

ANNEXATION

Annexation is the process which transfers parcels of land from towns to cities and villages. Regardless of where one stands on an annexation issue, it is important to understand the annexation process. To people living in incorporated municipalities, annexation seems to be a normal process to accommodate necessary expansion. To officials and many residents of towns adjacent to cities and villages, however, annexation is often a fighting word, signalling loss of population, territory, and tax base as well as potential disruption of plans and ordinances. The annexation process itself is often a mystery to all but local officials and persons having had direct experience with it.

The situations in which annexation may be proposed or undertaken vary widely and Wisconsin Statutes provide a number of alternative procedures for use in different circumstances.

This fact sheet is an attempt to organize, in an easily understandable way, the different procedures provided by statute for initiating and carrying an annexation to completion. All annexations have some common elements. These are discussed first. Following that, alternative procedures are identified and the actions which must be taken by parties in the process are listed. Each step is a legal trigger which, if not completed, may make any subsequent steps invalid.

Note: In this Fact Sheet, we have done our best to be accurate in representing the content of the statutes. However, the fact sheet may contain errors. When contemplating action under the annexation laws, we urge that you consult the statutes directly and/or obtain legal counsel.

COMMON ELEMENTS OF ANNEXATIONS

The intent of §66.021 is first to establish clearly the land involved in a proposed annexation and the parties who are likely to have an interest in the outcome of the annexation proceedings. Anyone beginning an annexation must give clear notice of a proposed action to local governments involved and other interested parties, such as property owners in the area.

All annexations involve, at a minimum:

1. At least one land owner
2. A town
3. A village or city

Other elements are common to all annexations:

1. A description and scale map of the territory proposed for annexation showing its relation to the boundaries of the municipalities involved and indicating its current population must be prepared.
2. Notice of the proposed annexation must be sent to the clerk of any municipality whose territory is or might be involved — that is, the town(s) from which territory would be detached, the village or city to which the territory would be annexed, the clerk of each affected school district, and in counties over 50,000 population, to the Wisconsin Department of Administration. The notice must include the description and scale map.
3. The city or village may refuse to annex any territory.
4. City and village ordinances annexing land must be adopted by a two-thirds vote of the total membership of the governing body. In more populous counties (see #5 below), the advice of the Wisconsin Department of Administration must be reviewed and considered before final action on the annexation ordinance is taken.

5. In counties with populations greater than 50,000, the Wisconsin Department of Administration must receive a copy of the notice and a scale map from the unit of local government which publishes the notice. The Department may advise the involved municipalities that the annexation is against the public interest. §66.021(11)(c) gives the standards to be applied by the Department. The annexing municipality must review the Department's recommendation before a vote is taken.
6. A town board may bring court action to challenge detachment of territory from the town by annexation. [§66.029 and §60.03].
7. Town assets and liabilities in proportion to the value of any territory annexed may be adjusted according to statute [§66.03] from the town detaching the land to the municipality annexing the land. This includes the assessed valuation for property tax purposes.
8. Costs of annexation referenda (election workers, printing ballots, etc.) are borne by the winner(s) — that is, costs are paid by the city or village [§66.021(5)(a)] if the annexation is approved, or are paid by the town(s) [§66.021(5)(f)] if the vote is against annexation.
9. Petition form and content are specified in §8.40, *Wisconsin Statutes*.
10. Notify the Secretary of State of the adoption of an annexation ordinance.

Many municipal services, such as fire protection and water and sewerage, are provided to real property. To pay for these services local governments depend heavily on the taxation of real property. Property taxes can vary widely from community to community. Any change in local jurisdiction over an individual parcel of land brought about through annexation can significantly affect the amount of taxes levied against the parcel.

Including real property ownership* as a criterion for initiating several of the annexation procedures is somewhat at variance with our common practice of allowing electors, regardless of property owning status, to decide local government policy issues. In Wisconsin property ownership has never been a condition of voting, and it is not a condition for voting in an annexation referendum. The potential impacts of annexation on owners of land, however, provide the rationale for requiring the participation of land owners in the initiation of annexation actions.

TYPES OF ANNEXATIONS (by frequency of use)**

Direct Annexation by Unanimous Approval §66.021(12)

From time to time a single property owner or a group of property owners who is/are residents of a town will decide to annex to a city or village because they would like to have sewerage or other municipal services which are not available in the town. If *all* property owners and electors in the area proposed for annexation agree, the process is simplified as follows. A description of the area to be annexed and a scale map must be prepared, as with all other annexations.

All electors and all property owners	Sign petition for direct annexation
All electors and all property owners	Mail copies of petition to school district, city or village clerk, town clerk, and Wisconsin Department of Administration
City council or village board	Considers advice of Dept. of Administration
City council or village board	Adopts annexation ordinance by two-thirds vote

* Land ownership is not the only criterion which can be applied for direct participation in annexation processes. A test of one-half of the assessed value in the area to be annexed can be used instead. Thus, structures built and owned on leased land by lessees of the land can qualify the lessees to participate because of their status as owners of property.

** Land can also be annexed to a city or village by means of a **Boundary Agreement** with an adjacent local government, under the provisions of §66.023 (2)(3), *Wisconsin Statutes*.

