

Chapter 11

MUNICIPAL ANNEXATION

Revised January 2, 2009

Annexation is the process of extending the corporate limits of a municipality. This process is governed by R.S. 33:151-180. The Legislature has established several general procedures, each containing different requirements, through which unincorporated territory may be annexed to a municipality.

Unincorporated land may be annexed essentially in the following ways:

- Annexation by petition and election [R.S. 33:151-161]
- Annexation by petition and ordinance [R.S. 33:171-180]

ANNEXATION BY PETITION AND ELECTION

Annexation by petition and election is initiated by the filing of a petition with the municipal governing authority by (1) one-third in number and value of bona-fide owners of any lots or land contiguous and adjacent to the territorial corporate limits of any city or town, except the City of New Orleans; or (2) one-half in number and value of bona-fide owners of any lots or land contiguous and adjacent to the corporate limits of any city located in a parish with a population between 115,000 and 125,000; or (3) one-fourth in number of bona-fide owners of any lots or land contiguous and adjacent to the corporate limits of any city located in Rapides Parish [R.S. 33:151].

The annexation petition must set forth the desire of the petitioners that such lots or land shall be annexed to and included in the territorial corporate limits of such city or town. The petition must also include a description of the land to be annexed and must be accompanied by a *proces verbal* and plat of survey of the land desired to be annexed made by the parish surveyor.

Upon presentation of the petition, *proces verbal*, and plat of survey, these documents must be recorded and transcribed in the municipality's records. The municipality then may order an election on the question of annexation within the area to be annexed [R.S. 33:153].

ANNEXATION BY PETITION AND ORDINANCE

Annexation by petition and ordinance – which is the most prevalent method of annexation – is initiated by a petition containing the written assent of a majority of the registered voters and a majority of the resident property owners, as well as 25 percent in value of the property of the resident property owners within the area proposed to be included in the corporate limits of the municipality. If there are no registered voters residing in the area to be annexed, then the requirement for a majority of the registered voters on the petition does not apply [R.S. 33:172(A)].

The valuation of the property within the area proposed to be annexed must be certified by the parish assessor, according to the assessment of each owner who signs the petition. Moreover, the registrar of voters must provide a certification as to whether the petition contains a written assent of the majority of the registered voters residing in the area proposed to be annexed upon request of the municipality which is contemplating the annexation [R.S. 33:172(A)].

The petition must be in writing, but no special form shall be necessary. However, the petition must provide a description of the general area to be annexed which shall be attached thereto.

The notice of the petition for annexation shall be published once in the official journal of the municipality at least 10 days before adoption of the annexation ordinance [R.S. 33:172(B)].

Any person who desires to be heard with reference to the proposed ordinance shall notify the municipal clerk in writing, and the governing authority, before adoption of any such ordinance, shall grant such hearing. The annexation ordinance may be adopted 10 days after publication of the notice.

After adoption, the annexation ordinance must be published in the official journal. Moreover, a description of the entire boundary of the municipality as changed by the annexation must be filed by the municipal clerk with the clerk of district court where the municipality is located [R.S. 33:178].

R.S. 33:172(C) also provides that a municipality may annex contiguous areas by election provided at least 90 percent of the boundary of the area to be annexed is common to the boundary of the municipality. A majority of registered voters residing in the area proposed for annexation must vote in an election held according to the provisions of R.S. 33:154-161. No election is required if there are no registered voters residing in the area to be annexed.

ANNEXATION OF VACANT LAND

Act 31 of the 2002 First Extraordinary Session of the Louisiana Legislature provides a mechanism by which a municipality may annex vacant land. Opinions from the attorney general and a recent court decision cited that municipalities lacked the statutory authority to annex purely “vacant” land. Act 31 amended R.S. 33:172(A) which provides that a municipality may annex vacant land upon the written assent of each nonresident property owner in the area proposed for annexation. Other provisions in this legislation also provides for a definition of contiguousness as it applies to vacant land as well as a procedure which allows for the courts to determine any questions of the reasonableness of the proposed annexation (*Act 13 of the 2002 First Extraordinary Session of the Louisiana Legislature enacting R.S. 33:172.3 pertains to the annexation procedures of vacant land for the City of Crowley only. Act 159 of the 2002 First Extraordinary Session of the Louisiana Legislature pertains to the annexation procedures of vacant land for municipalities, except the City of Slidell, located in St. Tammany Parish only*).

ANNEXATION OF PROPERTY OWNED BY A PUBLIC BODY

Act No. 1304, Section 1 of the 1997 Regular Legislative Session amended R.S. 33:180 by adding paragraphs B and C. These paragraphs place restrictions on the annexation of a roadway, when the annexation does not also include, at a minimum, the property adjacent to one side of the roadway. Thus, a municipality may not annex only the roadway, outside of the current municipal limits. This prohibition was primarily directed at those municipalities which enacted such annexations solely to increase the roadways over which municipal police jurisdiction extended.

To aid in the enforcement of this prohibition, the persons eligible to challenge such annexations was expanded to include property owners adjacent to the roadway being annexed. This is an exception, as generally only citizens living in the area to be annexed or the municipality have standing to contest annexations.

R.S. 33:180 does provide a process for annexing the area of the road right-of-way, outside of the paved portion of the road, in order to form a corridor, connecting the current municipal boundaries to property that is otherwise not contiguous to the municipality.

ANNEXATION OF NONCONTIGUOUS PROPERTY

There is no general prohibition in statutory law to annexations of property which is not contiguous to the municipality. However, courts have ruled that such annexations, if challenged pursuant to R.S. 33:174, will likely be held to be “unreasonable” and struck down.

The Second Circuit Court of Appeals has even ruled that a parish may contest the reasonableness of an annexation of noncontiguous private property, despite the requirements of R.S. 33:174 which limits contests to “any interested citizen of the municipality or of the territory proposed to be annexed....” This issue has only been adjudicated in one circuit and has not been reviewed by the Louisiana Supreme Court.

For additional information on the annexation process, please go to the LMA website at www.lma.org. Go to publications and click on "Annexation information" to access an in-depth outline prepared by Michael Hebert, attorney at the Milling, Benson, Woodward, LLP law firm in Lafayette and presented to the Louisiana City Attorneys Association at its 2006 Annual Conference