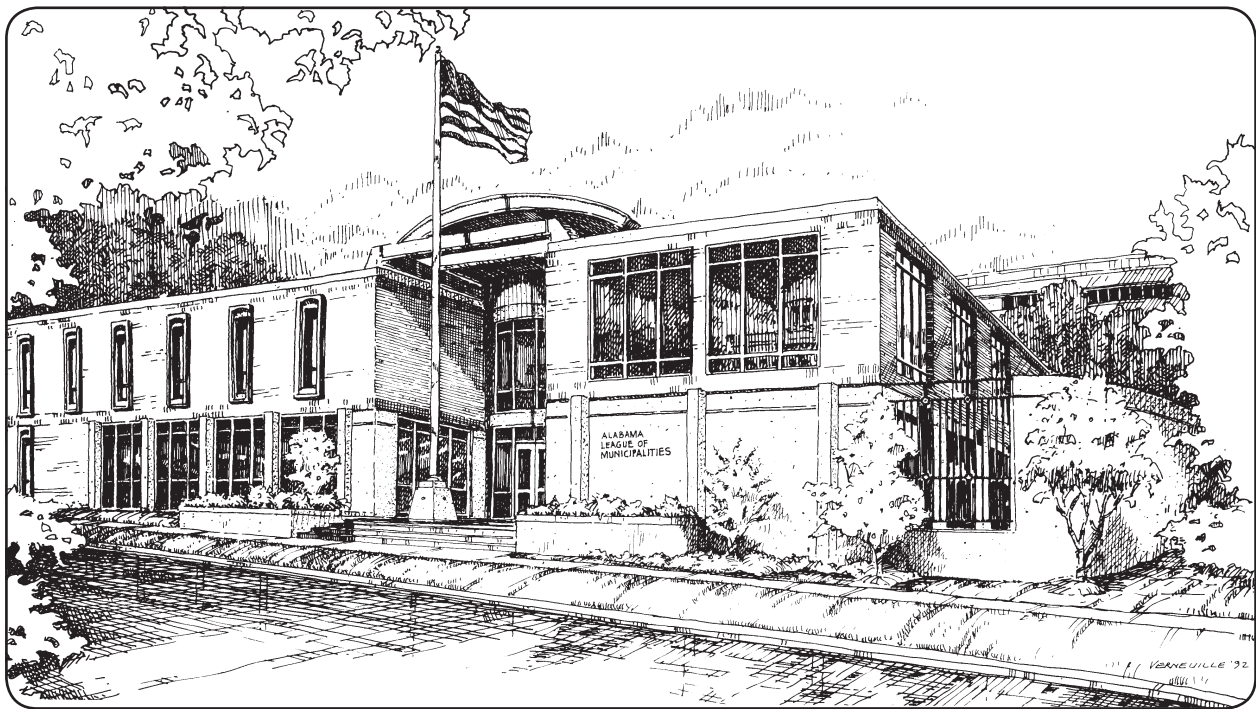


Methods of Extending Municipal Corporate Limits



Revised 2017

Prepared by The Alabama League of Municipalities

© September 2017

Alabama League of Municipalities, 535 Adams Avenue, Montgomery, AL 36104
334-262-2566 • www.alalm.org



For more information, contact the Alabama League of Municipalities, P.O. Box 1270,
Montgomery, AL 36102; phone 334-262-2566.

www.alalm.org

Methods of Extending Municipal Corporate Limits

Revised 2017

Prepared by The Alabama League of Municipalities

© September 2017

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or any information storage and retrieval system, without permission in writing from the publisher.

NOTE: The forms mentioned and included in this manual are intended solely as samples and should not be used without consultation with legal counsel. Any use of these forms is at the sole risk of the user. The Alabama League of Municipalities disclaims any responsibility or liability which may arise or result from the use of these forms or any portion thereof, or for reliance on any other material or information contained in this publication.

Foreword

With the rapid growth of cities and towns there is a constant need to extend municipal boundaries. While Alabama is one of several states which allows annexations to be accomplished by local act of the legislature, there is a matter of waiting for the legislative session and the problem of giving proper notice well in advance of the session. Municipalities in Alabama have statutory authority to annex territory through local procedures which are rather technical and filled with jurisdictional requirements.

It should be made clear that there are now three methods of annexation available to all cities and towns in Alabama:

- Annexation by local act of the state legislature;
- Annexation by referendum; and
- Annexation by petition of 100 percent of the property owners.

This report explains these three procedures in detail.

Ken Smith
Executive Director

February 1995

Revised January 2005

Further Revised September 2009

Further Revised September 2013

Further Revised September 2017

Table of Contents

<u>Introduction</u>	7
<u>Chapter 1: Annexation by Local Act of the State Legislature</u>	7
<u>Explanation of Procedure</u>	7
<u>Sample Resolution</u>	8
<u>Chapter 2: Annexation by Referendum</u>	10
<u>Jurisdictional Requirements</u>	10
<u>Sample Forms</u>	12
<u>Petition to Municipal Governing Body</u>	13
<u>Resolution by Municipal Governing Body</u>	14
<u>Certificates of the Mayor</u>	16
<u>Mayor’s Certificate for Resolution</u>	16
<u>Mayor’s Certificate for Petition</u>	17
<u>Mayor’s Certificate for Map or Plat</u>	17
<u>Statement of Accuracy of Petition (Qualified Voter)</u>	18
<u>Certificate of Accuracy of Petition (Probate Court)</u>	19
<u>Certificate of Tax Assessor</u>	20
<u>Order of Probate Court When No Election is Necessary</u>	21
<u>Order of Probate Court Calling an Election</u>	22
<u>Notice of Election</u>	24
<u>Form of Election Ballot</u>	25
<u>Notice of Election Officers</u>	25
<u>Oath of Office for Election Officers</u>	26
<u>Poll List for Election</u>	27
<u>Election Tally Sheet</u>	28
<u>Certification of Result</u>	29
<u>Judgment After Canvassing Election Returns</u>	30
<u>Chapter 3: Annexation by Petition of 100 Percent of Property Owners</u>	31
<u>Statutory Requirements</u>	31
<u>Owners</u>	32
<u>Duties of Governing Body</u>	32
<u>Additional Annexations</u>	32
<u>Petition</u>	32
<u>Ordinance</u>	32
<u>Sample Petition for Unanimous Consent Method</u>	33
<u>Sample Ordinance for Unanimous Consent Method</u>	34
<u>Chapter 4: What Must Be Done After Annexations are Completed</u>	35
<u>Chapter 5: Pre-Zoning</u>	36
<u>Chapter 6: Extension of Police Jurisdiction</u>	37

Methods of Extending Municipal Corporate Limits

Introduction

Many municipalities are interested in information about how their corporate limits may be extended. There are three methods of extending the corporate limits of municipalities in Alabama:

- Local act of the legislature;
- Annexation by referendum; and
- Annexation by petition of 100 percent of the property owners.

This report explains in detail the steps to be followed in each of the above-mentioned annexation procedures provided by general law. This report will not endeavor to cover the annexation procedure described in Sections 11-42-40 through 11-42-56, Code of Alabama 1975. This procedure, which can only be used by cities of 25,000 or more inhabitants and which requires property tax exemptions for newly-annexed lands, is rarely used. Neither does this report cover special legislative annexation laws applicable to specified municipalities or in specified counties. This manual also does not discuss Section 11-42-30, which permits Class 6 municipalities to annex territory contiguous to property held by a public university under certain circumstances.

Chapter 1 Annexation by Local Act of the State Legislature

Explanation of Procedure

Sample Resolution

Explanation of Procedure

Section 104(18) of the Constitution of Alabama of 1901 specifically allows the extension of municipal boundaries by local act of the legislature. The only special legal requirements which must be met for the valid adoption of such an Act are prescribed by Section 106 as amended by Amendment 341 to the Constitution. Those sections require that notice of the intention to apply for extension of the boundaries shall have been published, without cost to the state, in the county or counties where the matter or thing to be affected may be situated. The notice must state the substance of the proposed law and must be published at least once a week for four consecutive weeks in some newspaper published in such county or counties, prior to the introduction of the bill. Proof by affidavit that such notice has been given shall be exhibited to each house of the legislature and spread upon the journal.

