

Municipal Annexation, Incorporation and Other Boundary Changes



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I. State Statutes

A. Incorporation

A.C.A. § 14-38-101—108 and 14-38-114—116 provide the procedures for the incorporation of municipalities in Arkansas.

A.C.A. § 14-38-116. Map required with Arkansas Geographic Information Systems Office upon incorporation or disincorporation.

Before an entity undertakes an incorporation or disincorporation proceeding under this chapter, the entity shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping for the relevant incorporated or unincorporated areas.

B. Annexation

In General

A.C.A. § 14-40-101 (Act 914 of 2015). Map required with Arkansas Geographic Information Systems Office upon annexation, consolidation, or detachment.

Before an entity undertakes an annexation, consolidation, or detachment proceeding under this chapter, the entity shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping for the relevant annexation, consolidation, and detachment areas.

A.C.A. § 14-40-206. Territory annexed with prior county permit or approval in use.

If a county had issued a permit or approval for construction, operation, or development before a municipal annexation proceeding begins for a project in the area that the municipality intends to annex, the municipality shall honor and give full effect to county permits and approvals on lands to be annexed.

A.C.A. § 14-40-207 (Act 826 of 2015). Building situated or to be situated upon municipal boundary line--Option to choose municipal location.

(a) (1) A property owner who has a building that is currently situated upon the boundary line between two [2] municipalities may choose either one [1] of the municipalities as the legal location of the building.

(2) When the expansion of a building will result in the expansion's being situated upon the boundary line between two [2] municipalities, the property owner of the building may choose either

one [1] of the municipalities as the legal location of the building if the property owner has first obtained the necessary authorizations or permits for expansion of the building from the municipality upon which the building is located before the expansion or from the municipality upon which the building expansion will be located.

(b)(1) The property owner shall provide written notice to the governing body of both municipalities as to which municipality is chosen under subsection (a) of this section.

(2) The written notice to the chosen municipality shall include a request for annexation into the chosen municipality.

(c) The property upon which the building is situated or will be situated after expansion and up to two [2] acres of the property owner's property surrounding the building and expansion shall be annexed into the municipality chosen by the owner under subsection (a) of this section.

(d) Within sixty [60] days of receipt of the written notice under subsection (b) of this section, the municipality chosen by the owner under subsection (a) of this section shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping for the relevant area.

A.C.A. § 14-40-208 (Act 845 of 2015). Annexation of territory under municipal territorial jurisdiction.

(a) If a municipality states its intent by resolution or ordinance to annex a specifically defined territory, or portion of the territory, over which it is exercising territorial jurisdiction under § 14-56-413, the municipality shall initiate annexation proceedings within five [5] years of the stated intent.

(b)(1) During the five [5] years under subsection (a) of this section, the municipality may continue to exercise its territorial jurisdiction under § 14-56-413, including the defined territory specified within its intent to annex.

(2) If the municipality does not initiate annexation proceedings of the territory specified within its intent to annex within five [5] years of the effective date of the resolution or ordinance under subsection (a) of this section, the municipality is prohibited from again exercising territorial jurisdiction over the territory specified within its intent to annex for the next five [5] years.

Election Method

A.C.A. § 14-40-301. Construction of subchapter.

The provisions of this subchapter shall not be construed to give any municipality the authority to annex any portion of another city or incorporated town.

A.C.A. § 14-40-302. Authority—Exceptions.

(a) By vote of two-thirds [2/3] of the total number of members making up its governing body, any municipality may adopt an ordinance to annex lands contiguous to the municipality if the lands are any of the following:

(1) Platted and held for sale or use as municipal lots;

(2) Whether platted or not, if the lands are held to be sold as suburban property;

(3) When the lands furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;

(4) When the lands are needed for any proper municipal purposes such as for the extension of needed police regulation; or

(5) When they are valuable by reason of their adaptability for prospective municipal uses.

(b)(1) Contiguous lands shall not be annexed if they:

(A) At the time of the adoption of the ordinance, have a fair market value of lands used only for agricultural or horticultural purposes and the highest and best use of the lands is for agricultural or horticultural purposes;

(B) Are lands upon which a new community is to be constructed with funds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970;

(C) Are lands that do not include residents, except as agreed upon by the mayor and county judge; or

(D) Are lands that do not encompass the entire width of public road right-of-way or public road easements within the lands sought to be annexed, except as agreed upon by the mayor and county judge.

(2) Any person, firm, corporation, partnership or joint venturer desiring to come within this exclusion must have received from the United States Department of Housing and Urban Development a

letter of preliminary commitment to fund the new community under one [1] of the federal acts.

(3) If any lands are annexed that are being used exclusively for agricultural purposes, the lands may continue to be used for such purposes so long as the owner desires, and the lands shall be assessed as agricultural lands.

(c) However, a municipality having a population of less than one thousand [1,000] persons shall not annex in any one [1] calendar year contiguous lands in excess of ten percent [10%] of the current land area of the municipality.

(d)(1) Whenever practicable, a city or incorporated town shall annex lands that are contiguous and in a manner that does not create enclaves.

(2) As used in this section, “enclave” means an unincorporated improved or developed area that is enclosed within and bounded on all sides by a single city or incorporated town.

A.C.A. § 14-40-303. Annexation Ordinance—Election Procedures.

(a) The annexation ordinance shall:

(1) Contain an accurate description of the lands desired to be annexed;

(2) Include a schedule of the services of the annexing municipality that will be extended to the area within three [3] years after the date the annexation becomes final; and

(3) Fix the date for the election provided in this section.

(b)(1) The annexation ordinance shall not become effective until the question of annexation is submitted to the qualified electors of the annexing municipality and of the area to be annexed at the next general election or at a special election. The special election shall be called by ordinance or proclamation of the mayor of the annexing municipality in accordance with § 7-11-201 et seq.

(2)(A) If a majority of the qualified electors voting in the election vote for the annexation, no later than fifteen [15] days following the election, the county clerk shall certify the election results and record the same, along with the description and a map of the annexed area, in the county records, and file a certified copy thereof with the Secretary of State.

(B) The annexation shall be effective, and the lands annexed shall be included within the corporate limits of the annexing municipality thirty [30] days following the date of recording and filing

of the description and map, as provided in this section, or in the event an action is filed with the circuit court as provided in § 14-40-304, on the date the judgment of the court becomes final.

(3) If a majority of the qualified electors voting on the issue at the election vote against the annexation, the annexation ordinance shall be null and void.

(c) (1) (A) The city clerk shall certify two [2] copies of the annexation ordinance and a plat or map of the area to be annexed and convey one [1] copy to the county clerk and one [1] copy to the county election commission at least sixty [60] days before the election.

(B) (i) No later than forty-five [45] days prior to the election, the city shall identify all persons who reside within the area proposed to be annexed, and the county clerk shall assist the city in determining the names and addresses of all qualified electors residing within that area.

(ii) The failure to identify all persons residing within the area proposed to be annexed or the failure to determine the names and addresses of all qualified electors residing within that area shall not invalidate or otherwise affect the results of the election.

(C) All of the qualified electors residing within the territory to be annexed shall be entitled to vote in the election.

(D) The city clerk shall give notice of the election by publication by at least one [1] insertion in some newspaper having a general circulation in the city.

(2) (A) The county clerk shall give notice of the voter registration deadlines at least forty [40] days before the election by ordinary mail to those persons whose names and addresses are on the list provided by the city clerk.

(B) The county clerk shall prepare a list by precinct of all those qualified electors residing within the area to be annexed who are qualified to vote in that precinct and furnish that list to the election officials at the time the ballot boxes are delivered.

(3) If the county clerk or the county election commission shall fail to perform any duties required of it, then any interested party may apply for a writ of mandamus to require the performance of the duties. The failure of the county clerk or the county election commission to perform the duties shall not

void the annexation election unless a court finds that the failure to perform the duties substantially prejudiced an interested party.

(d) If the annexation is approved and becomes final, as soon as practical after the annexation the governing body of the city shall attach and incorporate by ordinance the annexed territory to and in one [1] or more wards of the city lying adjacent thereto, and the territory so assigned and attached to a ward shall thereafter be considered and become a part thereof as fully as any other part of the city.

(e) From the map or plat provided by city ordinance of the wards assigned, the county clerk shall proceed to ascertain and determine the voters' proper precinct and shall enter the same upon the voter registration records of those inhabitants of the territory so annexed and give notice of that change within thirty [30] days after the adoption of the city ordinance assigning the territory to wards.

(f) (1) In the event that within thirty [30] days of the date that one [1] city calls for an annexation election, another city calls for an annexation election on all or part of the same land proposed to be annexed by the first city, then both annexation elections shall be held, provided that the second city must call for its annexation election to be held on the next available date in accordance with § 7-11-201 et seq. before or after the holding of the first city's election.

