



THE  
MARYLAND  
MUNICIPAL  
LEAGUE

# Municipal Annexation Handbook

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# Municipal Annexation

## Introduction

Municipal annexation is the process of legally including within the corporate limits of a city or town an unincorporated area that is outside the municipality. For many cities and towns in Maryland, annexation of surrounding areas plays an important role in influencing the economic growth, environmental protection, quality of life, and municipal fiscal well-being of their communities.

The Maryland Municipal League prepared this handbook to provide basic guidance to municipal government officials on procedures and considerations associated with municipal annexation in Maryland. This publication is not intended to provide in-depth analyses of annexation issues but rather to provide a brief overview of annexation procedures and considerations. Included for your information is the full text of Subtitle 4-400 of the Local Government Article of the *Annotated Code of Maryland* which makes up the primary source of Maryland law concerning annexation.

League staff members are available to answer any questions you may have relating to annexation.

# Procedures

## 1. Minimum Prerequisites

In order to be annexed to an existing municipality, an area must be contiguous and adjoining to the existing municipal corporate area and may not be located within another incorporated municipality. Also, annexation of the area may not create an enclave of unincorporated area that would be completely surrounded on all sides by land within the municipality upon completion of the annexation.

## 2. Annexation Petition/Consent

An annexation petition signed by at least 25% of the qualified voters along with the owners of 25% of total assessed property in the area to be annexed may be filed with the municipal legislative body. Alternatively, the legislative body may initiate an annexation by obtaining the consent of a like percentage of qualified voters and property owners.

## 3. Annexation Resolution

Upon verification that the annexation petition signatures meet the requirements of law and that all other prerequisites of the law have been met, the elected body should promptly introduce a resolution proposing the annexation. Similarly the elected body may initiate the resolution upon receipt of the consent of the required percentage of voters and property owners. The resolution should describe the area to be annexed together with any conditions or circumstances applicable to the proposed annexation.

## 4. Annexation Plan

A municipal governing body must prepare, adopt and make available to the public a plan detailing (1) the proposed land use or uses in the area to be annexed, (2) available land that could be used for anticipated public facilities that may be needed, (3) a schedule for extending municipal services to the area to be annexed, and (4) anticipated means of financing the extension of services. The plan must be provided at least 30 days prior to holding the public hearing required by law for an annexation to the county in which the municipality is located as well as to the Maryland Department of Planning and any regional and state planning agencies having jurisdiction within the county.

Legislation passed in 2006 (House Bill 1141) by the Maryland General Assembly added to the level of detail of an annexation plan for most cities and towns. For a municipality that exercises planning and zoning authority under Land Use Article of the *Annotated Code of Maryland*, by October 1, 2009 it must amend its comprehensive plan to include a growth element that serves as a basis for any annexation plan it prepares. Upon a showing of good cause, the Maryland Department of Planning may authorize extensions through October 1, 2010 for preparation of a municipal growth element. Once a comprehensive plan growth element is in place for a municipality, a municipal annexation plan must be consistent with growth element of the municipality. At that point, the required level of detail in an annexation plan could be much greater for municipalities that exercise planning and zoning authority than was required prior to the passage of House Bill 1141.

## **5. Proposed Annexation Publication, Hearing and Resolution Passage**

After introduction of the resolution, a municipality must publish at least four times at a minimum of weekly intervals in one or more newspapers of general circulation a notice of the proposed annexation; notice of the time and place of a hearing on the resolution must also appear in the newspaper advertisements. For annexations where the area to be annexed is 25 acres or less, the required publication need only be done twice at weekly intervals. A copy of the public notice must be provided to the county governing board and regional and state planning agencies as soon as it is initially published. At the hearing itself, the county and planning agencies must be afforded first right to be heard, after which the general public may make comment. After conducting the required hearing, the municipal elected body may pass (or reject) the resolution which becomes effective 45 days after its passage unless it is petitioned to referendum.

