budgeted and allocated for a limited duration not to exceed two (2) years but which is in excess of the time requirements for temporary positions." County Code 2.05.030(EE). Under the County Code, temporary positions cannot work more than 1560 hours annually for positions on a forty hour per week schedule or 1462.5 hours annually for positions on a 37.5 hour per week schedule. Employees working as limited

term appointments are not subject to all provisions of the personnel ordinance and they are specifically exempt from certain County Employment Practices and Policies.

The current restriction on these appointments to two years of service presents a problem when the funding for the position is tied to a state or federal grant. Because many grants operate on a three-year funding cycle, once the employee reaches two years of service they may be converted to a regular status employee to continue their work under the grant. Once the employee attains regular status, they are entitled to transfer rights, bumping rights, and reinstatement rights that were never intended for the limited term position. The processing associated with those rights results in increased costs for the County.

Two unions have provisions in their collective bargaining agreements with the County that restrict limited term appointments to two years of service. In November and December 2019, the County secured memoranda of agreement with both unions to change the language of the contract and allow three years of service for limited term appointments. The changes to the collective bargaining agreements are effective immediately.

The proposed changes to the County Code will allow limited term appointments to serve in that status for up to three years. Additionally, removing these provisions in the Code will offer greater flexibility in defining the terms and conditions of employment for limited term appointments and greater responsiveness in addressing any similar issues with this employment designation. If approved, these changes would go into effect immediately after a second reading pursuant to a declaration of emergency in the ordinance.

Recommendation:

Staff respectfully request the Board hold a public hearing on the first reading of this ordinance and provide any requested changes and then schedule for a second reading and adoption and declare an emergency upon adoption at the second reading.

Respectfully submitted,



Andrew Narus
Assistant County Counsel

ORDINANCE NO. __-2020

**An Ordinance Amending
Clackamas County Code Chapter 2.05 - Personnel Policies and
Procedures for Clackamas County Employees**

Whereas, Chapter 2.05 - Personnel Policies and Procedures for Clackamas County Employees was adopted in 2000 and amended repeatedly over the past 20 years; and

Whereas, it has become apparent that the County Code provisions related to the terms and conditions of employment for limited term appointees occasionally conflict with external requirements for said appointees; and

Whereas, to efficiently meet the needs of the County through the provision of services by limited term appointments requires flexibility in defining the terms and conditions of employment in that designation; and

Whereas, such flexibility is best achieved through internal administrative processes; and

Whereas, it further appearing that this matter came before the Board for public hearing on January 14, 2020;

**NOW, THEREFORE, THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS
ORDAINS AS FOLLOWS:**

Section 1: Chapter 2.07.030 – Definitions, 2.05.040.3(B)(8) – Application of Personnel Chapter, and 2.05.100.1(B)(4) – Types of Appointments are amended as depicted in Exhibit A, attached hereto and incorporated by this reference.

Section 2: Emergency Clause. The Board of Commissioners hereby finds and declares that due to the need to amend the Code and apply the new standards for employees, an emergency exists that requires the Ordinance to take immediate effect. Accordingly, this Ordinance shall be effective upon its adoption.

ADOPTED this __ day of February, 2020.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Code Sections Showing Changes

2.05.030 Definitions

.....

~~EE. LIMITED TERM APPOINTMENT means an appointment to a position which has been budgeted and allocated for a limited duration not to exceed two (2) years but which is in excess of the time requirements for temporary positions.~~

.....

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2004, 11/18/04; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 05-2007, 6/7/07; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28/11; Amended by Ord. 05-2014, 9/25/14]

2.05.040.3 Application Of Personnel Chapter

All positions within the County government shall be divided into the classified or unclassified services.

.....