The League recommends that a municipal governing body discuss the proposed annexation with its state legislators before taking any steps to procure the passage of a local act. Since the measure must be passed by both houses of the Legislature, the assistance and approval of the senator(s) representing the municipality, as well as the representative(s),

are necessary. If both the senator(s) and representative(s) approve of the bill, it will most likely be passed under the local courtesy rule without opposition. It is recommended that once a municipality has discussed the proposed annexation with its legislative delegation that it seek approval to work with Legislative Reference Service (LRS) to prepare the annexation bill. All bills introduced in the Alabama Legislature must be prepared through LRS. Having LRS prepare your local annexation bill for advertisement to begin with can help prevent duplicate advertising in the event LRS makes changes to any bill a municipality has already advertised prior to working with LRS. All bill drafting should begin with LRS.

Section 11-42-6, Code of Alabama 1975, provides that any bill introduced in the legislature which attempts to annex territory to any municipality or to otherwise change the boundary lines of any municipality shall contain an accurate description of the territory proposed to be annexed to or removed from such municipality. This section also states that a plat or map of the territory, showing its relationship to the corporate limits of the annexing municipality, must be attached to the bill. Copies of this map must also be furnished to the probate judge for the county or counties where the territory proposed to be annexed is located.

In *Town of Brilliant v. City of Winfield*, 752 So.2d 1192 (Ala. 1999), the Alabama Supreme Court held that typographical errors in the description of land annexing territory did not violate the advertising requirements in Section 106, Alabama Constitution, 1901. A provision that attempted to limit the extent of the police jurisdiction by local act was stricken as an unconstitutional variation from general law. The Court, though, held that the partial unconstitutionality of the act did not render the entire act invalid, when it struck the offending portion.

If a municipal governing body decides to seek passage of a local bill to extend the corporate limits of the municipality, a resolution should be adopted. A sample resolution is printed on the next page.

Resolution

WHEREAS, it is the opinion of the City [Town] Council of the City [Town] of _____, Alabama that the public health and public good require that certain territory shall be brought within and annexed to the corporate limits of the City [Town] of _____, Alabama; and

WHEREAS, the City [Town] Council deems it wise, expedient and economical to apply for the annexation of said territory to the corporate limits of the City [Town] of _____, Alabama by the passage of a Local Law in the Legislature of Alabama; and

WHEREAS, the City [Town] Council has caused to be prepared a Bill for introduction in the Legislature of Alabama, accurately describing said territory, to accomplish the annexation of said territory to the corporate limits of the City [Town] of _____, Alabama;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF _____, ALABAMA, as follows:

(1) That the Mayor of the City [Town] of _____, Alabama be and is hereby directed to cause the following notice to be published in a newspaper of general circulation published in _____ County, Alabama, once each week for four consecutive weeks, commencing on _____ [month] ___ [day], 20__, to-wit:

LEGAL NOTICE

STATE OF ALABAMA
_____ COUNTY

Notice is hereby given pursuant to Section 106 as amended by Amendment 341 to the Constitution of Alabama 1901 that a bill substantially as follows will be introduced in the _____ Session of the Legislature of Alabama and application for its passage and enactment will be made:

A Bill
To Be Entitled
An Act

To alter or rearrange the boundary lines of the City [Town] of _____, _____ County, Alabama, so as to include within the corporate limits of said City [Town] all territory now within such corporate limits and also certain other territory contiguous thereto, in _____, _____ County, Alabama.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. That the boundary lines of the City [Town] of _____, _____ County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City [Town] of _____, and in addition thereto the following described territory, to-wit:

[Here Describe Territory]

Section 2. A map showing the territory proposed to be annexed is on file in the office of the judge of probate in _____ County [or Counties, as the case may be]. This map is open to public inspection.

Section 3. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

(2) That the City [Town] Clerk be and is hereby directed to prepare the necessary copies of the above-mentioned Bill for introduction in the Legislature; and that immediately after the fourth publication of the notice prescribed in (1) above the City [Town] Clerk shall pay the cost of such publication and procure from said publisher an affidavit substantially as follows:

State of Alabama _____ County

Before me _____, a Notary Public in and for the State and County aforesaid personally appeared _____, who, being by me first duly sworn, deposes and sayeth that during the times herein mentioned he [she] was Publisher of _____, a newspaper of general circulation published in _____ County, Alabama, and that the attached notice was published in said newspaper once a week for four consecutive weeks without cost to the State of Alabama, said notice having appeared in the issues of said paper on _____, _____, _____, and _____, all in the year 20__.

Sworn to and subscribed before me on this ___ day of _____, 20__.

_____ Notary Public

The City [Town] Clerk is further directed to deliver the prepared Bills together with the publisher's affidavit to the Hon. _____, Representative to the Legislature of Alabama from _____ County, and respectively request that he [she] cause the same to be introduced in the Legislature of Alabama.

Adopted this ___ day of _____, 20__.

Chapter 2

Annexation by Referendum

Jurisdictional Requirements

Sample Forms

- Petition to Municipal Governing Body
- Resolution by Municipal Governing Body
- Certificates of the Mayor
- Mayor's Certificate for Resolution
- Mayor's Certificate for Petition
- Mayor's Certificate for Map or Plat
- Statement of Accuracy of Petition (Qualified Voter)
- Certificate of Accuracy of Petition (Probate Court)
- Certificate of Tax Assessor
- Order of Probate Court When No Election is Necessary
- Order of Probate Court Calling an Election
- Notice of Election
- Form of Election Ballot
- Notice of Election Officers
- Oath of Office for Election Officers
- Poll List for Election
- Election Tally Sheet
- Certificate of Result
- Judgment After Canvassing Returns

Jurisdictional Requirements

All cities and towns in Alabama are authorized to extend their corporate limits under provisions of Section 11-42-1 through 11-42-4, Code of Alabama 1975. The basic jurisdictional requirements prescribed for extensions under the authority of these Code sections are as follows:

(1) Written Assent of Electors and Property Owners: There must be the assent of at least 2 qualified electors residing on each quarter of each quarter section, according to the government survey, or part thereof, sought to be annexed, together with the consent of the persons, firms, or corporations, owning at least 60 percent of the acreage of such territory.

[**Note:** The Attorney General has ruled that persons who are purchasing homes in such territory under a lease-sale contract, and who are paying the taxes on such property, are considered the beneficial owners of such property. Their consent as owners is to be used in calculating the 60 percent ownership requirement. Opinion to Hon. J.C. Brady, Judge of Probate of Chambers County, construing similar provisions in Section 11-42-1 of the Code of Alabama, on June 17, 1958.]

(2) Map or Plat of Territory: There must be a map or plat of the land setting forth and specifying the territory proposed to be annexed, including all subdivisions into lots, blocks, streets and alleys, within such territory, if any, and an accurate description by metes and bounds of the boundary of such territory, which territory must be contiguous to the boundary of the city or town and form a homogeneous part thereof.

(3) Resolution of Council: There must be a resolution by the municipal council to the effect that the public health or public good requires that the territory shall be brought within the limits of the municipality.

(4) Mayor Certifies to Probate Judge: The council’s resolution must be certified, by the mayor of the municipality, to the probate judge of the county in which the property sought to be annexed is situated. A map or plat of the territory and the names of the electors and property owners consenting to the annexation must be attached to the certified copy of the resolution.

(5) No Election Required if Unanimous Consent: If, within 10 days from the date the resolution is filed with the probate judge, each of the qualified electors who reside in the territory described appears before the probate judge and consents to the annexation in writing, then no election is needed. The judge merely makes an order to that effect and extends the corporate limits to include the newly-annexed territory.