## **6. Petitions to Referendum**

Within the 45 days prior to the effective date of the resolution, any of three groups may petition the annexation resolution to referendum. At least 20% of the registered voters in the existing municipality or in the area to be annexed may petition the resolution to referendum; alternatively, a minimum of two-thirds of the county governing board may petition to call for a referendum on the annexation question. After verification of petition signatures or county governing board compliance with the law's requirements (whichever is applicable), the effectiveness of the resolution is suspended pending results of the referendum.

## **7. Annexation Referendum**

The annexation referendum may be held from 15 to 90 days following newspaper publication of notice of the referendum. The notice must occur a minimum of two times at a minimum of weekly intervals. Should the referendum pass, the annexation will become effective on the fourteenth day following the referendum. Which voters participate in a referendum is dependent upon where the referendum petition emanated. If the petition was submitted by the county governing body or the residents in the area to be annexed, the voters in the area to be annexed may participate in the referendum. If the petition was submitted by residents of the municipality, the voters in the municipality participate. If both circumstances exist, separate elections are held for both the existing municipal voters and for voters in the area to be annexed. In the case of two elections, both sets of voters must approve the referendum in order for the annexation to proceed.

## **8. Registration of Resolution and Boundaries**

Regardless of whether or not the annexation is brought to referendum, the annexation resolution and the new municipal boundaries of the municipality must be promptly sent to (1) the county clerk of courts in the county in which the annexation occurred, (2) the Department of Legislative Services, and (3) where applicable the Maryland-National Capital Park and Planning Commission.

# Annexation Considerations

## Why annex? What are the advantages of annexation?

- To extend municipal services to communities that are adjacent to existing city/town corporate limits and that may not have such services.
- To expand the size, population base, property tax assessable base, and—in some cases—the political influence of a city or town.
- To ensure local input into and control over future development around the periphery of existing municipal corporate boundaries and to facilitate implementation of the Maryland Growth Management Act which focuses future growth in and around existing urban centers.
- Through legal agreements with developers, to exact concessions that will meet adequate public facility requirements and provide added amenities (for example: roads, parks, affordable housing) that are beneficial to the community.
- To support economic and community development goals by negotiating annexation agreements to attract business, industry and housing development.
- To unify currently incorporated and fringe unincorporated areas that share common sociological, economic, cultural, and geographic characteristics.
- To provide residents of areas adjacent to cities and towns a direct role in local community affairs through access to municipal election voting rights and the opportunity to serve in municipal elected and appointed offices.
- To achieve logical city/town growth and boundaries.

## Why not annex? What are the possible drawbacks to annexation?

- The city or town may lack adequate financial, personnel or infrastructure resources to extend public services to the area to be annexed.
- Annexation of an area may prove to be a fiscal drain on the city or town where potential revenues to be raised from the area to be annexed do not meet the costs of providing municipal services to the area.
- Residents in a potential area to be annexed may wish to maintain a separate community identity rather than having their identity subsumed within that of the existing city or town.
- Residents in an area to be annexed may consider municipal government to be unneeded, undesirable, or duplicative and may not wish to pay added taxes or fees to pay for the costs of municipal public services.
- There are difficulties set forth in law in achieving a successful annexation, including the ability of the county to veto for five years significant changes in zoning classifications in an area to be annexed and the ability of various parties to petition an annexation to referendum where it can potentially be voted down.

## Annexation Zoning—The Five-Year Rule

Cities and towns authorized to exercise and exercising planning and zoning powers under Land Use Article of the Annotated Code of Maryland have exclusive authority over planning and zoning in newly annexed areas. However, Subsection 4-416(b) the Local Governments Article of the *Annotated Code* provides that no city or town may for five years following an annexation allow development of property within an annexed area if the development would be substantially different than the use authorized under county zoning at the time of the annexation. Also, for five years following an annexation, development density of newly annexed property may not be greater than 50% higher than would have been permitted under county zoning at the time of annexation. A county governing body may waive this requirement if its members so desire.

As a practical matter, the impact of this provision of law is to give county governments a major role in municipal annexations where substantial changes in land use are anticipated. Development projects dependent upon annexation and annexations themselves can be not just delayed, but derailed by action (or inaction) of the county to withhold approval of land use changes in some circumstances. It is recommended therefore that county planners and elected officials be contacted early in the annexation process to negotiate these issues when the possibility of such changes is under consideration.



