

COUNCIL ORDINANCE No. 2204

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30AD08300 AND LOCATED AT 9310 SE WICHITA AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2021-003).

WHEREAS, the territory proposed for annexation is contiguous to the city's boundary and is within the city's urban growth management area (UGMA); and

WHEREAS, the requirements of the Oregon Revised Statutes (ORS) for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land within the territory proposed for annexation; and

WHEREAS, the territory proposed for annexation lies within the territory of the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party; and

WHEREAS, the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS, Table 19.1104.1.E of the Milwaukie Municipal Code (MMC) provides for the automatic application of city zoning and comprehensive plan land use designations; and

WHEREAS, the city conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS, the city prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached as Exhibit A.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. The Findings in Support of Approval attached as Exhibit A are adopted.

Section 2. The tract of land described and depicted in Exhibit B is annexed to the City of Milwaukie.

Section 3. The tract of land annexed by this ordinance and described in Section 2 is withdrawn from the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

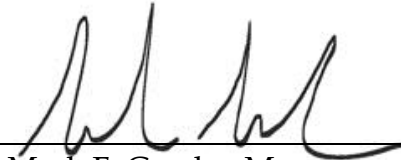
Section 4. The tract of land annexed by this ordinance and described in Section 2 is assigned a Comprehensive Plan land use designation of low density residential (LD) and a municipal code zoning designation of residential R-7.

Section 5. The city will immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030, ORS 222.005, and ORS 222.177. The annexation and withdrawal will become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on **June 15, 2021** and moved to second reading by **5:0** vote of the City Council.

Read the second time and adopted by the City Council on **June 15, 2021**.


Signed by the Mayor on **June 15, 2021**.



Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:



Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of 9310 SE Wichita Ave, the “annexation property,” the Milwaukie City Council finds:

1. The annexation property consists of one tax lot comprising 0.45 acres (tax lot 1S2E30AD08300). The annexation property is contiguous to the existing city limits on three sides: where adjacent to another residential property to the south, along its frontage on the public right-of-way (ROW) in Wichita Avenue to the west, and along the undeveloped public ROW to the north. The annexation property is within the regional urban growth boundary and also within the city’s urban growth management area (UGMA).

The annexation property is developed with a single-family detached dwelling and detached accessory structures. The surrounding area consists primarily of other similar single-family residential dwellings.

2. The current owner of the annexation property seeks annexation to the city to access city services, namely sewer service. The annexation petition was initiated by consent of all owners of land on March 15, 2021, with an application for annexation submitted to the city on March 22, 2021. The application meets the requirements for initiation set forth in ORS 222.170(1), Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.A.1.
3. The annexation petition was processed as an expedited annexation at the request of the property owner, with public notice provided in accordance with ORS Section 222.170(1), Metro Code Section 3.09.045, and MMC Section 19.1104. It meets the expedited annexation procedural requirements set forth in MMC 19.1104.
4. The expedited annexation process provides for automatic application of city comprehensive plan land use and zoning designations to the annexation property based on their existing comprehensive plan land use and zoning designations in the county, which are urban low density residential (LDR) and residential R-7, respectively. Pursuant to MMC Table 19.1104.1.E, the automatic city comprehensive plan land use and zoning designations for the annexation property is low density residential (LD) and residential R-7, respectively.
5. The applicable city approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.
 - A. The subject site must be located within the city’s urban growth boundary (UGB);
The annexation property is within the regional UGB and within the city’s UGMA.
 - B. The subject site must be contiguous to the existing city limits;
The annexation property is contiguous to the existing city limits on three sides: where adjacent to another residential property to the south, along its frontage on the public ROW in Wichita Avenue to the west, and along the unnamed and undeveloped public ROW to the north.

- C. The requirements of Oregon Revised Statutes (ORS) for initiation of the annexation process must be met;

Lauren Brooks, the current property owner, consented to the annexation by signing the petition. There were five registered voters for the annexation property at the time the petition was signed, and four of those registered voters signed the petition. As submitted, the annexation petition meets the ORS requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors, if any, residing in the annexation territory.