(6) Probate Judge Orders Election and Publishes Notice: If, within 10 days, each qualified elector who resides in the area to be annexed does not appear before the probate judge and does not consent in writing to the annexation, then an election must be held. Section 11-42-2 states that not less than 10 nor more than 15 days after the certified copy of the resolution is filed with the probate judge, he or she must make and enter an order upon the minutes of the court, directing and ordering an election to be held by the qualified electors residing within the territory described. The election must be held not less than 20 days nor more than 40 days from the date the order is made.

The probate judge must give notice of the election by publication in a newspaper published within the city or town where the corporate limits are proposed to be extended if a newspaper is published therein. If no newspaper is published therein, then notice is given by posting notices at three public places in such municipality. The notice must state:

- the day on which the election is to be held,
- the voting place or places,
- the boundaries within which voters must reside to vote at the respective voting places, which must be within the territory proposed to be brought into the municipality,
- a description of the territory proposed to be annexed, and
- that a map of such territory is on file in the office of the judge of probate of such county and is open to the inspection by the public.

The probate judge shall appoint three inspectors of election, two clerks and one returning officer for each voting place. The inspectors shall manage the election at the voting places to which they are appointed.

The probate court may not assess, as part of the court costs of an annexation election or an incorporation election, the legal fees incurred by the court to determine whether the legal requirements have been met to proceed with the requested election, unless the fees are incurred for an expert witness appointed by the court. AGO 2003-142.

(7) Conduct of Election; Who May Vote; Ballots: The election must be conducted in all respects as provided by the general election laws, except that an official ballot need not be provided. Each qualified elector who has resided within the territory proposed to be brought into the municipality for three months next preceding the election may vote. Each qualified elector must vote at the voting place designated by the probate judge.

Each voter may furnish his or her own ballot with the following words written or printed thereon: “For Annexation,” if in favor, or “Against Annexation,” if opposed. There is no requirement that the ballots be of any particular size, form or color.

Additionally, voting by absentee ballots must be allowed in annexation elections. AGO 1999-027.

(8) Probate Judge Canvasses Election Results and Records Order: As soon as the polls close, the inspectors ascertain and certify the results of the election to the probate judge. The probate judge canvasses the returns. If it appears that a majority of the votes cast at the election were for annexation, the judge shall make and enter an order on the records

of the probate court adjudging and decreeing the corporate limits to be extended to include the territory. The judge must cause the resolution and map and all orders or decrees or judgments to be entered in the records in the probate office. From the time and the entry of such order, the territory is a part of and within the corporate limits of the municipality.

If it appears that a majority of the votes cast were against annexation, the probate judge shall make and enter an order on the records adjudging and decreeing that a majority of the votes were cast against coming into the corporate limits and that the territory described and designated in the resolution and plat or map shall not form a part of or be embraced in the city or town until it may thereafter be brought into the municipality. [Note: If the annexation fails because of a lack of a majority of votes for annexation, no other subsequent election shall be ordered or held for the same territory or any part thereof within 12 months next after said election.]

(9) Resolution and Orders Recite Authority: Section 11-42-3 provides that each resolution of the city [town] council, and each order of the probate judge, and every notice given must recite that such action is taken under and by virtue of and pursuant to Article 1 of Chapter 42 of Title 11, Code of Alabama 1975. While this has been held to be directory rather than mandatory, it is best that the directive be followed. *See State v. Birmingham*, 52 So. 461.

Sample Forms for Annexation by Referendum

The following forms are provided as a guide for a municipality seeking to extend its corporate limits under the provisions of Section 11-42-1 through 11-42-4, Code of Alabama 1975.

The forms mentioned and included in this entire report are intended solely as samples and should not be used without consultation with legal counsel. Any use of these forms is at the sole risk of the user. The Alabama League of Municipalities disclaims any responsibility or liability which may arise or result from the use of these forms or any portion thereof.

Petition to Municipal Governing Body

The case of *Oxford v. State*, 58 So.2d 604, held that it was the evident purpose of the provisions of what is now Section 11-42-2, Code of Alabama 1975, that the electors residing in the territory and the property owners of the territory, which is sought to be annexed, give written consent to the annexation. The written consent must be in the hands of the probate judge when the resolution is brought to his or her attention. While it was held that the consent need not be in the form of a petition, it is probably the easiest and most popular method of fulfilling this requirement. Furthermore a petition forms the basis for the municipal governing body's resolution. The petition may be in substantially the following form.

TO THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF _____, ALABAMA:

We, the undersigned, do hereby petition the governing body of the City [Town] of _____, Alabama, to pass all resolutions and do all the things required by law to be done by said governing body to effect the incorporation into the corporate limits of said City [Town] all of the territory and area lying within the following described boundaries, to-wit:

[Here describe the area proposed to be included in the corporate limits by the extension. The description should reveal the position of the area in section, township, and range and also its contiguity to the corporate limits of the municipality.]

In support of this petition we hereby certify that the above-described territory is contiguous to the present boundary of the City [Town] of _____, Alabama, and when incorporated within the limits of the City [Town] of _____, Alabama, it will form a homogeneous part of said City [Town]; that the above-described territory does not embrace any territory within the corporate limits of any other municipality; that said territory lies wholly within the ___ quarter of ___ quarter [and such other quarter of quarter sections as may be the case] of Section __, Township __, Range __, in _____ County, Alabama; that we, the undersigned, hereby signify our assent to the incorporation of the above-described territory into the corporate limits of the City [Town] of _____, Alabama, by executing this petition; that not less than two qualified electors residing in each quarter of each quarter section, according to government survey or part thereof of said above-described territory, have signed this petition; that we together own in severalty more than sixty percent of the acreage of said territory.

[**Note:** The following provision might be included in the petition but is not essential. "That attached hereto and marked Exhibit A is a map or plat showing accurately said above-described area proposed to be incorporated into the boundaries of said City [Town], including all subdivisions into lots, blocks, streets, and alleys within said territory, and the relation of such territory to the present boundary of said City [Town]."]

IN WITNESS WHEREOF, we have hereto affixed our signatures on this ___ day of _____, 20__.

QUALIFIED ELECTORS RESIDING
WITHIN ABOVE-DESCRIBED TERRITORY

OWNERS OF PROPERTY IN THE
ABOVE-DESCRIBED TERRITORY

Resolution by Municipal Governing Body

After the petition is received by the municipal governing body, a resolution in substantially the following form should be adopted. This resolution puts the procedure in motion for the call of an election by the probate judge.

RESOLUTION

Proposing the Annexation of Certain Territory to the Corporate Limits of the City [Town] of _____, Alabama.

WHEREAS, the territory hereinafter described is contiguous to the boundary of the City [Town] of _____, Alabama, and does not embrace any territory within the corporate limits of another municipality; and

WHEREAS, the said territory would form a homogeneous part of the City [Town] of _____, Alabama, if annexed thereto and made a part of the City [Town] of _____, Alabama; and

WHEREAS, at least two qualified electors residing on each quarter of each quarter section, according to government survey, or part thereof, of said territory have expressed their assent in writing to being annexed into and becoming a part of the City [Town] of _____, Alabama, by signing a petition to that effect, together with the consent of the persons, firms, or corporations owning at least sixty percent of the acreage of said territory, such consent being signified by their signing said petition; and

WHEREAS, the City [Town] of _____, Alabama, has caused to be prepared a plat or map, accurately showing said territory, including all subdivisions into lots, blocks, streets, and alleys within said territory, together with an accurate description by metes and bounds of said territory; and

WHEREAS, it would be in the best interest of the citizens of the City [Town] of _____, Alabama, and the citizens of said territory to bring the said territory within the corporate limits of the City [Town] of _____, Alabama; now, therefore, pursuant to and in compliance with Article 1, Chapter 42, Title 11, Code of Alabama 1975,

BE IT RESOLVED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF _____, ALABAMA, as follows:

1. That the public good and public health require that the following described territory shall be brought within the limits of the City [Town] of _____, Alabama.

[Here insert accurate description, which should be identical to the description shown on the map; the description should locate the territory with regard to section, township and range.]

