

## Municipal Annexation: Growing City Borders

S.C. Municipal Clerks and  
Treasurers Institute

September 18, 2015

Jeff Shacker, Field Service Manager

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## Annexation History

- Rural Legislature
- Special interest groups
  - Electric utilities
  - Special purpose districts
  - Counties

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## Annexation Policy

- Best interest of municipality
- Initiation of petitioners
- Required to receive services
- Municipalities may promote annexation

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### Benefits to Residents

- Improved services
- Additional services such as utilities and street lights
- Lower service charges
- Higher level of law enforcement and fire protection
- Lower property insurance premiums
- Planning, zoning and land use regulation
- Participation in municipal government



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### Benefits to Municipality

- More citizens participating in municipal government
- Economy of scale in providing services
- Increased revenue sharing and revenue base to support services
- Better planning for urban area
- Stronger corporate community of citizens with similar needs



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### Public Relations

- Identify friends and foes
- Provide accurate information
- Conduct public hearings



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## Public Relations—Providing Information

- Analysis Orangeburg
- Brochures in Greenwood, Mauldin
- Web description Greer



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## Annexation

S.C. Code of Laws  
Title 5, Chapter 3

General Requirements

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## Contiguous Section 5-3-305

- Property adjacent to a municipality
- Shares a continuous border
- Not established by
  - road
  - waterway
  - right of way
  - easement
  - railroad track
  - marshland or
  - utility line which connects one property to other

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## Contiguous

Section 5-3-305

- Intervening connector does not destroy contiguity



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## Freeholder Definition

Section 5-3-240

- Any person at least 18 years of age
- Any firm owning legal title
- Date of petition or of the referendum
- One-tenth interest
- Name on county tax records

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## Filing Notice of Annexation

- Required by Secretary of State
- Required by Department of Transportation
- Required by Department of Public Safety
- Other interested parties
  - Municipal departments
  - County
  - 911 and emergency services
  - County Board of Voter Registration
  - Utility franchisees

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### Voting Rights Act

- Notify after annexation under 100% or 75% methods
- Preclearance of election to US Justice Department for 25 % method no longer required (Shelby County, AL vs. Holder decision)

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### 100% Ordinance Method

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### 100% Ordinance Method Section 5-3-150(3)

- Petition submitted signed by 100% of property owners
- Council accepts petition
- Adopt ordinance
- Files notice with Secretary of State, SCDOT and Dept. of Public Safety
- Pre-Clearance by US Justice Department for Voting Rights Act compliance no longer required
- Public hearing not required

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75% Petition/Ordinance Method

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75% Petition/Ordinance Method  
Section 5-3-150

- Petition - 75% freeholders owning 75% assessed valuation
- Filed with governing body
- Council agrees to accept petition

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The Petition

- Must be dated before first signature
- Open to public inspection
- Must state code section
- Contain description and plat of area

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### Feasibility Study

- Feasibility study on provision of services is required by 75% petition method
- Should be considered for any annexations

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### Feasibility Study

- Inventory of existing outside services
- Identify provider of each service, contractual obligations
- Identify services to be assumed/provided
- Identify efficient service areas and areas which cannot be fully serviced

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### Feasibility Study

- Projected level of taxes and fees to support services
- Needed revenues
- Estimated revenues from current taxes, fees and service charges
- Comparison of cost to property owners before and after annexation.
- Identify burdens and benefits of annexation

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### Feasibility Study

- Determine level of services needed
- Determine most cost effective way to provide services
- Projected timetable

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### Public notice 30 days before acting on petition

- In newspaper of general circulation
- Post on municipal bulletin board
- In writing
  - property owners in area
  - chief administrative officer in county
  - public service/special purpose districts
  - fire departments
- Must include projected timetables for provision of services

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### Public Hearing

- Map and complete legal description of area
- Statement of public services to be assumed or provided
- Taxes and fees for services

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25% Petition and Election Method

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25% Petition and Election Method

Section 5-3-300

Petition signed by 25% of the "qualified electors" who must be residents within the area to be annexed

