

ANNEXATION SUMMARY

- What are the different annexation methods?
 - 60% Method
 - 100% Method
 - Referenda and Resolution
 - Act of the General Assembly

ANNEXATION PURSUANT TO THE 60% METHOD

- What does the 60% method require?
 - _ Signed Petition/ Application by the following:
 - 60% of registered voters and
 - Ownership of 60% of the land area and
 - 1/8 of the annexation boundary contiguous to the City
 - Council review process
 - Annexation ordinance
 - Zoning paper
 - Community Development and Planning (CDP) paper
 - Advertising for public hearing
 - Service plans made public
 - Public hearings
 - Community Development/Human Resources (CD/HR)
 - Finance Executive Committee (F/E)
 - Zoning Review Board (ZRB)
 - Council second read and adoption
 - Annexation ordinance
 - Zoning Ordinance
 - CDP Amendments
 - The City must provide the same level of service, as evidenced by a service delivery plan specifically created and made public ahead of the public hearing on annexation, to the residents of the annexation area as it provides to its own residents.

- Who is responsible for verifying that an application is valid?
 - The City Clerk’s Office validates that 60% of registered voters in the application area signed the petition
 - The City’s Planning Department validates
 - Owners of 60% of the land acreage in the application area signed the petition
 - The application area has 1/8 of it’s boundary contiguous to the City
- What is the City Council review process?
 - Annexation ordinance (annexation public hearing at F/E committee)
 - Zoning paper (zoning public hearing before ZRB)
 - CDP paper (land use public hearing before CD/HR)
- What is the date that annexation takes place?
 - Annexation takes place the first day of the month following approval by City Council.
- What is the role of Fulton County in annexation?
 - Fulton County must be notified of the request to annex, submit a notice of facilities, and submit a bona fide land use objection if it objects the annexation of the proposed areas. When using the sixty percent method, Fulton County will routinely check or verify the land mass, contiguous land and voter numbers.
- What does the City have to commit to in annexing a community?
 - The City must provide the same level of service to the residents of the annexation area as it provides to its own residents
- What happens to County-owned property in an annexed area?
 - The County continues to own that property. County owned facilities that are not feasible for service delivery by the county to other unincorporated areas the City must acquire the facilities.
- What happens to the schools after an annexation?
 - The residents of the annexation area will transition over to the Atlanta Public School system.

- If the annexation area included a school, the City’s school system should purchase that school; however, the City does not control the school system. APS could decide that they do not need the extra space and move new students to current facilities.

ANNEXATION PURSUANT TO THE 100% METHOD

Summary: The timeline and deadlines as well as the reporting requirements of the two above-mentioned methods remain the same for the 100% method. The chief difference here is that **all** of the property owners are requesting the annexation and have agreed to the terms by signing a petition.

The provisions of Article 2 set up procedures that cities can use to annex property that is owned by the city or property in which 100% of the landowners seek to have their property annexed into an adjacent city by signing a petition.

- 36-36-20** Defines the term “contiguous”
- 36-36-21** Grants authority to municipalities to annex property when 100% of the land owners sign a written application and requires that an identification of the property be filed with the county and the Department of Community Affairs.
- 36-36-22** Allows municipalities to annex across adjoining county lines and allows counties to object to annexation by a city for the first time into a county where the city is not already present and allows for the annexing municipality to challenge the objection in court.

ANNEXATION PURSUANT TO RESOLUTION AND REFERENDUM

O.C.G.A. § 36-36-50 through § 36-36-61

36-36-53 Authorization of annexation generally.

1. authority given if meet standards of 36-36-56 (service delivery).
2. must comply with Article I of chapter (effective dates, reporting requirements to DCA, DOJ, etc., prohibition against creating unincorporated islands, notice to county within 5 days of adoption of resolution, effect of annexation on county owned lands, land use objection process).

36-36-54 Standards and requirements for area proposed to be annexed.

1. area must be contiguous (abuts) the city;
2. 1/8 of the aggregate external boundary must abut city;
3. area must not be part of another city or a county where COA is not in;
4. **b/c area currently receives county services (fire, police, etc.), this method is unavailable UNLESS, the county waives this requirement pursuant to a**

written agreement between the county and the city. See H-B Properties, LDT. Et al. v. City of Roswell et al., 247 Ga.App. 851 (2001) (Fulton agreed to Roswell's use of this method); **AND**

5. area must be developed for "urban purposes" as of adoption of annexation resolution. Urban purposes:
 - a) population density (defined in 36-35-55) of the area must be at least two persons per acre;
 - b) 60 percent of the total acreage divided into lots or tracts five acres or less;
 - c) 60 percent of total # of lots and tracts are one acre or less
6. where practical (discretionary per H-B Properties, LDT.) new boundaries should follow natural topographic features (ridge lines, streams, creeks, etc.). Also, If street used as boundary, the city should include the land on either side of the street "whenever practical".

