

BOUNDARY CHANGES OF TOWNS AND CITIES
ARTICLE 1, CHAPTER 32, TITLE 15.2
(Incorporates changes through 2015 General Assembly session)

I. MUNICIPALLY-INITIATED ANNEXATIONS

A. Eligibility

1. This article authorizes any city not located in a county immune from city-initiated annexations or any town to annex territory from an adjacent county.

Effective January 1, 1987, no city can file a notice for the annexation of county territory with the Commission on Local Government. In 2009, the city annexation moratorium was extended from 2010 to 2018.

2. A township created as a result of a consolidation of a city and a county after July 1, 2011 may institute proceedings for annexation if the consolidation agreement permits a township to exercise such authority. While the focus of this document is on the procedures for municipal annexation of territory from an adjacent county, the same process would be available to such townships.

B. Procedure for Initiating Action

(Sec. 15.2-2907, Code of Va.)

Prior to petitioning the circuit court for review of a proposed annexation action, the municipality must first notify the Commission on Local Government of its intention to seek the annexation of territory from an adjacent county.

C. Proceedings of the Commission on Local Government

(Sec. 15.2-2907, Code of Va.)

1. Upon receipt of the notice of the annexation action, the Commission shall meet with representatives of the municipality and the affected county and schedule a review of the proposed annexation. Such review shall include oral presentations and a public hearing in the affected jurisdictions to afford all interested parties an opportunity to present evidence and to offer comment on the proposed annexation.

2. At the conclusion of its review, the Commission shall submit a written report containing its findings of fact and recommendations with respect to the proposed annexation to the affected local governments and to the special three-judge court which must review the annexation.
 - a) The Commission's review of the proposed annexation must be based upon the criteria and standards established for review of annexation actions as set forth in Article 1, Chapter 32, Title 15.2, Code of Virginia.
 - b) The Commission must render its report within six month of the receipt of notice from the municipality, unless the parties agree to an extension of time. The Commission, however, may extend its reporting deadline by 60 days without agreement of the parties.
 - c) The Commission's report is advisory in nature and is not binding on the special three-judge court. The report, however, must be considered in evidence in any subsequent court proceeding.

D. Action by the Municipal Governing Body

(Secs. 15.2-3202, 15.2-3204, and 15.2-3207, Code of Va.)

1. Following the completion of the Commission's review, the municipality may, if it opts to pursue the proposed annexation, petition the circuit court of the affected county by ordinance for review of the annexation action.
2. The ordinance must set forth the necessity for and expediency of the annexation and contain the following elements:
 - a) Metes and bounds and size of the area sought;
 - b) Information as to the current and future land uses of the area proposed for annexation; and
 - c) Statement of the terms and conditions of the proposed annexation and the future improvements, including public utilities and services, the municipality plans to institute in the territory annexed.
3. The city or town must also serve the appropriate county officials with notice of its intended action and a copy of the annexation ordinance, and it must publish the notice and ordinance as required by Section 15.2-3204, Code of Virginia.
4. Upon receipt of the petition from the city or town, the local circuit court judge will request the Virginia Supreme Court to convene a special three-judge panel pursuant to Chapter 30, Title 15.2, Code of Virginia.

E. Proceedings of the Special Court

(Sec. 15.2-3209, Code of Va.)

1. The special three-judge court must determine "the necessity for and expediency of" the proposed annexation. The question of necessity and expediency requires consideration of:
 - a) The best interest of the people of the county and the city or town;
 - b) The services rendered by the county and the municipality;
 - c) The need for such services in the area proposed for annexation;
 - d) The best interest of the remaining portion of the affected county; and
 - e) The best interest of the State in promoting strong and viable units of local government.

2. In evaluating the general considerations enumerated above, the court is directed to consider specifically:
 - a) The need for urban services in the area proposed for annexation, the level of services provided in the county, city or town, and the ability of the affected jurisdictions to provide services in the area proposed for annexation;
 - b) The current relative level of services provided by the county and the city or town;
 - c) The efforts by the county and the city or town to comply with applicable State service policies relative to such issues as environmental protection, public planning, education, public transportation and housing;
 - d) The community of interest which may exist between the municipality and the area proposed for annexation, in relation to the community of interest that exists between the area and the remaining portion of the affected county;
 - e) Any arbitrary refusal by the governing body of the municipality or the affected county to enter into cooperative agreements providing for joint activities which would have benefited both jurisdictions;
 - f) The need of the city or town to expand its tax resources;

- g) The need of the city or town to obtain vacant land for commercial or industrial use and the adverse effect on the county of the loss of areas suitable and developable for such uses;
 - h) The adverse effect of the loss of tax resources and public facilities on the ability of the county to provide services to the remaining portion of the county; and
 - i) The adverse impact on agricultural operations in the area proposed for annexation.
- 3. In proceedings initiated by a municipality, the petition may not be granted unless the court is satisfied that the city or town has substantially complied with the conditions of the last preceding annexation by such city or town.
 - 4. If the court finds that the annexation is necessary and expedient, and if it finds that the municipality has substantially complied with the terms of the last preceding annexation order, the court shall enter an order granting the petition for annexation.
 - 5. Every annexation order shall be effective on January 1 of the year in which issued, unless the affected parties petition the court to order the annexation at midnight of any other mutually agreed date.