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Petition must contain

- Description of area to be annexed
- Signature of the "qualified elector"
- "Address of residence" of the elector
- Code section authorizing the annexation method (5-3-300)

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### Council Resolution

Municipal council by written resolution must certify the petition to the county election commission

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### County Election Commission must conduct election

- At least 30 days notice
- Pre-clearance by the US Justice Department no longer required
- Registered qualified electors residing in the area to be annexed may vote
- Election results certified to the municipal council

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### Vote in Favor of Annexation

- If vote passes, the municipal council must (by written resolution) publish the results
- Description of area to be annexed
- Section authorizing the annexation (5-3-300)
- Qualified electors of the area voted to be annexed

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### Challenge by Electors

- Council can annex by ordinance, unless current city residents object
- If someone objects:
  - 5% of qualified electors of city can petition to challenge the election
  - Must petition within 30 days of notice of results

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### Challenge by Electors

- Petition: Municipal election commission conducts an election
  - ♦ If majority votes in favor, council may give final reading to annexation ordinance.
  - ♦ If majority opposes, council must table the proposed ordinance for at least 24 months

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### Other Challenges (5-3-270)

- Interested parties can contest an annexation
- 60 days - written notice with municipal clerk and clerk of court
- 90 days - summons and complaint

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Opt-out Procedures for 25% Method

- Single property owner owning 25% of the assessed value must be notified by certified mail
- Property owner of "agricultural real property" must be notified by certified mail
- Owner must file written notice with clerk at least 10 days prior to election

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Agricultural Real Property

- Timber tract 10 acres or more, or tracts which are part of a management system which are more than 10 acres
- Tracts other than timberland if the property owner reported at least \$1000 of gross farm income for three of the last five years on his federal income tax return

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Annexing all or part of special purpose district

**(Sections 5-3-300 to Section 5-3-315)**

- 100% Petition/Ordinance Method
- 75% Petition/Ordinance Method
- 25% Petition/Election/Ordinance Method

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Annexing Property in  
Special Purpose District (5-3-310)

- Municipality may elect to provide service
- District continues serving until notice given
- District retains property unless entire district annexed
- Municipal and district develop plan for transfer of assets (5-3-300)

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Provision of Services

- Municipality (at its sole option) can provide services formerly provided by the district
- Transfer of service rights according to plan developed under provisions of Section 5-3-300 through 5-3-315

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The Plan

- Formulated by agreement of the district and municipality
- If no agreement after 90 days, form a committee of three members
  - one appointed by municipality
  - one appointed by district
  - one appointed by both

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### The Plan

- Committee selects chairman within 10 days
- Within 60 days of selecting chairman, develop a plan
- If either municipality or district objects to plan, they have 30 days to appeal to court of common pleas

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### Special Annexations

- City/County property (5-3-100) - *Council*
- Department of Transportation (5-3-110) - *Director*
- Corporation (5-3-120) - *Stockholders*
- School District (5-3-130) - *Trustees*
- Federal or State Government (5-3-140) - *Budget & Control Board*
- Cemetery (5-3-250) - *Cannot tax*
- Church (5-3-260) - *Board*

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### Reduction in Corporate Limits (5-3-280)

- Petition by majority of resident freeholders
- Public notice of an election for 10 days
- Majority must approve reduction
- Ordinance passed by council
- Notify Secretary of State

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### Consolidation of Two or More Municipalities

- By ordinance, councils call for election on question of consolidation. (Section 5-3-30)
- By ordinance, councils may consolidate all or parts of the municipalities after a public hearing, agreeing on the terms and boundary adjustments.(Section 5-3-40)



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### Current Annexation Legislation

- Enclave or donut hole
- Annexation covenants
- Provide standing to others
- Prohibit municipal provision of service after annexation

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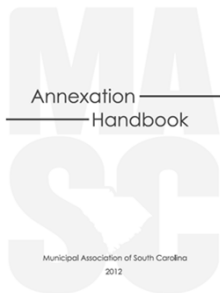
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### Resources



Municipal Association  
of South Carolina  
[www.masc.sc](http://www.masc.sc)  
Keyword: annexation

S.C. Code of Laws  
Title 5, Chapter 3

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