36-36-55 Determination of compliance with standards and requirements.

1. population = # of housing units x average family size (from the last census).
2. density = population/total # of acres (actual survey or county map/records).
3. note: in determining whether these standards have been met on appeal, if population estimates have more than 10% error or total # acres have more than 5% error, superior court will not accept.

36-36-56 Plans and report for extension of services.

1. service plan and report for extension of service must include
 - a. map of existing city boundaries and map of new boundaries if area annexed.
 - b. Statement that area meets requirements of 36-36-54.
 - c. Statement setting forth the plans for extension of each major service currently provided by city.
 - d. Statement of extension for at least police, fire, garbage, street maintenance on the same basis as existing city on the same day of annexation.
 - e. Extension of major trunk water mains (non-issue for COA).
 - f. Methods under which city plans to finance extension of services.

36-36-57 Adoption of annexation resolution by city; contents of same; public hearing.

1. pass resolution stating intent to consider annexation.
2. resolution to describe boundaries of consideration for annexation.
3. resolution to fix date for a public hearing on the question of annexation.
4. Hearing not less than 30 days and not more than 60 days of passage of resolution.
5. Public hearing notice shall fix date, hour, and place; describe boundaries under consideration; state that service delivery report available in clerk's office at least 14 days prior to public hearing.
6. Notice by general circulation newspaper once a week for three successive weeks prior to date of hearing.
7. At least 14 days before public hearing, governing body shall approve the report required in 36-36-56 and make available in clerk's office.

8. at public hearing, city representative shall make explanation of report required by 36-36-56 followed by public comment by all person resident or owning property in area described in public notice and residents of existing city.

36-36-58 Referendum for ratification or rejection of annexation resolution.

1. city calls referendum to ratify or reject adoption of resolution.
2. referendum to be held not less than 30 days nor more than 60 days from date of public hearing required by 36-36-57.
3. Referendum to be held, “insofar as possible”, under procedures set forth in OCGA 21-2-1 et seq.
4. Only those persons registered to vote for members of G.A. residing, on the date of the adoption of the resolution, in the proposed area shall vote.
5. simple majority vote required.
6. if vote defeated, cannot hold new vote for two years for any area or portion thereof.

36-36-59 Filing with Department of Community Affairs.

1. if approved, file notice with DCA and county.

36-36-60 Authorized annexation expenditures.

2. city authorized to make expenditures for surveys or any other purpose necessary to plan for the study and annexation.

ANNEXATION BY LOCAL ACT OF GENERAL ASSEMBLY

(O.C.G.A. § 36-36-1, § 36-36-15, § 36-36-16)

Summary This article establishes procedural requirements that the General Assembly must follow in order to annex through local Act. This article should be considered in light of O.C.G.A. § 36-36-10 which expresses the General Assembly’s intent to retain broad annexation powers.

28-1-14 Notice of intention to introduce a local Act has been advertised in the newspaper in which the sheriff’s advertisements for the locality affected has been published one time before the bill is introduced, but not more than 60 days prior to the convening date of the session at which the bill is introduced.

36-36-6 A copy of the notice to introduce local legislation, a copy of the bill itself, and a map or description of the property to be annexed has been sent by the author to the governing authority of the county and the municipality affected by the annexation by certified mail at the same time the notice of intent is published. O.C.G.A. § 36-36-6, § 28-1-14, § 28-1-14.1, § 36-36-9.

- 28-1-14** An affidavit made by the author of the bill stating that the notice above has been given has been attached to the legislation. O.C.G.A. § 28-1-14.
- 36-36-6** Upon receipt of notice from the General Assembly, the governing authority of the municipality has forwarded a copy of the proposed legislation to the county governing authority. O.C.G.A. § 36-36-6.
- 36-36-16** If more than 50 percent of the area proposed to be annexed is used for residential purposes, and the area is comprised of at least 500 people or contains more than 3 percent of the population of the affected municipality, a referendum approving the annexation has been held in the area to be annexed. O.C.G.A. § 36-36-16.
- 36-36-3** The city has filed an identification of the annexed land with the Department of Community Affairs and the county within 30 days of the last day of the quarter during which the annexation becomes effective. O.C.G.A. § 36-36-3, § 36-36-38.