

SECOND REGULAR SESSION

HOUSE BILL NO. 2467

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIECKHAUS.

5413L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 71.012, 71.014, and 71.015, RSMo, and to enact in lieu thereof three new sections relating to annexation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 71.012, 71.014, and 71.015, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 71.012, 71.014, and 71.015, to read as follows:

71.012. 1. **(1)** Notwithstanding the provisions of sections 71.015 and 71.860 to 71.920, the governing body of any city, town or village may annex unincorporated areas which are contiguous and compact to the existing corporate limits of the city, town or village pursuant to this section. The term "contiguous and compact" does not include a situation whereby the unincorporated area proposed to be annexed is contiguous to the annexing city, town or village only by a railroad line, trail, pipeline or other strip of real property less than one-quarter mile in width within the city, town or village so that the boundaries of the city, town or village after annexation would leave unincorporated areas between the annexed area and the prior boundaries of the city, town or village connected only by such railroad line, trail, pipeline or other such strip of real property. The term "contiguous and compact" does not prohibit voluntary annexations pursuant to this section merely because such voluntary annexation would create an island of unincorporated area within the city, town or village, so long as the owners of the unincorporated island were also given the opportunity to voluntarily annex into the city, town or village. Notwithstanding the provisions of this section, the governing body of any city, town or village in any county of the third classification which borders a county of the fourth classification, a county of the second classification, and **the** Mississippi River may annex areas along a road or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 highway up to two miles from existing boundaries of the city, town or village or the governing
18 body in any city, town or village in any county of the third classification without a township form
19 of government with a population of at least twenty-four thousand inhabitants but not more than
20 thirty thousand inhabitants and such county contains a state correctional center may voluntarily
21 annex such correctional center pursuant to the provisions of this section if the correctional center
22 is along a road or highway within two miles from the existing boundaries of the city, town or
23 village.

24 **(2) (a) As used in this subdivision, the following terms mean:**

25 **a. "Person", a natural person, corporation, limited liability company, partnership,**
26 **trust, or any other legal entity, including a person's spouse, direct ancestors, direct**
27 **descendants, any entity under common control with the person, and any individual or**
28 **entity that is a party to a written agreement with the person relating to the annexation;**

29 **b. "Under common control with", the direct or indirect possession of the power to**
30 **direct or cause the direction of the management, policies, or actions of a person or entity,**
31 **whether through the ownership of voting securities, by contract, or otherwise.**

32 **(b) No annexation shall be permitted under this section if, during the preceding five**
33 **years, the city, town, or village annexed other property, and:**

34 **a. Any person owned both the previously annexed property and the area proposed**
35 **to be annexed; and**

36 **b. The contiguous boundary common to the area proposed to be annexed and the**
37 **existing city, town, or village limit was part of the perimeter of the previously annexed**
38 **property.**

39 **2. (1) When a verified petition, requesting annexation and signed by the owners of all**
40 **fee interests of record in all tracts of real property located within the area proposed to be**
41 **annexed, or a request for annexation signed under the authority of the governing body of any**
42 **common interest community and approved by a majority vote of unit owners located within the**
43 **area proposed to be annexed is presented to the governing body of the city, town or village, the**
44 **governing body shall hold a public hearing concerning the matter not less than fourteen nor more**
45 **than sixty days after the petition is received, and the hearing shall be held not less than seven**
46 **days after notice of the hearing is published in a newspaper of general circulation qualified to**
47 **publish legal matters and located within the boundary of the petitioned city, town or village. If**
48 **no such newspaper exists within the boundary of such city, town or village, then the notice shall**
49 **be published in the qualified newspaper nearest the petitioned city, town or village. For the**
50 **purposes of this subdivision, the term "common-interest community" shall mean a condominium**
51 **as said term is used in chapter 448, RSMo, or a common-interest community, a cooperative, or**
52 **a planned community.**

53 (a) A "common-interest community" shall be defined as real property with respect to
54 which a person, by virtue of such person's ownership of a unit, is obliged to pay for real property
55 taxes, insurance premiums, maintenance or improvement of other real property described in a
56 declaration. "Ownership of a unit" does not include a leasehold interest of less than twenty years
57 in a unit, including renewal options;

58 (b) A "cooperative" shall be defined as a common-interest community in which the real
59 property is owned by an association, each of whose members is entitled by virtue of such
60 member's ownership interest in the association to exclusive possession of a unit;

61 (c) A "planned community" shall be defined as a common-interest community that is not
62 a condominium or a cooperative. A condominium or cooperative may be part of a planned
63 community.

