



WISCONSIN'S ANNEXATION STATUTES

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ANNEXATION STATUTES

This document contains Wisconsin's annexation statutes. Annexation is the process that transfers territory from towns to cities and villages. Wisconsin's statutes authorize a number of different methods or approaches for accomplishing annexation. These methods are:

- Annexation by Unanimous Approval
- Annexation by One-Half approval
- Annexation by Referendum
- Annexation by City or Village Initiated Referendum
- Annexation of Town Islands
- Annexation of Territory Owned by a City or Village

The first three methods - annexation by unanimous consent, annexation by one-half approval, and annexation by referendum - require review by the Wisconsin Department of Administration, while the other three methods do not. Each of the methods has its unique requirements, process, timeline, and participants. This document provides the statutory language for these six annexation methods. It is important to read these statutes together because successive recodifications have made the statutes difficult to understand in places. For example, annexation by one-half approval and by referendum seem to share a number of statutory provisions.

Definitions

**The definitions in this section apply to annexation by unanimous approval, annexation by one-half approval, annexation by referendum, and annexation by city or village initiated referendum.*

66.0217(1) DEFINITIONS.

In this section, unless the context clearly requires otherwise:

(a) "Assessed value" means the value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.

(b) "Department" means the department of administration.

(c) "Legal description" means a complete description of land to be annexed without internal references to any other document, and shall be described in one of the following ways:

1. By metes and bounds commencing at a monument at the section or quarter section corner or at the end of a boundary line of a recorded private claim or federal reservation in which the annexed land is located and in one of the following ways:
 - a. By government lot.

- b. By recorded private claim.
 - c. By quarter section, section, township and range.
2. If the land is located in a recorded and filed subdivision or in an area subject to a certified survey map, by reference as described in s. 236.28 or s. 236.34 (3).

(d) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant is an owner to the extent of his or her interest.

(e) "Petition" includes the original petition and any counterpart of the original petition.

(f) "Real property" means land and the improvements to the land.

(g) "Scale map" means a map that accurately reflects the legal description of the property to be annexed and the boundary of the annexing city or village, and that includes a graphic scale on the face of the map.

Annexation by Unanimous Approval

66.0217(2) DIRECT ANNEXATION BY UNANIMOUS APPROVAL.

Except as provided in sub. (14), and subject to s. 66.0307 (7), if a petition for direct annexation signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk, and with the town clerk of the town or towns in which the territory is located, together with a scale map and a legal description of the property to be annexed, an annexation ordinance for the annexation of the territory may be enacted by a two-thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of sub. (4). In an annexation under this subsection, subject to sub. (6), the person filing the petition with the city or village clerk and the town clerk shall, within 5 days of the filing, mail a copy of the scale map and a legal description of the territory to be annexed to the department and the governing body shall review the advice of the department, if any, before enacting the annexation ordinance.

66.0217(5) ANNEXATION PETITION.

(a) An annexation petition under this section shall state the purpose of the petition, contain a legal description of the territory proposed to be annexed and have attached a scale map. The petition shall also specify the population of the territory. In this paragraph, "population" means the population of the territory as shown by the last federal census, by any subsequent population estimate certified as acceptable by the department or by an actual count certified as acceptable by the department.

(b) No person who has signed a petition may withdraw his or her name from the petition. No additional signatures may be added after a petition is filed.

(c) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate. The annexation petition is void unless filed within 6 months of the date of publication of the notice.

66.0217(6) DEPARTMENT REVIEW OF ANNEXATIONS.

(a) *Annexations within populous counties.* No annexation proceeding within a county having a population of 50,000 or more is valid unless the person publishing a notice of annexation under sub. (4) mails a copy of the notice to the clerk of each municipality affected and the department, together with any fee imposed under s. 16.53 (14), within 5 days of the publication. The department shall within 20 days after receipt of the notice mail to the clerk of the town within which the territory lies and to the clerk of the proposed annexing village or city a notice that states whether in its opinion the annexation is in the public interest or is against the public interest and that advises the clerks of the reasons the annexation is in or against the public interest as defined in par. (c). The annexing municipality shall review the advice before final action is taken.

