



THE SIXTY PERCENT PETITION ANNEXATION METHOD

The most frequently used method of annexing unincorporated territory is by petition of the owners of at least 60 percent of the property value in the area, computed according to the assessed valuation of the property for general taxation purposes.

A. Initiation of the 60 Percent Petition Annexation (RCW 35A.14.120)

Prior to circulating a petition for annexation, the initiating party or parties (the owners of property representing not less than ten percent of the assessed value of the property for which annexation is sought) must give written notice to the city council of their intention to commence annexation proceedings.

B. Meeting with Initiators on the Annexation Proposal (RCW 35A.14.120)

The city council is to set a date (not later than 60 days after the filing of the notice) for a meeting with the initiating parties to determine:

1. Whether the city will accept, reject, or geographically modify the proposed annexation;
2. Whether it will require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed (as provided for in RCW 35A.14.330, and RCW 35A.14.340); and
3. Whether it will require the assumption of all or any portion of existing city indebtedness by the area to be annexed.

If the legislative body requires the adoption of a proposed zoning regulation and/or the assumption of all or any portion of indebtedness as conditions to annexation, it is to record this action in its minutes.

Council acceptance is a condition precedent to circulation of the petition. There is no appeal from the council decision.

C. Contents of Petition (RCW 35A.14.120)

If the city council accepts the initial annexation proposal, the petition may be drafted and circulated.³⁸ The petition must:

4. Describe the property according to government legal subdivisions or legal plats.
5. Be accompanied by a map that outlines the boundaries of the property sought to be annexed.
6. If the council has required the assumption of all or any portion of city indebtedness and/or the adoption of a proposed zoning regulation for the area to be annexed, set forth these facts clearly, together with a quotation of the minute entry of that requirement.
7. Be signed by the owners of not less than 60 percent of the assessed value³⁹ of the property for which annexation is petitioned. "Owners" eligible to sign are defined in RCW 35A.01.040(9)(a) through (e).⁴⁰ (See Appendix, which reproduces the provisions of RCW 35A.01.040.)
8. Comply with the rules for petitions in RCW 35A.01.040 (See Appendix). RCW 35A.14.130.

D. Filing of Petition; Determination of Sufficiency

9. The petition is to be filed with the city council. RCW 35A.14.120. Although there is no time limit specified in the annexation statutes as to when a petition need be filed with the council after it has begun circulating for signatures, the signatures on a petition are valid only if signed no later than six months prior to the filing date. Any signatures older than six months are to be stricken from the petition by the officer certifying petition sufficiency. RCW 35A.01.040(8).
10. The petition must be certified as sufficient (i.e., as having valid signatures representing the required 60 percent of property value). Within three working days of the filing of the petition, the officer with whom the petition is filed must transmit the petition to the county

assessor, who makes the determination of the sufficiency of the petition. The county officer whose duty it is to determine petition sufficiency must file with the officer receiving the petition for filing a certificate stating the date the determination of sufficiency was begun. The officer determining petition sufficiency must do so “with reasonable promptness.” RCW 35A.01.040(4).

E. Hearing on Petition (RCW 35A.14.130)

When a legally sufficient petition is filed, the city council may consider it⁴¹ and:

11. Fix a date for a public hearing, and
12. Provide notice specifying the time and place of the hearing and inviting interested persons to appear and voice approval or disapproval of the annexation. The notice is to be:
 - a. Published in one or more issues of a newspaper of general circulation in the city; and
 - b. Posted in three public places within the territory proposed for annexation.

There are no statutory requirements concerning the actual hearing, other than to give proponents and opponents an opportunity to speak.

F. Limitation on Consideration of Conflicting Petitions and Resolutions (RCW 35A.14.231, 35.02.155)

After an annexation petition has been filed with the city proposing the annexation of territory, no territory included in the proposed annexation may be annexed by another city or town unless: (1) the boundary review board or annexation review board modifies the annexation proposal and removes the territory; (2) the boundary review board or annexation review board rejects the annexation; or (3) the city council or the voters, as the case may be, reject the proposed annexation. RCW 35A.14.231. This rule does not prevent a city, after an annexation petition has been filed with it, from considering a different annexation proposal embracing some of the same territory.

If a city incorporation has been proposed by the filing of a petition with the county auditor under RCW 35.02.020, an existing city may still annex territory included within the proposed incorporation if, within 90 days of that filing, a petition proposing the annexation of that territory is filed. Territory that is ultimately annexed to a city will be withdrawn from the incorporation proposal. RCW 35.02.155.