64 (2) At the public hearing any interested person, corporation or political subdivision may
65 present evidence regarding the proposed annexation. If, after holding the hearing, the governing
66 body of the city, town or village determines that the annexation is reasonable and necessary to
67 the proper development of the city, town or village, and the city, town or village has the ability
68 to furnish normal municipal services to the area to be annexed within a reasonable time, it may,
69 subject to the provisions of subdivision (3) of this subsection, annex the territory by ordinance
70 without further action.

71 (3) If a written objection to the proposed annexation is filed with the governing body of
72 the city, town or village not later than fourteen days after the public hearing by at least five
73 percent of the qualified voters of the city, town or village, or two qualified voters of the area
74 sought to be annexed if the same contains two qualified voters, the provisions of sections 71.015
75 and 71.860 to 71.920, shall be followed.

76 3. If no objection is filed, the city, town or village shall extend its limits by ordinance
77 to include such territory, specifying with accuracy the new boundary lines to which the city's,
78 town's or village's limits are extended. Upon duly enacting such annexation ordinance, the city,
79 town or village shall cause three certified copies of the same to be filed with the county assessor
80 and the clerk of the county wherein the city, town or village is located, and one certified copy to
81 be filed with the election authority, if different from the clerk of the county which has
82 jurisdiction over the area being annexed, whereupon the annexation shall be complete and final
83 and thereafter all courts of this state shall take judicial notice of the limits of that city, town or
84 village as so extended.

71.014. 1. Notwithstanding the provisions of section 71.015, the governing body of any
2 city, town, or village which is located within a county which borders a county of the first
3 classification with a charter form of government with a population in excess of six hundred fifty
4 thousand, proceeding as otherwise authorized by law or charter, may annex unincorporated areas

5 which are contiguous and compact to the existing corporate limits upon verified petition
6 requesting such annexation signed by the owners of all fee interests of record in all tracts located
7 within the area to be annexed.

8 **2. (1) As used in this subsection, the following terms mean:**

9 **(a) "Person", a natural person, corporation, limited liability company, partnership,**
10 **trust, or any other legal entity, including a person's spouse, direct ancestors, direct**
11 **descendants, any entity under common control with the person, and any individual or**
12 **entity that is a party to a written agreement with the person relating to the annexation;**

13 **(b) "Under common control with", the direct or indirect possession of the power**
14 **to direct or cause the direction of the management, policies, or actions of a person or entity,**
15 **whether through the ownership of voting securities, by contract, or otherwise.**

16 **(2) No annexation shall be permitted under this section if, during the preceding five**
17 **years, the city, town, or village annexed other property, and:**

18 **(a) Any person owned both the previously annexed property and the area proposed**
19 **to be annexed; and**

20 **(b) The contiguous boundary common to the area proposed to be annexed and the**
21 **existing city, town, or village limit was part of the perimeter of the previously annexed**
22 **property.**

71.015. 1. Should any city, town, or village, not located in any county of the first
2 classification which has adopted a constitutional charter for its own local government, seek to
3 annex an area to which objection is made, the following shall be satisfied:

4 **(1) Before the governing body of any city, town, or village has adopted a resolution to**
5 **annex any unincorporated area of land, such city, town, or village shall first as a condition**
6 **precedent determine the following:**

7 **(a) That the land to be annexed is contiguous to the existing city, town, or village limits**
8 **and that the length of the contiguous boundary common to the existing city, town, or village limit**
9 **and the proposed area to be annexed is at least fifteen percent of the length of the perimeter of**
10 **the area proposed for annexation; and**

11 **(b) That no person owned both the previously annexed property and the area**
12 **proposed to be annexed if, during the preceding five years, the city, town, or village**
13 **annexed other property and the contiguous boundary common to the area proposed to be**
14 **annexed and the existing city, town, or village limit was part of the perimeter of the**
15 **previously annexed property. As used in this paragraph, the following terms mean:**

16 **a. "Person", a natural person, corporation, limited liability company, partnership,**
17 **trust, or any other legal entity, including a person's spouse, direct ancestors, direct**

