

WASHINGTON STATE BOUNDARY REVIEW BOARD IN AND FOR THE COUNTY OF CHELAN

ORGANIZATION AND RULES OF PRACTICE AND PROCEDURE

Pursuant to RCW 36.93.200, the Chelan County Boundary Review Board adopted Rules of Practice and Procedure on February 23, 2022, Resolution 2022-001. The Chelan County Boundary Review Board Rules of Practice and Procedure are as follows:

I. ORGANIZATION

A. Officers and Terms: The board shall consist of five members appointed consistent with RCW 36.93.061. The board shall, at the end of its regular meeting each January, elect from among its members a chairman and a vice chairman, each of whom shall serve for a period of one (1) year and thereafter until their respective successors have been elected, but the chairman or vice chairman may be replaced at anytime by a vote of three members. The vice chairman shall serve in the absence of the chairman. In the absence of a chairman or vice chairman a chairman pro tem shall be elected by the members present.

B. Compensation. Upon attendance at regular or special board meetings, board hearings, or other board work as determined by the chairman or a majority of the board, each member of the board shall be entitled to compensation from the Chelan County current expense fund in accordance with the current compensation rate established in RCW 36.93.070.

C. Notices and Correspondence. All notices and correspondence to the board shall be addressed to and received by the boundary review board, care of: Chelan County Auditor, Elections Division, 350 Orondo Avenue, Level 3, Suite 306, Wenatchee, WA 98801. (509) 667-6800. Notices and correspondence can only be in paper form delivered via U.S. mail, or personally delivered during regular business office hours. No electronic or email notices or correspondence will be accepted.

D. Chief Clerk. The boundary review board chief clerk shall be a nonmember appointed by the Boundary Review Board members, and shall be the secretary of the Board, in accordance with RCW 36.93.070, and shall be accountable to the board through the chairman.

E. Legal Counsel. All questions of law shall be referred by the board to either the Washington State Attorney General or to the Chelan County Prosecuting Attorney consistent with RCW 36.93.070.

II. BOARD MEMBERS

A. Responsibilities. Each member shall study and be familiar with the following:

1. Boundary Review Board Manual and keep it up to date with new materials as provided.
2. Boundary Review Board Act, RCW 36.93,
3. Adopted Rules of Practice and Procedure.
4. SEPA, RCW 43.21C and SEPA Guidelines (WAC 197-11).
5. Growth Management Act, RCW 36.70A.
6. Appearance of Fairness Doctrine, RCW 42.36
7. Open Public Meetings Act, RCW 42.30
8. Public Records Act, RCW 42.56
9. Workshops and trainings held by the State Association of Boundary Review Boards.

B. Appearance of Fairness:

1. Ex parte Communication. In accordance with RCW 42.36.060, members shall abstain from any and all communication with persons or governmental or private entities which are, or are expected to be, parties to and action before the board. This restriction is limited to matters before the board, or which may come before the board. If a member receives a letter or other written communication relating to a matter before the board from a source other than the boundary review board office, that member shall transmit the material to the chief clerk for inclusion in the record. Board members shall avoid conversations with any party to the action except when such conversation is on the record. It shall be the duty and responsibility of each member to disclose at the earliest opportunity any communication between said member and a party to a matter before the board.

2. Public Deliberations. Members shall avoid conversations with anyone including each other on the merits of pending actions except when such conversation is on the record as required by the Open Public Meetings Act.

3. Disclosure. It shall be the duty and responsibility of each member to be familiar with the Appearance of Fairness Doctrine as required under Qualification of Members above, and to disclose at the earliest opportunity any possible violation thereof to the chair and counsel. Upon such disclosure, the member may withdraw from the board proceedings, and if such action is taken, shall leave the room in which such proceedings ensue. If the member chooses not to withdraw, the chair shall have the member at the earliest opportunity upon the opening of a public hearing, disclose to the parties present the occurrence and nature of the possible violation.