(c) *Definition of public interest.* For purposes of this subsection “public interest” is determined by the department after consideration of the following:

1. Whether the governmental services, including zoning, to be supplied to the territory could clearly be better supplied by the town or by some other village or city whose boundaries are contiguous to the territory proposed for annexation which files with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory upon receiving an otherwise valid petition for the annexation of the territory.
2. The shape of the proposed annexation and the homogeneity of the territory with the annexing village or city and any other contiguous village or city.

66.0217(9) FILING REQUIREMENTS; SURVEYS.

(a) The clerk of a city or village which has annexed territory shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district. Failure to file, record or send does not invalidate the annexation and the duty to file, record or send is a continuing one. The ordinance that is filed, recorded or sent shall describe the annexed territory and the associated population. The information filed with the secretary of state shall be utilized in making recommendations for adjustments to entitlements under the federal revenue sharing program and distribution of funds under ch. 79. The clerk shall certify annually to the secretary of state and record with the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) Within 10 days of receipt of the ordinance, certificate and plat, the secretary of state shall forward 2 copies of the ordinance, certificate and plat to the department of transportation, one copy to the department of administration, one copy to the department of revenue, one copy to the department of public instruction, one copy to the department, one copy to the department of

natural resources, one copy to the department of agriculture, trade and consumer protection and 2 copies to the clerk of the municipality from which the territory was annexed.

(c) Any city or village may direct a survey of its present boundaries to be made, and when properly attested the survey and plat may be filed in the office of the register of deeds in the county in which the city or village is located. Upon filing, the survey and plat are prima facie evidence of the facts set forth in the survey and plat.

66.0217(10) QUALIFICATIONS OF ELECTORS AND OWNERS; ELECTOR DETERMINATION.

(a) Under this section, qualifications as to electors and owners shall be determined as of the date of filing a petition, except that all qualified electors residing in the territory proposed for annexation on the day of a referendum election may vote in the election. Residence and ownership shall be bona fide and not acquired for the purpose of defeating or invalidating the annexation proceedings.

(b) For purposes of this section, if a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. 60.74 (6).

66.0217(11) ACTION TO CONTEST ANNEXATION.

(a) An action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation shall be commenced within the time after adoption of the annexation ordinance provided by s. 893.73 (2). During the action, the application of, and jurisdiction over, any county zoning in the area annexed is as provided under s. 59.69(7).

(b) An action contesting an annexation shall be given preference in the circuit court.

(c) No action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation under sub. (2), may be brought by any town.

66.0217(12) VALIDITY OF PLATS. If an annexation is declared invalid but before the declaration and subsequent to the annexation a plat is submitted and is approved as required in s. 236.10 (1)

(a), the plat is validly approved despite the invalidity of the annexation.

66.0217(13) EFFECTIVE DATE OF ANNEXATIONS. Because the creation of congressional, legislative, supervisory and aldermanic districts of equal population is a matter of statewide concern, any annexation action that affects a tract of land that is the subject of an ordinance enacted or resolution adopted by any city during the period from January 1, 1990, to April 1, 1991, or any later date, expressing an intent to not exercise the city's authority to annex territory before April 1, 1991, or the specified later date, taken by a municipality during the period beginning on April 1 of the year commencing after each federal decennial census of population and ending on June 30 of the year commencing after that census, is effective on July 1 of the year commencing after that census or at such later date as may be specified in the annexation ordinance. This subsection first applies to annexations effective after March 31, 1991.

66.0217(14) (14) LIMITATIONS ON ANNEXATION AUTHORITY.

(a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount

equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.
2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

66.0217(15) LAW APPLICABLE. Section 66.0203 (8) (c) applies to annexations under this section.