- B. Unclassified Service: The unclassified service shall include the following offices and positions:
1. Any officer, chosen by popular election or appointed to fill a vacancy caused by death, resignation or removal of any officer chosen by election.
 2. Any special Deputy Sheriff or peace officer appointed to act without compensation from the County.
 3. Any Deputy District Attorney, the District Attorney Office Manager, the District Attorney Victim Assistance Manager, and the District Attorney Senior Administrative Services Manager.
 4. Any member of a board or commission whose principle vocation is other than as a County employee.
 5. Persons employed as on-site property managers residing in County-owned or County-provided facilities.
 6. Persons employed in unallocated positions (also known as temporary positions).
 7. Any part-time employee working less than half time.
 8. ~~Persons employed under a limited term appointment status.~~
 9. The County Administrator, under employment contract with the Board of County Commissioners.
 10. Department directors under employment contract with the County Administrator.
 11. Persons holding positions designated by the County Administrator as appropriate for unclassified status, who hold positions under employment contract with the County Administrator.

12. Persons employed in the Sheriff's Office as a Captain or Undersheriff.
13. The County Counsel, under employment contract with the Board of County Commissioners.
14. Employees of the Office of County Counsel, under employment contracts with the County Counsel.
15. Persons appointed by the Governor or chosen by popular election as Justice of the Peace.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 13-2003, 7/13/03; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 04-2007, 4/26/07; Amended by Ord. 01-2009, 2/5/09; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 02-2012, 1/5/12; Amended by Ord. 05-2014, 9/25/14; Amended by Ord. 03-2016, 8/11/16]

2.05.100.1 Types of Appointments

Any offer for employment must be made by the appointing authority or authorized representative to a person eligible under these rules. The types of appointments are:

- A. Probationary/Regular: All regular positions in the Classified Service when vacant shall be filled by appointment of an eligible applicant referred from an appropriate eligible register, except as otherwise provided in these rules. No regular appointment shall be complete until the applicant has successfully passed the probationary period.
- B. Unallocated (also known as "Temporary"): Selection procedures for unallocated appointments shall comply with the Federal Uniform Guidelines on Employee Selection Procedures. The appointing authority may make such an appointment with the authorization of the Director of Employee Services and a screening of the applicant's qualifications. However, when it is possible and practical, eligible registers shall be used in the appointment of unallocated employees.

Unallocated employees may be discharged at any time by the hiring manager and shall have no appeal rights within the County except for those involving allegations of illegal discrimination.

Employees working in unallocated positions are limited to working 1560 hours annually (in divisions using 40 hours/week schedules), or 1462.5 hours annually (in divisions using 37 ½ hours/week schedules), as provided in Section 2.05.040.5.

- C. Provisional: Unless otherwise provided by these rules, appointment of a person not on an eligible register to a classified position for a limited duration is provisional. A provisional appointment is eliminated after ninety (90) calendar days or when the Department of Employee Services establishes an appropriate eligibility register, refers eligibles, or an appointment is made for the position, whichever occurs first. Provisional appointments may be renewed or extended by the Director of Employee Services prior to

the appointment of a probationary status employee. A provisional appointment may be made under either of the following conditions:

1. There is not an existing eligible register for the classification; or
2. The eligible register contains less than five (5) names.
The appointing authority may make such a provisional appointment with the authorization of the Director of Employee Services and a screening of the applicant's qualifications.

~~D. Limited Term: The appointment to a position which has been budgeted and allocated for a limited duration not to exceed two (2) years, but which is in excess of the time requirements for a temporary position, is a limited term appointment.~~

~~A limited term employee will not be eligible for placement on a layoff register, nor be eligible to "bump" a regular status employee, nor have any other recourse for re-employment rights, when the duration of the limited term position expires. The appointing authority may make such a limited term appointment with the authorization of the Director of Employee Services and establishment of a budgeted limited term position. The applicant must also undergo screening of qualifications by either the Director of Employee Services or the appointing authority.~~

E. Unclassified. Employment in the unclassified service is not subject to the terms of Chapter 2.05 except as specifically provided in section 2.05.040.4.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2009, 10/29/09; Amended by Ord. 01-2011, 4/28/11]