4. Procedures to be followed by board/chairman with reference to Appearance of Fairness: ex parte communication and disclosure. Upon discovery of the existence of ex parte communications as contemplated under RCW 42.36.060, the chairman or board member shall at each and every subsequent hearing on the proposal:

(a) place on the record the substance of any written or oral ex-parte communication concerning the decision or action, and

(b) provide that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his/her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

III. NOTICE OF INTENTION

All notices of intention shall be submitted following the appropriate format, which shall be furnished by the chief clerk upon request. The following procedures are to be followed by a city, town, special purpose district, or lead agency, for the purpose of annexation. All correspondence to the boundary review board shall be addressed to the chief clerk, care of: Chelan County Auditor, Elections Division, 350 Orondo Avenue, Level 3, Suite 306, Wenatchee, WA 98801. Notices and correspondence can only be in paper form delivered via U.S. mail, or personally delivered during regular business office hours. No electronic or email notices or correspondence will be accepted.

A. Prior to filing the notice of intention:

1. Legal description: A legal description and maps of each notice of intention. The legal description may be altered according to the process described in RCW 36.93.130(3).

2. Environmental Review: Municipal annexations and incorporations are exempt from SEPA review. In accordance with WAC 197-11-970, the determination of nonsignificance, (DNS) must be completed and the due date for comments shall be fifteen 15 days from the day the form is mailed to all those parties deemed affected by the proposed annexation such as:

- i. Chelan County Community Development Department
- ii. Chelan County Public Works Department
- ii. Chelan County Board of Commissioners
- iv. Washington State Department of Ecology
- v. Chelan County Special Purpose Districts, e.g., fire, water, sewer, etc.

3. Environmental Checklist. The environmental impact statement (EIS) checklist shall be completed prior to filing. The answers to EIS questions may be typed on a separate sheet and attached to the EIS questions. The environmental review of the proposed action must be completed by the proponent prior to consideration of the proposed action to be included with the DNS and forwarded to the appropriate agencies. The replies from these agencies are made a part of the annexation packet along with the DNS.

B. Filing of Notice of Intention

1. Format. The notice of intention form shall be furnished by the chief clerk and is attached and incorporated herein by reference.

2. Filing Fee. A filing fee of fifty dollars (\$50.00) shall be paid by all initiators, and an additional two hundred dollars, (\$200.00) shall be paid if the jurisdiction of the review board is invoked pursuant to RCW [36.93.100](#), except for the boundary review board itself, payable to the county Boundary Review Board and placed in the county current expense fund in accordance with RCW 36.93.120.

3. Manner of filing. The notice of intention form and the required exhibits shall be submitted in person or by mail to the boundary review board chief clerk, care of the auditor's office, for determination of sufficiency. When deemed sufficient, the original notice of intention and all exhibits, as well as the filing fee, shall be submitted.

4. Contiguous parcels only. A notice of intention may describe more than one (1) parcel of land as long as the boundary of the area is defined by a single continuous line, with the exception of fire districts.

C. Office Procedures

1. Effective date of filing. Upon determination by the boundary review board chief clerk that according to RCW 36.93 and the board's rules of practice and procedure, the notice of intention is sufficient and the filing fee is paid, the chief clerk shall file the notice of intention and assign a file date and number. This constitutes an official filing.

2. Refusal. Failure to provide the items required by these rules and RCW 36.93 shall constitute sufficient cause for the chief clerk to refuse to accept a notice of intention for filing.

3. Routing. Upon assigning a file date and number to a notice of intention, the chief clerk shall route the notice of intention and required exhibits to the appropriate county departments and agencies and any interested party upon request to the board office, for review and comment per RCW 36.93 and other applicable statutes.

4. Notice to the board. The chief clerk shall forward a copy of the notice of intention and required exhibits to each board member and legal counsel, along with a copy of the next meeting agenda, no later than five (5) days prior to the next meeting of the board.

5. Declaration as void. A notice of intention received by the boundary review board office and not officially filed within one (1) year, due to noncompliance with law or the board's rules of practice and procedure is declared null and void.

6. Withdrawal. Any notice of intention filed with the boundary review board may be withdrawn by the initiator at any time prior to the board having taken jurisdiction over the matter or the chairman having signed a waiver form. In no case shall a filing fee be refunded in the event of withdrawal of a notice of intention.

D. Board Action

1. Review waiver. (RCW36.93.110). If a proposed annexation is less than ten (10) acres and less than two million dollars (\$2,000,000) in assessed valuation, the chairman may waive the forty-five (45) day waiting period.

