

An outline map of the state of Oregon, centered on the page. The map is enclosed within a dashed rectangular border. The text "Boundary Change Information" is printed in a large, bold, black font across the center of the map's outline.

Boundary Change Information

**Oregon
Department of Revenue
2009**

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Introduction

This manual was designed to provide local governments with a guide and reference source when making or planning a boundary change. It outlines the basic process of making a boundary change, including important dates, addresses the most commonly asked questions, and provides references for further study. Two key dates are discussed. The dates help determine when a boundary change is recognized on the tax roll. Coordination of these dates can have important financial and political consequences.

The manual is not a stand-alone guide to the process, nor does it address the specific steps involved with formations, dissolutions, annexations, withdrawals, mergers, or consolidations. Rather, it deals with the effect a legal boundary change has on property taxation as the result of one of these processes.

This manual is not a substitute for Oregon Revised Statutes or other legal sources.

Boundary changes are important and have many effects. This manual addresses some of the issues related to property taxation. There are other considerations. Local governments anticipating a boundary change should consult their legal counsel for advice on their particular circumstances.

Have questions? Need help?

For more information contact:

Cadastral Information Systems Unit ... 503-945-8297
Finance and Taxation Unit 503-945-8293

Or write to:

Cadastral Information Systems Unit
Oregon Department of Revenue
955 Center St NE
Salem OR 97301-2555

For specific questions about boundary changes, you may e-mail finance.taxation@state.or.us.

General tax information www.oregon.gov/DOR
Salem 503-378-4988
Toll-free from an Oregon prefix 1-800-356-4222

Asistencia en español:

En Salem o fuera de Oregon 503-378-4988
Gratis de prefijo de Oregon 1-800-356-4222

TTY (hearing or speech impaired; machine only):

Salem area or outside Oregon 503-945-8617
Toll-free from an Oregon prefix 1-800-886-7204

Americans with Disabilities Act (ADA): Call one of the help numbers above for information in alternative formats.

Boundaries in General

Local government boundaries are integral and important features of our system of government in Oregon. Geographic area is an essential characteristic of a taxing district. Every district in the state has territory. Boundaries mark the territorial extent of their rights, powers, duties, liabilities, and constituencies. The boundaries of a taxing district are a major factor in determining the amount of the district's taxes and which properties will pay those taxes.

Boundary changes can be controversial because of their effects on properties both inside and outside a boundary. This is especially true when a change affects taxation. A misunderstanding can result in a loss of revenue or a district's inability to make a boundary change.

Most boundary change procedures established by the legislature apply to a particular type of local government unit (city, county, or special district, see page 6), or to specific agencies capable of approving boundary changes (such as local government boundary commissions, the State Board of Education, and county governing bodies). Only a few apply to all local government boundary changes.

The Department of Revenue's Role

The Department of Revenue must approve all boundary change maps and legal descriptions filed. Requirements and deadlines for filing will be discussed below. The Department of Revenue's Cadastral Information Systems Unit has rule-making authority to establish guidelines that regulate filing and approval. The Department of Revenue's Finance and Taxation Unit monitors tax certifications to ensure only statutory and constitutional taxes are extended on the county tax roll.

New districts or districts that plan a major boundary change should check with the Department of Revenue Cadastral Information Systems Unit and the county assessor well before the filing deadline to be sure all requirements are met. This filing is in addition to the requirements stated in ORS 198.780. Untimely filing of the required documents can have undesirable effects for the district. Some of these effects are covered in more detail in Chapters 2 and 10 of the *Local Budgeting Manual*, (publication 150-504-420).

Requirements for Maps and Descriptions

The county assessor's maps are the best maps to use. They have bearings and distances and most of the information on them necessary to locate the descrip-

tions. They are of good scale and easy to read. Survey maps of the landowner's property are also acceptable. Maps must show the township, range, section number and the point-of-beginning, and have bearings and distances that match the description.

Descriptions

Keep the following in mind when preparing boundary change legal descriptions:

- The point-of-beginning of the legal description must be clear. The point-of-beginning is best described by bearing and distance from a section corner, a donation land claim (DLC) corner, or another well monumented corner.
- Bearings and distances must be given for each course around the boundary description.
- Most deed references are inadequate as point-of-beginning or point-of-call for a boundary change description. If a deed reference is used as a point-of-call, include a copy of the deed. However, a description that consists solely of the landowner's deed or deeds is seldom adequate.
- **Tax lot numbers cannot be used for the legal description.**
- If the area is large, the use of township, range and section numbers, and quarter-quarter sections is acceptable as a legal description.
- If a point-of-call is to a highway or county road, the description must state to which edge or to the centerline.
- If a point-of-call is to a river or stream, the description must state whether it is on the mean high water, mean low water, thread, ordinary high water, or ordinary low water line. The bearing requirement can be dismissed along rivers and streams.
- If the boundary change involves a whole county, then the description can refer to its statutory description. If it involves a city, the description must include an effective date.

