



**MEMORANDUM**

**TO:** Deschutes County Board of Commissioners (“Board”)  
**FROM:** Nicole Mardell, AICP, Senior Planner  
Peter Gutowsky, AICP, Community Development Director  
**DATE:** August 2, 2023  
**SUBJECT:** Work Session – Mountain View Petition to Incorporate

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Staff will conduct a work session with the Board on Monday, August 7, 2023, to discuss the hearing approach and parameters for a petition to incorporate.

The record is available at the following website: [www.deschutes.org/mountainviewincorporation](http://www.deschutes.org/mountainviewincorporation)

**I. BACKGROUND**

On February 14, 2023, a Prospective Petition for Incorporation of a City was submitted to the Deschutes County Clerk’s office. The Chief Petitioner, Andrew Aasen, seeks to establish a new city, approximately 265 square miles (169,550 acres) in size, extending west of Diamond T Road to the intersection of Highway 20 and 27 (George Millican Highway) as shown in the attached map.

Oregon Revised Statute (ORS) sections 221.005 to 221.106 outline the procedures for incorporation of new cities. Under these rules, an unincorporated area of at least 150 persons can submit a petition to incorporate to the county clerk’s office for consideration by the Board.

If at least 20 percent of registered voters within the proposed incorporation boundary sign on to the petition, it can then move forward to a public hearing. The purpose of the public hearing is threefold, the Board must determine:

1. Whether the proposed boundary correctly includes all lands that would be benefited from being in the proposed city;
2. Whether the taxation rate will support the proposed services; and,
3. Whether the proposed city can and will be able to comply with relevant statewide planning goals, County Comprehensive Plan goals and policies, and implementing ordinances.

The first two issues are required by the ORS and the third is related to land use and is required by OAR and *1000 Friends of Oregon v. Wasco County Court*, 299 Or. 344, 358-60, 67 (1985).

If the Board were to find all three issues are sufficiently supported by the applicant's analysis and burden of proof, the petitioner could then move forward to a ballot initiative. At that time, registered voters in the proposed city boundary would vote on official incorporation and formation of a governing body.

## **II. PROPOSAL**

The Deschutes County Clerk determined the Petition to Incorporate the proposed City of Mountain View has sufficient certified signatures from at least 20% of voters in the proposed boundary and can continue to the public hearing process.

The petitioner provided application materials, which are currently under review. Additional information on the details of the application and review criteria will be provided to the Board at a subsequent work session prior to the initial public hearing. All application materials are posted on the project website: [www.deschutes.org/mountainviewincorporation](http://www.deschutes.org/mountainviewincorporation)

## **III. PUBLIC HEARING PROCESS**

The Oregon Supreme Court in *1000 Friends of Oregon v. Wasco County Court*, 299 Or. 344, 358-60, 67 (1985) determined that a petition to incorporate is a quasi-judicial land use action. Therefore, staff intend to follow the typical quasi-judicial hearing process outlined in Deschutes County Code 22.24 (Land Use Action Hearings), unless certain requirements are superseded by ORS Chapter 221.

Staff, in coordination with the chief petitioner, have identified Wednesday, September 20, 2023, at 9 am as the preferred hearing date and time.

Notice of public hearing will be provided to property owners within the proposed incorporation boundary, to property owners within 750 of the proposed boundary, service providers, and agencies. Notice of public hearing will also be published in the *Bend Bulletin* for a consecutive two weeks to meet the noticing requirements in ORS 221.040(1).

Staff recommends including time limits in the public hearing notice to ensure an orderly and efficient hearing process. The following are standard practice for land use related hearings:

- Petitioner: 30 minutes
- Agency: 10 minutes
- Public Comment: 3 minutes
- Petitioner rebuttal: 10 minutes

Staff seeks Board direction to move forward with an order establishing the hearing date, time, and time limitations on testimony.

#### **IV. ASSOCIATED REVIEW COSTS**

Processing a petition to incorporate is extremely rare. In the last 41 years, only three cities in Oregon have successfully incorporated – Keizer (1982), Damascus (2004, disincorporated 2020), and La Pine (2006). The Community Development Department (CDD) has not adopted fees for reviewing or processing a petition, nor are fees discussed in relevant statute or rule. Staff is seeking Board input on cost recovery associated with mailed Notice of Application, Notice of Public Hearing, and two postings of the Notice of Public Hearing in the *Bend Bulletin* as required by statute.

##### Options:

1. Absorb the mailing and publishing costs in CDD's operating fund (Fund 295) which assigns a budgeted amount for advertising and public notice requirements for land use applications (450401); or
2. Use General Fund or other sources to reimburse CDD's mailing and publishing costs for processing the petition for incorporation.