2. Approval after forty-five (45) days. If forty-five (45) days has elapsed without the board's invoking its jurisdiction or having had it invoked, the proposed action shall be deemed approved as prescribed in RCW 36.93.100.

3. Written notification. The chief clerk shall notify the initiator in writing when the proposed annexation is deemed to be approved.

IV. MEETINGS AND HEARINGS

A. Meetings.

1. Regular meeting dates. Regular meeting dates of the Washington State Boundary Review Board for Chelan County shall be held on the fourth Wednesday of every other month, (January, March, May, July, September, November), commencing on or about the hour of 6:00 p.m. or other time set by the board or chairman at: 400 Douglas Street, Suite 200, Wenatchee, WA 98801, except if the regular meeting day is a legal holiday, such meeting shall be held on the next business day. The Board shall meet at other such times and/or places as the chairman, vice chairman, or any three (3) members may determine from time to time and shall provide public notice as required in RCW 42.30. The chairman, or in his/her absence, the vice chairman, may cancel any regular or special meeting if it appears that there is no business which reasonably requires the attention of the board. All meetings of the board shall be open to the public except as provided by law.

2. Agenda. The chief clerk shall prepare the agenda one (1) week preceding a board meeting. The agenda shall contain a summary of all matters then known to require board action.

3. Rules of order. Except as modified by these rules of practice and procedure, all meetings of the board shall be conducted in accordance with Robert's Rules of Order.

4. Resolutions and motions. All official action of the board shall be by resolution or motions and shall be reduced to writing and incorporated in the official minutes of the board. Upon request, such minutes shall be available to the interested party.

5. Participation by chairman. The chairman may make or second any motion, present and discuss any matter as a member of the board, and shall be entitled to vote on all matters.

6. Voting. In the absence of objections, the chairman may order a motion unanimously approved. Any member not voting on roll call via a raised hand (virtual meeting), or in an audible voice, shall be recorded as voting in favor of the motion. Unless requested by a member, the chairman need not take a roll call vote. Any member voting on a hearing decision shall have been present during all sessions of the hearing or modification hearing, or listened to all recordings or read the transcripts of the proceedings and state so on the record.

7. Quorum. A quorum (majority of the board) is necessary for transaction of any business by the board.

8. Attendance. Attendance at all meetings and all public hearings is a statutory requirement for board members. Members unable to attend any meeting or hearing shall notify the chief clerk prior to the meeting.

9. Postponements or adjournments. The chairman may postpone or continue any matter at anytime, or the board may adjourn to any particular time and place subject to notice as provided by law.

B. Invoking Jurisdiction.

1. Review fee. If the jurisdiction of the board is invoked pursuant to RCW 36.93.100, the person or entity requesting review, except the boundary review board itself, shall attach a fee of two hundred dollars (\$200.00) which shall be paid to Chelan County and deposited in the Chelan County Boundary Review Board fund, in accordance with RCW 36.93.120.

2. Hearing set. When there has been a request for review and the jurisdiction of the board has been invoked, the board shall by motion set the date, time, and place for a public hearing on the proposal.

3. Withdrawal of request. A request for review filed pursuant to RCW 36.93.100(2) by the county or governmental unit may not be withdrawn without the consent of the board. The request for review fee will not be refunded. A request for review may not be withdrawn after the time, date and place has been set for review.

4. Additional information for review. After jurisdiction has been invoked as provided in RCW 36.93.100, the board may direct the chief clerk to seek additional information from the initiators(s) of the action.

C. Public Hearings.

1. Transcripts. All public hearings before the board shall be recorded verbatim. Minutes of the public hearing, or portion thereof, shall be made available upon request of any person or governmental entity to the chief clerk and payment of a reasonable cost thereof. (0.15 cents per page plus postage.)

2. Oath. The chief clerk shall administer the oath according to RCW 5.28.020 or RCW 5.28.050, if so requested by the board.

D. Hearing Testimony.

1. Responsibilities of the chairman. The chairman shall preside at all hearings of the board and shall determine the order of the witnesses to appear before the board. The chairman may also, with the approval of the board, direct the chief clerk to issue subpoenas to any public officer to testify, and to compel the production of any records, books, documents, public records, or public papers.