Direct Annexation § 66.021(2)(a)

Usually an area proposed for annexation is defined with the interests of those desiring annexation in mind. Sometimes odd-shaped areas are proposed for annexation to avoid including electors and/or property owners who would oppose the action. Because of court interpretation of the reasonableness of the shape of an area, it may be difficult to exclude persons who do not wish to be annexed, particularly if their land is needed to make the annexation contiguous.

If the village or city welcomes the annexation, but some electors do not wish to be annexed, the electors may challenge the annexation by petitioning for a referendum with the municipal clerk.

Electors and property owners*	Publish legal notice of intent to petition for annexation and serve on municipal and school district clerks
Electors and property owners	Within 5 days, provide a copy of notice and petition to the clerks of affected municipalities, school districts, and the Wisconsin Department of Administration
Electors and property owners	Circulate petition 10 to 20 days after publication of legal notice; specify "direct annexation"
Petition signers	Electors signing must total more than 50% of the votes cast in the last gubernatorial election.
	Property owners of 50% or more of the property by area or value must sign.
City council or village board	Receives petition; 60 days to accept or reject after receipt of petition
City or village clerk	Notifies town clerk(s) of acceptance of petition
Electors in area	At least 20% of electors residing in the area and property owners of 50% of the area or assessed value may request a referendum if city council or village board has not rejected the petition
City council or village board	Adopts annexation ordinance within 120 days of petition acceptance if it was not done by ordinance; may wait until after referendum
City or village and town(s)	If annexation is approved, adjust town assets and liabilities following § 66.03

* If no electors reside inside the territory, the petition must be signed by the owners of at least one-half of the land in the area, or by the owners of at least one-half of the assessed value of the real property in the area.

Annexation by Residents' Referendum § 66.021(2)(b)

Persons desiring annexation of their land to a city or village may wish to avoid potential criticism that annexation was being carried out in a “secretive” manner, which can sometimes be perceived when direct annexation is attempted. Annexation by referendum provides an open process for annexation, and a real opportunity for residents to voice their opinions. This method begins the process with a referendum, rather than forcing opponents to petition for a referendum later in the process. Failure of the referendum voids the process.

Electors and property owners	Publish legal notice of intent to petition for annexation and serve notice on municipal and school district clerks
Electors and property owners	Circulate petition 10 to 20 days after publication; specify "by referendum"
Petition signers	Signers must total at least 20% of total votes in last gubernatorial election and own 50% of either property area or value
City council or village board	Sixty days to reject or accept after receiving petition
City or village clerk	If council or board accepts, notifies town clerk(s) of acceptance
Town clerk(s)	Holds referendum in affected area within 30 days of being notified of acceptance by council or board
City council or village board	Adopts annexation ordinance within 120 days of petition acceptance if acceptance was not accomplished by ordinance; may be done before or after the referendum
City or village and town(s)	If annexation is approved, adjust town assets and liabilities following §66.03

Annexation of Owned Territory § 66.025

Cities and villages sometimes obtain property located outside their corporate limits. This land may be for water supply wells, solid waste disposal, or other municipal functions. The statute provides a procedure for annexing municipally-owned territory to insure that a municipality may fully control its land if it wishes to do so. Non-municipally owned land may not be later annexed to this territory.

City council or village board	Adopts annexation ordinance. Ordinance includes exact description of territory and names of town(s) from which detached
City or village officer	Sends copies of annexation ordinance to required state officials and departments

Note:

For additional information and assistance on Annexations contact...

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Annexation on City or Village Initiative by Referendum and Court Order § 66.024

Cities and villages sometimes decide that particular areas contiguous to their corporate limits should be annexed. This decision may be made to accommodate growth in a desired direction or to avoid having future growth permanently cut off by annexation from another municipality. Sometimes annexation is desirable because of the tax base potential of the area. In other cases, a municipality may feel that planning and development are not being carried out properly in the area, and that the municipality may suffer negative impacts from development in the area in the future unless it annexes the property.

After initial steps, the annexation goes into the local circuit court. The court may halt the process at this point if a majority of electors and property owners petitions the court to stop the annexation. In the absence of an adequate petition, the court may still dismiss the annexation or order a referendum of electors in the area on the annexation.

This type of annexation also offers a municipality the opportunity artfully to draw the boundaries of the area proposed for annexation to reduce the likelihood of defeat by petition or referendum.

City council or village board	Resolves by 2/3 vote to apply to circuit court for annexation referendum
City or village clerk	Publishes notice and serves notice on town clerk(s)
City council or village board	Applies to circuit court for referendum
Electors and property owners	May protest by petition to circuit court; signers must total more than 50% of votes in the last gubernatorial election and owners of 50% of the property area or value If the petition protesting the annexation meets statutory requirements, the annexation process ends
Circuit court	May (a) dismiss the annexation even if an inadequate petition is filed, or (b) order a referendum on the annexation. If (b):
Circuit court	Orders 3 electors of the town to serve as election inspectors
Town clerk(s)	Conducts referendum
City or village clerk	If the annexation is approved in the referendum, carries out procedural requirements in § 66.021(8)

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