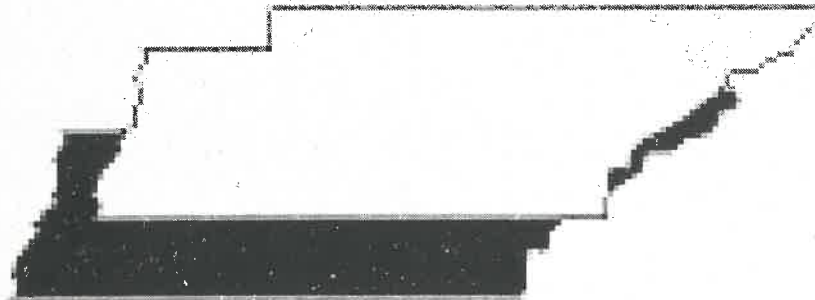




Annexation Guidelines

— how to reduce
negative impacts.

Kaup

Annexation - Tennessee



Municipal Technical Advisory Service
A statewide agency of
The University of Tennessee's
Institute for Public Service
Tennessee Municipal League

■ INTRODUCTION

Proper annexation of areas adjacent to cities is often crucial to establishing and maintaining urban order and effective government. Rapid development and population growth frequently occur just outside city boundaries where property is cheaper and zoning laws may be less restrictive. As these urban areas grow, however, so does a list of problems that unfortunately cross boundary lines and become a city's problem too. Lack of safe streets spreads traffic congestion into the city. Lack of necessary police protection encourages the spread of crime throughout the entire urban community. And lack of proper planning and land use control threatens the cohesiveness of the community.

The urban community can become a tangle of small competitive governmental units that lacks the administrative, jurisdictional, or financial ability to provide the essential services and facilities necessary for sound development. Urban growth without central planning and control becomes urban sprawl. And only by annexation can a city become the agency to serve all of an urban community. Properly used, annexation preserves a growing urban area that utilizes existing municipal resources.

Still, certain basic arguments, pro and con, invariably surface during the course of an annexation attempt. Municipal officials are wise to consider and identify possible negative impacts prior to annexation proceedings.

The following document contains information on how to start an annexation, pitfalls to avoid, and arguments for and against annexation.

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■ PROPER ANNEXATION PROCEDURES

Very rarely is annexation a simple process. While not all annexations end up in court, public hearings, public debates, or just local gossip can often turn a proposed annexation into a very divisive issue. Each annexation has its own unique issues, politics, and personalities, so it is impossible to devise a strategy that works every time in every city. However, it is safe to say that the two most important issues that can make or break any annexation are planning and public information.

An annexation that goes smoothly is one where there is preparation and education, not only on behalf of the municipal officials but with the public as well. Municipal officials must know the area they are considering annexing and identify the biggest hurdles. What is it that you want to do in an annexation? What are the outcomes you would rather do without? What would happen if you chose not to annex? Not giving these issues due consideration can result in negative impacts.

PROPER PLANNING

1. Conduct an annexation study. Most likely, every city in the state will consider an annexation at some time. Conducting an annexation study can be the best way to determine if an annexation is feasible.

A study is important for two reasons. First, it will provide information needed in order to prepare a plan of services. [A plan of services is required if a municipality is annexing by ordinance and the additional territory will add more than one-quarter square mile (160 acres) or more than 500 people within any 12-month period.] And second, it will come in handy if the annexation is challenged in court. Since 1974, the annexing city has borne the burden of proving that a contested annexation is necessary.

2. Identification of areas to be considered for annexation. Many cities that do a good job of annexing adopt plans that identify those areas that will be considered for annexation during the next five years. This long-term planning approach allows the city to better stage service enhancements and utility extensions while eliminating surprises by letting residents know that future annexation is anticipated.

Although it would be ideal to annex vacant tracts of land that would develop in accordance with zoning regulations and building codes, it's not usually possible. However, the city can look for areas that have the potential to become urban.

Commercial growth is one sign of urban development. Population density is another indicator. Two to four families per acre certainly is within the urban density category and would require sanitary sewers and a public water supply. One to two families per acre may be considered suburban density and would require public water supply and sanitary sewers within five years. Soil conditions will dictate exceptions to such rules of thumb. Density of less than one family per 10 acres may be considered rural and providing urban services to such areas would likely be quite costly. But areas with one family per 10 acres to one family per acre are probably in transition from rural to suburban and may need to be considered for annexation.

A guide to identifying desirable areas for annexation include:

- areas where municipal utilities exist,
- areas where utility district services exist,
- industrial areas,
- commercial areas,
- fully developed and occupied subdivisions,
- high density residential areas,
- potential industrial areas, and
- potential commercial areas.