(2) (A) If the annexation election held first is approved by the voters, the results of it shall be stayed until the second annexation election is held.

(B) (i) If only one [1] of the annexation elections is approved by the voters, then the city that called that election shall proceed with the annexation of the land.

(ii) (a) Except as provided in subdivisions (f)(2)(B)(ii)(b) and (c) of this section, if both annexation elections are approved by the voters, then a third election shall be held three [3] weeks after the second annexation election. The provisions of § 7-11-201 et seq., governing the procedures and dates on which special elections may be held shall not apply to the third annexation election provided in this subsection.

(b) If the date of the third election falls upon a legal holiday, the election shall be held four [4] weeks after the second annexation election.

(c) If the date of the election under subdivision (f)(2)(B)(ii)(b) of this section is a legal holiday, the

election shall be held five [5] weeks after the second annexation election.

(iii) Notice of the third election shall be published in a newspaper circulated in the area to be annexed during the period following the second election.

(iv) Only the residents of the area proposed to be annexed by both cities shall vote in the third election.

(v) The issue on the ballot in the third election shall be into which of the two [2] cities the residents of the area want to be annexed.

(vi) The area shall be annexed into the city receiving the most votes in the third election.

(vii) In the event of a tie vote in the third election, the area shall be annexed to the city that had the highest percentage vote in favor of the annexation in the first or second election.

(3) If the city that does not get to annex the area voted on by both cities included land in its annexation election other than the land voted on by both cities, then that land shall be annexed into such city if it is still contiguous to the city after the other land is annexed to the other city, but such land shall remain part of the county if it is not so contiguous.

A.C.A. § 14-40-304. Judicial Review.

(a) If it is alleged that the area proposed to be annexed does not conform to the requirements and standards prescribed in § 14-40-302, a legal action may be filed in the circuit court of the county where the lands lie, within thirty [30] days after the election, to nullify the election and to prohibit further proceedings pursuant to the election.

(b) In any such action filed in the circuit court of the county where the lands lie, the court shall have jurisdiction and the authority to determine whether the procedures outlined in this subchapter have been complied with and whether the municipality has used the proper standards outlined in § 14-40-302 in determining the lands to be annexed.

A.C.A. § 14-40-2201. Annexation and provision of scheduled services.

(a) (1) Beginning March 1, 2014, and each successive year thereafter, the mayor or city manager of a city or incorporated town shall file annually with the city clerk or recorder, town recorder, and county clerk a written notice describing any annexation elections that have become final in the previous eight [8] years.

(2) The written notice shall include:

(A) The schedule of services to be provided to the inhabitants of the annexed portion of the city; and

(B) A statement as to whether the scheduled services have been provided to the inhabitants of the annexed portions of the city.

(b) If the scheduled services have not been provided to the new inhabitants within three [3] years after the date the annexation becomes final, the written notice reporting the status of the extension of scheduled services shall include a statement of the rights of inhabitants to seek detachment.

(c) A city or incorporated town shall not proceed with annexation elections if there are pending scheduled services that have not been provided in three [3] years as prescribed by law.

A.C.A. § 14-40-2202. Inhabitants of annexed area.

(a) In all annexations under § 14-40-303 and in accordance with § 14-40-606, after the territory declared annexed is considered part of a city or incorporated town, the inhabitants residing in the annexed portion shall:

(1) Have all the rights and privileges of the inhabitants of the annexing city or incorporated town; and

(2) (A) Be extended the scheduled services within three [3] years after the date the annexation becomes final.

(B) The mayor of the municipality shall file a report with the city clerk or recorder, town recorder, and county clerk of the extension of scheduled services.

(b) If the scheduled services have not been extended to the area and property boundaries of the new inhabitants within three [3] years after the date annexation becomes final, the written notice reporting the status of the extension of scheduled services shall:

(1) Include a written plan for completing the extension of services and estimated date of completion; and

(2) Include a statement of the rights of inhabitants to seek detachment.

(c) A city or incorporated town shall not proceed with any additional annexation elections if there are pending scheduled services that have not been extended as required under this subchapter.

Annexation of Lands in Adjoining County

A.C.A. § 14-40-401. Authority.

(a) The General Assembly finds that there are areas within adjoining counties that are so necessary to the satisfactory conducting of a city's business that there is a need to annex land lying in the adjoining county into the city. This law will aid the residents to receive needed services to improve the quality of life in the unincorporated area.

(b) Any lands contiguous to a municipality having a population of seventy-five thousand [75,000] or less, although located in an adjoining county, may become annexed to the municipality in the manner provided in this chapter.

Ordinance Method

A.C.A. § 14-40-501. Authority—Exceptions.

(a) (1) (A) (i) Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality.

(ii) Subdivision (a)(1)(A)(i) of this section includes situations in which the incorporated limits of a municipality have surrounded an unincorporated area on only three [3] sides because the fourth side is a boundary line with another state, a military base, a state park, a national forest, a lake, or a river.

(B) If the incorporated limits of two [2] or more municipalities have completely surrounded an unincorporated area, the governing body of the municipality with the greater distance of city limits adjoining the unincorporated area's perimeter may propose an ordinance calling for the annexation of the land surrounded by the municipalities, unless it is agreed by the adjoining municipalities that another of the adjoining municipalities should propose an ordinance calling for the annexation.

(2) The ordinance will provide a legal description of the land to be annexed and describe generally the services to be extended to the area to be annexed.

(b)(1) The unincorporated area to be annexed shall comply with the standards for lands qualifying for annexation which are set forth in § 14-40-302.

(2) Privately owned lakes exceeding six [6] acres of water surface which are used exclusively for recreational purposes and lands adjacent to them not exceeding twenty [20] acres in size which are used exclusively for recreational purposes in relation to the lake shall not qualify for annexation under the provisions of this subchapter.

A.C.A. § 14-40-502. Hearing—Notice.

(a) A public hearing shall be conducted within sixty [60] days of the proposal of the ordinance calling for annexation.

(b) At least fifteen [15] days prior to the date of the public hearing, the governing body of the municipality shall publish a legal notice setting out the legal description of the territory proposed to be annexed and notify by certified mail all the property owners within the area proposed to be annexed of their right to appear at the public hearing to present their views on the proposed annexation.

A.C.A. § 14-40-503. Procedure for annexation.

(a) (1) (A) Except as provided in subdivision (a)(1)(B) of this section, at the next regularly scheduled meeting following the public hearing, the governing body of the municipality proposing annexation may bring the proposed ordinance up for a vote.

(B) An ordinance shall not be enacted within fifty-one [51] days of a scheduled election to consider annexing all or part of the area in question.

(2) If a majority of the total number of members of the governing body vote for the proposed annexation ordinance, then a prima facie case for annexation shall be established, and the city shall proceed to render services to the annexed area.

(b) The decision of the municipal council shall be final unless suit is brought in circuit court of the appropriate county within thirty [30] days after passage to review the actions of the governing body.

A.C.A. § 14-40-504. Enclaves prohibited.

(a) As used in this section, "enclave" means an unincorporated improved or developed area that is enclosed within and bounded on all sides by a single city or incorporated town.

(b) Whenever practicable, a city or incorporated town shall annex lands that are contiguous and in a manner that does not create enclaves.

Petition Method

A.C.A. § 14-40-601. Application by petition.

(a) When a majority of the real estate owners of any part of a county contiguous to and adjoining any city or incorporated town desires to be annexed to the city or town, they may apply by attested petition in writing to the county court of the county in which the city or town is situated shall name the persons authorized to act on behalf of the petitioners, and may include a schedule of services of the annexing municipality that will be extended to the area within three [3] years after the date the annexation becomes final.

(b) The “majority of real estate owners” referred to in this section means a majority of the total number of real estate owners in the area affected if the majority of the total number of owners own more than one-half [½] of the acreage affected.

A.C.A. § 14-40-602. Hearing on petition.

(a)(1) When the petition shall be presented to the county court, the clerk shall file it, and the court shall set a date for a hearing on the petition.

(2) The date for the hearing shall not be less than thirty [30] days after the filing of the petition.

(b)(1)(A) Between the time of the filing of the petition and the date of the hearing, the petitioners shall cause a notice to be published in some newspaper of general circulation in the county.

(B) The notice shall be published one [1] time a week for three [3] consecutive weeks.

(2) If there is no newspaper of general circulation in the county, notice shall be posted at some public place within the limits of the incorporated town or city for at least three [3] weeks before the date of the hearing.

(3) The notice referred to in this subsection shall contain the substance of the petition and state the time and place appointed for the hearing thereof.

(c) The hearing procedure set forth in § 14-38-103 shall be followed in the proceedings concerned in this section insofar as such procedure is not in conflict with any provision expressly set out in this subchapter.

A.C.A. § 14-40-603. Order for annexation.

