

WISCONSIN ANNEXATION METHODS

Annexation is the process that transfers unincorporated territory from towns to incorporated cities and villages.

Wisconsin's statutes authorize a number of different methods for accomplishing annexation. These methods are:

- Annexation by **Unanimous Approval** ([s. 66.0217\(2\) Wis. Stats.](#))
- Annexation by **One-Half Approval** ([s. 66.0217\(3\)\(a\) Wis. Stats.](#))
- Annexation by **Referendum** ([s. 66.0217\(3\)\(b\) Wis. Stats.](#))
- Annexation by **City or Village-Initiated Referendum** ([s. 66.0219 Wis. Stats.](#))
- Annexation of **Town Islands** ([s. 66.0221 Wis. Stats.](#))
- Annexation of **Territory Owned by a City or Village** ([s. 66.0223 Wis. Stats.](#))

Each of these annexation methods has its own unique requirements, process, timeline, and participants.

The first three methods listed above are initiated by landowners and may require state review by the Wisconsin Department of Administration.

The last three methods listed above are initiated by cities or villages and do not require state review.

Typically landowners desire to annex their land from to city or village in order to obtain sewer and water or other municipal services not available in the town, but they may be motivated to annex for other reasons as well.



Annexation by Unanimous Approval [s. 66.0217\(2\) Wis. Stats.](#)

Unanimous approval annexations, often referred to as unanimous *consent* annexations, are the most commonly used annexation method, comprising over 90% of all annexations in a typical year.

The *unanimous* in unanimous approval annexations means that all owners and electors involved with the territory to be annexed, including any renters, must sign the petition. If not everyone signs the petition then the annexation is not considered to be truly unanimous and a different annexation method should be used instead, such as annexation by one-half approval.

Unanimous approval annexation typically involves:

- 1) Property owner(s) desiring to annex;
- 2) Town(s);
- 3) Annexing city or village, and
- 4) Department of Administration

Department review of unanimous approval annexations is required for annexations occurring in counties with a population of 50,000 persons or greater, referred to as *urban* counties. Counties having populations less than 50,000 persons are referred to as *rural* counties. Department review in rural counties is voluntary.

The Department's review of unanimous approval petitions includes examining the legal description and scale map, the shape and homogeneity of the annexation territory, and whether the annexing city or village can provide services. This review is advisory, however annexing cities and villages must at least consider the Department's advice before taking final action.

Department review of unanimous approval annexations may also occur if the affected town or towns request a *contiguity* review under s. 66.0217(6)(d) Wis. Stats., in which case the Department reviews the annexing city or village's annexation ordinance. Review criteria are:

- 1) Whether the annexation is contiguous to the annexing city or village, and
- 2) If the annexation would expand the city or village's jurisdiction into a new county, whether the town has consented to the annexation.

Contiguity reviews are available to towns statewide, not just to those located within urban counties.

Final steps in the unanimous approval annexation process are adopting an annexation ordinance and submitting a copy of this ordinance to the Department of Administration, the County Register of Deeds, and affected school districts. Communicating the annexation to these entities ensures that the boundary change becomes known to state and federal agencies, local jurisdictions, and private businesses and entities. See s. 66.0217(9) Wis. Stats. Failure to submit the annexation with the Department of Administration in particular may reduce state and federal aids based on population, equalized value, and road mileage.

The ordinance adopting the annexation must be by at least a two-thirds vote of the elected members of the governing body.

Annexation by One-half Approval [s. 66.0217\(3\)\(a\) Wis. Stats.](#)

One-half approval annexations are distinguished from unanimous approval annexations primarily by the fact that not all of the residents or landowners within the annexation territory are in favor of being annexed. For this reason, they are sometimes also referred to as *non-unanimous* annexations.

This non-unanimous aspect means that one-half approval annexations can often be controversial and contentious, which many communities are eager to avoid. As a result, this type of annexation tends to occur much less frequently than unanimous approval annexations. Typically they account for less than 10% of all annexations annually.

One-half approval annexations involve more procedural steps, perhaps because they may result in unwilling residents being transferred into a new jurisdiction. These additional procedural protections include:

- 1) Publication of a class 1 notice of in the local newspaper indicating an intent to circulate an annexation petition;
- 2) Review by the Department of Administration if the territory is located within an urban county. The Department has within 20 days to review the proposed annexation's legal description and scale map, as well as its shape and homogeneity with the annexing city or village, and whether that city or village can provide services. This review is advisory, however annexing cities and villages must at least consider the Department's advice before taking final action.
- 3) Petition must be signed by a majority of the electors within the territory AND either the owners of one-half the real property in assessed value or in land area. If no electors reside in the territory, then the owners of either one-half the real property in assessed value or in land area must sign the petition, and

- 4) Adoption of an annexation ordinance by at least a two-thirds vote of the elected members of the governing body.

Additionally,

- 5) A referendum vote on the annexation may be held if 20% of the electors residing in the territory sign a petition. If the referendum vote is against annexation, then the adopted annexation ordinance is nullified.