# Annexation Agreements

An annexation agreement is a contract typically made between a city or town and the owner or owners of land or private developers of land in an area to be annexed. An agreement is used to overcome obstacles to potential annexations by exacting concessions from one or more of the parties involved prior to consenting to annexation. It normally sets out the terms and conditions under which an annexation is to occur as well as any special obligations of the parties relating to a proposed annexation.

Provisions included in annexation agreements frequently address the following:

- The intent of the parties to enter into a contract.
- On-site and off-site public improvements to be provided by the developer of land in the area to be annexed.
- Financial terms such as temporary or phased municipal property tax abatements or service fee reductions.
- Timetables for the extension and provision of public utilities and other services.
- Land use stipulations. (Note however that "contract zoning" or offering to guarantee a specified zoning classification as a precondition for annexation is prohibited in Maryland.)
- Construction and environmental protection requirements.
- Agreement enforcement provisions.
- Conditions for terminating the agreement under specified circumstances.

Given the legal complexities involved, it is strongly recommended that professional legal counsel be employed throughout the process of negotiating, drafting, and carrying out the provisions of any annexation agreement.

# Annotated Code of Maryland

## Local Government Article , Subtitle 4-400

### §4-401. **Enlargement of Municipal Corporate Boundaries Authorized**

(a) Subject to subsections (b) and (c) of this section, the legislative body of a municipality may enlarge its boundaries by annexation as provided in this subtitle.

(b) The power of annexation applies only to land that:

(1) is contiguous and adjoining to the existing boundaries of the municipality; and

(2) does not create an unincorporated area that is bounded on all sides by:

(i) real property presently in the boundaries of the municipality;

(ii) real property proposed to be in the boundaries of the municipality as a result of the proposed annexation; or

(iii) any combination of real property described in item (i) or (ii) of this item.

(c) A municipality may not annex land that is in another municipality.

### §4-402. **How Annexation Initiated**

An annexation proposal may be initiated by:

(1) the legislative body of the municipality as provided in § 4-403 of this subtitle; or

(2) a petition in accordance with § 4-404 of this subtitle.

### §4-403. **Initiation by Legislative Body**

(a) Subject to subsection (b) of this section, an annexation resolution may be introduced in the legislative body of the municipality in accordance with:

(1) the requirements and practices applicable to its legislative enactments; and

(2) the requirements of § 4-303(a) of this title.

(b) Before an annexation resolution is introduced, the legislative body shall obtain consent from:

(1) at least 25% of the registered voters who are residents in the area to be annexed; and

(2) the owners of at least 25% of the assessed valuation of the real property in the area to be annexed.

(c) The annexation resolution:

(1) shall describe by a survey of courses and distances the exact area to be annexed;

(2) may also describe by landmarks and other well-known terms the exact area to be annexed; and

(3) shall contain a complete and detailed description of the conditions and circumstances that apply to:

(i) the change in boundaries; and

(ii) the residents and property in the area to be annexed.

#### §4-404. **Annexation Petition**

(a) Subject to § 4-413 of this subtitle, an annexation petition shall be signed by:

(1) at least 25% of the registered voters who are residents in the area to be annexed; and

(2) the owners of at least 25% of the assessed valuation of the real property in the area to be annexed.

(b) After an annexation petition is presented to the legislative body of the municipality, the presiding officer of the legislative body shall verify:

(1) the signatures on the petition; and

(2) that the petition meets the requirements of subsection (a) of this section.

(c) (1) After verifying compliance with the requirements of this section, the presiding officer of the legislative body promptly shall cause a resolution proposing the change of boundaries as requested by the petition to be introduced in the legislative body.

(2) The annexation resolution shall conform to the form and content requirements of this subtitle.

#### §4-405. **Annexation Resolution**

(a) An annexation resolution shall provide that the residents in the area to be annexed and their property shall be added to the municipality, generally subject or not, as applicable, to specific provisions of the municipal charter.

(b) (1) Notwithstanding subsection (a) of this section, an annexation resolution may provide, for stated periods and under specific conditions, special treatment of the residents in the area to be annexed and their property as to:

*Annexation Procedures Flow Chart*

- (i) rates of municipal taxation; and
- (ii) municipal services and facilities.