2. That the Mayor of the City [Town] of _____, Alabama, is hereby authorized and directed to certify a copy of this resolution to the judge of probate of _____ County, Alabama, to which he [she] is directed to attach the map or plat and the petition, both of which are hereinabove described.

3. That the judge of probate of _____ County, Alabama is hereby requested to make all orders and decrees and to do all things required by law, in particular by Article 1 of Chapter 42 of Title 11 of the Code of Alabama 1975, as amended, to the end that the above-described territory be incorporated within the limits of the City [Town] of _____, Alabama, if authorized at an election therefor as provided by law.

4. This Resolution shall be known and referred to as _____ [Name of Resolution].

Adopted this ___ day of _____, 20___, by the City [Town] Council of the City [Town] of _____, Alabama.

Approved:

Mayor

(SEAL)

Attest:

City [Town] Clerk

Certificates of the Mayor

After the resolution is adopted by the council, it then becomes the duty of the mayor to certify a copy of the resolution, together with map and the petition, to the probate judge of the county where the territory sought to be annexed is situated. The following forms of certificates should be attached to the resolution, the petition, and map or plat.

Mayor's Certificate for Resolution

STATE OF ALABAMA _____ COUNTY

I, the Undersigned, _____, Mayor of the City [Town] of _____, Alabama, hereby certify that the foregoing copy of Resolution No. _____ by the City [Town] Council of the City [Town] of _____, Alabama, is a full, true and correct copy of a resolution duly adopted by the City [Town] Council of the City [Town] of _____, Alabama, at a regular meeting of said Council held on the ___ day of _____, 20___, as the same appears and remains on record in the minutes of the proceedings of said Council in the City [Town] Clerk's office.

IN WITNESS WHEREOF, I have affixed my signature as Mayor of the City [Town] of _____, Alabama, and have caused the official seal of the City [Town] to be hereunto affixed and this certificate to be attested by _____ as City [Town] Clerk of said City [Town], on this ___ day of _____, 20___.

Mayor
City [Town] of _____, Alabama

(SEAL)

Attest:

City [Town] Clerk

Mayor's Certificate for Petition

STATE OF ALABAMA _____ COUNTY

I, _____, Mayor of the City [Town] of _____, Alabama, hereby certify that the petition hereto attached is that petition referred to in a resolution adopted by the City [Town] Council of the City [Town] of _____, Alabama, on the ___ day of _____, 20__, known as _____ Resolution.

IN WITNESS WHEREOF I have hereunto affixed my signature as Mayor of the City [Town] of _____, Alabama, and have caused the official seal of said City [Town] to be hereunto affixed and this certificate to be attested by _____, as City [Town] Clerk of said City [Town] on this ___ day of _____, 20__.

Mayor
City [Town] of _____, Alabama

(Seal)

Attest:

City [Town] Clerk

Mayor's Certificate for Map or Plat

STATE OF ALABAMA _____ COUNTY

I, _____, Mayor of the City [Town] of _____, Alabama, hereby certify that the map or plat hereto attached is that map or plat referred to in a resolution adopted by the City [Town] Council of the City [Town] of _____, Alabama, on the ___ day of _____, 20__, known as _____ Resolution, and that said map or plat shows the territory proposed to be brought within the corporate limits of the City [Town] of _____, Alabama, as described and set forth in said resolution.

IN WITNESS WHEREOF I have hereunto affixed my signature as Mayor of the City [Town] of _____, Alabama, and have caused the official seal of said City [Town] to be hereunto affixed and this certificate to be attested by _____ as City [Town] Clerk of said City [Town], this ___ day of _____, 20__.

Mayor
City [Town] of _____, Alabama

(Seal)

Attest:

City [Town] Clerk

Statement of Accuracy of Petition

With this form, the accuracy of the petition filed with the City [Town] Council seeking extension of the corporate limits is certified to by a qualified voter and resident of the area to be included in the corporate limits.

STATE OF ALABAMA

In the Probate Court of _____ COUNTY, ALABAMA

**IN THE MATTER OF THE ANNEXATION OF ADJACENT TERRITORY
TO THE CORPORATE LIMITS OF THE CITY [TOWN]
OF _____.**

[This title may include brief description of territory if desired.]

Before me, _____, a Notary Public in and for said County and State, personally appeared _____, who having been by me first sworn and examined did depose and say on oath, that he [she] is a resident citizen of _____ County, Alabama, and has resided in said County for more than ___ years; that he [she] has examined the petition for the annexation of certain property into the corporate limits of the City [Town] of _____, Alabama, heretofore filed in the Probate Court of this County in connection with this cause; that he [she] is acquainted with all of the people whose names are signed to said petition and that he [she] knows where they reside; that a careful inspection of the map heretofore filed with said petition shows that all of the property described in said petition is located in the _____ [here set out quarter of quarter sections, township and range in which territory is located] in _____ County, Alabama, according to government survey; that _____ [here list names of petitioners and the quarter of quarter section in which each lives], who have assented in writing to the annexation of said territory and into the corporate limits of the City [Town] of _____ by signing said petition, all reside and have resided for more than three months prior to the filing of said petition in the ___ Quarter of the ___ Quarter of said Section ___, and also reside on that property described in said petition; that _____, _____, _____, and _____, who have also assented in writing to the annexation of that property described in said petition by signing their names to said petition, reside and have resided for more than three months prior to the filing of said petition, in the ___ Quarter of the ___ Quarter of said Section ___, and also reside on that property described in said petition.

Affiant further states that the territory included within the boundary shown on said map and contained in the description of that territory in said petition is contiguous to the present boundary of the City [Town] of _____ and will form a homogeneous part of the City [Town] if the City [Town] limits are extended to include said territory.

Affiant

Sworn to and subscribed before
me on this the ___ day of
_____, 20__.

Notary Public in and for
_____ County, Alabama

Certificate of Accuracy of Petition

The following is the certificate of the chief clerk in the office of the judge of probate affirming the accuracy of the petition filed for the election to extend the corporate limits.

STATE OF ALABAMA
In the Probate Court of Said County
_____ COUNTY

**IN THE MATTER OF THE ANNEXATION OF ADJACENT TERRITORY TO
THE CORPORATE LIMITS OF THE CITY [TOWN] OF _____.**

[Note: This heading may give a brief description of the territory if desired.]

Before me, _____, Judge of Probate, in and for said County and State, personally appeared in open court _____, who having been by me first duly sworn and examined did depose and say on oath, that he [she] is a resident citizen of _____ County, Alabama, and is the Chief Clerk in the Probate Court of _____ County, Alabama; that he [she] has examined that petition for the annexation of certain territory into the corporate limits of the City [Town] of _____ heretofore filed in the Probate Court in connection with this cause; that _____, _____, _____, and _____ [here list those on petition who signed as qualified electors] have assented in writing to the annexation of the platted or unplatted territory described in that said petition into the City [Town] limits of the City [Town] of _____, Alabama, by affixing their signature to said petition, and that he [she] has made a careful inspection of the records in the Probate Office of _____ County, Alabama and has found that the above-named persons are qualified electors of _____ County, Alabama.

_____ Affiant

Sworn to and subscribed before
me on this the ___ day of
_____, 20__.

Judge of Probate

Certificate of the Tax Assessor

The following is the form of the certificate of the tax assessor regarding the accuracy of the description of the area proposed to be included in the corporate limits.

STATE OF ALABAMA
In the Probate Court of Said County
_____ COUNTY

**IN THE MATTER OF THE ANNEXATION OF ADJACENT TERRITORY
TO THE CORPORATE LIMITS OF THE CITY [TOWN] OF _____.**

Before me, _____, Judge of Probate, in and for said County and State, personally appeared in open court, _____, who having been by me first duly sworn and examined did depose and say on oath, that he [she] is a resident citizen of _____ County, Alabama, and is the Tax Assessor of _____ County, and as such has custody and control of the records of the Tax Assessor's office of said County; that from an examination of the said tax assessment records, those persons, firms or corporations, who have consented in writing to the annexation of said platted or un-platted territory described in that petition heretofore filed in this cause by signing said petition, assess for taxation in severalty more than sixty percent of the acreage of such platted or un-platted land described in said petition; that he [she] has carefully inspected that map attached to said petition and heretofore filed in this cause showing the boundaries of that property proposed to be annexed to the corporate limits of the City [Town] of _____, and that said property lies within the ___ Quarter of the ___ Quarter and the ___ Quarter of the ___ Quarter of Section ___, Township ___, Range ___, in _____ County, Alabama. Affiant further states that the territory included within the boundaries shown on said map and contained in the description of said property in said petition is contiguous to the present boundary of the City [Town] of _____ and will form a homogeneous part of the City [Town] if the City [Town] limits are extended to include said territory.