(a) After the hearing, if the county court shall be satisfied that the allegations of the petition were

sustained by the proof, if the court shall be satisfied that the requirements for signatures under § 14-40-601 have been complied with and if the court shall be satisfied that the limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed, and that the prayer of the petitioner is right and proper, then the court shall enter its order granting the petition and annexing the territory.

(b) The order shall be recorded by the clerk of the county.

A.C.A. § 14-40-604. Proceedings to prevent annexation.

(a)(1) No further action shall be taken for a period of thirty [30] days after the order for annexation has been entered. Within that time any person interested may institute a proceeding in the circuit court to have the annexation prevented.

(2)(A) If the court or judge hearing the proceeding shall be satisfied that the requirements for annexation as set out in this subchapter have not been complied with, that the territory proposed to be annexed is unreasonably large, or that the territory is not properly described, the court or judge shall make an order restraining any further action under the order of the county court and annulling it. However, the proceeding shall not bar any subsequent petition.

(B) If the court or judge shall determine that the order of the county court was proper, then the order of the county court shall be affirmed, and the proceedings to prevent the annexation shall be dismissed.

(b) When any complaint shall be made in accordance with this section to prevent an annexation of territory, notice thereof shall be given to the city or incorporated town authorities and the agent of the petitioners.

A.C.A. § 14-40-605. Confirmation of annexation.

(a) If no notice shall be given within thirty [30] days from the making of the order of annexation by the county court, the proceeding before the court shall in all things be confirmed, if the city or incorporated town council shall accept by ordinance or resolution the territory.

(b)(1) If the council accepts the territory, the county clerk shall duly certify one [1] copy of the plat of the annexed territory and one [1] copy of the order of the court and the resolution or ordinance of the council. The clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them. The clerk shall forward one [1] copy of the plat of the annexed territory and one [1] copy of the order of the court to the Director of the Tax Division of the Arkansas Public Service Commission, who shall file and preserve them and shall notify all utility companies having property in the municipality of the annexation.

(2) The clerk shall forward a certified copy of the order of the court to the council.

A.C.A. § 14-40-606. Rights and privileges of new inhabitants.

As soon as the resolution or ordinance declaring the annexation has been adopted or passed, the territory shall be deemed and taken to be a part and parcel of the limits of the city or incorporated town, and the inhabitants residing therein shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or incorporated town.

A.C.A. § 14-40-609 (Act 991 of 2015). Annexation by one hundred percent (100%) petition.

(a) As used in this section, “city or town” means:

- (1) A city of the first class;
- (2) A city of the second class; and
- (3) An incorporated town.

(b)(1) An individual who owns property in a county that is contiguous to a city or town may petition the governing body of the city or town to annex the property that is contiguous to the city or town.

(2) The petition under subdivision (b)(1) of this section:

- (A) Shall be in writing, attested by the property owner or owners;
- (B) Shall contain an accurate description of the relevant property or properties; and
- (C) Shall include a schedule of services of the annexing city or town that will be extended to the area within three [3] years after the date the annexation becomes final.

(3) The petition shall be filed with the county assessor and the county clerk, and within fifteen [15] days of the filing, the county assessor and the county clerk shall:

(A) Verify the identity of the petitioner or petitioners;

(B) Verify that there are no property owners included in the petition that do not wish to have their property annexed;

(C) Verify that the property or properties are contiguous with the city or town; and

(D) Verify that no enclaves will be created if the petition is accepted by the city or town.

(c)(1) Upon completion of the verifications of the petition by the county assessor and the county clerk, the county assessor and the county clerk shall present the petition and verifications to the county judge who shall review the petition and verifications for accuracy.

(2) Within fifteen [15] days of the receipt of the petition and verifications, the county judge shall:

(A) Review the petition and verifications for completeness and accuracy;

(B) Determine that no enclaves will be created by the annexation;

(C) Confirm that the petition contains a schedule of services; and

(D) Issue an order articulating these findings and forward the petition and order to the contiguous city or town.

(d)(1)(A) By ordinance or resolution, the city or town may grant the petition and accept the property for annexation to the city or town.

(B) The city or town is not required to grant the petition and accept the property petitioned to be annexed.

(2) The ordinance or resolution shall contain an accurate description of the property to be annexed.

(3) If the governing body of the city or town accepts the contiguous property, the clerk or recorder of the city or town shall certify and send one [1] copy of the plat of the annexed property and one [1] copy of the ordinance or resolution of the governing body of the city or town to the county clerk.

(e) The county clerk shall forward a copy of each document received under subdivision (d)(3) of this section to the:

(1) Secretary of State, who shall file and preserve each copy; and

(2) Director of the Tax Division of the Arkansas Public Service Commission, who shall file and preserve each copy and notify all utility companies having property in the city or town of the annexation proceedings.

(f) (1) Notwithstanding any other provisions in this chapter, thirty [30] days after passage of the ordinance or resolution by the governing body of the city or town under this section, the annexation shall be final and the property shall be within the corporate limits of the city or town.

(2) The inhabitants residing in the newly annexed property shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or town.

(g)(1) During the thirty-day period under subdivision (f)(1) of this section, a cause of action may be filed in the circuit court of the county of the annexation by a person asserting and having an ownership right in the property objecting to the petition or by any person asserting a failure to comply with this section.

(2) After the thirty-day period, an action under subdivision (g)(1) of this section is not timely.

C. Consolidation

A.C.A. § 14-40-1201. Petition for consolidation.

(a) (1) (A) Beginning July 1, 1995, when the inhabitants of any city or incorporated town adjoining or contiguous to another smaller municipal corporation of any class in the same county shall desire that the city or incorporated town annex to it or consolidate with it the smaller municipal corporation, they may apply, by a petition in writing signed by a number of qualified electors from each of the municipal corporations equal to not less than fifteen percent [15%] of the total vote cast for the office of mayor in the respective city or town in the last preceding general election, to the city or town council of the larger municipal corporation.

(B) Municipal corporations separated by a river shall be deemed contiguous.

(2) The petition shall:

(A) Describe the municipal corporations to be consolidated; and

(B) Name the persons authorized to act in behalf of the petitioners presenting the petition as provided in this section.

(3) (A) Beginning July 1, 1995, the petitions shall be filed with the city clerk or town recorder of each municipal corporation, who shall determine the sufficiency of the petitions in each municipality.

(B) (i) If any petition is determined insufficient, he or she shall notify the petitioners in writing without delay, and the petitioners shall be permitted

ten [10] days from the notification to solicit additional signatures or to prove any rejected signatures.

(ii) If the city clerk or town recorder of the respective municipalities decides the petitions are sufficient, he or she each shall notify the petitioners in writing and shall present the petitions to the city or town council of the larger municipal corporation.

(b)(1) (A) When the petition is presented to the council, the council shall pass an ordinance in favor of the annexation and approving and ratifying the petition.

(B) If the council fails to pass the ordinance required under subdivision (b)(1)(A) of this section, then any interested party may apply for a writ of mandamus to require the performance of the requirement.

(2) In that event, it shall be the duty of the persons named in the petition authorized to act in behalf of the petitioners to file the petition, together with a certified copy of the ordinance, in the office of the county clerk of the county in which the municipal corporations are situated.

A.C.A. § 14-40-1202. Special election called.

(a) (1) (A) Upon presentation of the petition to the county court by the authorized persons, the court shall at once order and call a special election, to be held in accordance with § 7-11-201 et seq., in both of the municipal corporations on the question of the annexation and the name of the proposed consolidated municipality.

(B) The court shall give thirty [30] days' notice of the election by publication one [1] time a week in some newspaper with a bona fide circulation in the territory and by notices posted in conspicuous places in the territory.

(2) The court shall appoint one [1] judge and one [1] clerk in each ward or other division of each municipal corporation, and the mayor and city council of each of the municipal corporations shall select two [2] judges and one [1] clerk for each of the wards or other divisions having the qualifications of electors, to act as judges and clerks of election within the respective wards.

(3) The court shall fix all polling places at which the voting shall take place.

(b)(1) The election shall be held and conducted in each corporation in the manner prescribed by law for holding elections for cities or incorporated towns, so far as they are applicable. Election

expenses are to be paid by the larger city or incorporated town.

(2)(A) All elections held under this subchapter are made legal elections.

(B) (i) The elections shall be governed by and subject to all the laws relating to general elections so far as applicable.

(ii) All judges, clerks, and persons voting in the elections shall be subject to the penalties prescribed by the general election laws of the state for any violation of the general election laws to the same extent as though the elections were specifically included in the general election laws of the state.

(3) The returns of the elections shall be made to the court and the result thereof declared by the court.

(c) In order to provide for an orderly transition of affairs if the petition calls for a delay in the implementation of the consolidation, the consolidation shall not take effect until the date specified in the petition, except that the consolidation shall be delayed not longer than eighteen [18] months from the date the election results are declared by the court.