**Annexation by One-half Approval
&
Annexation by Referendum**

**These two annexation methods are presented together because the statutes combine them into one statutory subsection. A number of the provisions governing the unanimous approval method are duplicated here because they govern these two annexation methods as well. Specifically, these duplicated sections are the sections pertaining to notice, petition, filing requirements, owners and electors, contesting annexations, validity of plats, revenue sharing or boundary agreements, and relationship to incorporation. The remaining sections below apply only to annexation by one-half approval and by referendum.*

66.0217(3)(a) Direct annexation by one-half approval.

(a) A petition for direct annexation may be filed with the city or village clerk if it has been signed by either of the following:

1. A number of qualified electors residing in the territory subject to the proposed annexation equal to at least the majority of votes cast for governor in the territory at the last gubernatorial election, and either of the following:
 - a. The owners of one-half of the land in area within the territory.
 - b. The owners of one-half of the real property in assessed value within the territory.
2. If no electors reside in the territory subject to the proposed annexation, by either of the following:
 - a. The owners of one-half of the land in area within the territory.
 - b. The owners of one-half of the real property in assessed value within the territory.

66.0217(3)(b) Annexation by referendum.

A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by a number of qualified electors residing in the territory equal to at least 20% of the votes cast for governor in the territory at the last gubernatorial election, and the owners of at least 50% of the real property either in area or assessed value. The petition shall conform to the requirements of s. 8.40.

66.0217(4) Notice of Proposed Annexation.

(a) An annexation under sub. (3) shall be initiated by publishing in the territory proposed for annexation a class 1 notice, under ch. 985, of intention to circulate an annexation petition. The notice shall contain:

1. A statement of intention to circulate an annexation petition.
2. A legal description of the territory proposed to be annexed and a copy of a scale map.
3. The name of the city or village to which the annexation is proposed.
4. The name of the town or towns from which the territory is proposed to be detached.
5. The name and post-office address of the person causing the notice to be published who shall be an elector or owner in the area proposed to be annexed.
6. A statement that a copy of the scale map may be inspected at the office of the town clerk for the territory proposed to be annexed and the office of the city or village clerk for the city or village to which the territory is proposed to be annexed.

(b) The person who has the notice published shall serve a copy of the notice, within 5 days after its publication, upon the clerk of each municipality affected, upon the clerk of each school district affected and upon each owner of land in a town if that land will be in a city or village after the annexation. Service may be either by personal service or by certified mail with return receipt requested. If required under sub. (6) (a), a copy of the notice shall be mailed to the department as provided in that paragraph.

66.0217(5) ANNEXATION PETITION.

(a) An annexation petition under this section shall state the purpose of the petition, contain a legal description of the territory proposed to be annexed and have attached a scale map. The petition shall also specify the population of the territory. In this paragraph, "population" means the population of the territory as shown by the last federal census, by any subsequent population estimate certified as acceptable by the department or by an actual count certified as acceptable by the department.

(b) No person who has signed a petition may withdraw his or her name from the petition. No additional signatures may be added after a petition is filed.

(c) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate. The annexation petition is void unless filed within 6 months of the date of publication of the notice.

66.0217(6) DEPARTMENT REVIEW OF ANNEXATIONS.

(a) *Annexations within populous counties.* No annexation proceeding within a county having a population of 50,000 or more is valid unless the person publishing a notice of annexation under

sub. (4) mails a copy of the notice to the clerk of each municipality affected and the department, together with any fee imposed under s. 16.53 (14), within 5 days of the publication. The department shall within 20 days after receipt of the notice mail to the clerk of the town within which the territory lies and to the clerk of the proposed annexing village or city a notice that states whether in its opinion the annexation is in the public interest or is against the public interest and that advises the clerks of the reasons the annexation is in or against the public interest as defined in par. (c). The annexing municipality shall review the advice before final action is taken.

(c) *Definition of public interest.* For purposes of this subsection “public interest” is determined by the department after consideration of the following:

1. Whether the governmental services, including zoning, to be supplied to the territory could clearly be better supplied by the town or by some other village or city whose boundaries are contiguous to the territory proposed for annexation which files with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory upon receiving an otherwise valid petition for the annexation of the territory.
2. The shape of the proposed annexation and the homogeneity of the territory with the annexing village or city and any other contiguous village or city.