_____ Affiant

Sworn to and subscribed before
me on this the ___ day of
_____, 20__.

Judge of Probate

Order of Probate Court When No Election Necessary

This is a suggested order of the probate court making certain required findings and declaring the corporate limits extended when there is unanimous consent to the annexation and, therefore, no election is necessary.

STATE OF ALABAMA
In the Probate Court of _____ County, Alabama
_____ COUNTY

IN THE MATTER OF THE ANNEXATION OF ADJACENT TERRITORY TO THE CORPORATE LIMITS OF THE CITY [TOWN] OF _____, ALABAMA

Present, the Honorable _____, Judge of Probate:

It being made to appear to the Court and to the Judge thereof, and the Court and the Judge thereof determines and finds:

That the governing body of the City [Town] of _____, Alabama, at the regular meeting thereof on the ___ day of _____, 20___, duly adopted a resolution to the effect that the public good and the public health requires that the territory within the boundaries described in said resolution be brought within the corporate limits of the City [Town] of _____, Alabama, and,

That on the ___ day of _____, 20___, the Mayor of the City [Town] of _____ duly certified to the Probate Judge of _____ County a true copy of said resolution; that said certified resolution had attached thereto a plat or map showing accurately the territory described in said resolution, including all subdivisions into lots, blocks, streets, and alleys within such territory, and,

It further being made to appear to the Court from written affidavits and oral testimony of witnesses, and the Court further determines and finds that all of the above-described territory lies wholly within the ___ Quarter of the ___ Quarter and the ___ Quarter of the ___ Quarter of Section ___, Township ___, Range ___, all in _____ County, Alabama; that such territory is contiguous to the boundary of the City [Town] of _____, and when brought within the corporate limits of the City [Town] of _____, will form a homogeneous part of said City [Town]; that not any part of said territory is embraced within the corporate limits of any other municipality, and,

That a petition in writing accurately describing, by metes and bounds, the above-described territory, consenting to and requesting said territory be brought within the corporate limits of the City [Town] of _____, Alabama, was presented to the governing body of the City [Town] of _____, Alabama on the ___ day of _____, 20___, prior to the adoption of said resolution of said governing body, and was, by said governing body, filed with the Probate Judge of _____ County along with said certified copy of said resolution and said map or plat of said territory; that said petition was signed by not less than two qualified electors residing on each quarter of each quarter section of land, according to government survey, included within the boundaries of said above-described territory, and was also signed by the persons, firms, and corporations owning more than sixty percent of the acreage of the said above-described territory, and,

The Court further finds and determines from oral testimony and written affidavits of witnesses that within ten days from the date of the filing of the said resolution that each of the qualified electors who reside in the territory described by the map or plat attached to said resolution have appeared before this Court and have approved and consented in writing to the annexation all pursuant to and in conformity with Section 11-42-2, Code of Alabama 1975, and

WHEREAS, it is the finding and determination of this Court that the petitions, certificates, resolutions, statements, maps or plats and other documents now on file in the Court comply fully and completely with the requirements of Title

11, Article 1, Chapter 42, Code of Alabama 1975.

NOW, THEREFORE, it is the order, judgment and decree of this Court under the provisions of and pursuant to Title 11, Article 1, Chapter 42, Code of Alabama 1975:

That no election is necessary to annex the hereinafter described territory to the City [Town] of _____, Alabama, and

That the corporate limits of the City [Town] of _____, Alabama, a municipal corporation, be, and they are hereby extended so as to embrace the territory described in the resolution of the governing body of the City [Town] of _____, Alabama, adopted on this the ___ day of _____, 20__, designated on the map or plat thereof attached to said resolution which territory is described as follows, to-wit:

[Here Describe Territory]

It is the further order, judgment, and decree of this Court that all of the documents and all the orders, judgments, and decrees of this proceeding be recorded in the minutes of this Court and in the records of the office of the Judge of Probate of _____ County, Alabama, with the exception of the map or plat which shall be filed in the plat records of this Court.

Dated this ___ day of _____, 20__.

Judge of Probate

County, Alabama

Order of Probate Court Calling Election

This is a sample of an order of the probate court calling an election and fixing the date of the election to determine whether the corporate limits are to be extended by a city or town.

STATE OF ALABAMA
In the Probate Court of _____ County, Alabama
_____ COUNTY

**IN THE MATTER OF THE ANNEXATION OF ADJACENT
TERRITORY TO THE CORPORATE LIMITS OF THE CITY
[TOWN] OF _____, ALABAMA.**

Present, The Hon. _____, Judge of Probate:

It being made to appear to the Court and to the Judge thereof, and the Court finds:

That the governing body of the City [Town] of _____ at a regular meeting thereof on the ___ day of _____, 20__, duly adopted a resolution to the effect that the public good and the public health requires that the territory within the following described boundaries be brought within the corporate limits of the City [Town] of _____, to-wit:

[Here Describe Territory]

That on the ___ day of _____, 20___, the Mayor of the City [Town] of _____ duly certified to the Probate Judge of _____ County a true copy of said resolution; that said certified resolution had attached thereto a plat or map showing accurately the territory described in said resolution, including all subdivisions into lots, blocks, streets and alleys within such territory.

And it further being made to appear to the Court from written affidavits and oral testimony of witnesses, and the Court further finds that all of the above-described territory lies wholly within the ___ Quarter of the ___ Quarter and the ___ Quarter of the ___ Quarter of Section ___, Township ___, Range ___, all in _____ County, Alabama; that such territory is contiguous to the boundary of the City [Town] of _____, and when brought within the limits of the City [Town] of _____, will form a homogeneous part of said City [Town]; that not any part of said territory is embraced within the corporate limits of any other municipality.

That a petition in writing accurately describing, by metes and bounds, the above-described territory, consenting to and requesting that said territory be brought within the corporate limits of the City [Town] of _____ on the ___ day of _____, 20___, prior to the adoption of said resolution of said governing body, and was by said governing body, filed with the Probate Judge of _____ County along with said certified copy of said resolution and said map or plat of said territory; that said petition was signed by not less than two qualified electors residing on each quarter of each quarter section of land, according to government survey, included within the boundaries of said above-described territory, and was also signed by the persons, firms and corporations owning more than sixty percent of the acreage of the said above-described territory.

It is, therefore, the order, judgment and decree of the Court, and the Court directs pursuant to and in compliance with Title 11, Article 1, Chapter 42, Code of Alabama, 1975:

That an election be held on the ___ day of _____, 20___, during the legal hours for holding general election, by the qualified electors residing within said above-described territory proposed to be brought within the corporate limits of the City [Town] of _____ and who have so resided for three months next preceding said election; that said election shall be conducted in all respects as provided by the general election laws of the State of Alabama, except that an official ballot need not be provided; that, if being deemed that only one voting place is necessary to be designated therefor, the sole voting place for said election shall be within the territory proposed to be annexed to the City [Town] of _____ at _____ [here adequately describe place of voting].

That the following named persons residing within said described territory and who are qualified to vote in said election are hereby appointed officials for holding said election, to-wit:

Inspectors: _____, _____, and _____

Clerks: _____ and _____

Returning Officer: _____

That notice of said election shall be given as provided by law.

That said map of the above-described territory remain on file in the office of the undersigned Judge of Probate of _____ County, Alabama, open to the inspection of the public.

Dated this ___ day of _____, 20___.