Example: "All of Wallowa County as described in ORS 201.320. Except the City of Joseph effective July 1, 2009."

Common Problems

When reviewing the legal descriptions and maps of boundary changes, the Department of Revenue's Cadastral Information Systems Unit (CISU) sometimes encounters problems, which may delay or prevent approval of a boundary change. These problems include:

- The map is missing.
- The map scale is too small. Revenue's CISU has to read and plot the description on the map. If the scale is too small to plot the boundary or Revenue's CISU cannot see the information on the map, then the boundary change will be disapproved.

- The map is not highlighted to indicate the boundary changes. You must highlight the area to be annexed or withdrawn directly on Revenue's copy of the map, not on a map that you later photocopy for Revenue. Some highlighters do not copy well.
- The map lacks bearings, distances, or other important information such as township, range, and section numbers.

Key Dates in the Boundary Change Process

For assessment and taxation purposes, the boundary change process has two key dates. One is the effective date of the boundary change. The other is the filing deadline with the Department of Revenue and the county assessor. While both of these dates relate to boundary changes, they operate independently.

Example: Extending the District Tax Levy— March 31

Even if a district's annexation is effective on or before July 1, its tax rate is not automatically extended to the annexed territory. The district must file its boundary change documents in final approved form with the Department of Revenue's CISU and the county assessor by **March 31** and obtain a notice of approval. The district's tax rate can then be extended to the annexed territory. For example:

Scenario 1

District C annexes territory effective May 31, 2009. District C filed its boundary change documents in final approved form with the Department of Revenue's CISU and the county assessor by March 31, 2009, and obtained a notice of approval. The district's tax rate may be extended to the annexed territory, July 1, 2009, for the 2009–10 tax year.

Scenario 2

District D's annexation is not effective until July 21, 2009. Whether or not District D filed its boundary change with the Department of Revenue's CISU and the county assessor before March 31, the tax rate **will not** be extended to the annexed territory until the 2010–11 fiscal year. District D's March 31, 2009 filing of boundary change with the Department of Revenue's CISU and the county assessor would be approved for the 2010–11 fiscal year, based on the effective date of the annexation.

Scenario 3

District E annexes territory effective May 31, 2009. District E filed its boundary changes with the Department of Revenue's CISU and the county assessor on April 5, 2009. The district's tax rate will not be extended to the annexed territory until the 2010–11 fiscal year.

Remember: Extending the tax rate of the annexing district to the annexed territory is not automatic when the annexation is final.

AUTHORITY: ORS 308.225 instructs the assessor to disregard any changes or proposed changes to the boundary lines of taxing districts for assessment and taxation purposes in the ensuing fiscal year if the change is not filed in final approved form by March 31 with the county assessor and the Department of Revenue. **Remember: The March 31 date and the approval by the Department of Revenue only relates to the boundary change for assessment and taxation purposes. It does not effect or relate to filings for any other purpose.** ORS 308.225 also details the level of description for the boundary change.

The two key dates are March 31 and July 1. These dates help determine the property affected by a boundary change.

Taxing Authority and Permanent Rates

For information regarding taxing authority and permanent rates, see the *Tax Computation Manual*, (publication 150-800-438). Contact the Department of Revenue's publication order desk at 503-945-8636 to request a copy.

Types of Boundary Changes

Annexations

An annexation occurs when one district extends its boundaries outside of its previous service area. This can include extending services over the entire boundary of another district if both districts are not formed under the same statutory authority as the annexing district. For example, a rural fire protection district (RFPD) can annex the entire territory of a city.

A district cannot extend its boundaries through annexation over the entire boundary of another district if both districts are formed under the same statutory authority and both are providing the same services. For example, a RFPD cannot annex the entire territory of another RFPD. This type of boundary change would require a merger or consolidation of the two districts.

Mergers

A merger occurs when two or more districts formed under the same statutory authority, providing the same services, agree to operate as one district. One of the districts is the "surviving" district.

Consolidations

A consolidation occurs when two or more districts agree to dissolve and form a new district providing the same services as the old districts.

Divisions

A division occurs when an existing district is divided into two or more smaller districts. The new districts are formed under the same statutory authority. The "existing" district is dissolved.

New Districts

A new district is formed after an election or action of the county governing body. Districts can be formed with or without a permanent rate. At a later election, the district may ask its voters to approve a permanent rate.