If an annexation is proposed by petition more than 90 days after the filing of an incorporation petition that includes territory proposed for annexation, the annexation must “be held in abeyance” and may not occur unless: (1) the boundary review board modifies the proposed incorporation to remove the territory proposed for annexation; (2) the boundary review board rejects the proposed incorporation and the proposed city has a population of less than 7500; or (3) the voters reject the proposed incorporation. RCW 35.02.155.

G. Decision (RCW 35A.14.140)

13. Cities in Counties Without Boundary Review Boards

Following the hearing (though not necessarily immediately), the city council decides whether to approve the annexation. If it decides to approve, it must enact an ordinance to annex the territory. RCW 35A.14.140. It may annex all or any portion of the area proposed for annexation, but may not include any property not described in the annexation petition. *Id.* The county annexation review board does not review annexations under the 60 percent petition method. RCW 35A.14.220.

14. Cities in Counties Having Boundary Review Boards

Since a code city in a county with a boundary review board may not annex territory without prior board approval (unless the board determines, for certain proposals, that review is not necessary, or the board's jurisdiction is not invoked),⁴² an annexation ordinance passed following a hearing but before board review cannot yet be effective. Consequently, cities in counties requiring action by a boundary review board, when they have not previously received review board approval, often first pass a motion or resolution of intent to annex. After review board approval, the formal ordinance is adopted.

15. Conflict between RCW 35A.14.140 and Boundary Review Board Statutes

An area where the boundary review board statutes and the annexation statutes present a conflict concerns the ability of the city council, under RCW 35A.14.140, to pass an ordinance annexing “all or any portion of the proposed area” but not “any property not described in the petition.”

Under RCW 36.93.150(2), the boundary review board may add or delete territory from a proposed annexation, and, under RCW 36.93.155, a city may not approve an annexation other than that which receives board approval. Thus, if the board adds territory to that included in the petition, one statute says a city may not annex property not included in the petition, and another says that the city must annex, if at all, all the territory that the board approved for annexation, which, in this circumstance, would be more than was included in the petition. MRSC is not aware of a city having confronted this type of situation, but it could occur.

However, a 2006 state supreme court decision appears to have, for the most part, eliminated this conflict. In *Interlake Sporting Ass'n v. State Boundary Rev. Bd.*, 158 Wn.2d 545 (2006), the court held that a boundary review board does not have authority under RCW 36.93.150 to add territory to an annexation; to do so would violate RCW 35A.14.140.

It is uncertain what this state supreme court decision means in the situation where a code city, under RCW 35A.14.140, wants to annex only a portion of the territory described in the petition and the boundary review board has approved the annexation of all the territory in the petition. The same concerns addressed by the court in *Interlake Sporting Ass'n* in the situation where the boundary review board adds territory not included in the petition are not present when the board does not add territory, so it may be that RCW 36.93.155 would trump the authority of a code city to approve annexation of less territory than approved by the board.

H. Review⁴³

16. Boundary Review Board (RCW 36.93.090, .100)

If a boundary review board has been established within the county, the annexation initiators must file a “notice of intention” with the board within 180 days of when the annexation is proposed. If the proposal is to annex territory of a fire district and/or library district, the city must provide notice to such district(s) of the proposed annexation simultaneously when notice of the proposed annexation is provided to the boundary review board.

The board may assume jurisdiction over the annexation if, within 45 days of filing the notice of intention, a request for review is made by:

- a. The city to which the annexation is proposed, the county within which the annexation is proposed, or any other affected governmental unit; or
- b. Petition of registered voters or property owners.

If jurisdiction is not invoked within 45 days, the proposed annexation is deemed approved.

The board must act within 120 days of the review request, unless the board and the annexation initiators agree to an extension. If no decision is made within 120 days and no extension is granted, the proposal is deemed approved.

17. County Annexation Review Board for Code Cities (RCW 35A.14.220)

The county annexation review board for code cities does not review annexations under the 60 percent petition method.

I. Effective Date of Annexation (RCW 35A.14.150)

The annexation, together with any provision relating to application of a proposed zoning regulation, is effective on the date fixed in the ordinance. The relevant statute, RCW 35A.14.150, does not specify any date by which the annexation must be made effective. Note, however, that there are important timing issues as to when an annexation occurs with respect to when the city's property tax levy can be effective in the newly annexed area and with respect to receipt of state-shared revenues, sales tax, and, if applicable, sales tax equalization payments. See Chapter Four, Section IV.

J. Notice of Annexation (RCW 35A.14.150, RCW 35A.14.801, RCW 84.09.030)

For information on the notice that should be given following completion of the annexation process, see discussion in Section I.M. of this chapter.