

Findings from MTAS: Non-contiguous Annexations

Municipalities are authorized to annex territory that is not contiguous to the corporate limits. In order to do so, consent of the owner is required and the territory to be annexed must be located entirely within the urban growth boundary of the municipality. Additionally, the territory must either have an intended use for industrial, commercial, or future residential development or be owned by a governmental entity. The ownership requirement can be any governmental entity, and is not limited to the municipality proposing annexation. A plan of services must be prepared (as is required for every annexation), but for a non-contiguous annexation, the plan must be prepared by the municipality in cooperation with the county. An interlocal agreement is required to address the provision of emergency services to interceding properties (between the municipality and the territory to be annexed) and road and bridge maintenance from the municipality to the territory being annexed. T.C.A. § 6-51-104.

6-51-104. Resolution for annexation by referendum -- Notice.

(a)

(1) A municipality, when petitioned by interested persons, or upon its own initiative, by resolution, may propose extension of its corporate limits by the annexation of territory adjoining to its existing boundaries; provided, however, no such resolution shall propose annexation of any property being used primarily for agricultural purposes. Notwithstanding this part or any other law to the contrary, property being used primarily for agricultural purposes shall be annexed only with the written consent of the property owner or owners.

(2) A referendum is not required to effectuate annexation of territory if:

(A) All of the property owners within the territory proposed for annexation consent in writing;
or

[Effective until January 1, 2023.]

(B) (i) (a) Two-thirds (2/3) of the property owners within the territory proposed for annexation consent in writing;

(b) The total area of the property owned by the owners consenting to annexation under subdivision (a)(2)(B)(i) is more than one-half (1/2) of the territory proposed for annexation; and

(c) The proposed annexation consists of nine (9) or fewer parcels;

(ii) Subdivision (a)(2)(B) is repealed January 1, 2023.

(b) (1) (A) A copy of the resolution, describing the territory proposed for annexation, shall be promptly sent by the municipality to the last known address listed in the office of the property

assessor for each property owner of record within the territory proposed for annexation. The resolution shall be sent by first class mail and shall be mailed no later than fourteen (14) calendar days prior to the scheduled date of the hearing on such proposed annexation. The resolution shall also be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the municipality proposing such annexation, and by publishing notice of such resolution at or about the same time in a newspaper of general circulation, if there is one, in such territory and municipality. The resolution shall also include a plan of services for the area proposed for annexation. The plan of services shall comply with the requirements of § 6-51-102, including the public hearing and notice requirements, prior to the adoption of the resolution. Upon adoption of the plan of services, the municipality shall cause a copy of the resolution to be forwarded to the county mayor in whose county the territory being annexed is located.

(B) A person or persons with personal knowledge of the mailing of the resolutions to each property owner of record pursuant to subdivision (b)(1)(A) may submit a notarized affidavit to the presiding officer of the municipality attesting that such resolutions were mailed in accordance with this subdivision (b)(1). Failure of a property owner to receive a notice that was mailed pursuant to subdivision (b)(1)(A) shall not be grounds to invalidate the annexation.

(2) After receiving the notice from the municipality as provided in subdivision (b)(1), the county mayor shall notify the appropriate departments within the county regarding the information received from the municipality.

(c) A resolution proposing annexation by written consent of the property owner or owners shall become effective only upon adoption of such resolution by the municipality.

(d) (1) A municipality may by resolution propose annexation of territory that does not adjoin the boundary of the main part of the municipality, without extending the corporate limits of that territory, if the territory proposed for annexation is entirely contained within the municipality's urban growth boundary and is either:

(A) To be used for industrial or commercial purpose or future residential development; or

(B) Owned by one (1) or more governmental entities.

(2) A resolution under this subsection (d) shall be ratified only with the written consent of the property owner or owners.

(3) For purposes of this subsection (d), the boundary of the main part of the municipality is defined as the corporate limits of the territory containing its town seat or city hall. Territory that does not adjoin that boundary before a proposal to annex it is introduced cannot be annexed except as provided in this subsection (d).

(4) The resolution shall include the plan of services adopted under § 6-51-102. The plan shall be prepared by the municipality in cooperation with the county in which the territory is located. The municipality and county shall enter into an interlocal agreement pursuant to § 5-1-113 to provide

emergency services for any interceding properties and to maintain roads and bridges comprising the primary route to the area thus annexed as the municipality and county deem necessary.

(5) [Deleted by 2017 amendment.]