(2) After an annexation resolution takes effect, any change in the provisions for special treatment for stated periods and under specific conditions may be made only by a resolution enacted under this subtitle.

#### §4-406. **Public Notice and Hearing**

(a) After an annexation resolution is introduced, the chief executive and administrative officer of the municipality shall publish notice in accordance with the requirements of this section that:

(1) briefly and accurately describes the proposed annexation and the applicable conditions and circumstances; and

(2) specifies the date, time, and place that the legislative body sets for the public hearing on the proposed annexation.

(b) (1) Public notice of the annexation resolution shall be published:

(i) 1. at least four times; or

2. if the total area of the proposed annexation is 25 acres or less, at least two times;

(ii) at not less than weekly intervals; and

(iii) in at least one newspaper of general circulation in the municipality and the area to be annexed.

(2) The public hearing shall be:

(i) set no sooner than 15 days after the final required publication of the public notice; and

(ii) held in the municipality or the area to be annexed.

(c) Immediately after the first publication of the public notice, the municipality shall provide a copy of the public notice to:

(1) the governing body of the county in which the municipality is located; and

(2) any regional or State planning agency with jurisdiction in the county.

(d) The county and any regional or State planning agency with jurisdiction in the county has the right to be heard before the public at the hearing on the proposed annexation.

(e) (1) The public hearing may be rescheduled for or continued to a later date not more than 30 days after:

(i) the date when the hearing was originally scheduled; or

(ii) the date on which the hearing began but was not completed.

- (2) If the hearing is rescheduled or continued, public notice shall be published:
  - (i) at least 7 days before the date of the rescheduled or continued hearing; and
  - (ii) in a newspaper of general circulation in the municipality and the area to be annexed.
- (3) The public notice shall:
  - (i) briefly and accurately describe the area to be annexed; and
  - (ii) specify the date, time, and place of the rescheduled or continued public hearing.

**§4–407. Enactment and Effective Date**

- (a) After a public hearing, the legislative body of a municipality may enact an annexation resolution in accordance with its normal legislative procedure.
- (b) The annexation resolution may not take effect until at least 45 days after its enactment.

**§4–408. Petition of Resolution to Referendum by Residents of Areas to be Annexed**

- (a) Subject to § 4–413 of this subtitle, at any time within 45 days after enactment of an annexation resolution, at least 20% of the registered voters who are residents in the area to be annexed may petition the chief executive and administrative officer of the municipality in writing for a referendum on the resolution.
- (b) After a petition is presented to the chief executive and administrative officer, the officer shall verify:
  - (1) the signatures on the petition; and
  - (2) that the petition meets the requirements of subsection (a) of this section.
- (c) After verifying compliance with the requirements of this section, the chief executive and administrative officer, by proclamation, shall suspend the effectiveness of the annexation resolution pending the results of the referendum.

**§4–409. Petition of Resolution to Referendum by Residents of Municipality**

- (a) At any time within 45 days after enactment of an annexation resolution, at least 20% of the qualified voters of the municipality may petition the chief executive and administrative officer of the municipality in writing for a referendum on the resolution.
- (b) After a petition is presented to the chief executive and administrative officer, the officer shall verify:

- (1) the signatures on the petition; and
- (2) that the petition meets the requirements of subsection (a) of this section.
- (c) After verifying compliance with the requirements of this section, the chief executive and administrative officer, by proclamation, shall suspend the effectiveness of the annexation resolution pending the results of the referendum.

**§4-410. Petition of Resolution to Referendum by County Governing Body**

- (a) At any time within 45 days after enactment of an annexation resolution, the governing body of the county or counties in which the municipality is located, by at least a two-thirds majority vote, may petition the chief executive and administrative officer of the municipality for a referendum on the resolution.
- (b) After verifying compliance with the requirements of this section, the chief executive and administrative officer, by proclamation, shall suspend the effectiveness of the annexation resolution pending the results of the referendum.