3. Preparation of an accurate and reasonable plan of services. It is unfair to both current residents and future residents for cities to not complete a full annexation study as part of the preparation of a plan of services. To automatically assume that existing resources are sufficient to extend services to the annexed area may create a major problem. Governing bodies need to take the time to know whether annexing an area without hiring any new police officers will mean a one-minute increase in police response times or if the additional number of structures that are more than one and one-half miles from a fire station will potentially mean an increase in the city's ISO rating and residents' insurance premiums. (See Appendix B for a sample plan of services.)

4. Sufficient financial planning. A plan of services is worthless if there is not an accurate assessment of the city's ability to fund it. An accounting of all anticipated revenues and expenses, and a plan for covering the gap if new revenues are not sufficient to cover new expenditures, should be something every elected official and planning commission member requires before proceeding with an annexation.

Frequently, the cost of extending utilities into an annexed area can't be justified on the basis of the number of potential customers. However, these newly annexed citizens may expect almost instantaneous utility service. Because of this, the feasibility of a proposed annexation may be determined by the cost and timing of utility extensions alone.

PUBLIC INFORMATION

Once the city has completed its annexation planning, it needs to communicate this information in an open and professional manner. While state law only requires a public hearing with adequate public notice, cities with a track record of responsible annexation usually go beyond the minimal requirements of state law. If there is any vocal opposition to a proposed annexation, the worst thing a city can do is let that opposition start rumors about the city's plans and intentions. Informal question and answer sessions with the residents, at a location in the area to be annexed, are a great way to give residents the opportunity to ask questions and educate themselves while also ensuring the city can accurately present its side of the story and might stop rumors from starting. Also, annexation fact sheets and cost calculation work sheets are two examples of public information techniques that have been successful at lessening opposition to annexation.

Before plunging ahead with annexation, give the property owners the facts on:

- city fire protection, (Will annexation reduce their insurance premiums?)
- city police protection,
- street maintenance, cleaning, and lighting,
- water service, (Will rates be lower if they are residents?)
- a voice in the city government,
- sanitary sewage collection and disposal,
- zoning, subdivision, and building inspection regulations to protect property values and eliminate substandard structures, and
- planned recreation programs.

If you can, give them an average total of what it's costing them to live outside the city and what services they receive for that amount. Then give them a total of what they will pay as residents and the additional services this would include. (See Appendix C for annexation impact work sheets.)

UTILITY SERVICE EXTENSIONS

The provision of utility services is often a key issue in annexation fights. The existence of utility districts can complicate this issue because it is possible that an area annexed into a city will lie within the service area of one or more water and/or sewer utility districts. If this is the case, it is extremely difficult for a city to take over utility services or control the expansion of these services within the annexed area.

If a city does have control over the provision of utility services in the areas adjacent to its city limits, the city's water and sewer service extension policies can also have a significant impact on annexation planning. If a city willingly extends water and sewer services to new development beyond its city limits, it has taken away one of the major arguments for the need to annex the area in the future. If the area is already being served with vitally important city utility services, there is one less incentive for residents to want to be annexed. Also, extension of utility services to facilitate development without giving the city any control over the scope and type of development through land use regulations could easily create a burden on other existing city services such as roads and parks. If it is your city's policy to extend water and sewer services beyond your city limits, you should at least make sure that you have higher utility rates for outside city customers. With differing rates, you can at least show that annexation will save residents money on their utility bills when they start paying the city rate. However, outside utility rates must be reasonable.

Many cities take a more prudent approach to extension of utility services outside the city limits. These cities require that individuals requesting utility services either agree to be annexed before the services will be provided or agree not to oppose annexation in the future. Of these two options, requiring annexation prior to the provision of services is more desirable. Such a policy not only allows for unopposed annexation prior to development, but it also allows the city to negotiate with the developer about other growth impact issues such as road widening, park land dedication, fire station land dedication, etc.

Most cities recognize that utilities are a very valuable service. If managed properly, utilities can also be a very valuable tool in facilitating successful, and mutually beneficial, annexation.

■ PITFALLS TO AVOID

This section will perhaps best demonstrate the ways not to handle annexation. An annexation that goes poorly is often the result of poor planning, not following the provisions set forth in the *T.C.A.*, and/or not taking the time up front to have open and honest communication with potential new citizens. Remember, when annexing by ordinance, it only takes one aggrieved owner of property that lies in the proposed annexed area to contest an annexation.

Not following the provisions of the Sunshine Law can also cause problems. An annexation court decision went against a city because the citizens weren't notified properly in accordance with *T.C.A.* Sections 8-44-101 through 8-44-108, even though the local newspaper made the mistake. Public notice, not media notice, is what counts under the Sunshine Law.