School District Procedures

Along with the procedures mentioned above, school districts must file the "School District Boundary Change" form (see Appendix A) with the Department of Revenue and the county assessor.

This form verifies that all districts affected by the boundary change have been brought into the process. Include with this form the minutes of the boundary board meeting and an accurate map outlining the affected areas.

See pages 9 and 10 for statute and constitutional information.

Selected Statutory Boundary Change Authority by Type of Governmental Unit

For boundary change procedures that apply to a specific type of taxing district, refer to the Oregon Revised Statutes for further reading. The following list is not intended to be exhaustive.

ORS 198—Special Districts

This chapter governs special districts in general. A general listing of those districts covered by the chapter are detailed in ORS 198.010. The chapter provides for formation of new districts, dissolu-

tion procedures, and boundary changes resulting from annexations, withdrawal of property, mergers, and consolidations. The definitions for each of these terms is provided in ORS 198.705 and additional districts are defined in ORS 198.710.

ORS 199—Boundary Commissions

This chapter allows for the creation of local boundary commissions. The chapter further describes the authority and jurisdiction of boundary commissions and requires them to establish procedures for boundary creation, dissolution, and changes in general.

ORS 202—Counties

This chapter provides for the establishment of new counties. This authority is not frequently used.

ORS 222—Cities

This chapter provides for boundary changes of cities through annexations, mergers, and consolidation procedures. The chapter also describes conditions under which a city annexes property to remove danger to public health.

ORS 330—School Districts

This chapter provides for boundary changes and mergers of school districts.

ORS 334—Educational Service Districts (ESDs)

This chapter provides for boundary changes, including mergers, of educational service districts. The State Board of Education is the boundary board for ESDs.

ORS 341—Community Colleges

This chapter provides for boundary changes of community colleges. The State Board of Education is established as the boundary board. It addresses issues of elections, effective dates, and the division of assets and liabilities.

Questions and Answers

Q. I have to file our boundary change maps and descriptions in final approved form with the Department of Revenue and the county assessor by March 31. What does “final approved form” mean?

A. Final approved form means three criteria have been met:

- The boundary change has been approved by the entity that has authority over boundary changes for your type of district. Boundary authorities include city governing bodies for city boundary changes, county governing bodies for special district boundary changes, and education service district governing bodies for school district boundary changes.

The appropriate boundary authority for your district must issue an order, ordinance, or resolution approving the boundary change. A signed copy of the order, ordinance, or resolution with the date adopted and the effective date must be submitted to the Department of Revenue and the county assessor with the maps and descriptions by March 31. If your district is subject to more than one boundary authority (two counties), all must approve the boundary change by March 31.

- The boundary change description and maps have been prepared to the specifications of ORS 308.225(2)(b). That statute is included on page 9 of this manual.
- The effective date of the boundary change is prior to July 1 of the fiscal year for which the boundary changes are being filed.

Q. What is the difference between a final approved boundary change and a proposed boundary change?

A. A final approved boundary change has been approved by the appropriate boundary authority through order, ordinance, or resolution with the required maps and descriptions and **is effective by March 31.**

A proposed boundary change is a boundary change that has been approved by the appropriate boundary authority through order, ordinance, or resolution with the required maps and descriptions by March 31, but will be effective sometime between April 1 and June 30. An example would be school district boundary changes, which by statute are always effective on May 31.

Q. What level of detail is required in the legal descriptions?

A. The requirements of a legal description are outlined in ORS 308.225(2)(b). A description already in existence from a previous boundary change may not meet the requirements under current law. Check the current requirements to make sure your description conforms. The Department of Revenue's Cadastral Information Systems Unit is available to help you understand the current requirements. Also, see page 4 for more information on legal descriptions.

Q. What are some of the common errors found in boundary change documents?

A. The most common errors are:

- Descriptions and maps that do not match.
- No map submitted.
- Descriptions are expressed in tax lot numbers.
- Boundary change documents are not filed with all the required agencies.
- Orders, ordinances, or resolutions from the boundary authorities are missing.
- Orders, ordinance, or resolutions are unsigned and undated.

Q. If errors are found during the review by the Department of Revenue, what are the consequences?

A. Errors can be broken down into three types:

- **Typographical error**—An error such as a transposition, a word or number left out, or any other minor problem with the order, ordinance, or resolution, or the description that does not alter the intent or meaning of the boundary change. Most boundary changes with typographical errors are approved with a note on the approval slip requesting the error be corrected.
- **Minor error**—An error in the language of the order, ordinance, or resolution, or the description that can cause misinterpretation. This type of error generally leaves out critical information from the description, or causes the description and map to not match. This type of error will cause rejection of the boundary change. Minor errors can be corrected. The Cadastral Information Systems Unit will let you know what corrective action is needed so that you can resubmit your corrected documents.
- **Major error**—An error in the boundary change such that the intent cannot be determined. This type of error will cause rejection of the boundary change. The Cadastral Information Systems

Unit will be unable to determine what corrective action is needed. Major errors cannot be corrected.