**§4-411. Referendum Timing and Public Notice**

- (a) The chief executive and administrative officer of the municipality shall schedule a referendum on the annexation resolution and publish notice of the date, time, and place at which the referendum will be held.
- (b) The referendum shall be held:
  - (1) no sooner than 15 days and no later than 90 days after notices of the referendum are published; and
  - (2) at one or more places in:
    - (i) the municipality, for the referendum in the municipality; and
    - (ii) the area to be annexed, for the referendum in that area.
- (c) Public notice of the referendum shall be published:
  - (1) twice at not less than weekly intervals; and
  - (2) in at least one newspaper of general circulation in the municipality and

**§4-412. Conduct of Referendum**

- (a) The governing body of a municipality, by ordinance, resolution, or regulation, may provide for conducting and tabulating the results of a referendum held under this subtitle.
- (b) (1) The annexation resolution shall be submitted to:

- (i) a referendum of the qualified voters of the municipality if the petition for referendum was presented by the residents of the municipality;
  - (ii) subject to § 4–413 of this subtitle, a referendum of the registered voters who are residents in the area to be annexed if the petition for referendum was presented by the residents of the area to be annexed; or
  - (iii) separate referendums of the voters specified in items (i) and (ii) of this paragraph if a petition for referendum was presented by the residents of the municipality and the residents in the area to be annexed.
- (2) A petition for referendum presented by the governing body of a county shall be acted on in the same manner as a petition for referendum presented by the residents of the area to be annexed.
- (c) The ballot shall:
- (1) contain a summary of the annexation resolution; and
  - (2) provide for the voter to indicate a choice for or against the annexation resolution.
- (d) (1) If only one petition for a referendum is filed and if a majority of the persons voting on the annexation resolution vote for the resolution, the resolution takes effect on the 14th day after the referendum.
- (2) (i) If a referendum is conducted for both the residents of the municipality and the residents in the area to be annexed, the votes cast for the two referendums shall be tabulated separately to show the votes cast in the municipality and the area to be annexed.
- (ii) If in both referendums a majority of the persons voting on the annexation resolution vote for the resolution, the resolution takes effect on the 14<sup>th</sup> day after the referendum.
- (iii) If two referendums are held, the annexation resolution is void unless a majority in both referendums vote for the resolution.
- (e) The municipality shall pay for a referendum held under this subtitle.

**§4–413. Who May Sign Petition and Vote in Referendum in Special Circumstances**

If fewer than 20 residents in an area to be annexed are eligible to sign a petition for annexation and vote in a referendum under this subtitle, any person, including the two or more joint owners of jointly owned property, who owns real property in the area to be annexed may sign the petition and vote in the referendum.



#### §4-414. **Completed Annexation Notification Requirements**

(a) (1) The chief executive and administrative officer of a municipality that has annexed property shall send a copy of the annexation resolution with the new boundaries to:

- (i) the clerk or similar official of the municipality;
- (ii) (ii) the clerk of the court in any county in which the municipality is located;
- (iii) (iii) the Department of Legislative Services in accordance with
- (iv) paragraph (2) of this subsection; and
- (v) (iv) for any municipality located in the regional district, the Maryland–National Capital Park and Planning Commission.

(2) The annexation resolution shall be sent to the Department of Legislative Services within 10 days after the resolution takes effect.

(b) Each official or agency that receives an annexation resolution under subsection (a) of this section shall:

- (1) keep on record the resolution with the new boundaries; and
- (2) make the resolution available for public inspection during regular business hours.

#### §4-415. **Annexation Plan Requirements**

(a) In addition to, but not as part of, an annexation resolution, the legislative body of the municipality shall adopt an annexation plan for the area to be annexed.

(b) Except as provided in subsection (e) of this section, for an annexation that began before October 1, 2009, the annexation plan shall:

- (1) contain a description of the land use pattern proposed for the area to be annexed, which may include a county master plan already in effect for the area;
- (2) describe the schedule to extend each municipal service performed in the municipality at the time of the annexation to the area to be annexed;
- (3) describe the general methods by which the municipality anticipates financing the extension of municipal services to the area to be annexed; and
- (4) be presented so as to demonstrate the available land for public facilities that may be considered reasonably necessary for the proposed use, including facilities for schools, water or sewage treatment, libraries, recreation, or fire or police services.