2. Witness guidelines.

(a) Any initiator of a proposed action, agent, or employee of a governmental unit, or other interested person may appear before the board in person or be represented by any duly authorized person or persons.

(b) Any person desiring to address the board must be recognized first by the chairman, shall step to the rostrum and give his/her name and address to the chief clerk, and the names of the person(s) or governmental unit on whose behalf he/she appears.

(c) The chairman may, in the interest of facilitating the business of the board, limit the amount of time allowed to any person, group or governmental unit.

3. Exhibits.

(a) Any document or exhibit must be submitted to the chief clerk for labeling prior to giving testimony. A speaker must identify any document or exhibit by its assigned number and title.

(b) Any written position statement regarding a proposed action by a governmental unit reviewed before the hearing by the chief clerk shall automatically be made and exhibit at the hearing.

4. Examination of Witnesses. Cross-examination of an expert witness may be conducted under the following conditions and procedures:

a) The chairman may allow cross-examination of expert witnesses where the chairman deems it is helpful to understand or clarify the subject of expert testimony or exhibits.

(b) When allowed, cross-examination shall be permitted to a reasonable degree and should be limited to the subject matter of direct examination/testimony.

5. Rebuttal by proponents. Following the presentation or arguments by opponents to a proposed action, a brief rebuttal may be made by proponents in accordance with the following:

(a) The chairman may limit the time allowed for rebuttal, and

(b) Rebuttals shall not be a summary or closing statement, nor shall it contain additional information.

(c) No subsequent rebuttal shall be allowed.

E. Board Decision.

1. Basis for decision. The basis for the board's decision shall be as set forth in RCW 36.93.170 (factors to be considered by the board) and RCW 36.93.180, (objectives to be met by the board). The decisions of the board must be consistent with the Growth Management Act. (RCW 36.70A).

2. Hearing decision. The board shall file its written decision within forty (40) days after the conclusion of the final hearing on a proposal. The decision shall be filed with the board of county commissioners and the chief clerk of each governmental unit directly affected. The decision shall indicate whether the proposed change is approved, denied, or modified, and if modified, the terms of such modification, in accordance with RCW 36.93.160(4). There is an appeal period of thirty (30) days from the date of filing of the board's written decision with the county legislative authority during which time any appeals must be filed in Chelan County Superior Court.

V. FINAL FILING OF ANNEXATION RESOLUTION

A. Final Resolution. The final decision of the boundary review board shall be in the form of a resolution and shall contain:

1. a signed and stamped legal description, as required in section III, subsection A, 1.
2. the date of its publication.
3. the effective date of annexation, if any.
4. initiator's seal or be notarized.
5. a map of the annexation area.

B. Recording. The chief clerk of the boundary review board shall submit the final resolution to the auditor's office for recording. The appropriate filing fee and proper cover sheet as determined by the auditor's office shall accompany the final resolution.

C. Distribution. The original recorded resolution will be returned to the chief clerk of the boundary review board by the auditor's office in four (4) to six (6) weeks after recording. The chief clerk will distribute copies of the final recorded resolution to the appropriate county governmental departments and provide a copy to the initiator.

D. Validity. Approvals given to annexation requests will be valid for one (1) year from the date of said approval. After expiration of the one (1) year's time period, an uncompleted annexation must be resubmitted to the boundary review board for approval in light of changing conditions and changed circumstances.

VI. AMENDMENTS

Any rule of practice or procedure of the boundary review board may be added, amended, or repealed at any time by not less than a majority of the members present at any regular or special meeting. No such action shall be taken without ten (10) days prior written notice of such meeting, which notice shall be given in such form and in the manner as prescribed by RCW 36.93.200.

VII. EFFECT OF RULES

These rules shall supersede any prior conflicting rules heretofore adopted by the Chelan County Boundary Review Board and shall be supplementary to those requirements and provisions of Chapter 36.93 RCW and other applicable laws. If any provision of these rules or its application to any persons or circumstances is held invalid, the remainder of these rules, or the application of the provision to other persons or circumstances, shall not be affected.