Judge of Probate

County, Alabama

Notice of Election

This is the form for the notice of election approved and issued by the judge of probate.

**FOR ANNEXING CERTAIN TERRITORY TO THE CITY [TOWN]
OF _____ TO INCLUDE [Briefly Describe Territory]**

Notice is hereby given pursuant to and in compliance with Title 11, Article 1, Chapter 42, Code of Alabama 1975, that an election will be held during the legal hours of holding general elections, on the ___ day of _____, 20___, to determine whether or not the territory within the boundaries thereof hereinafter described shall be brought within the corporate limits of the City [Town] of _____, Alabama.

The sole voting place for said election will be within the territory proposed to be annexed to the City [Town] of _____ at _____ [adequately describe where voting place is located].

Each qualified elector who has resided for more than three months next preceding said election within the boundaries of the territory proposed to be brought into the City [Town] of _____, as hereinafter described, may vote at said election.

Said election is being held pursuant to Article 1 of Chapter 42 of Title 11 of the Code of Alabama 1975, for the purpose of determining whether or not there shall be brought into the City [Town] of _____ that certain area or territory within the following described boundaries, to-wit:

[Here Describe Area]

A map of the above-described territory is on file in the office of the Judge of Probate of _____ County, Alabama, open to the inspection of the public.

The following qualified electors residing within said territory have been appointed as officials to hold said election:

Inspectors: _____, _____, and _____

Clerks: _____ and _____

Returning Officer: _____

Dated this ___ day of _____, 20___

Judge of Probate

County, Alabama

Form of Election Ballot

This is a suggested ballot form for use in the election called for the purpose of determining whether the area proposed to be included within the corporate limits shall be annexed. Note, many areas use different election processes and those should be followed in those areas.

**FOR ELECTION TO DECIDE WHETHER OR NOT [briefly describe area]
AND ADJACENT TERRITORY SHALL BE ANNEXED TO THE
CORPORATE LIMITS OF THE CITY [TOWN] OF _____, ALABAMA**

_____, 20__

The voter will indicate his or her choice by placing a cross mark (X) either before [or after] the words, "For Annexation," or "Against Annexation."

_____ FOR ANNEXATION

_____ AGAINST ANNEXATION

Notice to Election Officers

This is the form of notice used by the judge of probate to notify election officers of their appointment to serve in the annexation election.

STATE OF ALABAMA
In the Probate Court
_____ COUNTY

To _____

You will please take notice that you have been appointed an _____ [inspector, or clerk or returning officer] in the election to be held on the ___ day of _____, 20__, to determine whether or not certain territory _____ [here briefly describe] shall be brought within the corporate limits of the City [Town] of _____, Alabama.

The place of election is located at _____ in the area proposed to be incorporated within the City [Town] of _____.

The polls open at 8:00 o'clock A.M. and close at ___ o'clock P.M.

Dated this the ___ day of _____, 20__.

Judge of Probate

County, Alabama

Oath of Office for Election Officers

This is the form of oath of office administered to election officers in the annexation election.

For Inspectors:

We, the undersigned, _____, Inspectors appointed to act at Box No. ___ in the election to be held on the ___ day of _____, 20__, made and entered on the ___ day of _____, 20__, to determine whether or not certain territory _____ [briefly describe location of territory] shall be brought within the corporate limits of the City [Town] of _____, Alabama, do solemnly swear that we will perform our duties as such Inspectors according to law.

Sworn to and subscribed before the undersigned authority this the ___ day of _____, 20__.

For Clerks:

We, the undersigned, _____, Clerks appointed to act at Box No. ___ in the election to be held on the ___ day of _____, 20__, pursuant to an order of the Probate Court of _____, County, Alabama, made and entered on the ___ day of _____, 20__, to determine whether or not certain territory including _____ [briefly describe territory] shall be brought within the corporate limits of the City [Town] of _____, Alabama, do solemnly swear that we will perform our duties as such Clerks according to law.

Sworn to and subscribed before the undersigned authority this ___ day of _____, 20__.

For Returning Officer:

I, the undersigned, _____, Returning Officer appointed to act at Box No. ___ in the election to be held on the ___ day of _____, 20__, pursuant to an order of the Probate Court of _____ County, Alabama, made and entered on the ___ day of _____, 20__, to determine whether or not certain territory _____ [briefly describe territory] shall be brought within the corporate limits of the City [Town] of _____, do solemnly swear that I will perform my duties as such Returning Officer according to law.

Sworn to and subscribed before the undersigned authority this the ___ day of _____, 20__.

Poll List for Election

This is the form used by the election officials to list voters participating in the annexation election, together with the certificate of accuracy signed by the election officers.

**LIST OF PERSONS VOTING AT ELECTION TO DETERMINE WHETHER OR NOT
THE FOLLOWING DESCRIBED TERRITORY [briefly describe territory]
SHALL BE BROUGHT WITHIN THE CORPORATE LIMITS OF
THE CITY [TOWN] OF _____.**

1. _____
2. _____
3. _____
4. _____
5. _____ (etc.)

_____, 20__

We, the undersigned Inspectors and Clerks at Box No. __, in the election held on the __ day of _____, 20__, pursuant to an order of the Probate Court of _____ County, Alabama, made and entered on the __ day of _____, 20__, to determine whether or not certain territory _____ [briefly describe territory] shall be brought within the corporate limits of the City [Town] of _____, hereby certify that the foregoing list of names, numbered from No. 1 to No. __, inclusive is the Poll List in said election and a true list of all persons who voted in said election.

Clerks

Inspectors

Election Tally Sheet

This is the form of the election tally sheet to be used in an annexation election.

Tally Sheet at Box No. ____ in the Election held on the ____ day of _____, 20__, pursuant to an order of the Probate Court of _____ County, Alabama, made and entered on the ____ day of _____, 20__, to determine whether or not certain territory _____ [description of territory] shall be brought within the corporate limits of the City [Town] of _____, Alabama.

TALLY SHEET

	TOTAL
FOR ANNEXATION _____	
AGAINST ANNEXATION _____	

We, the undersigned inspectors and clerks in said election, do hereby certify that the foregoing is the Tally Sheet made by us in said election.

Clerks

Inspectors

Certification of Result

This is the form for the certificate of election result used in an annexation election.

To the Honorable _____

Judge of Probate _____

_____ County, Alabama

We, the undersigned inspectors and clerks at Box No. ____ in the election held on the ____ day of _____, 20__, pursuant to an order of the Probate Court of _____ County, Alabama, made and entered on the ____ day of _____, 20__, to determine whether or not certain territory _____ [describe territory] shall be brought within the corporate limits of the City [Town] of _____, hereby certify that said election was duly held in accordance with the provisions of law regulating the same and the result of said election at said Box No. ____ is as follows:

THERE WERE RECEIVED AT SAID BOX NO. ____ IN SAID ELECTION

_____ VOTES FOR ANNEXATION

_____ VOTES AGAINST ANNEXATION

We further certify that we deposited the poll lists, ballots, one copy of this certificate of result and one copy of the tally sheet in a sealed box and delivered the same to _____, the Returning Officer at said Box in said election; and that we posted another copy of this certificate of result at the polling place for said Box No. ____ in said election and delivered another copy of this certificate of result to said Returning Officer to be by him [or her] delivered to the Honorable _____, Judge of Probate. No legal votes other than the above stated were cast in said election.

Witness this the ____ day of _____, 20__.

Clerks

Inspectors

Judgement After Canvassing Election Returns

This is the form of the judgment entered by the judge of probate after canvassing the returns of the election where a majority of votes were cast "For Annexation."