Completed annexations must be sent to the Department of Administration, the County Register of Deeds, and affected school districts so that the new municipal boundary change becomes known to state and federal agencies, local jurisdictions, and private businesses and entities. See s. 66.0217(9) Wis. Stats. Failure to file the annexation with the Department of Administration may reduce state and federal aids based on population, equalized value, and road mileage.

Annexation by Referendum [s. 66.0217\(3\)\(b\) Wis. Stats.](#)

Annexation by referendum is a rarely used method, although it is a statutory tool that remains available to residents and therefore is a method to be aware of. It is sometimes referred to as Annexation by *Citizen-Initiated* Referendum to distinguish it from City or Village-Initiated Referendum. Citizen-Initiated Referendum annexations are also noteworthy because they are the only type of annexation where the city or village is not involved as an active participant.

The process involves:

- 1) Publication of a class 1 notice in the local newspaper indicating an intent to circulate an annexation petition;
- 2) Review by the Department of Administration if the territory is located within an urban county. The Department has within 20 days to review the proposed annexation's legal description and scale map, as well as its shape and homogeneity with the annexing city or village, and whether that city or village can provide services
- 3) Petition signed by at least 20 percent of the electors residing within the annexation territory AND the owners of at least 50% of the territory either in area or assessed value;
- 4) Petition filed with the annexing city or village, and
- 5) Referendum of the electors residing within the territory held, with a simple majority vote required to make the annexation effective.

Annexation by City or Village-Initiated Referendum [s. 66.0219 Wis. Stats.](#)

Annexation by City or Village-Initiated Referendum allows a city or village to initiate an annexation proceeding by asking the circuit court to order a referendum on the question of annexation. The fact that the city or village is the initiator under this method differentiates it from the first three annexation methods described above where the landowners and electors initiate the process.

Annexation by City or Village-Initiated Referendum is rarely used, however, it is a statutory tool that remains available to cities and villages and is therefore a method to be considered and aware of.

To be eligible for annexation under this method, territory must:

- 1) Contain electors, and
- 2) Be Contiguous to the annexing city or village.

The required procedural steps are:

- Adoption of a resolution by the annexing City or Village declaring an intent to apply to the circuit court for an annexation referendum. This resolution includes a scale map and legal description;
- Publication of the resolution in the local newspaper as a class 1 notice;
- Service of the resolution on the affected town or towns;
- Application to the circuit court for a referendum election;
- A court hearing to determine whether the above requirements have been met and to order a referendum election be held, and
- If the referendum election is in favor of annexation, then the results must be submitted to the Department of Administration for recording.

Another procedural step that may possibly occur is if electors within the annexation territory file their own petition with the circuit court protesting against the annexation. If their petition is signed by a majority of the territory's electors or the owners of more than one-half of the territory's assessed value, then the judge must deny the city or village's application for a referendum.

Annexation of Town Islands [s. 66.0221 Wis. Stats.](#)

As part of legislation adopted in the early 1970s to address the problem of isolated town lands surrounded by cities and villages – referred to as *town islands* – the legislature empowered cities and villages to initiate annexation of certain town islands already in existence on December 2, 1973. This was coupled with a prohibition on creating any new town islands *after* December 2, 1973. The idea behind this legislation was to eliminate essentially all town islands in Wisconsin.

However, this ambitious goal was ultimately not achieved because there were no means included to enforce the prohibition against creating new town islands. The Department of Administration's review was still only advisory on the annexing city or village. As a result, many annexations have been adopted during the ensuing years that created new town islands, despite these annexations receiving *Against the Public Interest* reviews from the Department of Administration.

The majority of town islands existing before December 2, 1973 are eligible for annexation under this statute have already been annexed long ago. However, occasionally eligible islands are discovered and annexed, making awareness of this method still worthwhile. Cities and villages may wish to inventory and examine their town islands to determine whether any are eligible.

In addition to being in existence prior to December 2, 1973, other eligibility requirements under this method are:

- Cannot have been created only by annexation of railroad right-of-way or drainage ditch;
- Cannot be owned by a town with existing town government buildings located on the territory, and
- Cannot be larger than 65 acres in size or contain more than 100 residents.

Annexation of eligible town islands is accomplished by adoption of an annexation ordinance by two-thirds vote of the entire membership of the city or village's governing body, and then subsequent recording with the Department of Administration.

Annexation of Territory Owned by a City or Village [s. 66.0223 Wis. Stats.](#)

As with the City or Village-Initiated Annexation and Annexation of Town Island methods, Annexation of Territory Owned by a City or Village is a process that is initiated by the city or village.

This method differs from any of the other annexation methods in that contiguity is not required, only that the territory be owned by the annexing city or village and that it be “lying near” to the annexing city or village.

However, the statute does require that the noncontiguous annexed territory *not* be contrary to any town or county zoning in place for the territory.

This method is also unique in that only a simple majority is required to adopt an annexation ordinance, not the two-thirds majority of the entire governing body’s members, as is the case with all of the other annexation methods.

This method may also be the most simple in terms of process.

The annexing city or village:

- Adopts an annexation ordinance, and
- Files the annexation ordinance with the Department of Administration and county.