A.C.A. § 14-40-1203. Election results.

(a) At any election held under this subchapter, all qualified electors who are residents of either municipality shall be allowed to vote on the adoption or rejection of the proposed annexation or consolidation and the name of the proposed consolidated municipality.

(b)(1)(A) (i) If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall be in favor of the consolidation or annexation, then the county court shall declare, by an appropriate order, the annexation or consolidation consummated unless the petition has requested a delayed date for implementation of the consolidation.

(ii) If the petition calls for a delay in the implementation of the consolidation and if a majority of the votes cast in each of the respective municipalities is in favor of the consolidation, then the county court shall order the annexation or consolidation consummated on the date specified in the petition, except that the date shall not be more than eighteen [18] months after the date election results are declared by the court.

(B) (i) If a majority of the votes cast in each of the respective municipalities, considered as a

separate and distinct unit and without reference to the vote cast in the other, shall be in favor of the same name of the municipality, then the county court shall declare, by appropriate order, the name of the consolidated municipality.

(ii) If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall not be in favor of the same name of the municipality, then the county court shall declare, by appropriate order, the name of the consolidated municipality to be the name of the larger municipality.

(C) (i) Upon the making of the order, the smaller municipal corporation and the territory comprising it shall, in law, be deemed and be taken to be included and shall be a part of the larger municipal corporation.

(ii) The inhabitants thereof shall in all respects be citizens of the larger municipal corporation.

(2) If a majority of the votes of either municipal corporation shall be against annexation, then the city or incorporated town shall not be again permitted to attempt the consolidation for two [2] years.

A.C.A. § 14-40-1204. Contest of election.

Any elector shall have the right to test the legality and fairness of the election and the declared results in a proceeding before the circuit court without being required to give bond for costs. However, no such contest shall interfere with the consolidation until finally decided.

A.C.A. § 14-40-1205. Division of smaller municipality into wards.

(a) As soon as practicable after the annexation, the council of the larger city or incorporated town shall form by ordinance the territory of the smaller municipality into such number of wards as shall seem to be to the best interest of the combined city or incorporated town, or shall change the number and boundaries of all the wards of the entire city or incorporated town, or any part of them, as shall seem to be to the best interests of the combined city or incorporated town. In such way, however, the wards shall have as nearly an equal population and assessed valuation of property as practicable and as, in the opinion of the council, would best subserve the true interest of the citizens and taxpayers of the combined city or incorporated town.

(b) The territory and inhabitants of the smaller municipal corporation shall receive that fair and just representation in the city council as the size, population, and assessed valuation of property demands, as compared with the representation accorded to other wards of the city or incorporated town.

(c) If inhabitants of the smaller municipal corporation feel aggrieved at the number of wards, or in any manner dissatisfied with the division of the territory into wards, upon petition of fifty [50] qualified electors, the circuit court is authorized to make changes in the number of wards as the justice of the case requires, in the manner provided in § 14-43-311, so far as applicable.

A.C.A. § 14-40-1206. Plat of consolidated municipality.

(a) The council of the larger city or incorporated town shall cause a plat to be made of the entire city or incorporated town after the annexation thereto and the division into wards of the smaller municipal corporation.

(b)(1) A certified copy of the plat shall be filed and recorded in the office of the circuit court and ex officio recorder of the county and with the Secretary of State.

(2)(A) Thereafter, the plat shall stand, be, and remain the division of the city or incorporated town into wards, and the number and boundaries thereof, until such time as it may be afterwards changed according to law.

(B) However, no change in the boundaries of the wards of the larger city or incorporated town shall determine or affect the time of service of any previously elected alderman of any ward in the larger city or incorporated town.

A.C.A. § 14-40-1207. Special election of aldermen or all city officials.

(a)(1)(A) Except as provided under subdivision (a)(1)(B) of this section, the city or town council shall call a special election of aldermen, to be held at such times and places as the council may direct pursuant to a proclamation issued by the mayor in accordance with § 7-11-101 et seq., in the wards of the smaller municipality and for the election of aldermen from any other new wards that may be created by the council out of territory included in the larger city or incorporated town before the annexation, as provided in this subchapter.

(B) If the petition calls for a citywide election for all officials of the new consolidated city or

incorporated town, then the city or town council shall call a special election pursuant to a proclamation issued by the mayor in accordance with § 7-11-101 et seq. for all city or town officials to be held at the times and places as it may direct throughout each ward of the consolidated city or incorporated town.

(2) If the implementation of the consolidation of the cities or towns is delayed, the special election for new aldermen or all city officials shall be held at least forty-five (45) days before the effective date of the consolidation.

(b) Each ward of the consolidated city or incorporated town shall have two [2] aldermen, to be elected in the same manner and for the same term as aldermen are elected in cities and incorporated towns.

A.C.A. § 14-40-1208. Existing officers, etc.

(a) The term of office of all officers, aldermen, and employees of the smaller municipality and all laws in force in the smaller municipality shall cease upon and after the consolidation.

(b)(1) Any mayor who is forced from office because of a merger of two [2] or more municipalities under this subchapter is presumed to meet the minimum service period under § 24-12-123.

(2) If the mayor who is forced from office has less than ten [10] years of actual service as mayor, then he or she is entitled to a prorated retirement benefit in an amount equal to the percentage of the mayor's actual amount of service divided by the minimum ten [10] years of service required under § 24-12-123.

A.C.A. § 14-40-1209. Public property.

All public property of the smaller municipality shall belong to the consolidated city or incorporated town.

A.C.A. § 14-40-1210. Payment of existing debts.

(a)(1) The debts of each municipality owing prior to or at the time of the consolidation shall be paid by the consolidated municipality by appropriating the revenues derived from year to year from the territory and the inhabitants of what was formerly the larger municipality to the payment of the debts of the larger municipality owing before the consolidation.

(2) In like manner, the debts of the smaller municipality owing prior to and at the time of the consolidation shall be paid by appropriating

the revenues derived from what was formerly the smaller municipality in such manner as to do the least injustice to the inhabitants of each former municipality in the way of a decrease in the improving or bettering of the territory as it formerly existed.

(b) In appropriating the revenues of either municipality to pay its own debts existing prior to the consolidation, neither the territory nor inhabitants of what was formerly the larger or smaller municipality shall be discriminated against in the distribution of police protection, board of health service, fire protection, public lighting, or other like public service.

A.C.A. § 14-40-1211. Prior debts not preferred.

(a) Creditors of either municipal corporation, on account of obligations made prior to consolidation, shall not be paid sooner or shall not be permitted to enforce the collection of their debts sooner against the consolidated city or incorporated town than the separate municipality prior to consolidation could have paid its own debts or could have been forced to do so.

(b) In any proceeding in court, by mandamus or otherwise, against a consolidated city or incorporated town to enforce the obligations created by either municipal corporation prior to consolidation, no greater part of the revenue of the consolidated city or incorporated town shall be subject to be applied by the court at the instance of the creditor to the payment of the obligations than could have been subjected against the revenues of the particular city or incorporated town creating the obligation prior to consolidation if the particular municipal corporation having so created the obligation had not been annexed.

A.C.A. § 14-40-1212. Rights of annexed territory to benefits of its revenues.

(a) The wards formed out of the territory comprising the former territory of the smaller municipal corporation annexed under the provisions of this subchapter shall always receive betterments and improvements in an amount equal to the amount of revenue derived by the consolidated municipality from the territory and inhabitants of the smaller municipal corporation, after having deducted the pro rata share of the territory of the running expenses necessary to be expended in maintaining the government of the entire city or incorporated town and after having taken into consideration the amount of revenues necessarily appropriated to pay

the indebtedness due by the smaller municipality before consolidation, until the indebtedness is paid. In addition, those wards shall always receive their fair and equitable proportion of the police, board of health, fire protection, and lighting service of the larger city or incorporated town. They shall in all other ways receive fair and liberal treatment and their fair proportion of the expenditure of moneys by the larger city or incorporated town.

(b)(1) Aldermen representing the wards composing the territory of the smaller municipal corporation before consolidation shall have a right, at all times, to demand of the city council the benefit of the revenue collected from the wards, as provided for in this section.

(2) On the refusal of the council, the aldermen shall have a right to enforce the revenue rights by mandamus or other appropriate proceedings.

(c) In the event the aldermen, or fifty [50] qualified electors of the territory annexed, feel aggrieved in reference to the amount of revenue expended on the territory or as to the other rights guaranteed in this section to the annexed municipality, they may submit the matter to the circuit court, which is authorized by appropriate orders to compel the consolidated city or incorporated town to give the former territory of the smaller municipal corporation the full benefit of its revenue as provided in this section.

A.C.A. § 14-40-1213. Franchises, contracts, and other obligations.