Remember, any boundary change information that has to be corrected for any reason requires a correcting order, ordinance, or resolution from the appropriate boundary authority. The corrected documents must be filed with the required agencies.

The filings with the Department of Revenue and the county assessor are for **tax assessment purposes** only and do not have a bearing on any other requirements.

Q. What is the effect of territory withdrawn from a district?

A. If the boundary change is not filed with the Department of Revenue and the county assessor

as required in ORS 308.225, the assessor cannot recognize the withdrawal. The rate of the withdrawing district will continue to be applied to that territory. This can result in properties being taxed for the same service by two districts.

Q. If a district's boundary change documents are not filed with the Department of Revenue and the county assessor by March 31, can the district impose its tax rate on the new territory?

A. No. The assessor cannot change the district's boundaries for tax purposes when the boundary change information is not filed by March 31.

Q. Is there a way to receive an extension of time to file boundary changes beyond March 31?

A. No.

From Oregon Revised Statutes, 2007 Edition

308.225 Boundary change or proposed boundary change; procedure. (1) In preparing the assessment roll in any year, a county assessor shall disregard changes or proposed changes described in subsections (3), (4) and (5) of this section in the boundary lines of any taxing district levying ad valorem property taxes if the description and map showing changes or proposed changes are not filed in final approved form, in accordance with and at the time required by subsection (2) of this section.

(2)(a) If a boundary change is made or proposed, the person, governing body, officer, administrative agency or court making the determination that the boundary change is final shall file with the county assessor and the Department of Revenue the legal description of the boundary change or proposed change and an accurate map showing the change or proposed change in final approved form, prior to the next March 31.

(b)(A) Except as is otherwise provided in subparagraph (B) of this paragraph the legal description of the boundary change shall consist of a series of courses in which the first course shall start at a point of beginning and the final course shall end at that point of beginning. Each course shall be identified by bearings and distances and, when available, refer to deed lines, deed corners and other monuments, or, in lieu of bearings and distances, be identified by reference to:

(i) Township, range, section or section subdivision lines of the U.S. Rectangular survey system.

(ii) Survey center line or right of way lines of public roads, streets or highways.

(iii) Ordinary high water or ordinary low water of tidal lands.

(iv) Right of way lines of railroads.

(v) Any line identified on the plat of any recorded subdivision defined in ORS 92.010.

(vi) Donation land claims.

(vii) Line of ordinary high water and line of ordinary low water of rivers and streams, as defined in ORS 274.005, or the thread of rivers and streams.

(B) In lieu of the requirements of subparagraph (A) of this paragraph, boundary change areas conforming to areas of the U. S. Rectangular survey may be described by township, section, quarter-section or quarter-quarter section, or if the areas conform to subdivision lots and blocks, may be described by lot and block description.

(c) A map shall be provided to the filing body by the county assessor or the department within 14 days after the filing body notifies the assessor and department that

a boundary change is being proposed. The boundary line shall then be accurately entered thereon by the person, body, officer or agency making the filing.

(d) The description and map shall be filed in final approved form not later than March 31 of the assessment year to which the change applies. Proposed boundary changes shall be certified to the county assessor and the department in the same manner as boundary changes. If the taxing district is located in more than one county, the description and map shall be filed with the assessor in each county and with the department within the time provided in this subsection.

(3) For purposes of this section, boundary change means the change that occurs in the boundaries of a district by reason of:

(a) The formation of a new district;

(b) The consolidation or merger of two or more districts or parts thereof;

(c) The annexation of territory by a district;

(d) The withdrawal of territory from a district; or

(e) The dissolution of a district.

(4) For purposes of this section, the establishment of tax zones within a district constitutes a boundary change.

(5) For the purposes of this section, a proposed change means a boundary change which has not become final or effective by March 31, but which is certain to become final or effective prior to July 1 of the same year.

(6) Each description and map filed under subsection (2) of this section shall be submitted to the Department of Revenue and approved or disapproved within 30 days of receipt.

(7) Within five days of its determination, the Department of Revenue shall mail to each county assessor with whom a filing has been made and to the filing body notice of its approval or disapproval under subsection (6) of this section. If disapproved, the department shall explain what steps must be taken to correct the description or map, and shall cooperate with the filing body in helping it meet the requirements of this section, and whenever possible, the filing date of March 31. Corrected descriptions and maps must then be resubmitted to the department, and approved, and filed with the assessor or assessors.