- D. The proposal must be consistent with Milwaukie Comprehensive Plan policies;

Section 12 of the comprehensive plan contains the city's annexation policies. Applicable annexation policies include: (1) ensuring that annexation programs maintain levels of service for current Milwaukie residents while providing an equitable level of service for properties being annexed and (2) requiring annexation where properties receive or utilize city utilities or where intergovernmental agreements allow for annexation in exchange for providing city services. With annexation, the city will take over urban service provision for the property. City services to be provided include wastewater collection, stormwater management, police protection, and general governmental services. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

- E. The proposal must comply with the criteria of Metro Code Sections 3.09.045(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro code sections for expedited annexations as detailed in Finding 6.

- F. The proposal must comply with the criteria of Section 19.902 for zoning map amendments and comprehensive plan map amendments, if applicable.

The annexation would add new territory within the city limits, and the new territory must be designated on both the zoning map and the comprehensive plan map for land use. These additions effectively constitute amendments to the zoning and comprehensive plan land use maps.

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC 19.902.6.B and 19.902.3.B, respectively. Collectively, the criteria address issues such as compatibility with the surrounding area, being in the public interest and satisfying the public need, adequacy of public facilities, consistency with transportation system capacity, consistency with goals and policies of the Milwaukie Comprehensive Plan and relevant Metro plans and policies, and consistency with relevant State statutes and administrative rules.

MMC Table 19.1104.1.E establishes automatic zoning map and comprehensive plan land use map designations for expedited annexations. Compliance with the table is essentially equivalent to specific findings that address individual criteria for zoning map and comprehensive plan map amendments, such as compatibility, public need, etc. In essence, if a proposed designation is consistent with the table, it is consistent with the various applicable plans and policies.

In the case of the proposed annexation, the annexation property will assume the zoning and comprehensive plan designations provided in MMC Table 19.1104.1.E, which are R-7 and low density residential, respectively. The approval criteria for both proposed amendments are effectively met.

6. Prior to approving an expedited annexation, the city must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.

A. Find that the change is consistent with expressly applicable provisions in:

- (1) Any applicable urban service agreement adopted pursuant to ORS 195.065;

There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The city has an UGMA agreement with Clackamas County that outlines procedures and practices for coordinating land use planning activities. The proposed annexation is in keeping with the city's policy of encouraging properties within the UGMA to annex to the city.

The city has an intergovernmental agreement with Water Environment Services (WES) regarding wholesale rates for wastewater treatment, but that agreement does not address issues related to annexations.

- (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

- (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020
(2) between the affected entity and a necessary party;

There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

- (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The city subsequently adopted this plan as an ancillary comprehensive plan document. The plan contains four elements:

- Sanitary Sewerage Services*
- Storm Drainage*
- Transportation Element*
- Water Systems*

The proposed annexation is consistent with the four elements of this plan as follows:

Wastewater: *The city is the identified sewer service provider in the area of the proposed annexation and maintains a public sewer system that can adequately serve the annexation property via either an 8-inch line in Wichita Avenue or a 12-inch line in the undeveloped ROW along the northern property boundary.*

Storm: Clackamas County maintains a stormwater line in Wichita Avenue but there is no indication that the annexation property is connected to it. Treatment and management of on-site stormwater will be required when new development occurs.

Transportation: Access to the annexation property is provided via Wichita Avenue, a local street maintained by the city. An undeveloped frontage road along the norther property boundary is also a public local street but is not currently maintained by the city. The city may require public street improvements along the annexation property's frontage when new development occurs.

Water: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the city's more recent UGMA agreement with the county identifies the city as the lead urban service provider in the area of the proposed annexation. The city's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. As per the city's intergovernmental agreement (IGA) with CRW, CRW will continue to provide water service to the annexation property through its existing water line in Wichita Avenue.

(5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous pages. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, however, contain the city-county UGMA agreement, which identifies the area of the proposed annexation as being within the city's UGMA. The UGMA agreement requires that the city notify the county of proposed annexations, which the city has done. The agreement also calls for city assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The city has already annexed and taken jurisdiction of the Wichita Avenue ROW adjacent to the annexation property along its western boundary.