No franchises, contracts, or other obligations of an extraordinary nature, or other than those necessary for the ordinary and usual running of the affairs of either municipal corporation, which have been granted, made, or created by either municipal corporation after the passage of an ordinance favoring annexation, and prior to the consummation of the annexation, shall be valid and binding against the consolidated municipality, or any part thereof, in the event that a consolidation is effected within sixty [60] days after passage of the ordinance, unless they shall be afterward ratified by the consolidated city or incorporated town.

D. Detachment

For procedures to detach territory from a municipality see A.C.A. § 14-40-1801 — 14-40-1803, which provides for submission of the question to a vote of the people and petition to the county court. Also, A.C.A. § 14-40-1901 — 14-40-1903 provide that the city council may by resolution provide for the detachment from said city or town of any area which for more than ten [10] years has not been recognized by city officials and is deemed unsuitable for urban development and petition to the county court for detachment of the designated area. After a hearing upon such petition by the county court, an order may be issued excluding such territory from the corporate limits. Special rules apply to regional airports, as Act 1420 of 1999 (A.C.A. § 14-362-132) exempts them from any rules, regulations, ordinances, or permit requirements of a municipality. Act 1420 of 1999 also provides that the regional airport authority may elect to de-annex from a city or town after a municipality in which the airport property is located is annexed or consolidated with another municipality. In addition, individual landowners can request that their property be detached through the procedure set out in A.C.A. § 14-40-608.

A.C.A. § 14-40-608. Right to detach certain lands after annexation proceeding.

(a) Within eight [8] years after an annexation proceeding is completed under the provisions of this subchapter and the land remains the boundary of the city or town, the person owning all lands originally annexed into the city or town may be authorized to detach those annexed lands from the city or town under the provisions of this section, so long as the city or town has not provided utility services to those lands.

(b)(1) When a qualifying landowner notifies the municipality that he or she wishes to detach his or her land from the city or town under this section, the governing body of the municipality may pass an ordinance within thirty [30] days to detach the annexed, qualifying land from the municipality.

(2)(A) In order to notify the city or town, the landowner shall file an affidavit with the city clerk or recorder stating that:

- (i) His or her land was annexed;
- (ii) His or her land is located inside the city or town along the municipal boundary; and
- (iii) He or she desires the annexed land to be detached from the municipality.

(B) The affidavit shall be filed along with a certified copy of the plat of the annexed land he or she desires to be detached and a copy of the order of the county court approving the annexation and the resolution or ordinance of the municipal governing body accepting the annexation.

(c) If the municipal governing body approves the ordinance to detach the territory, the clerk or recorder of the municipality shall duly certify and send one [1] copy of the plat of the detached territory, one [1] copy of the ordinance detaching the territory, and one [1] copy of the qualifying affidavit to the county clerk.

(d)(1) The county clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them.

(2) The county clerk shall forward one [1] copy of the plat of the detached territory and one [1] copy of the ordinance detaching the territory to the Director of the Tax Division of the Arkansas Public Service Commission, who shall file and preserve them and shall notify all utility companies having property in the municipality of the detachment proceedings.

Simultaneous Detachment And Annexation

A.C.A. § 14-40-2101. Simultaneous detachment and annexation by two [2] cities.

(a) When the boundaries of two [2] municipalities are contiguous to and adjoining one another, and one [1] municipality desires to detach and annex territory in another municipality, then the governing body of the municipality desiring to detach and annex territory may propose an ordinance calling for the simultaneous detachment of the lands from the one [1] municipality and the annexation of the lands into its municipal limits. The municipality desiring to annex land in the adjoining city, after the passage of the ordinance calling for detachment and annexation, shall send the ordinance to the governing body of the city or town in which the lands are located.

(b)(1) The ordinance will provide a legal description of the lands proposing to be detached and annexed and describe generally the reasons for proposing the action.

(2) The governing body of the city or town in which the lands are located shall conduct a public hearing within sixty [60] days of the proposal of the ordinance calling for the detachment and annexation.

(3) At least fifteen [15] days prior to the date of the public hearing, the governing body of the proposing municipality shall publish a legal notice setting out the legal description of the territory proposed to be detached and annexed. Municipal officials of the proposing city or town, officials of the city or town in which the lands are located, and property owners within the area proposed to be detached and annexed may appear at the public hearing to present their views on the proposal.

(c) (1) At the next regularly scheduled meeting following the public hearing, the governing body of the municipality in which the lands are located may bring the proposed ordinance up for a vote to concur in the detachment and annexation.

(2) If a majority of the total number of members of the governing body vote for the proposed detachment and annexation ordinance, then a prima facie case for detachment and annexation shall be established, and the proposing municipality shall proceed to render services to the newly annexed area.

(d) The decision of the municipal governing bodies shall be final unless suit is brought in the circuit court of the appropriate county within thirty [30] days after passage of the ordinance to review the mutual actions of the governing bodies.

(e) (1) As soon as the ordinance proposing the detachment and annexation is final, the territory shall be deemed and taken to be a part and parcel of the limits of the city or town annexing it, and the inhabitants residing therein shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or town.

(2) The governing body of the annexing city or town shall direct the municipal clerk or recorder to duly certify one [1] copy of the plat of the annexed territory and one [1] copy of the proposing ordinance as adopted by both governing bodies to the county clerk.

(3) The clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them.

A.C.A. § 14-40-2002. Annexation into Adjoining Municipality.

(a) (1) A landowner or group of landowners seeking additional municipal services may have its land detached from the municipality in which it is located and annexed into another municipality that borders the land.

(2) However, before annexation is allowed, the municipality in which the land is located shall have an opportunity to provide the additional services.

(b) The following procedure shall apply:

(1) The landowner or landowners shall file a statement with the municipality in which the land is located listing the additional municipal service or services being sought and stating that:

(A) The municipality is not providing services necessary to create improvements, provide employment or additional employment, subdivide, or otherwise maximize the use and value of the property;

(B) All the land in the request must compose one [1] area that is contiguous to another municipality;

(C) The additional services are available in another municipality that borders the land subject to the request; and

(D) (i) The municipality is requested to make a commitment to take substantial steps, within one hundred eighty [180] days after the statement is filed, toward providing the additional services available and within each thirty-day period thereafter to continue taking steps to demonstrate a consistent commitment to provide the service within a reasonable time, as determined by the kind of services requested.

(ii) The commitment must be made in writing to the landowner within thirty [30] calendar days of the filing of the statement, or the landowner may seek to have the land detached from the municipality and annexed into the other municipality.

(iii) The landowner must take appropriate steps to make the land accessible to the service and comply with reasonable requests of the municipality that are necessary for the service to be provided;

(2) The landowner or landowners may request the annexation of the land into the other municipality and thereby detach the land from the boundaries of the municipality in which the land is currently located, if:

(A) The municipality in which the land is located fails to execute a commitment to services within thirty [30] days after the statement is filed; or

(B) The municipality executes the commitment to services but fails to take the action required under subdivision (b)(1)(D) of this section;

(3)(A) The land shall be annexed into the other municipality if, after a request by the landowner or landowners, the governing body of the municipality into which annexation is sought indicates by ordinance, resolution, or motion its commitment to make the services available and its approval of the request for annexation.

(B) (i) The annexation shall be void and the land shall be returned to the original municipality if the annexing municipality fails to take substantial steps within one hundred eighty (180) days after the passage of the ordinance, resolution, or motion to make the services available and, within each thirty-day period thereafter, continues taking steps demonstrating a consistent commitment to make the additional service available within a reasonable time, as determined by the kind of services requested.

(ii) The landowner must have taken appropriate steps to make the land accessible to the service and complied with the reasonable requests of the municipality that are necessary for the service to be provided.

(iii) However, if the requested services are not available within twelve [12] months after the property is accepted by the annexing jurisdiction or substantial steps are not taken to make the services available within this time period, then the detachment and annexation shall be void and all property returned to its original jurisdiction; and

(4) The land shall remain in the original municipality until it is annexed into the other municipality.

(c) Land annexed pursuant to this section shall not be eligible for reannexation under this section for a period of two [2] years.

(d) This section shall apply to residential, commercial, industrial, and unimproved land.

(e) For the purposes of this section, "services" means electricity, water, sewer, fire protection, police protection, drainage and storm water management, or any other offering by the municipality that materially affects a landowner's ability to develop, use, or expand the uses of the landowner's property.

A.C.A. § 14-40-2003. No Split or Island.

(a) In no event shall the provisions of this subchapter allow a municipality to be split in half or to have any of its land separately encircled, thereby creating an island of that city within the boundaries of another city.

(b) Any detachment and annexation occurring that creates a split or island shall be void and all properties returned to their original municipality.

A.C.A. § 14-40-2004. Hearing in Circuit Court; Appeal.

(a) (1) The circuit courts of the state shall have exclusive jurisdiction to hear all matters related to this subchapter.

