



Changing Boundaries: A Look at Annexation in NE Florida

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Annexation, in its simplest terms, is the addition of territory to municipalities. Traditionally, cities, counties, and rural property owners used annexation to provide urban services to rural areas. In the past, cities were the main source for essential services, such as police, fire, water and sewer. However, with the onset of counties providing services, the traditional reason to annex has diminished. Today, annexation is still a tool for property owners to obtain services in rural counties, but it is also a mechanism for cities to increase their customer base for the provision of services, a source for municipal economic development, a device for landowners to shop for the laws and regulations that best suit their needs, and a way for homeowners to bring government closer to home.

Source: Alison Yurko, *A Practical Perspective About Annexation in Florida*, 25 Stetson L. Rev. 699

Chapter 171 of the Florida Statutes governs municipal annexation. Cities may annex land through voluntary annexation, involuntary (municipality proposed) annexation, annexation by special law, annexation by charter, or annexation by interlocal agreement.

Voluntary Annexation. Florida Statute Section 171.044 provides that owners of real property in an unincorporated area of a county, may petition the governing body of a municipality for annexation. The property must be contiguous to the municipality and reasonably compact. The governing body may adopt an annexation ordinance based on the petition after fulfilling the procedural requirements in Section 171.044. Voluntary annexations can not create "enclaves," which are defined as unincorporated areas bounded on all sides by a single municipality, or bounded by a single municipality and a natural or manmade obstacle. However, Section 171.046 liberalizes this limitation because it allows annexation of enclaves by **Interlocal Agreement**, or by municipal ordinance.

Involuntary (Municipality Proposed) Annexation. Florida Statute Section 171.0413 provides procedures for involuntary annexation. The property must meet the character requirements in Section 171.043, and the municipality must prepare an annexation report setting forth the plans to provide the annexation area with urban services. After proper notice, the governing body may adopt an annexation ordinance, but the ordinance does not become effective until it is submitted to the registered electors of the annexation area for approval. The municipality may submit the ordinance to the registered electors of the municipality for approval as well.

Annexation by Special Law is authorized by Section 171.044(4). For example, a Gainesville Special Act allows certain liberalized procedures for annexing enclaves.

Annexation by Charter applies to municipalities within Charter Counties. A County Charter may provide rules for annexation. For example, Orange County has a specific charter provision governing annexation of preservation areas.

Comprehensive Planning and Municipal Annexation in Florida

The relationship between annexation and the local government comprehensive plan is not clearly defined by Florida's Growth Management Act or the Municipal Annexation or Contraction Act. Under the Growth Management Act, a municipality exercises authority for the total area under its jurisdiction and a county exercises authority for the total unincorporated area under its jurisdiction. Unincorporated areas adjacent to incorporated municipalities may be included in the area of municipal jurisdiction, if the governing bodies of the municipality and the county execute a joint planning agreement that complies with Florida Statute Section 163.3171.

Authority granted by the Municipal Annexation or Contraction Act begins when the annexation ordinance becomes effective. An involuntary annexation ordinance becomes effective 10 days after the required referendum, or as otherwise provided in the ordinance. A voluntary annexation ordinance provides its own effective date. However, regardless of effective date, the municipality must apply the county's land use plan and zoning regulations until it adopts a comprehensive plan amendment adding the annexed area to the municipality's Future Land Use Map.

A comprehensive plan amendment may take six to nine months to complete, so a municipality may have to wait to apply its own rules, or apply unfamiliar county standards. One solution to this problem is planning before annexation. A municipality may transmit a comprehensive plan amendment before it completes annexation, and then adopt the comprehensive plan amendment at the public hearing which completes the annexation.

The Department of Community Affairs accepts this procedure as a common-sense method of blending the Growth Management Act and the Municipal Annexation or Contraction Act. However, a still pending challenge to a small scale comprehensive plan amendment argues against this process, so changes may be on the way.

(Brevard County v. City of Palm Bay, DOAH Case No. 00 -1956GM).

Another conundrum is the difference between the data and analysis needed for annexation versus comprehensive plan amendments.

The Municipal Annexation or Contraction Act does not require the same detailed data and analysis required for comprehensive plan amendments.

The different requirements can affect a municipality when it adopts a voluntary annexation ordinance based on a property owner's petition. After municipalities collect data and analysis for the comprehensive plan amendment, some find that the proposed use of the property does not comply with the Comp. Plan.

One way to coordinate planning with annexation is the Intergovernmental Coordination Element of the Comp. Plan. This element must provide procedures to identify and implement joint planning areas, especially for the purpose of annexation. However, even with this requirement, the annexation and planning statutes do not work together in a meaningful way. The solution may lie in annexation reform, which is a hot topic for the January legislative session.

***In January 2002 . . .
the issue of annexation
reform will be addressed by
Florida's Legislative Committee
on Intergovernmental relations.***

Sample of Municipal Annexations in Northeast Florida*

CITIES	YEAR	ACRES	CHARACTER
Atlantic Beach	1996	384	Vacant, Small Radio Station
Bunnell	1996	580	Residential, Wetlands, Golf Course
Green Cove Springs	1998/99	181	Water Plant, Addition to Golf Club
St. Augustine	1999	116	Commercial, Residential
Palatka	2000	30	Commercial

*Compiled from Comprehensive Plan Amendments submitted to the Regional Planning Council between 1996 and 2001.

A Choice of Procedure: Involuntary (Municipality Proposed) vs. Voluntary Annexation

MUNICIPALITY PROPOSED

1. Area must meet F.S.171.043 urban purposes requirements.
2. City prepares annexation report; files report with county.
3. City adopts annexation ordinance. Challenges must be filed within 30 days.
4. City submits ordinance to voters in annexation area; may also submit to voters in the City.
5. City files successful annexations with Department of State within 30 days.

COMMENTARY

“Urban Purposes” requirement in F.S. 171.043 not required in voluntary annexations.

Referendum not required in voluntary annexations.

Enclaves prohibited in voluntary annexations, but F.S. 171.046 liberalizes this limitation.

Source: 2000 Florida Statutes, Chapter 171.

VOLUNTARY

1. Owners of contiguous, compact property petition City.
2. City notifies Board of County Commissioners before ordinance adopted.
3. City may adopt annexation ordinance based on petition. Challenges must be filed within 30 days.
4. Within 7 days, ordinance must be filed with clerk of circuit court, CAO of county, and Department of State.
5. No voluntary annexation if annexation creates enclaves.



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Pitfalls of Annexation

Long-range planning for annexation can prevent annexation pitfalls. The boundary of this unnamed Florida municipality depicts annexation pitfalls such as enclaves, deep pockets, and point annexation.

The problems caused by annexation pitfalls can include:

- Inability to plan for future provision of services.
- Difficulty in determining clear and logical service areas.
- Duplication of services.
- Circumvention of growth management and environmental laws.
- Adverse effects on pre-existing contract rights.
- Confusion over ownership and maintenance of roads and drainage.
- Adverse impacts to local government concurrency management systems.