Sometimes the worst thing a city can do is ignore the need for annexation. According to Gene Pearson, planning consultant with the University of Memphis, "The entire metropolitan economy lags when the central city cannot annex. In those cities that have annexation powers, the overall metropolitan poverty level is lower and the overall education level is higher."

The following are two examples of what can happen when local government is denied jurisdiction over its natural urban area.

Example 1

History is full of horrible examples of what happens when a central city government is denied jurisdiction over its natural urban area. The alternative is not unincorporated, untaxed bliss for the suburb because the urban services are needed, but is instead separate fringe incorporations by the score, special service districts piled upon special service districts (typically one district per service) until literally hundreds of political subdivisions of one kind or another exist within five miles of a core city (more than 200 in the cases of London, New York City and St. Louis).

Example 2

The city has not extended its corporate limits substantially for more than 25 years. It now has almost 100,000 people living in completely built up residential and commercial areas immediately adjacent to the city as compared to 173,000 inside the city limits. The tragedy is that these people have spent more than \$7 million for two and four-inch water lines that now must be replaced with six-inch lines if fire protection is to be afforded. In addition, the homeowners have invested more than \$10 million dollars in septic tanks and sewerage disposal fields that have become health menaces. These suburbanites must now write off this huge investment in unsatisfactory water and sewerage disposal facilities, and invest more than \$30 million in adequate facilities. This could have been avoided if the corporate limits had been extended and these permanent facilities were furnished as the areas were built up with homes and businesses.

The following highlights arguments for and against annexation. Not all of these arguments will apply in all communities. However, experience in a good many cities has shown that these are the types of arguments that inevitably arise when annexations are proposed.

■ ARGUMENTS FAVORING ANNEXATION

1. After annexation, the new territory will obtain its necessary services from city departments that are professionally staffed and experienced. Duplication of services can be avoided. Considerable economies can result from the coordination of services over a larger area.
2. When the interrelationship between the city and the fringe area is close, there is need for unified planning and zoning. By means of annexation, a city's zoning ordinances can be extended to adjacent areas in a logical manner, thus helping to assure orderly growth. Coordinated action is much easier to achieve if the fringe community becomes part of the city.
3. Annexation can protect, or enhance, a city's tax base. The increased valuation of the city will result in a greater bonding capacity.
4. Annexation increases a city's size and population, and in some instances, increases its ability to attract desirable commercial development. It may also increase its ability to attract grant assistance.
5. Annexation may encourage new industry to develop in the city, and thus create additional jobs, revenues, and commercial opportunities.
6. Unified political representation, sound economic development, enhancement of property values, and high service levels at minimum costs can best come from total comprehensive planning that avoids duplication and conflict of authority.
7. Annexation may bring about lower utility rates since city utility surcharges to unincorporated territory would be lifted. Annexation also often results in lower fire insurance premiums. As more improvements and urban utilities are made available, real estate values and marketability may improve.
8. Annexation gives suburban residents a voice in the government of the larger community in which they live. County dwellers can be substantially affected by actions of the central city, but they have no participation in its affairs. Business, professional, and community leaders who live in the fringe area can have a more direct role in community affairs by being elected or appointed to public office in the city.
9. City and county boundaries can be squared off and made orderly and logical, eliminating confusion as to whether a particular parcel should look to a city or to the county to obtain services. Fire and police departments, in particular, can determine whether calls are within their respective jurisdictions.
10. Additional services may become available, such as sewer, water, ambulance, transit, and drainage control.

■ ARGUMENTS OPPOSING ANNEXATION

1. Annexation may be considered unnecessary if the community's needs or resources are limited. It may be unwise if the community is not physically, economically, or socially related to the annexing city.
2. Residents outside the city may argue that they chose to build and live there in order to avoid taxes for services they do not want. Industry and commercial businesses may state that they located outside the city to avoid certain business and property taxes.
3. An increase in taxes in territories in which the taxes are, or appear to be, lower than in the city.
4. The necessity of waiting its turn for improvements as a new district or ward of the city.
5. The inapplicability of the city's general police regulations, some of which may be too restrictive and others not restrictive enough.
6. The city's ordinances and license requirements may not be appropriate for the fringe community.
7. The control of the city by another political party than that which is in control of the suburb.
8. There may be distrust of the government and politics of the city to which annexation is proposed.
9. A larger municipal government may be less accessible to the people.
10. Interest in annexation may be limited to a select group of citizens and not shared at the grass roots level.

