

ARKANSAS ANNEXATION STATUTES

Annexation is the inclusion of previously unincorporated lands within the city (incorporated) limits. Resident benefits include access to urban services, such as enhanced police and fire protection, and having a voice in city government. The City gains the ability to control development and extend boundaries in a logical, planned manner. Annexation is regulated through state then local statute/ordinance.

The state guidelines for annexation are available in Title 14, Chapter 40 of the Arkansas Code Annotated (1987). Annexations can be initiated by a municipality (“Stuttgart”) or by property owners. The following paper documents the steps/procedures a municipality must go through to annex property in the State of Arkansas.

City of Stuttgart Annexation

Stuttgart can annex contiguous lands, lands surrounded by Stuttgart, and land contiguous and in adjacent counties.

Annexation of Contiguous Lands

To annex any contiguous lands, Stuttgart must adopt an **ordinance**, passed by two-thirds (2/3) of the Stuttgart City Council and hold an election of the people. The lands must meet one of the following criteria:

- Platted and held for sale or use as city lots;
- Whether platted or not, if lands are held to be sold as suburban property;
- When the lands furnish the abode for a densely settled community or represent the actual growth of the city beyond its legal boundary;
- When the lands are needed for any proper city purposes such as for the extension of needed police regulation; or
- When they are valuable by reason of their adaptability for prospective city uses.

Contiguous lands must NOT be annexed if they meet either of the following criteria:

- Have a fair market value at the time of adoption of the ordinance if lands used only for agricultural or horticultural purposes and the highest and best use of the land is for agricultural or horticultural purposes; or
- 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 VII of the Housing and Urban Development Act of 1970.

The annexation **ordinance** shall:

- Contain an accurate description of the lands desired to be annexed
- Include a schedule of the services of the annexing city that will be extended to the area within three (3) years after the date the annexation becomes final; and
- Fix the date for the election.

Election procedure and result contingencies:

- The annexation ordinance shall not become effective until the question of annexation is submitted to the qualified electors of the annexing city and of the area to be annexed at the next general election or at a special election. The special election shall be conducted no earlier than sixty (60) days after the date of enactment of the ordinance.
- If a majority of the qualified electors voting in the election shall vote for the annexation, the county clerk shall, no later than seven (7) days following the election, certify the election results, 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.
- 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 ACA § 14-40-304 on the date the judgment of the 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.
- 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.
- 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.

- 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.
- All of the qualified electors residing within the territory to be annexed shall be entitled to vote in the election.
- 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.
- 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.
- 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.
- 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.
- If the annexation is approved and becomes final, the City Council 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.
- 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.

Other election result contingencies:

- 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 within thirty (30) days before or after the holding of the first city's election.

- 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.
- If only one (1) of the annexation elections is approved by the voters, then the city which called that election shall proceed with the annexation of the land.
- If both annexation elections are approved by the voters, then a third election shall be held three (3) weeks after the second annexation election.
- Only the residents of the area proposed to be annexed by both cities shall vote in the third election.
- 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.
- The area shall be annexed into the city receiving the most votes in the third election.
- In the event of a tie vote in the third election, the area shall be annexed to the city which, in the first or second election, had the highest percentage vote in favor of the annexation.
- If the city which 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 such 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.

Annexation of Lands Surrounded by Stuttgart

To annex land surrounded by Stuttgart, the City Council can propose an ordinance to annex the property (with the lands meeting the above criteria). A public hearing must be held within sixty (60) days of the proposed ordinance. A majority of the City Council must approve the annexation for it to become effective. At the next regularly scheduled meeting following the public hearing, the City Council proposing annexation may bring the proposed ordinance up for a vote.

If a majority of the total number of City Council 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.

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

Annexation of Contiguous Lands and in Adjoining Counties

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.

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.

Annexation by Adjoining Property Owners

Property owners in areas contiguous and adjacent to a city may request annexation. They can apply with a petition of the majority of landowners in the area, if the majority of the total number of owners own more than one-half of the acreage affected. This is one of the most popular avenues in which to annex land. (Please review **Appendix I** for the Petition Process).

In conclusion, the annexation process is a municipal planning tool that is regulated through both state and local governing bodies. Please consult the relevant sections of the Arkansas Code Annotated, your local zoning ordinance, and your City Attorney for further refinement of the information presented here. For general questions regarding the information presented here, please feel free to contact me:

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APPENDIX I

PETITION ANNEXATION PROCEDURE Stuttgart, Arkansas County, Arkansas

The City of Stuttgart can annex land through the petition process. Through the Arkansas state statutes, this process requires submission of a petition signed by more than half of the property owners and by owners of more than half the land area. This area must be adjoining the city.

1. The petition must be submitted to the County Court.
2. The Court sets a hearing date.
3. The petitioner(s) must place a notice of public hearing classified advertisement in the *Daily Record* once a week for 3 consecutive weeks.
4. The Court holds the hearing, and if appropriate, releases the area to the city.
5. The petition is brought to the City. The following items must be submitted:
 - A) A copy of the petition requesting annexation
 - B) A copy of the plat of the proposed annexation.
 - i) No property will be annexed before all current configurations of parcels of property within the area have been identified. Upon annexation, only those parcels that are in compliance with the Subdivision Ordinance of the City of Stuttgart shall be eligible for the issuance of building permits (Please see the Stuttgart Unified Development Plan).
 - ii) In order to ascertain the configuration of existing parcels of property, all applications for annexation will include a map of the area, drawn to scale showing the parcels and their ownership. The map will include:
 - a) All subdivisions that have been approved by the Planning Commission
 - b) All subdivisions that were properly filed prior to the creation of the Planning Commission
 - c) Any subdivisions that were created before the area was under the jurisdiction of the Planning Commission
 - C) For parcels that are not part of a legal subdivision, copies of deeds showing the parcel in its current configuration must be submitted. If no deeds are available, parcels must be created through a legal subdivision or it must be established through deeds that the parcel was created at a time when it was not within the territorial jurisdiction of the City of Stuttgart or those parcels will not be eligible for the issuance of building permits.
 - D) A copy of the legal description of the proposed annexation.
 - E) A copy of the order of the County Court releasing the proposed annexation.

