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ANNEXATION: BRINGING ALL THE PIECES TOGETHER

This document is intended as a simple guide to understanding the process of annexation and how to carry out that process efficiently and correctly. Annexation can be confusing for residents, land owners, developers and units of local government. It is the State Boundary Commission's intent that this booklet will help make the filing process easier and help you avoid errors.

It is important to remember that if you are contemplating annexation, you may wish to seek appropriate professional advice, e.g., attorney, land surveyor, engineer, accountant, etc.

What Is the State Boundary Commission?

The State Boundary Commission is a state agency where certain annexation petitions are to be filed. The Commission was established in 1968 and has authority over most annexation actions. The State Boundary Commission is comprised of three state level appointees and two members from the county in which the annexation action has been initiated. The governor appoints the state members for three-year terms and designates one member to serve as the chairperson of the Commission. The two local members and two local alternates are appointed by the presiding probate judge in that county.

The Commission has the power to recommend the approval or denial of an annexation petition to the Director of the Department of Licensing and Regulatory Affairs. This recommendation can include annexation of an area that is smaller or larger than the area proposed in the original petition.

What Is an Annexation?

Annexation is the process of bringing land from one jurisdiction to another by petition or resolution. There are a variety of types of annexation. For example: annexation of land from township to township and annexation of land from a township to a city. Be aware that the State Boundary Commission governs some types of annexation processes, but there are a few which are handled in different ways by different governmental bodies.

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Annexations not governed by the Commission include:

- Annexation of land from one township to another
- Detachment of land from a city or village
- Annexation of land from a township into a village
- Annexation of land in a charter township to a city or village by petition to the County Clerk for a referendum
- Annexation of land from a township into a city by a mutual agreement of both the city and township in some cases.
- Annexation of land from a city into another city

Annexations Involving the State Boundary Commission

The State Boundary Commission governs the process of annexation of land from a township into a city in most cases.

Four types of petitions can be filed with the Commission:

1. Petition by resolution of the city council
2. Petition by owners of at least 75% of the land proposed for annexation from a township to a city
3. Petition by at least 20% of the registered voters residing on the land proposed for annexation from a township to a city
4. Petition by at least 1% of the property owners in the affected township and city

The filing of a petition with the State Boundary Commission does not mean that an annexation will take place, only that the Commission will consider the petition and make a recommendation for a specific decision to the Director of the Department of Licensing and Regulatory Affairs.

Steps of an Annexation Action

What are the steps in an annexation process? The precise answer will depend on three specific factors:

1. Who is initiating the request (residents, land owners, units of government)
2. What units of government are directly involved (general law villages, home rule villages, home rule cities, townships, charter townships, and the state)
3. What is the current land use and population of the land proposed for annexation (especially, the number of residents, 1-100 residents, or more than 100)

These factors will determine the process, time frames, and notification requirements for an annexation action, but there is a general "bare bones" outline of steps to guide you through your annexation process. This list does not describe every possible situation, but does offer a general framework and sequence to follow when carrying out an annexation action.

The Five Steps of Annexation

The process of annexation has five specific steps:

1. The filing of a petition
2. A legal sufficiency hearing
3. A public hearing
4. An adjudicative meeting
5. A findings of fact meeting

Each one of these steps has certain procedures and requirements which must be followed and met for an annexation petition to proceed smoothly.

Petitions

Each of the four types of petitions has general instructions as part of the petition package that is available at the State Boundary Commission website. These general instructions explain the different forms and maps that must be completed and filed in order for the Commission to determine that the petition is legally sufficient. The term "legally sufficient" means that the petition meets all of the requirements which are stated in the statutes and rules governing the State Boundary Commission.

It is extremely important that your petition is legally sufficient when it is filed because state law does not allow modifications or deletions to be made after receipt. One must be extremely careful because each part of the petition has its own criteria which must be met for the petition to be legally sufficient. Also, once a petition is filed, it may not be withdrawn for any reason. If a petition has a deficiency, it will have to be corrected, re-filed, and considered as a new petition. Because petitions are considered in the order in which they are received, a deficiency will delay your petition significantly.

Examples of common legal sufficiency errors are available under the "Findings of Fact on the Rejection of Legal Sufficiency" link as well as a "Legal Sufficiency Criteria Checklist" link both available at the State Boundary Commission website, www.michigan.gov/sbc.

Each petition has seven parts. Each part has its own criteria that must be met for the petition to be legally sufficient. A general checklist will be supplied to you with the petition form.

Legal Sufficiency Hearing

After your petition is filed, it is brought before the State Boundary Commission in the order in which it was received. The Commission reviews the petition to determine if it is legally sufficient. If it is not, the petition is returned with an explanation of the deficiencies. If the petition is legally sufficient, the Commission approves it and sets a date for a public hearing between 60 and 220 days from the date of filing.

Three of the conditions that a petition must meet to be legally sufficient are:

1. All relevant boundaries of the adjacent city must be consistent with the boundary data on file in the Office of the Great Seal, Michigan Department of State.
2. The description of the proposed area mathematically closes upon itself.
3. The proposed area must be contiguous to the city boundaries.