STATE OF ALABAMA
_____ COUNTY

In the Probate Court

**IN THE MATTER OF THE ANNEXATION OF
[describe territory briefly if such has been done in other orders]
ADJACENT TERRITORY TO THE CORPORATE LIMITS OF
THE CITY [TOWN] OF _____, ALABAMA.**

PRESENT, _____, Judge of Probate

It being made to appear to the Court and to the Judge thereof, and the Court finds:

That pursuant to a former order of this Court made and entered on the ___ day of _____, 20___, ordering an election to be held on the ___ day of _____, 20___, by the electors residing within the hereinafter described territory, to determine whether such territory should be incorporated within the boundaries of the City [Town] of _____, such election was held and conducted in all respects as provided by the general election laws of Alabama; that due notice of said election was given as required by law, by publication thereof for three (3) consecutive weeks prior thereto, in the _____, [name of newspaper], a newspaper regularly published in, and of general circulation in, said City [Town] of _____, Alabama, said notice appearing in the regular issues of said newspaper published on the ___, ___, and ___ days of _____, 20___, and stating that said election would be held on the ___ day of _____, 20___, and stating the voting place, the boundaries within which voters must reside to vote therein, which was the territory proposed to be brought into the City [Town] of _____, Alabama, and giving a description of the territory proposed to be annexed and stating that a map of such territory was on file in the office of the Judge of Probate of said County, open to the inspection of the public;

That the inspectors of said election promptly ascertained and certified the results of said election to the undersigned Judge of Probate; that from a canvass of said returns by this Court it appears, and the Court finds that the total number of votes received and cast in said election in favor of the annexation of said territory to the City [Town] of _____ was _____ votes and that the number of votes received and cast in said election against the annexation of said territory to the City [Town] of _____ was _____ votes; that the total aggregate number of votes cast in said election was _____ votes and that _____ votes more than a majority of the votes cast in said election were cast in favor of the annexation of said territory to the City [Town] of _____, Alabama.

Therefore, pursuant to, and in conformity with, the provisions of Article 1 of Chapter 42 of Title 11 of the Code of Alabama, 1975, it is the order, judgment and decree of the Court that the corporate limits of the City [Town] of _____, Alabama, a municipal corporation, be, and they are hereby extended so as to embrace the territory described in the resolution of the governing body of _____, adopted on the ___ day of _____, 20___, and filed with the Judge of this Court on the ___ day of _____, 20___, and designated on the map or plat thereof attached to said resolution, which territory is described as follows, to-wit:

[Here Describe Territory]

It is the further order of the Court that the certified resolution of the governing body of _____ filed herein, and said map or plat of said above-described territory, and all orders, decrees, and judgments in this proceeding be recorded in the records of the Office of the Probate Judge of _____ County, Alabama.

Dated this the ___ day of _____, 20___.

Judge of Probate

County, Alabama

Chapter 3

Annexation by Petition of 100 Percent of Property Owners

Statutory Requirements

Owners

Duties of Governing Body

Additional Annexations

Petition

Ordinance

Sample Petition for Unanimous Consent Method

Sample Ordinance for Unanimous Consent Method

Statutory Requirements

This statutory procedure is codified at Sections 11-42-20 through 11-42-24, Code of Alabama 1975, as amended. Section 11-42-21, as amended, states that:

“Whenever all of the owners of property located and contained within an area contiguous to the corporate limits of any incorporated municipality located in the state of Alabama and such property does not lie within the corporate limits or police jurisdiction of any other municipality, shall sign and file a written petition with the city clerk of such municipality requesting that such property or territory be annexed to the said municipality, and the governing body of such municipality adopts an ordinance assenting to the annexation of said property to such municipality, the corporate limits of said municipality shall be extended and rearranged so as to embrace and include such property and such property or territory shall become a part of the corporate area of such municipality upon the date of publication of said ordinance. It is provided further, that in the event any such incorporated municipality’s police jurisdiction overlaps with the police jurisdiction of one or more other incorporated municipalities, the governing body of each such incorporated municipality may exercise the authority of this article, in such overlapping portions of their police jurisdiction, to a boundary which is equidistant from the respective corporate limits of each of such incorporated municipalities which have overlapping police jurisdictions, and provided further, all of the owners of property located and contained within such area to be annexed and such property is contiguous to the corporate limits of such an incorporated municipality shall sign and file a written petition with the city clerk of such incorporated municipality requesting that such property be annexed to said incorporated municipality and the governing body of such incorporated municipality adopts an ordinance assenting to the annexation of said property to such municipality, the corporate limits of said municipality shall be extended and rearranged so as to embrace and include such property and such property or territory shall become part of the corporate area of such municipality upon the date of publication of said ordinance.

“The petition required by this section shall contain an accurate description of the property or territory proposed to be annexed together with a map of the said territory showing its relationship to the corporate limits of the municipality to which said property is proposed to be annexed and the signatures of all the owners of the property or territory described. It shall be the duty of the governing body to file a description of the property or territory annexed in the office of the judge of probate of the county in which the municipality is located.” (Acts 1971, No. 2228, p. 3585, Section 1; Acts 1981, No. 81-352, p. 507; Acts 1982, No. 82-507, Section 1.)

Comments: This Act requires unanimous consent of the persons owning property in the area. It also requires that all of such persons actually sign the petition. An expression to the effect that “John Doe” who resides in the area does not object is not a sufficient manifestation of his position to meet the requirements of the law.

The area to be considered for annexation must actually be contiguous to the corporate limits of the municipality. The Attorney General has ruled that, in the case of separate and independent petitions for annexation, each parcel of land seeking to be annexed must be independently contiguous to the then existing city limits to permit the independent

annexation of the parcel pursuant to Section 11-42-21 of the Code of Alabama 1975. However, separate parcels may join and file a single petition for annexation. Further, a city cannot annex separate parcels of property by adopting one ordinance if separate petitions for annexation have been filed unless the parcels are joined together by a single petition. AGO 2003-147.

The petition, after it is fully signed by all persons residing in the area, is presented to the city clerk. The petition must contain an accurate description of the property proposed to be annexed. “Accurate description” as used in the Act means a legal description; such a description that would enable anyone to locate exactly the “ground” encompassed. In addition to the description, the petitioners must attach a map “showing its relationship to the corporate limits of the municipality ... “

Owners

Owners of property in the area means “the persons in whose name the property is assessed for ad valorem tax purposes in the absence of proof to the contrary.” Section 11-42-20, Code of Alabama 1975.

This provision was included to prevent disputes and uncertainty of ownership. The municipality should require proof of authority if a name appears on the petition and the records show that such person does not assess the property for which he or she signed. It is probably best for both the husband and wife to sign – much property is now held under “survivorship” deeds. Property owned by corporations should be signed for by a qualified officer of the corporation and the signature attested. Property owners who are not married should indicate their marital status.

Duties of Governing Body

After the petition in proper form is presented to the city clerk, the governing body, in a legal meeting, may adopt an ordinance assenting to the annexation. The governing body is not bound to assent since the extension of the corporate limits in this fashion is discretionary. In nearly every instance, it is assumed that assent would be given and an ordinance passed. Upon adoption and publication of the ordinance, the area becomes part of the corporate limits of the municipality on the date of publication of the ordinance.

The governing body must also file a description of the property annexed in the office of the probate judge of the county.

Additional Annexations

Section 11-42-22, Code of Alabama 1975, provides that any municipality, which has extended its corporate limits under the provisions of this Act or any other law, may again extend its limits under this Act or under any other law authorizing an extension of the corporate limits.

Section 11-42-23, Code of Alabama 1975, further provides that the provisions of this Act shall not preclude a municipality from extending its corporate limits in any other legal manner.

Petition

The Act does not set out any “form” for the petition. But no matter what form is used, it must contain the required information set out in the Act. The preamble of a form is suggested below.

“We, the undersigned, being all of the owners of the hereinafter described property, such property being contiguous to the corporate limits of the City [Town] of _____ and such property not lying within the corporate limits or police jurisdiction of any other municipality, do hereby petition that said property be annexed to the City [Town] of _____. A map of said property is hereto attached. This petition is filed under authority of Sections 11-42-20 through 11-42-24, Code of Alabama 1975, as amended.”

The expense of preparing the petition should normally be borne by the property owners. The city clerk should verify the facts and the governing body should find that the persons signing the petition constitute all the owners of the property and that it is contiguous to the corporate limits.