18 **descendants, any entity under common control with the person, and any individual or**
19 **entity that is a party to a written agreement with the person relating to the annexation;**

20 **b. "Under common control with", the direct or indirect possession of the power to**
21 **direct or cause the direction of the management, policies, or actions of a person or entity,**
22 **whether through the ownership of voting securities, by contract, or otherwise.**

23 (2) The governing body of any city, town, or village shall propose an ordinance setting
24 forth the following:

25 (a) The area to be annexed and affirmatively stating that the boundaries comply with the
26 condition precedent referred to in subdivision (1) above;

27 (b) That such annexation is reasonable and necessary to the proper development of the
28 city, town, or village;

29 (c) That the city has developed a plan of intent to provide services to the area proposed
30 for annexation;

31 (d) That a public hearing shall be held prior to the adoption of the ordinance;

32 (e) When the annexation is proposed to be effective, the effective date being up to
33 thirty-six months from the date of any election held in conjunction thereto.

34 (3) The city, town, or village shall fix a date for a public hearing on the ordinance and
35 make a good faith effort to notify all fee owners of record within the area proposed to be annexed
36 by certified mail, not less than thirty nor more than sixty days before the hearing, and notify all
37 residents of the area by publication of notice in a newspaper of general circulation qualified to
38 publish legal matters in the county or counties where the proposed area is located, at least once
39 a week for three consecutive weeks prior to the hearing, with at least one such notice being not
40 more than twenty days and not less than ten days before the hearing.

41 (4) At the hearing referred to in subdivision (3), the city, town, or village shall present
42 the plan of intent and evidence in support thereof to include:

43 (a) A list of major services presently provided by the city, town, or village including, but
44 not limited to, police and fire protection, water and sewer systems, street maintenance, parks and
45 recreation, **and** refuse collection[, etc.];

46 (b) A proposed time schedule whereby the city, town, or village plans to provide such
47 services to the residents of the proposed area to be annexed within three years from the date the
48 annexation is to become effective;

49 (c) The level at which the city, town, or village assesses property and the rate at which
50 it taxes that property;

51 (d) How the city, town, or village proposes to zone the area to be annexed;

52 (e) When the proposed annexation shall become effective.

53 (5) Following the hearing, and either before or after the election held in subdivision (6)
54 of this subsection, should the governing body of the city, town, or village vote favorably by
55 ordinance to annex the area, the governing body of the city, town or village shall file an action
56 in the circuit court of the county in which such unincorporated area is situated, under the
57 provisions of chapter 527, RSMo, praying for a declaratory judgment authorizing such
58 annexation. The petition in such action shall state facts showing:

59 (a) The area to be annexed and its conformity with the condition precedent referred to
60 in subdivision (1) of this subsection;

61 (b) That such annexation is reasonable and necessary to the proper development of the
62 city, town, or village; and

63 (c) The ability of the city, town, or village to furnish normal municipal services of the
64 city, town, or village to the unincorporated area within a reasonable time not to exceed three
65 years after the annexation is to become effective. Such action shall be a class action against the
66 inhabitants of such unincorporated area under the provisions of section 507.070, RSMo.

67 (6) Except as provided in subsection 3 of this section, if the court authorizes the city,
68 town, or village to make an annexation, the legislative body of such city, town, or village shall
69 not have the power to extend the limits of the city, town, or village by such annexation until an
70 election is held at which the proposition for annexation is approved by a majority of the total
71 votes cast in the city, town, or village and by a separate majority of the total votes cast in the
72 unincorporated territory sought to be annexed. However, should less than a majority of the total
73 votes cast in the area proposed to be annexed vote in favor of the proposal, but at least a majority
74 of the total votes cast in the city, town, or village vote in favor of the proposal, then the proposal
75 shall again be voted upon in not more than one hundred twenty days by both the registered voters
76 of the city, town, or village and the registered voters of the area proposed to be annexed. If at
77 least two-thirds of the qualified electors voting thereon are in favor of the annexation, then the
78 city, town, or village may proceed to annex the territory. If the proposal fails to receive the
79 necessary majority, no part of the area sought to be annexed may be the subject of another
80 proposal to annex for a period of two years from the date of the election, except that, during the
81 two-year period, the owners of all fee interests of record in the area or any portion of the area
82 may petition the city, town, or village for the annexation of the land owned by them pursuant to
83 the procedures in section 71.012 **or 71.014**. The elections shall if authorized be held, except as
84 herein otherwise provided, in accordance with the general state law governing special elections,
85 and the entire cost of the election or elections shall be paid by the city, town, or village proposing
86 to annex the territory.