(8) The filing of the description and map under this section is for assessment and taxation purposes only and does not affect or relate to filing for any other purpose. [Amended by 1965 c.411 §1; 1969 c.151 §1; 1973 c.501 §1; 1975 c.595 §1; 1981 c.804 §38; 1983 c.426 §1; 1991 c.459 §94; 1997 c.541 §157; 2001 c.246 §11; 2001 c.553 §8]

Oregon Constitution, Article XI, Section 11

There is information regarding ad valorem property taxes in the Oregon Constitution, available on

the Oregon Legislature's website at: www.leg.state.or.us/orcons.

Attorney General Opinion Abstracts

Taken from the Property Tax Law Abstracts, 1993 Cumulative Edition

308.225. BOUNDARY CHANGE OR PROPOSED BOUNDARY CHANGE CERTIFIED AFTER MARCH 31 DISREGARDED. Faulty Description in Ordinance. The property description as contained in the annexation ordinance of a certain county is somewhat different from the property description used in the notice of public hearing on the ordinance. The map submitted by the city to the assessor's office does not appear to fit either description, and cannot be platted to establish a definite and clear boundary. The use of the terms "legal description of the boundary change" and the phrase "an accurate map" in ORS 308.225(2), as amended by the 1969 Legislature, imply that the map must faithfully follow the property description. Therefore, the assessor is not bound to accept the faulty description and can demand an accurate, legal description before he orders a change in the city boundaries to be shown on the tax map. [OF 1163-V; 1-21-70.]

308.225. BOUNDARY CHANGE OR PROPOSED BOUNDARY CHANGE CERTIFIED AFTER MARCH 31 DISREGARDED. Taxing Districts. Do cities constitute taxing districts under ORS 308.255, which provides: "(1) In

preparing the assessment roll in any year, county assessors shall disregard changes in the boundary lines of taxing districts as described in subsection (3) of this section or proposed changes described in subsection (4) of this section when the changes or proposed changes are certified to him in accordance with subsection (2) of this section subsequent to March 31 of such year." There is no statutory definition of this term. From several Supreme Court decisions it appears that in its broad sense "district" may include a city. Where the legislature intended to have a more restricted meaning, it provided statutory definitions. See e.g., ORS 198.010, 198.110, 198.180, 198.710, 199.425, 254.105 and 259.020. In the absence of any indication to the contrary, it would seem that the term "taxing districts" was not intended by the legislature to bear a narrow, restrictive meaning, but was intended in the same broad sense as "taxing unit" and "governmental unit," which includes cities. In addition, the fact that ORS 308.225 was enacted to avoid disrupting the tax collecting process once it has advanced to a certain stage *Harvey Alum. v. School District No. 9*, 248 Or 167, 173, 433 P2d 247 (1967) would lead to this conclusion. [OF 1750-V; 8-1-74.]

Appendix A

SCHOOL DISTRICT BOUNDARY CHANGE

Special Instructions:

1. The final order is to be filed in compliance with ORS 308.225.
2. The order is not final until after the 20-day remonstrance period has expired and shall not be filed until after that date. If a remonstrance is filed, the order will not be deemed final.
3. A copy of the Boundary Board minutes, the area involved, and an accurate map with the affected properties outlined on it must be attached to this form.
4. Please provide a copy of this form and the above documents to your County Assessor's Office.

Before the Boundary Board of _____ County

In the matter of transferring property

from _____ School District No. _____
and _____ School District No. _____
to _____ School District No. _____
and _____ School District No. _____

Final Order No. _____
or
DOR Number _____

Whereas a petition/resolution was filed _____, 20____, to consider transfer/merger of the following property
from _____ School District No. _____ and _____ School District No. _____,
to _____ School District No. _____ and _____ School District No. _____.

(Property described here per requirements of ORS 308.225.) If you need more space, please use the back of this form.

All assets and liabilities of the school districts involved in the boundary change have been equitably divided in accordance with ORS 330.123.

The property involved in the boundary change will continue _____ will not continue _____ to be responsible for bonded indebtedness of the district from which they are being withdrawn.

Dated this _____ day of _____, 20____ (If a joint district)

Attested _____
Clerk, _____ County Boundary Board

Attested _____
Clerk, _____ County Boundary Board

Attested _____
Superintendent, School District No. _____

Attested _____
Superintendent, School District No. _____

Attested _____
Superintendent, School District No. _____

Attested _____
Superintendent, School District No. _____