

1974 WL 27593 (S.C.A.G.)  
Office of the Attorney General  
State of South Carolina  
January 14, 1974

**\*1 Re: Methods of Municipal Annexation**

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Attorney General

1. The standard procedure to be followed in municipal annexations is as follows:

A. Petition of Annexation (§ 47-12) A petition by a majority of the freeholders of the territory which is proposed for annexation requesting an election on annexation plus an adequate description of the area in question is submitted to the municipal governing body. [§ 47-19.19 defines a 'freeholder' as 'Any person 21 years old, or older, or any firm or corporation, who or which owns legal title to a present possessory interest in real estate equal to a life estate or greater (expressly excluding lease holds, easements, equitable interests, inchoate rights, dover rights and future interests) and who owns, at the date of the petition or of the referendum, at least an undivided one-tenth interest in a single tract and whose name appears on the county tax records as an owner of real estate.']

B. Certification of Petition (§ 17-14) If the municipal council finds that the petition was signed by the majority of freeholders within the proposed area to be annexed, it shall certify that fact to the County Commissioners of Elections who shall order an election within the municipality and the area proposed to be annexed.

C. Notice of Election will be published by Commissioners of elections at least ten days prior to proposed election in three conspicuous places in the municipality and three places in the proposed area to be annexed. Notice will also be published in a newspaper of general circulation in the area. (§ 47-15).

D. Conduct of Election (§ 47-16) Elections shall be a special election. Registered qualified voters shall have same qualifications as voters in State and County general election. Voters within municipality will use their usual precincts and voters in the proposed area to be annexed will vote in separate boxes designated by County Commissioners of Elections.

E. Results of Election (§ 47-17) Results of election in municipality and area proposed to be annexed will be published separately. Commissioners of Elections will certify results to municipal governing body. Majority of votes cast must be attained in both municipality and area proposed for annexation.

F. Notice Filed (§ 47-18) Notice of annexation describing the new boundaries (both written description and map) must be filed with the Secretary of State and the State Highway Department.

2. Alternate method of annexation for any area contiguous to municipality (§ 47-19.5)

A. Filing Petition with municipal governing body signed by 75% of the assessed valuation of real property in the area requesting annexation.

B. Acceptance of Petition by municipal governing body.

C. Inactment of an Ordinance declaring area annexed. No member of governing body owning property in area can vote on the ordinance.

D. Limitations:

- \*2 1. All signatures on petition must be obtained within six months.
  - 2. Petition and signatures will be open to public inspection at all times on demand to concerned citizens.
  - 3. Petition must state act or code section pursuant to which proposed annexation is to be accomplished.
  - 4. Petition will contain a description of the area and a plat of the area will be attached.
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- 3. Alternate method of annexation of adjacent area (§ 47-19.11) Area to be annexed by this method is not to exceed ?? the area of the municipality or be part of an existing municipality.
- A. Petition: Presentation to governing body a petition signed by 25% of freeholders resident in the area (in cities of 25,000 or here, the petition needs only 15% of resident freeholders' signature.)
  - B. Certification: Petition certified by governing body to Commission of Elections together with a description of the area.
  - C. Commission orders referendum and election.
    - 1. Majority of freeholders voting in area proposed for annexation and majority of registered voting in the municipality must both favor annexation before it is approved. (§ 47-19.13)
    - 2. Notice of election and referendum must be inserted in newspaper once a week for at least four successive weeks (the first notice should be at least 60 days prior to election). (§ 47-19.14)
    - 3. County auditor shall provide Commission of Elections with a list of freeholders in the area not later than 20 days before the election. (§ 47-19.15)
    - 4. If election or referendum is defeated another will not be held for 34 months. (§ 47-19.10)
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- 4. Alternate method of annexation for special areas:
    - A. When the entire area to be annexed is owned by one of the groups or entities listed below, an election may be avoided by submission of a petition by the governing body of such group to the governing body of the municipality, agreement by the municipal governing body, and passage of an ordinance to that effect by the municipality.
      - 1. Area owned by a corporation; petition by stockholders of the corporation (§ 47-19)
      - 2. Area owned by a school district, petition by Board of Trustees of the school district (§ 47-19.1).
      - 3. Area owned by Federal or State government, petition by Federal Authority or State Budget and Control Board (§ 47-19.2).
      - 4. Area owned by a church or religious group, petition by governing body of the church or group (§ 47-21).
      - 5. Area owned by the municipality, a resolution by the municipality's governing body is required (§ 47-18.1).
      - 6. Area owned by the County, a resolution by the County governing body is presented (§ 47-18.1).

B. Adjacent cemeteries may be annexed by passage of an ordinance, but only for purposes of police and sanitation. No taxing power is given (§ 47-20).

C. Any area contiguous to a municipality may be annexed by filing with the municipal governing body a petition of all persons owning real estate in the area, acceptance of the petition by the municipal governing body, and passage of an ordinance (§ 47-19.5).

**\*3 5. Contesting extension of municipal limits (§ 47-22):**

To contest the extension of municipal limits one must file with both the clerk of the city and clerk of court of the county within 60 days after result has been published a notice of intent to contest such extension. Action must be begun and original summons and complaint filed with county clerk of court within 90 days from the time results are published.

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Law Clerk

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