87 (7) Failure to comply in providing services to the said area or to zone in compliance with
88 the plan of intent within three years after the effective date of the annexation, unless compliance

89 is made unreasonable by an act of God, shall give rise to a cause of action for deannexation
90 which may be filed in the circuit court by any resident of the area who was residing in the area
91 at the time the annexation became effective.

92 (8) [No city, town, or village which has filed an action under this section as this section
93 read prior to May 13, 1980, which action is part of an annexation proceeding pending on May
94 13, 1980, shall be required to comply with subdivision (5) of this subsection in regard to such
95 annexation proceeding.

96 (9) If the area proposed for annexation includes a public road or highway but does not
97 include all of the land adjoining such road or highway, then such fee owners of record, of the
98 lands adjoining said highway shall be permitted to intervene in the declaratory judgment action
99 described in subdivision (5) of this subsection.

100 2. Notwithstanding any provision of subsection 1 of this section, for any annexation by
101 any city with a population of three hundred fifty thousand or more inhabitants which is located
102 in more than one county that becomes effective after August 28, 1994, if such city has not
103 provided water and sewer service to such annexed area within three years of the effective date
104 of the annexation, a cause of action shall lie for deannexation, unless the failure to provide such
105 water and sewer service to the annexed area is made unreasonable by an act of God. The cause
106 of action for deannexation may be filed in the circuit court by any resident of the annexed area
107 who is presently residing in the area at the time of the filing of the suit and was a resident of the
108 annexed area at the time the annexation became effective. If the suit for deannexation is
109 successful, the city shall be liable for all court costs and attorney fees.

110 3. Notwithstanding the provisions of subdivision (6) of subsection 1 of this section, all
111 cities, towns, and villages located in any county of the first classification with a charter form of
112 government with a population of two hundred thousand or more inhabitants which adjoins a
113 county with a population of nine hundred thousand or more inhabitants shall comply with the
114 provisions of this subsection. If the court authorizes any city, town, or village subject to this
115 subsection to make an annexation, the legislative body of such city, town or village shall not
116 have the power to extend the limits of such city, town, or village by such annexation until an
117 election is held at which the proposition for annexation is approved by a majority of the total
118 votes cast in such city, town, or village and by a separate majority of the total votes cast in the
119 unincorporated territory sought to be annexed; except that[:

120 (1) In the case of a proposed annexation in any area which is contiguous to the existing
121 city, town or village and which is within an area designated as flood plain by the Federal
122 Emergency Management Agency and which is inhabited by no more than thirty registered voters
123 and for which a final declaratory judgment has been granted prior to January 1, 1993, approving
124 such annexation and where notarized affidavits expressing approval of the proposed annexation

125 are obtained from a majority of the registered voters residing in the area to be annexed, the area
126 may be annexed by an ordinance duly enacted by the governing body and no elections shall be
127 required; and

128 (2)] in the case of a proposed annexation of unincorporated territory in which no qualified
129 electors reside, if at least a majority of the qualified electors voting on the proposition are in
130 favor of the annexation, the city, town or village may proceed to annex the territory and no
131 subsequent election shall be required. If the proposal fails to receive the necessary separate
132 majorities, no part of the area sought to be annexed may be the subject of any other proposal to
133 annex for a period of two years from the date of such election, except that, during the two-year
134 period, the owners of all fee interests of record in the area or any portion of the area may petition
135 the city, town, or village for the annexation of the land owned by them pursuant to the procedures
136 in section 71.012 **or 71.014**. The election shall, if authorized, be held, except as otherwise
137 provided in this section, in accordance with the general state laws governing special elections,
138 and the entire cost of the election or elections shall be paid by the city, town, or village proposing
139 to annex the territory. Failure of the city, town or village to comply in providing services to the
140 area or to zone in compliance with the plan of intent within three years after the effective date
141 of the annexation, unless compliance is made unreasonable by an act of God, shall give rise to
142 a cause of action for deannexation which may be filed in the circuit court by any resident of the
143 area who was residing in such area at the time the annexation became effective or by any
144 nonresident owner of real property in such area.

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