#### **V. NEXT STEPS**

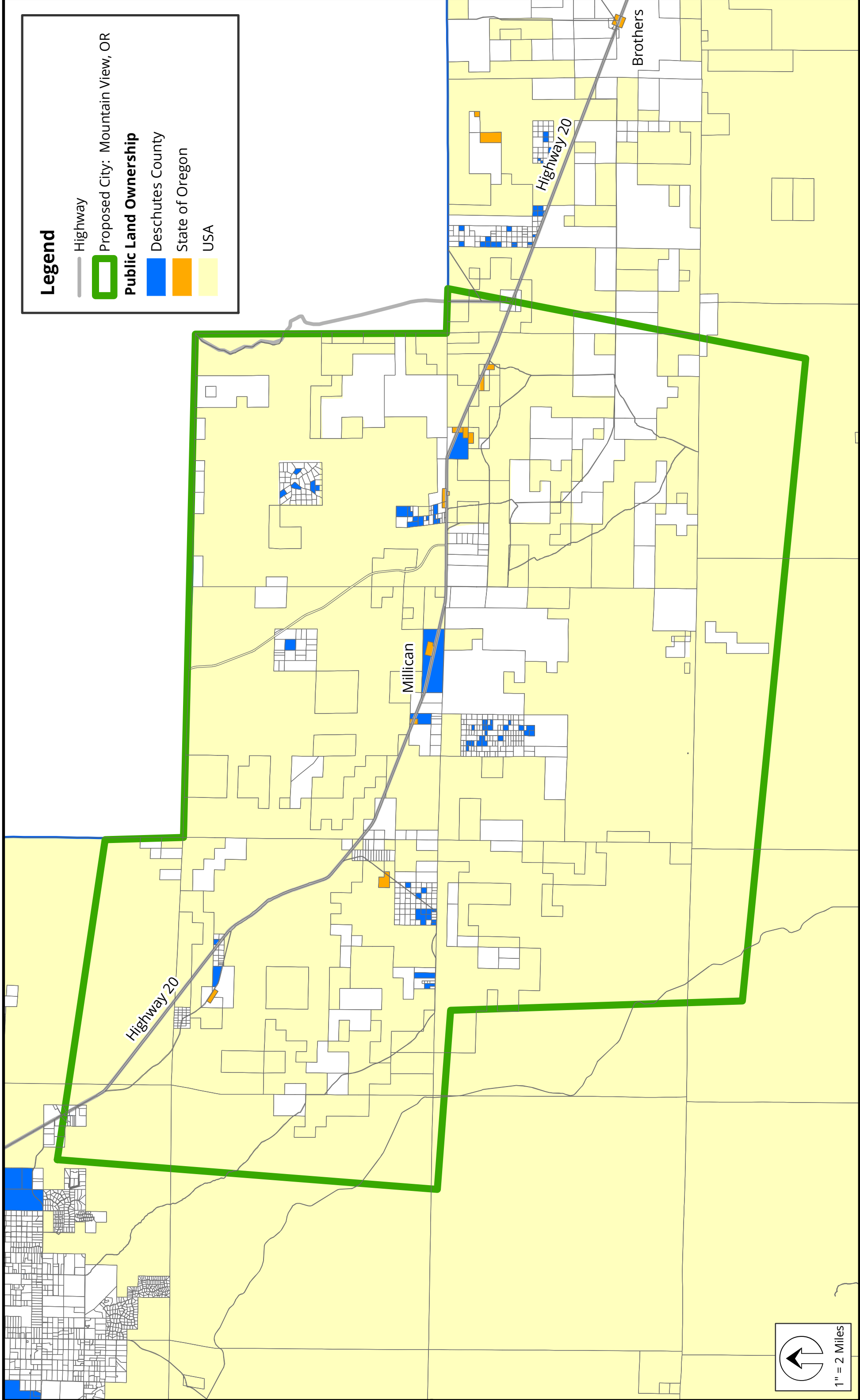
Staff will return with a Board order initiating the public hearing process, setting the date and time for the initial public hearing, and time limitations on testimony under 'Other Items' on August 9.

Prior to the public hearing, staff will return for a work session to discuss the application contents and criteria in more detail.

##### Attachments

Map – Proposed City of Mountain View Boundary and Existing Zoning

# Proposed City of Mountain View, Oregon - Public Land Ownership



**Legend**

- Highway
- Proposed City: Mountain View, OR
- Public Land Ownership**
  - Deschutes County
  - State of Oregon
  - USA

1" = 2 Miles

# Proposed City of Mountain View, Oregon - Existing Zoning