6. If the Planning Commission has not reviewed the proposed annexation, they review it at this point. In order to be placed on the Stuttgart Planning Commission agenda, the request must be submitted not less than _____ days prior to the meeting. No filing fee or notification is required.
7. The City Council, if appropriate, adopts the ordinance annexing the area.
8. The final ordinance must be published in the *Daily Record*. The City Clerk will bill the petitioner(s) for the publication fee.
9. No property will be annexed to the City of Stuttgart before it has been established in the annexing ordinance which portions of which existing streets within that property will be accepted as public streets for maintenance and which streets will be recognized as public streets for the sole purpose of allowing the issuance of building permits (see actual language in Stuttgart Unified Development Plan). No section of a street will be accepted for public maintenance unless the appropriate right-of-way, based on the Master Street Plan, has been dedicated by the abutting property owners.

For the convenience of the petitioners, the City has followed the custom of allowing the petitioners to bring the proposed annexation to City Council prior to filing it with the County.

1. The Planning Commission reviews the proposed annexation and makes a recommendation to the City Council. To be placed on the agenda, the procedures in numbers 5 (A through C), and 6 above must be followed and a copy of the resolution.
2. If appropriate, the City Council passes a resolution agreeing to annex the area if the County releases it. The petitioner is responsible for submitting any other supporting documents (such as plats or descriptions) as requested by the Planning Commission and/or City Council.

All items brought before the Stuttgart Planning Commission must be submitted no later than _____ days prior to the meeting. A meeting is held each month at _____ p.m. in the _____ in City Hall at _____.

It should be noted that this is not an exhaustive guideline regarding annexations. Appropriate state statutes and county and city ordinances and resolutions will provide additional information. See your city attorney, _____, for specifics and review the Arkansas Code Annotated (1987), Title 14 (Local Government), Chapter 40, Subchapters 2-6.

Checklist of Items for an Annexation Request

- ❑ **Petition for Annexation** – Filed with the Planning Department no later than _____ days prior to the public hearing.
- ❑ **Plat of the Proposed Annexation** – Filed with the Planning Department no later than _____ days prior to the public hearing.
- ❑ **Legal Description of the Proposed Annexation Area** – Filed with the Planning Department no later than _____ days prior to the public hearing.
- ❑ **Identification** of parcels through subdivision and/or deeds.
- ❑ **A copy of the order of the County Court releasing the proposed annexation** - May be filed with the Stuttgart Mayor’s Office after the County has actually released the property.
- ❑ Typically, the **Planning Commission bylaws** require a representative be present at the Planning Commission meeting for each request. If no representative is present, the request will be held in committee.

Notice of Public Hearing - Required by Arkansas County

All owners of real property within the following described territory in Arkansas County, Arkansas are hereby notified that a petition has been filed with the County Judge of Arkansas County, Arkansas purporting to be signed by **(name(s))**_____

As owner(s) of real estate within said territory, which petition states that the territory is contiguous to the City of Stuttgart and prays that the territory be annexed to the City of Stuttgart:

(Property Legal Description)

All owners of real property within said territory are advised that a hearing will be held on said petition by the County Judge at the hour of **(time)** _____ on the **(date)** _____, and that at said meeting, said County Judge will determine whether those signing the same constitute a majority of the real estate owners within said territory and, at said meeting, all owners of real property within said territory who desire will be heard upon the questions.

Arkansas County Clerk

This notice is to be run in the legal notice section of the *Daily Record* for once a week for 3 consecutive weeks.

Deadline for Legal Notices

The deadline for the legal notices is _____ days before publication. Legals may be e-mailed to _____ or faxed to _____ or dropped off at the office at _____. Questions concerning the *Daily Record* procedures should be directed to:

<*Daily Record* contact person & address>

(Sample Petition for **Annexation to the City of Stuttgart.**
Final copy should be typewritten)

Petition For Annexation

(Name of petitioner(s)) _____ hereby petitions the City of Stuttgart,
Arkansas for annexation of the following lands into the City of Stuttgart:

(Enter legal description here.)

And requests the property to be zoned **(Enter desired zoning)** _____ upon
annexation

(signature) _____
(name)

(Sample Petition for **Annexation to be submitted to the County Court of Arkansas County, Arkansas.** *Final copy should be typewritten*)

(name) _____

NO. 01 - _____

Petition For Annexation

(name) _____ for its petition for the annexation of certain lands unto the City of Stuttgart, Arkansas, states:

1. Petitioner is the owner of the following described lands in Arkansas County, Arkansas:

(Enter Legal Description)

2. Said lands are contiguous to and adjoin lands which are included within the city limits of the City of Stuttgart, Arkansas; said lands are adaptable for residential purposes; an accurate map of said lands is attached to this petition; the limits of the territory to be annexed have been accurately described herein; all other requirements of the law for the annexation of said lands into the City of Stuttgart, Arkansas, have been met; and said lands should be annexed unto the City of Stuttgart, Arkansas, and become a part thereof.

WHEREFORE, Petitioner prays that this Court enter its order abandoning unto the City of Stuttgart, Arkansas, for annexation, the aforesaid lands.

Note: All petitioners must sign

(name) _____
(address) _____
(City, State, Zip) _____

BY: _____
(name)