Appendix A

Suggested Schedule for Annexation by Ordinance (References are sections of *Tennessee Code Annotated*)

Enter Suggested or
Required Dates

Action

Obtain appropriate property and topographic maps.

Tour annexation areas. Determine boundaries of annexation areas. Develop map of areas.

Draft a plan of service if required. (For sample, see Appendix F.)

Estimate costs of serving annexation areas.

Estimate revenues to be derived from annexation areas.

Prepare annexation report and distribute to city governing body, which reviews report and determines whether to pursue annexation, change proposed boundaries of annexation area, and modify proposed plan of service.

City governing body refers plan of service to planning commission, and passes resolution authorizing placement of newspaper notice of public hearing on proposed annexation **and** on plan of service. Notice must state three locations where plan can be examined. *T.C.A.* Section 6-51-102(b) (See Appendices G and H.)

Publish newspaper notice of public hearing on annexation **and** on plan of services. Notice must be published at least seven days prior to the hearing. The notice of the annexation ordinance must include a map of the annexed area that meets the requirements of *T.C.A.* Sections 6-51-101 and 6-51-102(b) (See Appendix H.)

Planning commission reports on plan of service **in writing** to the city governing body (within 90 days of receipt of plan of service, unless governing body by resolution grants a longer time). *T.C.A.* Section 6-51-102(b)

- a. Public hearing on proposed annexation **and** plan of services may be held together or separately. *T.C.A.* Section 6-51-102(b)
- b. Pass resolution adopting plan of service, after making any changes agreed on by the city governing body. (See Appendix F.)
- c. First reading of annexation ordinance. Second and third readings of annexation ordinance depending on charter requirements.

Appendix A

Suggested Schedule for Annexation by Ordinance (References are sections of *Tennessee Code Annotated*)

Enter Suggested or Required Dates	Action
	Start of 30-day appeal period. <i>T.C.A.</i> Section 6-51-102(a)(1) Last day of 30-day appeal period. If a quo warranto suit is filed within the 30-day appeal period, then the annexation is suspended and the case is heard according to law. <i>T.C.A.</i> Section 6-51-103 Take census of annexation area, using city employees, volunteers, or other people, in accordance with regulations of the Tennessee State Planning Office. If time is short, the census could be taken during the 30-day waiting period. Local Planning Office officials spot-check the census (at a fee of 10 cents per person in the annexation area) and certify the count to the Tennessee Department of Revenue.
January 1	Annexed property is placed on the city tax roll on the assessment date (January 1) after the effective date of annexation.
July 1	Date of recalculation of total Tennessee municipal population for purposes of allocating tax revenues that are shared on a per capita basis. Notify the necessary officials and agencies of completed annexation to ensure receipt of designated revenues. (See Appendix P.)

Appendix A

Suggested Schedule for Annexation by Referendum (References are sections of *Tennessee Code Annotated*)

Enter Suggested or Required Dates	Action
	Obtain appropriate property and topographic maps. Tour annexation areas. Determine boundaries of annexation areas. Develop map of areas. Estimate costs of serving annexation areas. Estimate revenues to be derived from annexation areas. Prepare annexation report and distribute to city governing body, which reviews report and determines whether to pursue annexation, and whether to change proposed boundaries of annexation areas. City governing body, when petitioned by interested people or on its own initiative, passes resolution calling for an annexation referendum and describing the territory. Copies of the resolution shall be posted in at least three public places in the proposed annexation territory, and in a like number of public places in the present city. At or about the same time, a newspaper notice should be published. A map of the area to be annexed that meets the requirements of <i>T.C.A. Section 6-51-101</i> must be included in the notices. No plan of services is required. <i>T.C.A. Section 6-51-104</i> (See Appendix J.) a. Within 30-60 days of last publication, County Election Commission holds election on the question for qualified voters residing in annexation area. A majority vote carries. <i>T.C.A. Section 6-51-105</i> b. Within 30-60 days of last publication, County Election Commission holds election on the question for qualified voters residing in annexation area, and (at the city's request) also holds election on the question for those residing inside city. A majority vote of each group is required to carry. <i>T.C.A. Section 6-51-105</i> After a 30-day waiting period, annexation is final. <i>T.C.A. Section 6-51-105</i> Take census of annexation area, using city employees, volunteers, or other people in accordance with regulations of the Tennessee State Planning Office (TSPO). If time is short, the census could be taken during the 30-day waiting period.

Appendix B

Sample Plan of Service for Annexed Area

2. Water for fire protection will be available within approximately _____ months (years), the time estimated to be required to install adequate water lines and fire hydrants in the annexed area.
3. In those parts of the annexed area presently served by utility district(s), the above time periods will begin with acquisition by the city of such district(s) or parts thereof, which may be delayed by negotiations and/or litigation.

