

## **COUNCIL ORDINANCE No. 2205**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30AD02800 AND LOCATED AT 5722 SE FRONT STREET INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2021-004).**

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 The tract of land annexed by this ordinance and described in Section 2 is withdrawn from the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

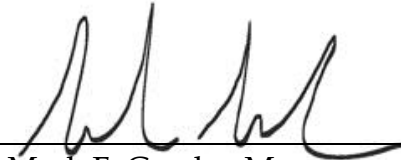
Section 4. The tract of land annexed by this ordinance and described in Section 2 is assigned a Comprehensive Plan land use designation of low density residential (LD) and a municipal code zoning designation of residential R-7.

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 5722 SE Front St, the “annexation property,” the Milwaukie City Council finds:

1. The annexation property consists of one tax lot comprising 0.14 acres (tax lot 1S2E30AD02800). The annexation property is contiguous to the existing city limits on three sides: where adjacent to other residential properties to the east and south, as well as along its frontage on the public right-of-way (ROW) in Front Street 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 currently undeveloped; the surrounding area consists primarily of single-family residential dwellings, with a few small light-industrial uses.

2. The current owner of the annexation property seeks annexation to the city to access city services, namely to allow construction of a new single-family residential dwelling. The annexation petition was initiated by consent of all owners of land on April 30, 2021, with an application for annexation submitted to the city on May 4, 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 other residential properties to the east and south, as well as along its frontage on the public ROW in Front Street to the north.*

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

*Steve Fung, the current property owner, consented to the annexation by signing the petition. There were no registered voters for the annexation property at the time the petition was signed. 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 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:* *Clackamas County is the identified sewer service provider in the specific area of the proposed annexation and maintains a public sewer system that can adequately serve the annexation property via a 12-inch line in Front Street.*

*Storm:* *The annexation property is not connected to a public stormwater system. Treatment*

*and management of on-site stormwater will be required when new development occurs.*

Transportation: *Access to the annexation property is provided via Front Street, a local street maintained by the city. A Local Improvement District (LID) was established in 2018 by the then-owner of 5728 and 5730 SE Front St to pay for needed improvements to the street and make those two lots build-ready. The annexation property will be required to pay its share of the improvements prior to the issuance of a building permit for new construction on the site.*

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 Front Street.*

(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 Front Street 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, with the exception of wastewater service; the county has public sewer service in this area via Front Street. 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 undeveloped tax lot. 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 future 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 just outside the city's sewer service area. The city previously installed a 12-inch sewer line in Front Street as part of the Northeast Sewer Extension (NESE) project in 2009-2010 but turned it over to Clackamas County pursuant to an existing agreement regarding sewer service in this area. Sewer service to the annexation property will be provided by the county.*

Water: *Both CRW and the city have water lines in Front Street. Pursuant to the city's intergovernmental agreement (IGA) with CRW, the annexation property will be served by CRW and will not be withdrawn from this district at this time.*

Storm: *The annexation property is not connected to a public stormwater system. 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

Milwaukie Annexation File No. A-2021-004

Property Address:           Unaddressed lot on SE Front St, Milwaukie OR 97222

Tax Lot Description:       1S2E30AD02800

Legal Description:

Lot 21, Block 1, Stanley, in the County of Clackamas and State of Oregon,  
together with that portion of vacated street which inured thereto by Order No. 76-  
889, recorded July 19, 1976, recording number 76-24236.



# Exhibit B

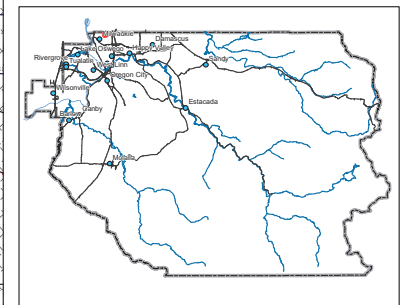
12 E 30AD  
S.E. 1/4 N.E. 1/4 SEC. 30 T.1S. R.2E. W.M.  
CLACKAMAS COUNTY  
1" = 100'

D. L. C.  
HECTOR CAMPBELL NO. 41

Cancelled Taxlots

201  
202  
300  
400  
500  
600  
700  
800  
1200  
1400  
1490  
1800  
2000  
2190  
2600  
3900  
6700  
7701  
8000  
8600

- 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

12 E 30AD