Ordinance

It is not recommended as a usual practice that an ordinance contain recitals, but perhaps in an ordinance under this authority recitals may be in order. The recitals may contain the findings referred to above. After the ordination clause,

the governing body would simply “assent” to the annexation to the city or town of the property to be annexed. Such property should be described in the ordinance.

In other sections, the ordinance should state that the described property shall become a part of the corporate area of the city upon date of publication. The ordinance should also direct the clerk to file a description of the described property in the probate office of the county.

After the publication of the ordinance, the usual procedures for assimilating the new area into the city would be followed—such as the furnishing of services, levying taxes and providing for voting, etc.

Sample Petition for Unanimous Consent Method

TO THE CITY [TOWN] OF _____, ALABAMA:

We, the undersigned, constituting all of the owners of all of the hereinafter described real property do hereby execute and file with the City [Town] Clerk this written petition asking and requesting that our property hereinafter described be annexed to the City [Town] of _____, under authority of Sections 11-42-20 through 11-42-24, Code of Alabama 1975.

Said property is described as follows:

[Insert Legal Description Here]

We further certify that said property is contiguous to the City [Town] of _____ and that none of the property lies within the corporate limits of another municipality. We further certify that all of the property included in the above description which lies within the police jurisdiction of both the annexing municipality and another municipality is located closer to the annexing municipality than to the other municipality as required by Sections 11-42-21, Code of Alabama 1975. A map of said property is hereto attached.

We do hereby request that the City [Town] Council and the City [Town] Clerk give such notice, hold such hearings and adopt such ordinances and do all such things or acts as is required by law so that the corporate limits of the City [Town] of _____ shall be rearranged so as to include such territory.

IN WITNESS WHEREOF, we have hereunto subscribed our names this the ___ day of _____, 20__.

SIGNATURE:

etc.

PROPERTY SIGNED FOR:

etc.

Sample Ordinance for Unanimous Consent Method

WHEREAS, on the ___ day of _____, 20 __, _____ [insert names of petitioners here], being the owners of all the real property hereinafter described, did file with the City [Town] Clerk a petition asking that the said tracts or parcels of land be annexed to and become a part of the City [Town] of _____; and

WHEREAS, said petition did contain the signatures of all of the owners of the described territory and a map of said property showing its relationship to the corporate limits of the City [Town] of _____; and

WHEREAS, the governing body did determine that it is in the public interest that said property be annexed to the City [Town] of _____ and it did further determine that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20 through 11-42-24, Code of Alabama 1975;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF _____, ALABAMA, AS FOLLOWS:

Section 1. The Council of the City [Town] of _____, Alabama, finds and declares as the legislative body of the City [Town] that it is in the best interests of the citizens of the City [Town], and the citizens of the affected area, to bring the territory described in Section 2 of this ordinance into the City [Town] of _____.

Section 2. The boundary lines of the City [Town] of _____, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretobefore encompassed by the corporate limits of the City [Town] of _____, Alabama, and in addition thereto the following described territory, to-wit:

[Insert Legal Description Here]

Section 3. This ordinance shall be published as provided by law, and a certified copy of same, together with a certified copy of the petition of the property owners, shall be filed with the Probate Judge of _____ County, Alabama.

Section 4. The territory described in this ordinance shall become a part of the corporate limits of _____, Alabama, upon publication of this ordinance as set forth in Section 3, above.

ADOPTED THIS THE ___ DAY OF _____, 20 __.

Presiding Officer

ATTEST:

City Clerk

Chapter 4

What Must Be Done After Annexations are Completed

Once an area becomes a part of the municipality through annexation, the municipality should notify the following federal and state agencies of the new boundaries.

Administrator, ABC Board. P. O. Box 1151, Montgomery, Alabama 36101. A change in boundaries could increase revenue received from state ABC Board profits. Boundary change information will also aid the ABC Board in determining whether county or municipal approval is necessary in the granting of licenses. Telephone: (334) 271-3840; fax: (334) 244-1815.

State Treasurer. 600 Dexter Avenue, Room S106, Montgomery, Alabama 36130. A boundary change could affect the municipal share of the tag tax distributed by the State Treasurer. Telephone: (334) 242-7500; fax: (334) 242-4242 [State House], or (334) 242-7592 [Capitol].

Comptroller. Room 268, RSA Union, 100 N. Union St., Montgomery, Alabama 36130. A boundary change could affect the proceeds from the State Oil and Gas Severance Tax distributed by the Comptroller. Telephone: (334) 242-7073; fax: (334) 353-4407.

State Revenue Department – Income Tax Division. Gordon Persons Building, 50 No. Ripley Street, Montgomery, Alabama 36104. A boundary change could affect the municipal share of the State Financial Institutions Excise Tax. Telephone: (334) 242-1000; fax: (334) 242-8914.

State Department of Revenue – Privilege Tax Division. Gordon Persons Building, 50 No. Ripley Street, Montgomery, Alabama 36104. A change in boundaries could affect utility ad valorem taxes which are assessed by this office. Telephone: (334) 353-7923; fax: (334) 242-8915.

State Department of Revenue – Sales, Use and Business Tax Division. Gordon Persons Building, 50 No. Ripley Street, Montgomery, Alabama 36104. A change in municipal boundaries could affect the amount of sales and use tax revenue collected by the State Revenue Department for the municipality. Telephone: (334) 242-1490; fax: (334) 242-8916.

Probate Judge. A boundary change may affect the revenue distributed to the municipality by the probate judge based on the automobile tag tax.

County Tax Assessor and County Tax Collector. Boundary changes will affect ad valorem tax revenues.

County Commission. Boundary changes may affect proceeds from TVA money received from the state to be shared with counties and municipalities.

County Board of Registrars. Boundary changes will affect the municipal voting list prepared from county voting lists compiled by this office.

Of course, you still have to notify the Justice Department.

And there is now a requirement that you notify the Reapportionment Office that was added in the 2006 Regular Session in HB74, Act 2006-249. Legislative Reapportionment Office, Room 811, State House, 11 South Union Street, Montgomery, Alabama 36130, (334)242-7941.

Chapter 5

Pre-Zoning

Section 11-52-85, Code of Alabama 1975, allows proposed annexed areas to be pre-zoned prior to the effective date of the annexation. Municipalities may pre-zone territory by complying with Article 4 of Chapter 52 of Title 11, Code of Alabama 1975. Section 11-52-85 states that, “[i]f all the requirements, including all notice and public hearing requirements, of Article 4 of Chapter 52 of Title 11 are met, the zoning shall become effective upon the date the territory is annexed into the corporate limits, or upon the date the zoning process is completed, whichever is later.” For more information on pre-zoning territory, see Section 11-52-85, Code of Alabama 1975, or contact the League Legal Department.

Chapter 6

Extension of Police Jurisdiction

As a result of Act 2015-361, a municipality may only extend its police and planning jurisdictions as a result of an annexation once a year, on January 1, and only for those annexations finalized on or before October 1 of the previous year. It is important to note, however, that the limitation on the extension of the police and planning jurisdictions in no way limits the effective date of the underlying annexation. The annexation is effective as provided by law. For more information on the municipal police jurisdiction, please see the article in the *Selected Readings for the Municipal Official* (2016 ed.) titled “The Municipal Police Jurisdiction”.



The Alabama League of Municipalities was organized in 1935 and has served since that time as the recognized voice of the cities and towns of Alabama. Through the years, the League has grown steadily and now serves 450 member municipalities. This voluntary membership brings officials of cities and towns together in a fellowship of public service which strengthens and guides local government in a progressive, responsible fashion.

The League conducts continuing studies of the legislative, administrative and operational needs, problems and functions of Alabama's municipal governments; holds conferences and meetings at which views and experiences of officials may be exchanged; encourages in the people of Alabama a sympathetic appreciation of the duties, responsibilities and rights of both municipal government and the citizen; and works to secure enactment of legislation which will enable all cities and towns to perform their functions more efficiently and effectively. The primary purpose of the League is to promote understanding of municipal government and administration in Alabama and thereby advance the welfare of the people of this state. ■