(c) Except as provided in subsection (e) of this section, for annexation that begins on or after October 1, 2009, the annexation plan shall be consistent with the municipal growth element of the comprehensive plan of the municipality.

- (d) For purposes of subsections (b) and (c) of this section, an annexation begins when a proposal for annexation is initiated by:
- (1) resolution under § 4–403 of this subtitle; or
  - (2) petition under § 4–404 of this subtitle.
- (e) (1) On or after October 1, 2009, a municipality may submit an annexation plan under subsection (b) of this section if the municipality is granted an extension for the inclusion of a municipal growth element under § 3–304 of the Land Use Article.
- (2) After the expiration of a final extension granted under § 3–304 of the Land Use Article for the inclusion of a municipal growth element, an annexation plan shall be submitted in accordance with subsection (c) of this section.
- (f) At least 30 days before the public hearing on an annexation resolution required under § 4–406 of this subtitle, a copy of the annexation plan shall be provided to:
- (1) the governing body of any county in which the municipality is located;
  - (2) the Department of Planning; and
  - (3) any regional or State planning agency with jurisdiction in the county.
- (g) (1) The annexation plan shall be open to public review and discussion at the public hearing on the annexation resolution.
- (2) An amendment to the annexation plan does not:
- (i) amend the proposed annexation resolution; or
  - (ii) cause a reinitiation of the annexation procedure then in process.

#### §4–416. **Zoning within Annexed Area**

- (a) (1) Notwithstanding § 4–104(f) of this title, if an area is annexed to a municipality that has planning and zoning authority at the time of annexation, the municipality shall have exclusive jurisdiction over planning, subdivision control, and zoning in the area annexed.
- (2) Paragraph (1) of this subsection does not grant any planning or zoning power or subdivision control to a municipality that is not authorized to exercise planning or zoning power or subdivision control at the time of annexation.
- (b) Without the express approval of the county commissioners or county council of the county in which the municipality is located, for 5 years after an annexation by a municipality, the municipality may not allow development of the annexed land for land uses substantially different than the authorized use, or at a substantially higher density, not exceeding 50%, than could be granted for the proposed development, in accordance with the zoning classification of the county applicable at the time of the annexation.

(c) Notwithstanding § 4–204 of the Land Use Article and if the county expressly approves, the municipality may place the annexed land in a zoning classification that allows a land use or density different from the land use or density specified in the zoning classification of the county or agency with planning and zoning jurisdiction over the land prior to its annexation applicable at the time of the annexation.

# Annexation Checklist

1. \_\_\_\_\_ Receive written consent of (if initiated by municipal governing body) or petition from at least 25% of qualified voters and the owners of 25% of assessed property in area to be annexed.
2. \_\_\_\_\_ Present resolution to municipal governing body.
3. \_\_\_\_\_ Provide annexation plan to (1) the county governing body, (2) regional and state planning agencies at least 30 days prior to the public hearing, and (3) the Maryland Department of Planning.
4. \_\_\_\_\_ Publish notice of proposed annexation hearing as required.
5. \_\_\_\_\_ Provide immediately to the county governing body, to the regional planning agency where applicable and the Maryland Department of Planning a copy of the first hearing notice.
6. \_\_\_\_\_ Conduct public hearing at least 15 days after the final hearing notice is published.
7. \_\_\_\_\_ Pass the resolution.
8. \_\_\_\_\_ Wait 45 days to allow time for petition to annexation referendum.
9. \_\_\_\_\_ If no petition is received, promptly send the resolution and new boundaries to (1) the county clerk of courts, (2) the Department of Legislative Services, and (3) where applicable the Maryland-National Capital Park and Planning Commission.

# The Maryland Municipal League

The Maryland Municipal League, founded in 1936, represents 157 municipal governments and two special taxing districts throughout the State. A voluntary, nonprofit, nonpartisan association controlled and maintained by city and town governments, the League works to strengthen the role and capacity of municipal government through research, legislation, technical assistance, training, and the dissemination of information for its members. Through its membership in the National League of Cities, the League offers legislative representation in Washington, urban research programs, and a national municipal government information exchange.



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