B. Consider whether the boundary change would:

(1) Promote the timely, orderly, and economic provision of public facilities and services;

With annexation, the city will be the primary urban service provider in the area of the proposed annexation, including public sewer service, which the city provides in this area via Wichita Avenue and the undeveloped ROW along the annexation property's northern boundary. The annexation will facilitate the timely, orderly, and economic provision of urban services to the annexation property.

(2) Affect the quality and quantity of urban services; and

The annexation property consists of one tax lot developed with a single-family residence. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

(3) Eliminate or avoid unnecessary duplication of facilities and services.

Upon annexation, the annexation property will be served by the Milwaukie Police Department. The city will assume responsibility for maintaining any street lights in the annexation territory. To avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement and the Clackamas County Service District No. 5 for Street Lights upon annexation.

7. The city is authorized by ORS Section 222.120(5) to withdraw annexed territory from non-city service providers and districts upon annexation of the territory to the city. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the city's comprehensive plan policies relating to annexation.

Wastewater: *The annexation property is within the city's sewer service area and has access to two city sewer lines: an 8-inch line in Wichita Avenue (with an existing stub-out lateral installed as part of the NESE project) and a 12-inch line in the undeveloped ROW along the northern property boundary.*

Water: *The annexation property is currently served by CRW through CRW's 8-inch water line in Wichita Avenue adjacent to the annexation property. The city has a 12-inch water line in the undeveloped ROW along the northern property boundary. Pursuant to the city's IGA with CRW, water service will continue to be provided by CRW and the annexation property should not be withdrawn from this district at this time.*

Storm: *Clackamas County maintains a stormwater line in Wichita Avenue but there is no indication that the annexation property is connected to it. Treatment and management of on-site stormwater will be required when new development occurs.*

Fire: *The annexation property is currently served by Clackamas Fire District #1 and will continue to be served by this fire district upon annexation, since the entire city is within this district.*

Police: *The annexation property is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The city has its own police department, and this department can adequately serve the site. To avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.*

Street Lights: *The annexation property is currently within Clackamas County Service District No. 5 for Street Lights. As of July 1, 2011, an IGA between the city and the district transferred operational responsibility to the city for the street lights and street light payments in the NESE area. The annexation property will be withdrawn from the district upon annexation to the city.*

Other Services: *Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the site upon annexation. The annexation property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.*

EXHIBIT B
Annexation to the City of Milwaukie
LEGAL DESCRIPTION
(revised May 19, 2021)

Milwaukie Annexation File No. A-2021-003

Property Address: 9310 SE Wichita Ave, Milwaukie OR 97222

Tax Lot Description: 1S2E30AD08300

Legal Description:

A part of Lots 2 and 3, Wichita, in the County of Clackamas and State of Oregon, described as follows:

Beginning 27.4 feet South of the Northwest corner of Lot 2, Wichita (as shown on survey PS 8234); thence South 65°52' East 147.90 feet to an iron pipe; thence South 7°23' West 150.35 feet to an iron pipe on the south bank of Johnson Creek; thence South 75°31' East 25.10 feet; thence due South 24.10 feet to an iron pipe; thence South 88°35' West 140.00 feet, more or less, to a point in the East line of a 25 foot roadway known as Wichita Avenue dedicated along the West boundary line of Wichita; thence North along said East line of Wichita Avenue 238.60 feet, more or less, to the true point of beginning.

Exhibit B

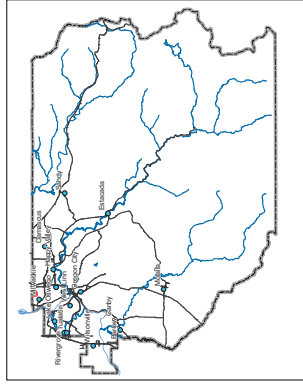
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D. L. C.
HECTOR CAMPBELL NO. 41

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- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

4/29/2021

1 2 E 30AD