Common Problems

The following is a list of problems that the State Boundary Commission frequently encounters causing a petition to be rejected as legally insufficient:

1. *Inaccurate Legal Description*
The legal description is not complete or not substantially accurate and consistent with the map accompanying the description.
2. *Inaccurate Map*
The map or drawing is incomplete or does not coincide with the territory which is proposed to be annexed described in the legal description on the petition.
3. *Insufficient Ownership Documentation*
Ownership documents are not recorded at the county Register of Deeds and/or not provided to the State Boundary Commission.
4. *Boundary Not Contiguous*
The land is not contiguous (adjacent) to the city boundary where the proposed annexation would occur.
5. *Filing as a Corporation or Other Entity Without Authorization*
A person is filing for a corporation or other legal entity and that person fails to include documentation that he or she is authorized to file for the corporation or other entity.

NOTE: Charter townships incorporated on or before June 15, 1978 are exempt from certain types of annexations. These exemptions may apply to other charter townships if it is determined that they meet certain conditions in the Charter Township Act of 1947, as amended. If a petition is declared legally sufficient, the Boundary Commission staff will request the affected city and township to complete a questionnaire. The petitioner will also be requested to respond to questions submitted by the staff.

Public Hearing

A public hearing allows the State Boundary Commission to consider the facts relative to the proposed annexation. In evaluating the reasonableness of the proposed annexation, the Commission refers to a list of 18 statutory criteria specified in the State Boundary Commission Act. The criteria include, among other things, population density, existing land use, topography, drainage basins, the need for organized community services and the general effect upon the entire community. The hearing allows all parties an opportunity to speak about the proposed annexation and the hearing must be held in or near the municipalities involved.

At the hearing, the petitioner may explain to the Commission why annexation is desired or needed. Representatives of the city and the township explain their positions on the proposal and residents affected by the proposal are allowed and encouraged to comment. At the end of the hearing, the State Boundary Commission members have an opportunity to ask questions.

Following each public hearing, additional written information may be received for a period of 30 days. After these materials have been distributed to the interested parties, persons have 7 days to file a response to the 30-day material. The State Boundary Commission may schedule a supplemental public

hearing if more information is needed or new information needs to be brought forward. If no supplemental public hearing is scheduled, the public record is closed at the end of the 7-day period and the Commission sets a date for an adjudicative meeting.

Adjudicative Meeting

The adjudicative meeting is the time at which the State Boundary Commission discusses the information presented and votes on what decision to recommend to the Director of Licensing and Regulatory Affairs. These meetings are held in Lansing. Adjudicative meetings are held in open session and anyone attending will have the opportunity to hear the discussion and the vote of the State Boundary Commission.

Findings of Fact Meeting and Decision by the Director

The Findings of Fact meeting is held to finalize the State Boundary Commission's action. At this meeting the Commission adopts their Findings of Fact and recommends that the Order be signed by the Director of the Department of Licensing and Regulatory Affairs. The Findings of Fact document outlines the facts relevant to the proposal and the considerations on which State Boundary Commission members base their decision. The Commission then submits the proposed Order to the Director for a decision.

After the Decision of the Director

The steps which preceded this section provide the general guidelines and rules concerning annexation. After the Director makes a decision by signing an order, public officials and residents have two ways to appeal the decision: referendum election or judicial review.

Referendum Election

A referendum is permitted only if the annexed area had a population of 100 or more on the date the petition was filed and a referendum election is requested by filing a petition within 30 days of approval of an order for annexation in any one of the following:

1. The area to be annexed.
2. The balance of the township outside the area to be annexed.
3. The city to which the area is to be annexed.

If the referendum petition is valid, the State Boundary Commission will recommend that the Director sign an order to place the question on the ballot in each area requesting an election. When the annexation election is held and all areas voting separately on the annexation approve it by a majority vote, the Commission will recommend that the Director sign an order implementing the annexation. If a majority in any one of the areas voting on the annexation does not approve the annexation, the annexation is defeated.

Judicial Review

An involved party may seek judicial review through Circuit Court. The judge has the authority to overturn an order signed by the Director.

If you have any questions or need annexation forms or information, please feel free to write to:

State Boundary Commission
Office of Land Survey & Remonumentation
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs
2501 Woodlake Circle
P.O. Box 30254
Lansing, Michigan 48911

or telephone our office at: (517) 241-6321.

Legal References

- State Boundary Commission Act, 1968 P.A. 191, as amended, MCL 123.1001 et seq; MSA 5.2242(1) et seq.
- Home Rule Cities Act, §9, MCL 117.9; MSA 5.2088.
- Charter Townships Act, §34, MCL 42.34; MSA 5.46(34).
- Conditional Transfer Act, 1984 PA 425, as amended, MCL 124.21 et seq; MSA 5.4087(21) et seq.
- State Boundary Commission Rules, R123.1 et.seq, 1979 Michigan Administrative Code.