F. Powers of the Special Court

(Secs. 15.2-3211, 15.2-3212, 15.2-3214 and 15.2-3217, Code of Va.)

- 1. The order of the special three-judge court granting the annexation petition is required to set forth in detail the terms and conditions for the annexation. In its order the court has the authority to:
 - a) Determine the metes and bounds of the territory to be annexed, which may exceed or be less than the area sought by the municipality;
 - b) Require the assumption by an annexing city or town of a just proportion of any existing debt of the affected county (courts have consistently refused to require towns to assume a portion of the affected county's debt);
 - c) Require a city or town to compensate the affected county for the value of public improvements owned and maintained by the county in the area annexed which becomes property of the municipality as a result of annexation;

- d) Require a city (but not a town) to compensate the affected county for the prospective loss of net tax revenues during the five year period following annexation due to the loss of taxable values to the city;
 - e) Prescribe what capital improvements shall be made by a city in the territory annexed in order to meet the needs of the annexed area and to bring the level of public services up to a standard equal to that of the remainder of the city;
 - f) Provide that public improvements owned and maintained by the county in the annexed area remain the property of the county in lieu of compensation. Alternatively, if the parties agree, the court may also provide that the affected public improvements may be jointly used by both the county and the annexing municipality; and
 - g) Provide for the protection of agricultural operations in areas annexed.
2. In any annexation proceeding initiated by a town, the court may direct the county to reimburse the town for reasonable costs incurred by the town in presenting its case.
 3. The special three-judge court remains in existence for 10 years from the effective date of the annexation order to effect compliance with the terms and conditions set forth therein.
 4. The court may be reconvened at any time on its own motion, on the motion of the governing body of the county, city or town, or on petition of the voters or property owners in the area annexed to enforce performance of the terms and conditions of the annexation order.

G. Declining to Accept Annexation Award

(Sec. 15.2-3213, Code of Va.)

1. With the approval of the special three-judge court, the governing body of a city or town may decline to accept an annexation on the terms and conditions imposed by the court. The ordinance declining such award must be adopted within certain statutorily prescribed time periods.
2. If an annexation award is declined, the municipality is required to reimburse the county for the costs incurred during the court proceedings.

H. Limitations on Succeeding Annexation Actions

(Sec. 15.2-3227, Code of Va.)

Except by mutual agreement of the parties, no municipality may seek to annex territory from a county within 10 years after the effective date of the previous annexation or within 10 years after the date of the final court order denying an annexation. Further, except with the consent of the county governing body, no city may institute annexation proceedings against a county which has been subject to an annexation by any other city during the prior 10 years; provided, however, no such restriction shall deny a city the right to annex territory in a county for more than a 13-year period.

I. Moratorium on City-Initiated Annexations

(Sec. 15.2-3201, Code of Va.)

1. Effective January 1, 1987 no city can file a notice for the annexation of county territory with the Commission on Local Government. In 2009, the city annexation moratorium was extended from 2010 to 2018.
2. Proceedings commenced before the Commission on Local Government prior to January 1, 1987 are not subject to the moratorium.

II. CITIZEN-INITIATED ANNEXATIONS

A. Eligibility

County voters or property owners may petition the circuit court to have their property annexed to an adjacent city or town.

B. Procedure for Initiating Action

(Sec. 15.2-3203, Code of Va.)

1. Citizen petitions requesting annexation of territory to an adjacent city or town must contain the signatures of 51% of the voters or 51% of the owners of real estate in number and land area in the area proposed for annexation.
2. The petition must set forth the reasons for the annexation and contain a metes and bounds description of the area proposed for annexation.
3. The petition must be served on the governing body of the affected municipality and county and published as required by Section 15.2-3205, Code of Virginia.

C. Review of Citizen-Initiated Annexations

(Sec. 15.2-3203, Code of Va.)

1. Citizen-initiated annexations are subject to the same review by the Commission on Local Government and the special three-judge court as prescribed for municipally-initiated annexations under the terms of Article 1, Chapter 32, Title 15.2, Code of Virginia.
2. In annexation actions initiated by voters or property owners, however, both the affected county and the municipality are defendants in the proceedings.
3. If the court finds that the annexation is necessary and expedient, it shall enter an order granting the petition for annexation. The court, however, may not increase the area to be annexed beyond that described in the original petition.

D. Declining to Accept Annexation Award

(Sec. 15.2-3203, Code of Va.)

The governing body of the affected city or town may decline the annexation awarded as a result of citizen-initiated proceedings. The ordinance declining such award must be adopted within certain statutorily prescribed time periods.

E. City Petitions to Annex Municipally-Owned Property

(Secs. 15.2-3201 and 15.2-3306, Code of Va.)

1. The moratorium on city-initiated annexations also applies to petitions to annex city-owned land that is located within a county.
2. No city may petition to annex city-owned land that is located within a county that has obtained statutory immunity from annexation.

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