

Appendix B: Summary of Minnesota Annexation Law

Three basic conditions must exist for annexation to occur:

- First, the land must adjoin the corporate limits of the annexing city.
- Second, the Municipal Boundary Adjustment Unit may approve an annexation if it finds city governance of the area is necessary to protect the public health, safety, and welfare; if annexation is found to be in the best interests of the city and the territory to be annexed; or, if land is, or is about to become, suburban or urban in character. This generally refers to land in close proximity to the city, of limited size, suburban in character, and with a community of interest so it will adapt to city government.
- Third, the land may not already be part of another city.

Annexation procedures

Although the statutes set out three different annexation procedures, only one procedure may apply in any given situation. The appropriate procedure depends on the ownership, size, and other characteristics of the land under consideration.

In some circumstances, a city may annex unincorporated property simply by passing an ordinance declaring the land as annexed to the city. Cities may annex by ordinance when any of the following conditions exist:

- The city owns the land to be annexed.
- The land is completely surrounded by land already within city limits.
- The land abuts the city and the area to be annexed is 120 acres or less, not presently served or capable of being served by available public wastewater facilities, and all the landowners petition the city for annexation.
- The land is within two miles of the city and has been approved for platting after Aug. 1, 1995, and the platted lots average 21,780 square feet or less.

The law considers land described above to be urban in character. The city can annex it merely by passing an ordinance in all these situations. The city must file copies of the ordinance with the Municipal Boundary Adjustment Unit, the town clerk, the county auditor, and the secretary of state. Annexation does not become effective until the Municipal Boundary Adjustment Unit approves the filing.

If 60 percent or more of the perimeter of the area to be annexed borders the city and the area is 40 acres or less, the city may annex it by ordinance. However, the city must serve notice of its intent upon the town board and wait 90 days for the

town's objection. If the town board raises objections, the city may abandon the proceedings or the Municipal Boundary Adjustment Unit will hold hearings and order or deny the annexation.

Another type of annexation by ordinance can occur if land is platted, or if unplatted, does not exceed 200 acres, and a majority of the owners petition the council for annexation.

The town board or the governing body of another city can submit written objections to the annexation to the Municipal Boundary Adjustment Unit and to the city within 90 days of the filing of the petition. If either the town or the city files objections, the annexing city can take no further action on the petition. The petition automatically goes to the Municipal Boundary Adjustment Unit, which will hold a hearing and issue its order.

If no one files objections, and the council determines the property proposed for annexation is currently or is about to become urban or suburban in character, the council may pass an ordinance annexing the land. However, if all property owners involved do not sign the petition, a public hearing before the city council is necessary before the city can adopt the ordinance. All property owners in the affected area must receive a mailed notice at least 30 days before the hearing.

Orderly Annexation

One or more townships and one or more cities can initiate an orderly annexation process by passing a joint resolution designating an unincorporated area in need of orderly annexation. One or more cities, by joint resolution with the county, may also designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed.

The Municipal Boundary Adjustment Unit promotes orderly annexation because it emphasizes negotiation and agreement.

An orderly annexation agreement is a binding contract upon all parties to the agreement and is enforceable in the district court in the county in which the unincorporated property in question is located.

If a city designates an urban-growth area based on a community-based comprehensive plan, an orderly annexation agreement must then be negotiated.

If the resolution allows for consideration by the Municipal Boundary Adjustment Unit, it may order the annexation if it makes any of the following findings:

- The area proposed for annexation is currently, or is about to become, urban or suburban in character, and the annexing city is capable of providing the needed services within a reasonable time.
- The existing town form of government is not adequate to protect public health, safety, and welfare.
- Annexation would be in the best interest of the proposed area.

In the area designated for orderly annexation, an orderly annexation agreement may provide for the establishment of a planning and land use control board under the Joint Powers Act. This board would have all of the powers contained in the Municipal Planning Act. It also would have the authority to adopt and enforce the uniform fire code. The orderly annexation agreement may provide that joint planning and land-use controls apply to any or all parts of the area designated for orderly annexation, as well as to any adjacent unincorporated or incorporated area described by the joint resolution.

Petition, Hearing and Order by Municipal Boundary Adjustments

If a city cannot annex land by ordinance or by orderly annexation, the annexing procedure is as outlined in this section.