(2) The circuit court of the county in which the municipalities are located or, in the event that the municipalities are located in different counties or judicial districts, the circuit court of the county or judicial district that has within the county's or judicial district's boundaries the smallest of the two [2] municipalities in population according to the latest federal decennial census, shall have exclusive jurisdiction to hear all matters related to this subchapter.

(b)(1)(A) Upon petition of either affected municipality, the landowner or group of landowners, or its representatives, the circuit judge shall hold a hearing or series of hearings related to the provisions of this subchapter.

(B) The municipalities, the landowner who requested annexation, and a landowner who began owning land after the annexation request are parties to the hearing.

(2) The circuit judge shall make findings as are necessary to determine whether there has been substantial compliance or noncompliance with the requirements of this subchapter.

(c) The petition under subdivision (b)(1) of this section shall be filed no later than twenty [20] days, after the adoption or rejection of the ordinance, resolution or motion bringing the subject property into the annexing jurisdiction.

(d) In the event an action is brought in circuit court by any party, the time period for the requested services to be available as provided in § 14-40-2002(b)(3)(B)(iii) shall be tolled until entry of a ruling by the circuit judge and the conclusion of any appeals from that court.

A.C.A. § 14-40-2005. Filing.

(a) All documents produced by landowners, municipalities, or others relating to detachment and annexation as enumerated in this subchapter shall be filed with the circuit clerk with copies served upon the municipality and landowners.

(b)(1) The circuit clerk shall establish a system of filing for these matters upon action's having been taken by a landowner or group of landowners pursuant to the provisions of this subchapter.

(2) The circuit clerk's file shall be considered the official record of all matters and proceedings under this subchapter.

A.C.A. § 14-40-2006. Provision of municipal services.

In a municipal services matter under this subchapter, if a city or incorporated town from which the inhabitants detached determines that the scheduled services are available or became available to the detaching inhabitants by the city or incorporated town to which the inhabitants were annexed into, the inhabitants shall automatically be detached and annexed back into the original city or incorporated town after the expiration of one hundred eighty [180] days following the date the schedule of services became available to the inhabitants and the inhabitants have not used the services.

Annexation Election and Services Reporting Requirement

A.C.A. § 14-40-2201. Annexation and provision of scheduled services.

(a)(1) Beginning March 1, 2014, and each successive year thereafter, the mayor or city manager of a city or incorporated town shall file annually with the city clerk or recorder, town recorder, and county clerk a written notice describing any annexation elections that have become final in the previous eight [8] years.

(2) The written notice shall include:

(A) The schedule of services to be provided to the inhabitants of the annexed portion of the city; and

(B) A statement as to whether the scheduled services have been provided to the inhabitants of the annexed portions of the city.

(b) If the scheduled services have not been provided to the new inhabitants within three [3] years after the date the annexation becomes final, the written notice recording the status of the extension of scheduled services shall include a statement of the rights of inhabitants to seek detachment.

(c) A city or incorporated town shall not proceed with annexation elections if there are pending scheduled services that have not been provided in three [3] years as prescribed by law.

A.C.A. § 14-40-2202. Inhabitants of annexed area.

(a) In all annexations under § 14-40-303 and in accordance with § 14-40-606, after the territory declared annexed is considered part of a city or incorporated town, the inhabitants residing in the annexed portion shall:

(1) Have all the rights and privileges of the inhabitants of the annexing city or incorporated town; and

(2)(A) Be extended the scheduled services within three (3) years after the date the annexation becomes final.

(B) The mayor of the municipality shall file a report with the city clerk or recorder, town recorder, and county clerk of the extension of scheduled services.

(b) If the scheduled services have not been extended to the area and property boundaries of the new inhabitants within three (3) years after the date annexation becomes final, the written notice reporting the status of the extension of scheduled services shall:

(1) Include a written plan for completing the extension of services and estimated date of completion; and

(2) Include a statement of the rights of inhabitants to seek detachment.

(c) A city or incorporated town shall not proceed with any additional annexation elections if there are pending scheduled services that have not been extended as required under this subchapter.

II. Sample Annexation Ordinances, Petitions, Orders, Etc.

A. Election Method

ORDINANCE NO. _____
 AN ORDINANCE SUBMITTING
 TO THE VOTERS OF THE CITY OF _____,
 ARKANSAS, AND OTHER AF-
 FECTED PERSONS, THE QUES-
 TION OF ANNEXATION TO SAID
 CITY OF CERTAIN CONTIGUOUS
 TERRITORY; AND DECLARING AN
 EMERGENCY

(Use at least one of the following
 applicable WHEREAS clauses.)

WHEREAS, it appears to the City Council of the City of _____, Arkansas, that the annexation of certain hereinafter described territory, contiguous to the City of _____, is necessary for the orderly growth and development of the City;

WHEREAS, the lands furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;

WHEREAS, the lands are platted and held for sale or use as municipal lots, or whether platted or not, the lands are held to be sold as suburban property;

WHEREAS, the lands are needed for proper municipal purposes; or

WHEREAS, the lands are valuable by reason of their adaptability for prospective municipal uses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, ARKANSAS:

SECTION 1. That there shall be submitted to the qualified electors of the City of and of the following described area, the question of the annexation of the following described territory to the City of :

[insert legal description of area to be annexed]

A map depicting said annexation area is attached hereto as Exhibit A and made a part hereof.

SECTION 2. The question of annexation of the territory described above in Section 1 shall be submitted to the electors qualified to vote on this issue at a special election to be held on Tuesday, (month, day, year), in compliance with A.C.A. § 7-11-205. Once this ordinance takes

effect, the City Clerk shall immediately notify the County Election Commission and the County Clerk by forwarding to each, a certified copy of this ordinance and the map showing the area to be annexed.

SECTION 3. If at such election a majority of the qualified electors voting in such election shall vote for such annexation, the annexation shall be effective and the territory included within the corporate limits of the City of thirty [30] days following the County Clerk's certification of the election results and recording of the same, along with the description and a map of the annexed area, in the county records, and filing a certified copy thereof with the Secretary of State; or in the event an action is filed with the Circuit Court, on the date the judgment of said Court becomes final. If a majority of the qualified electors voting on the issue at the election vote against the annexation, the annexation ordinance shall be null and void.

SECTION 4. No later than forty-five (45) days prior to the election, the city shall identify all persons who reside within the area proposed to be annexed, and the county clerk shall assist the city in determining the names and addresses of all qualified electors residing within that area.

SECTION 5. The city clerk shall give notice of the election by publication by at least one [1] insertion in some newspaper having a general circulation in the city.

SECTION 6. If the annexation is approved and becomes final, the governing body of the city shall, by ordinance, as soon as practical after the annexation, attach and incorporate such annexed territory to and in one [1] or more wards of the city lying adjacent thereto, and the territory so assigned and attached to a ward shall thereafter be considered and become a part thereof as fully as any other part of the city.

SECTION 7. If the annexation is approved and becomes final, the following services shall be extended to the area within three [3] years:

| SERVICE | DATE |
|---------------------------|-------|
| Police Protection | _____ |
| Fire Protection | _____ |
| Solid Waste Collection | _____ |
| Public Street Maintenance | _____ |

The schedule of services shall be included in the annual written report required by A.C.A. § 14-40-2201.

SECTION 8. The ballots used at said election on the question of annexation shall be marked as follows:

[] FOR annexation of the territory described in Ordinance No. _____.

[] AGAINST annexation of the territory described in Ordinance No. _____.

SECTION 9. Emergency Clause. This ordinance being necessary for the immediate preservation of the public peace, health, safety, and welfare, as well as compliance with special election statutes, an emergency is hereby declared to exist and this ordinance shall be effective and in full force and effect from and after its passage and approval.

PASSED: _____

ATTEST: _____
Clerk or Recorder

APPROVED: _____
Mayor

CERTIFICATE

I, _____, City Clerk of the City of _____, hereby certify that this ordinance was duly passed and approved by a two-thirds vote of the total number of members the City Council of the City of _____, Arkansas, on the ____ day of _____, 20__.

Seal

City Clerk

City of: _____

Important: *The provisions of A.C.A. § 14-40-2201 concerning the provision of services, reporting, and consequences of failing to provide the services within three years should be carefully reviewed and understood by city officials. For public safety reasons and statutory compliance, police and fire protection should be supplied at the time the annexation is final. State law also requires the city to maintain public streets (A.C.A. § 14-301-101) and establish solid waste collection and disposal (A.C.A. § 8-6-211).*

B. Surrounded Lands

ORDINANCE NO. _____
AN ORDINANCE ANNEXING
CERTAIN LANDS THAT ARE COM-
PLETELY SURROUNDED BY THE
INCORPORATED LIMITS OF THE
CITY OF _____; DECLARING AN
EMERGENCY; AND FOR OTHER
PURPOSES.