D. Sanitary Sewers

1. The necessary intercepting and trunk sewers to serve the substantially developed annex area(s) should be completed within approximately _____ years.
2. Construction of collection sewers in the substantially developed annex area(s) should be completed within approximately _____ years. Residences and commercial and industrial properties will then be connected to those sewers in accordance with current policies of the city.

E. Refuse Collection

The same regular refuse collection service now provided within the city will be extended to the annex area (within one week after the effective date of annexation). This will take place as soon as additional personnel and equipment can be obtained, estimated to require about _____ months.

F. Streets

1. Emergency maintenance of streets (repair of hazardous chuck holes, measures necessary for traffic flow, etc.) will begin on the effective date of annexation.
2. Routine maintenance, on the same basis as in the present city, will begin in the annexed area when funds from the state gasoline tax based on the annexed population are received (usually July 1, following the effective date of annexation).
3. Reconstruction and resurfacing of streets, installation of storm drainage facilities, construction of curbs and gutters, and other such major improvements will be accomplished under current policies of the city.
4. Cleaning of streets having curbs and gutters will begin within _____ week(s) after the effective date of annexation on the same basis as the cleaning of streets within the present city.

G. Schools

County schools in the annexed area will become a part of the city school system as soon as necessary negotiations and arrangements with the county can be completed. Usually, this change will take place at the beginning of the school year following the effective date of annexation. Thereafter, the curriculum will be offered in the annexed areas as in other schools of the city system.

Appendix B

Sample Plan of Service for Annexed Area

H. Inspection Services

Any inspection services now provided by the city (building, electrical, plumbing, gas, housing, weights and measures, sanitation, etc.) will begin in the annexed area on the effective date of annexation.

I. Planning and Zoning

The planning and zoning jurisdiction of the city will extend to the annexed area on the effective date of annexation. City planning will thereafter encompass the annexed area. (Some study will be _____ required before specific zoning can be adopted, which should be completed within approximately _____ months after the effective date of annexation.) The property herein annexed shall be zoned _____ District.

J. Street Lighting

Street lights will be installed in substantially developed commercial and residential areas within approximately _____ months after the effective date of annexation, under the standards currently prevailing in the existing city.

K. Recreation

Residents of the annexed area may use all existing recreational facilities, parks, etc., on the effective date of annexation. The same standards and policies now used in the present city will be followed in expanding the recreational program and facilities in the enlarged city. Approximately _____ acres of land as parks, playgrounds, etc., will be developed within the annexed area.

L. Miscellaneous

1. Where they're needed, street name signs will be installed within approximately _____ months after the effective date of annexation.
2. (Any other service not classified under foregoing headings.)

Section 2. This resolution shall be effective from and after its adoption.

Annexation Impact Worksheet -- Residential

Address:

Family size:

Appraised Value:	Assessed Value (25%):	Outside City	Inside City
Real Property Tax			
County tax rate: \$2.83 x (assessed property value/100)			
City tax rate: \$2.24 x (assessed property value/100)			
Federal Income Tax Deduction			
County property taxes x marginal tax rate (28%)		(-)	(-)
City property taxes x marginal tax rate (28%)			(-)
City Sticker			
Annual Fee: (\$15 per vehicle)			
Recreation			
Annual fee for recreation programs (\$60 per person)			
Fire Insurance*			
Annual premium class 7 (Contact your agent)			
Annual premium class 3 (Contact your agent)			
Annual donation to Volunteer Fire Department			
Garbage/Trash Collection**			
Currently, once a week service: (\$8.50) x 12 months			
If annexed, twice a week service: (\$8.95) x 12 months			
Water***			
Currently, average monthly bill: (\$19.82) x 12 months			
If annexed, subtract approx. 31.7% (6,000 gallons/month)			
Sewer***			
Currently, average monthly bill: (\$21.28) x 12 months			
If annexed, subtract approx. 20.1% (6,000 gallons/month)			
Electric***			
Currently, average monthly bill: (\$64.32) x 12 months			
If annexed, subtract approx. 7% (1,000 kwh's/month)			
Gas***			
Currently, average monthly bill: (\$48.96) x 12 months			
If annexed, subtract approx. 3% (100 ccf/month)			
Street/Security Lights***			
Currently, average monthly bill: (\$4.87) x 12 months			
* Provided by Carrington & Associates			
** Provided by Waste Management Inc.			
*** Provided by J.U.D.			
Total Per Year			
Savings (Costs) Per Year			
Savings (Costs) Per Month			