WHEREAS, Arkansas Code Annotated sections 14-40-501—14-40-503 provide that unincorporated islands of land that have been surrounded by the incorporated limits of a municipality may be annexed by that municipality, including situations in which the unincorporated area is surrounded on three sides by the municipal boundaries and on the fourth side by a state boundary, a military base, a state park, a national forest, a lake or a river.

WHEREAS, the City of _____ desires to annex certain lands more completely described below; and WHEREAS, all necessary urban services, such as fire and police protection, are to be extended to such area within a reasonable period of time; and

WHEREAS, the area to be annexed complies with the standards for lands qualifying for annexation which are set forth in A.C.A. § 14-40-302 and A.C.A. § 14-40-501; and

WHEREAS, the council finds that the territory to be annexed is [*describe how the territory is surrounded, whether (1) surrounded by the incorporated limits of a municipality or (2) on three sides by the municipal boundaries and on the fourth side by a state boundary, a military base, a state park, a national forest, a lake or a river*]; _____; and

WHEREAS, the council further finds that the territory consists of lands that are: [*describe how the lands meet one or more of the following criteria*]:

- (1) Platted and held for sale or use as municipal lots;
- (2) Whether platted or not, if the lands are held to be sold as suburban property;
- (3) When the lands furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;
- (4) Needed for any proper municipal purposes such as for the extension of needed police regulation; or

- (5) When they are valuable by reason of their adaptability for prospective municipal uses; and

WHEREAS, a public hearing was held on (month, day, year), regarding this proposed annexation; and

WHEREAS, on (month, day, year), a legal notice was published setting out the legal description of the territory proposed to be annexed, and all property owners within the area were notified by certified mail of their right to appear at the public hearing.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, ARKANSAS:

SECTION 1. That the following described unincorporated area which is completely surrounded by the city limits of the City of [*or, is surrounded on three sides by the city limits of the City of and on the fourth side by a military base/state park/ national forest/lake/river*] is hereby annexed to the City of _____ (description of the area)

SECTION 2. All necessary urban services, such as police and fire protection, solid waste collection and disposal, and maintenance of public streets shall be extended to such area within a reasonable time.

SECTION 3. Because these areas are in need of all necessary urban services, such as police and fire protection, and this is necessary for the public peace, health, safety and welfare, an emergency is declared to exist. Therefore, this ordinance shall be in full force and effect from after the date of the passage.

PASSED: _____

ATTEST: _____
Clerk or Recorder

APPROVED: _____
Mayor

**C. Petition Method
(by majority of landowners)**

IN THE _____
 COUNTY COURT IN THE MAT-
 TER OF ANNEXING TO THE CITY
 OF _____,
 ARKANSAS, CERTAIN TERRITORY
 CONTIGUOUS TO THE SAID CITY
 OF _____, ARKANSAS.

IN THE COUNTY COURT OF
 _____ COUNTY,
 ARKANSAS IN THE MATTER OF
 ANNEXING TO THE CITY OF
 _____,
 ARKANSAS, CERTAIN TERRITORY
 CONTIGUOUS TO THE CITY OF
 _____, ARKANSAS.

PETITION

We, as property owners of the following described area, do hereby petition the County Court of _____, Arkansas, to annex the following lands to the City of _____, Arkansas. We further state that the petition is signed by a majority of the real estate owners owning more than one-half of the acreage in said area, and do further by our petition appoint (person or persons) to act on behalf of the petitioners in presenting this matter to the court.

Description of the area to be annexed to the City of _____, Arkansas:

(description of the area)

[Optional:] The following services shall be extended to the annexed area within three [3] years after the date the annexation becomes final:

 Signature of Property Owner Signature of Attesting Witness

 Address

 Signature of Property Owner Signature of Attesting Witness

 Address

 Signature of Property Owner Signature of Attesting Witness

 Address

ORDER

On this the (month, day, year), is filed the petition of real estate owners desiring the annexation of territory to the City of _____, Arkansas, more particularly described therein, and this Court does hereby fix (month, day, year), as the date for hearing on said petition, and , the agent named by said petitioners, shall give notice of such hearing as provided by law, said hearing to be held in the office of the County Judge at _____ a.m.

 County Judge

NOTICE

Notice is hereby given that there has been filed in the County Court of _____, Arkansas, the petition of and others, asking for the annexation to the City of of the following described lands situated in _____ County, Arkansas, and contiguous to said city, to-wit:

(description of territory)

A plat of said land proposed for annexation is on file with said petition in the office of the Clerk of said Court, and the undersigned has been named by the petitioners as the person authorized to act for them.

The Court has fixed the _____ day of __ at __ o'clock as the date for a hearing on said petition, and all interested persons are now notified to be present at said Court at the time and date so fixed.

Given this (month, day, year).

IN THE COUNTY COURT OF
_____ COUNTY, ARKANSAS

IN THE MATTER OF ANNEXING
TO THE CITY OF _____,
ARKANSAS, CERTAIN TERRITORY
CONTIGUOUS TO THE SAID CITY
OF _____, ARKANSAS.

DECREE OF ANNEXATION

On this regular day of a regular term of the County Court of _____ County, Arkansas, there is presented to the Court by, ___ agent(s) of the petitioners, a petition for annexation of certain territory, hereinafter more particularly described, to the City of _____, Arkansas, and the Court being fully advised of the facts and the law, does hereby find, judge and decree as follows:

The Court finds that the petition was filed more than thirty [30] days prior to this date and that in said petition the said _____ was selected by the petitioners to act on their behalf in filing and presenting the petition.

The court further finds that notice of the hearing on this matter was published one [1] time a week for three [3] consecutive weeks as required by A.C.A. § 14-40-602.

The Court finds that a majority of the total number of real estate owners in the area affected by this petition have signed said petition and that such majority owns more than one-half of the acreage affected.

The Court further finds that the territory consists of lands that *[use one or more of the following criteria]*:

- (1) Are platted and held for sale or use as municipal lots;
- (2) Whether platted or not, are held to be sold as suburban property;
- (3) Furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;
- (4) Are needed for any proper municipal purposes such as for the extension of needed police regulation; or
- (5) Are valuable by reason of their adaptability for prospective municipal uses.

The Court further finds that the territory sought to be annexed was accurately described in said petition and that said territory is contiguous to the boundaries of the City of _____, Arkansas.

The Court further finds that attached to and made a part of said petition is an accurate map of the territory sought to be annexed to the City of _____.

The Court further finds that the prayer of the petition is right and proper.

Therefore, the Court hereby ORDERS, JUDGES and DECREES that the following described territory be and the same is hereby annexed to and made a part of the City of _____, Arkansas, to-wit:

(description of territory)

The Court further orders that the original papers in this cause be delivered to the Clerk of County, Arkansas, same to be properly recorded upon the records of County, Arkansas, and the Clerk, after properly recording and filing the original papers, prepare transcripts of same; that one of the certified transcripts be delivered to the City of _____, Arkansas, one copy to the Secretary of State and one copy to the Director of the Tax Division of the Arkansas Public Service Commission.

County Judge

ORDINANCE NO. _____
AN ORDINANCE ACCEPTING
THE ANNEXATION OF CERTAIN
TERRITORY TO THE CITY OF
_____,
ARKANSAS, AND MAKING
SAME A PART OF THE CITY OF
_____,
AND ASSIGNING SAME TO WARDS.

WHEREAS, a petition was filed with the County Clerk of _____ County, Arkansas, by the majority of the real estate owners of the hereinafter described territory praying that said territory be annexed to, and made a part of the City of _____, Arkansas; and,

WHEREAS, on (month, day, year), the County Court of _____, Arkansas, found that the petition was signed by a majority of the real estate owners in said territory; that said territory was contiguous and adjoining the present corporate limits of the City of _____, Arkansas; that an accurate plat or map of said territory had been filed with and made a part of said petition; that proper notice had been given for the time and in the manner prescribed by law, and that all things pertaining thereto had been done in the manner prescribed by law, and that said lands and territory should be annexed to and made a part of the City of _____, Arkansas, subject to the acceptance of same by the City Council of said City at the proper time, as provided by law; and

WHEREAS, the time fixed by law for appealing from said order of annexation made by the County Court has expired and no appeal has been taken from said order.

Now, therefore, be it ordained by the city council of the City of _____, Arkansas:

SECTION 1. That the following described lands and territory contiguous and adjoining the City of _____, Arkansas, be and the same is hereby accepted as part of and annexed to and made a part of the City of _____.

(description of the area)

SECTION 2. That the above described territory shall be annexed to and made a part of Ward _____ of the City of _____, and the same shall henceforth be a part of said ward as fully as existing parts of said ward.

[To be used if the petition contained a schedule of services]: SECTION 3. That the services listed in the schedule of services contained in the petition shall be extended to the annexed area within three [3] years after the date the annexation becomes final. The scheduled services contained in the petition are:

1. _____
2. _____
3. _____ etc.

The schedule of services shall be included in the annual written report required by A.C.A. § 14-40-2201 and 14-40-2202.

Passed and approved (month, day, year).

APPROVED: _____
Mayor

ATTEST: _____
Clerk or Recorder

Important: The provisions of A.C.A. § 14-40-2201 and 2202 concerning the provision of services, reporting, and consequences of failing to provide the services within three years should be carefully reviewed and understood by city officials before passing an ordinance accepting a petition containing a schedule of services.

D. 100% Petition Method

PETITION FOR ANNEXATION
 IN THE MATTER OF ANNEXING
 TO _____
 DATE: _____ THE
 [CITY/TOWN] OF _____,
 ARKANSAS CERTAIN TERRI-
 TORY CONTIGUOUS TO SAID
 [CITY/TOWN] OF _____,
 ARKANSAS

Come now the undersigned petitioners, and state as follows:

1. That we, owning 100% of the property in the following described area, do hereby petition, pursuant to Arkansas Code Annotated section 14-40-609, the [City/Town] Council of _____, Arkansas, to annex the following lands to the [City/Town] of _____, Arkansas:
2. (Description of the area to be annexed)
3. We further state that this petition is signed by one hundred percent (100%) of the real estate owners owning one hundred percent (100%) of the acreage in said area and that the area to be annexed does not contain property whose owners do not wish to have their property annexed.
4. That said property described herein is contiguous to and adjoining the present _____ [City/Town] limits, as shown on the map attached hereto as Exhibit A.
5. That no enclaves will be created if this petition is accepted and the territory annexed into the [City/Town] of _____.
6. That the following schedule of services shall be extended to the area by the [City/Town] of _____ within three (3) years after the date the annexation becomes final: (Insert services that will be extended to the service area).

 Signature of Property Owner Signature of Attesting Witness

 Printed Name of Owner Printed Name of Witness

 Address

 Signature of Property Owner Signature of Attesting Witness

 Printed Name of Owner Printed Name of Witness

 Address

 Signature of Property Owner Signature of Attesting Witness

 Printed Name of Owner Printed Name of Witness

 Address

[repeat for additional property owners]

VERIFICATION

I, _____, County (Assessor or Clerk) of the County of _____, Arkansas, with respect to the annexation by one-hundred percent petition filed by [petitioner name(s)] on [date], do hereby verify:

1. That the identity of the petitioner(s) as listed on the petition [is / is not] accurate.
2. That all property owners included in the petition [do/ do not] wish to have their property annexed.
3. That the property or properties [are / are not] contiguous with the city or town.
4. That an enclave(s) [will / will not] be created if the petition is accepted by the city or town.

COMMENTS: _____

SIGNED: _____
 County Assessor or County Clerk

DATE: _____

Note: both the County Assessor and the County Clerk must verify the listed items. The "comments" section may be used to provide additional information if desired. This form is to be presented to the county judge within fifteen days of filing by the petitioners with the County Assessor and County Clerk.

IN THE COUNTY COURT OF
_____ COUNTY, ARKAN-
SAS IN THE MATTER OF ANNEX-
ING TO THE CITY OF _____,
ARKANSAS, CERTAIN TERRITORY
CONTIGUOUS TO THE SAID CITY
OF _____, ARKANSAS.

ORDER CONCERNING ANNEXATION

On this regular day of a regular term of the County Court of _____ County, Arkansas, there is presented to the Court by [name(s)] the petition of real estate owners desiring the annexation of territory to the [City or Town] of _____, Arkansas, more particularly described therein. The court has received the verification of the county assessor and county clerk required by Arkansas Code Annotated § 14-40-609. This Court being fully advised of the facts and the law, does hereby find as follows:

The Court finds that the petition and verifications are complete and accurate.

The Court further finds that no enclaves will be created by the annexation.

The Court finds that the petition contains a schedule of services.

The Court further finds that the territory consists of lands that *[use one or more of the following criteria]:*

1. Are platted and held for sale or use as municipal lots;
2. Whether platted or not, are held to be sold as suburban property;
3. Furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;
4. Are needed for any proper municipal purposes such as the extension of needed police regulation; or
5. Are valuable by reason of their adaptability for prospective municipal uses.

Therefore, the Court hereby ORDERS that the petition and this Order be delivered to the [City or Town] of _____, Arkansas.

Important: While the Vestal criteria codified in A.C.A. § 14-40-302 do not explicitly apply to petition-based annexations, the Arkansas Supreme Court held that the Vestal criteria “applies regardless of whether the annexation proceeding was initiated by the city or the by the adjoining landowners.” City of Jacksonville v. City of Sherwood, 375 Ark. 107, 110 (Ark. 2008).

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING
THE ANNEXATION OF CERTAIN
TERRITORY TO THE [CITY/TOWN]
OF _____; APPROVING THE
SCHEDULE OF SERVICES TO BE
EXTENDED TO SAID AREA; [AND
ASSIGNING SUCH TO WARDS]

WHEREAS, a petition was filed, pursuant to Arkansas Code Annotated section 14-40-609, for the annexation of certain territory into the [City/Town] of _____, Arkansas; and

WHEREAS, the _____ County Assessor and the _____ County Clerk have (A) Verified the identity of the petitioner(s); (B) Verified that there are no property owners included in the petition that do not wish to have their property annexed; (C) Verified that the property or properties are contiguous with the [City/Town] ; (D) Verified that no enclaves will be created if the petition is accepted by the [City/Town] ; and presented the petition and their respective verifications to the _____ County Judge; and WHEREAS, the County Judge has (A) reviewed the petition and verifications for completeness and accuracy; (B) determined that no enclaves will be created by the annexation; (C) confirmed that the petition contains a schedule of services; (D) found that the land to be annexed [specify criteria found by the judge, see Ark. Code Ann. section 14-40-302(b)] and (E) issued an order articulating these findings and forwarded the petition and order to the contiguous [City/Town] of _____ for consideration; and WHEREAS, it is the desire of the [City/Town] Council of _____ that said territory be annexed.

NOW, THEREFORE, BE IT ORDAINED BY THE [CITY/TOWN] COUNCIL OF THE [CITY/TOWN] OF _____, ARKANSAS:

SECTION 1. That the following described territory, contiguous to the [City/Town] of _____, be and the same is hereby accepted as part of, and annexed to and made a part of the [City/Town] of _____, Arkansas:

(Description of the area to be annexed)

SECTION 2. That the following schedule of services shall be extended to the area by the [City/Town] of _____ within the statutorily required three (3) year period after the date the annexation becomes final, as follows: (Insert services that will be extended to the service area).

[SECTION 3. That the above described territory shall be annexed to and made a part of Ward ___ of the City of _____, and the same shall henceforth be a part of said ward as fully as existing parts of said ward]. *Note: incorporated towns will omit this section.*

SECTION 4. Thirty (30) days after passage and publication or posting of this Ordinance as authorized by law, the annexation shall be final and the property shall be within the corporate limits of the [city/town], except as otherwise ordered by the Circuit Court pursuant to a cause of action filed within said thirty (30) day period.

PASSED AND APPROVED THIS _____ DAY
OF 201____.

E. Notice of Annexations and Services Provided

NOTICE DESCRIBING ANNEXATION ELECTIONS, PETITIONS AND SCHEDULES OF SERVICES FOR THE CITY [TOWN] OF _____

DATE: _____¹

This NOTICE DESCRIBING ANNEXATION ELECTIONS, PETITIONS AND SCHEDULE OF SERVICES has been prepared in compliance with Act 1502 of 2013, A.C.A. § 14-40-2201 and shall be filed with the city [or town] clerk [or recorder] and the Clerk of the County of _____. The following annexation elections containing a schedule of services became final in the previous eight [8] years, resulting in the annexation of territory to the city of _____.

A schedule of services, if applicable, and a statement concerning the provision of said services, is provided for each annexation or petition listed.

1. Annexation election held [date] _____

(a) Schedule of Services: [Insert scheduled services]

(b) Statement of Provision of Services:²

The services listed above have been provided to the inhabitants of the annexed portion of the city.

OR

The foregoing services have not been provided to the inhabitants of the annexed portion of the city.

[If applicable, include the following:] The scheduled services have not been provided to the new inhabitants within three [3] years after the date the annexation became final. The inhabitants of the annexed territory have the right to seek detachment. A written plan for completing the extension of services is filed herewith. It is estimated that the extension of said services will be complete no later than [date] _____.

2. [Repeat above information for additional annexation elections, if any]

SIGNED: _____
Mayor or City Manager

DATE: _____

¹ This Notice shall be filed by March 1, 2014, and each following year with City or Town Clerk or Recorder and the County Clerk.

² A report should be filed at the time three [3] years have expired if services have not been extended by that time.



Arkansas Municipal League
P.O. Box 38
North Little Rock, AR 72115-0038

501-374-3484
www.arml.org