66.0217(7) REFERENDUM.

(a) *Notice.*

1. Within 60 days after the filing of the petition under sub. (3), the common council or village board may accept or reject the petition and if rejected no further action may be taken on the petition. Acceptance may consist of adoption of an annexation ordinance. Failure to reject the petition obligates the city or village to pay the cost of any referendum favorable to annexation.
2. If the petition is not rejected the clerk of the city or village with whom the annexation petition is filed shall give written notice of the petition by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who files a written request with the clerk. The notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation.
3. If the notice indicates that the petition is for a referendum on the question of annexation, the clerk of the city or village shall file the notice as provided in s. 8.37. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held not less than 42 days nor more than 72 days after the date of personal service or mailing of the notice required under this paragraph. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within 30 days after the date of personal service or mailing of the notice required under this paragraph, a petition conforming to the requirements of s. 8.40 requesting a referendum is filed with the town clerk as provided in s. 8.37, signed by at least 20% of the electors residing in the area proposed to be annexed. If a petition requesting a referendum is filed, the clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held

not less than 42 days nor more than 72 days after the receipt of the petition and shall mail a copy of the notice to the clerk of the city or village to which the annexation is proposed. The referendum shall be held at a convenient place within the town to be specified in the notice.

(b) *Clerk to act.* If more than one town is involved, the city or village clerk shall determine as nearly as is practicable which town contains the most electors in the area proposed to be annexed and shall indicate in the notice required under par. (a) that determination. The clerk of the town so designated shall perform the duties required under this subsection and the election shall be conducted in the town as are other elections.

(c) *Publication of notice.* The notice shall be published in a newspaper of general circulation in the area proposed to be annexed on the publication day next preceding the referendum election and one week prior to that publication.

(d) *How conducted.* The referendum shall be conducted by the town election officials but the town board may reduce the number of election officials for that election. The ballots shall contain the words "For annexation" and "Against annexation" and shall otherwise conform to the provisions of s. 5.64 (2). The election shall be conducted as are other town elections in accordance with chs. 6 and 7 to the extent applicable.

(e) *Canvass; statement to be filed.* The election inspectors shall make a statement of the holding of the election showing the whole number of votes cast, and the number cast for and against annexation, attach their affidavit to the statement and immediately file it in the office of the town clerk. They shall file a certified statement of the results in the office of the clerk of each other municipality affected.

(f) *Costs.* If the referendum is against annexation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be annexed, voting in the referendum, bears to the total number of electors in that territory, voting in the referendum.

(g) *Effect.* If the result of the referendum is against annexation, all previous proceedings are nullified. If the result of the referendum is for annexation, failure of any town official to perform literally any duty required by this section does not invalidate the annexation.

66.0217(8) ANNEXATION ORDINANCE.

(a) An ordinance for the annexation of the territory described in the annexation petition under sub. (3) may be enacted by a two-thirds vote of the elected members of the governing body not less than 20 days after the publication of the notice of intention to circulate the petition and not later than 120 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to sub. (6) the governing body shall first review the reasons given by the department that the proposed annexation is against the public interest. Subject to s. 59.692 (7), an ordinance under this subsection may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing a temporary classification, the proposed classification shall be referred to and

recommended by the plan commission. The authority to make a temporary classification is not effective when the county ordinance prevails during litigation as provided in s. 59.69 (7).

(b) The ordinance may annex the territory to an existing ward or may create an additional ward.

(c) The annexation is effective upon enactment of the annexation ordinance. The board of school directors in a 1st class city is not required to administer the schools in any territory annexed to the city until July 1 following the annexation.

66.0217(9) FILING REQUIREMENTS; SURVEYS.

(a) The clerk of a city or village which has annexed territory shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district. Failure to file, record or send does not invalidate the annexation and the duty to file, record or send is a continuing one. The ordinance that is filed, recorded or sent shall describe the annexed territory and the associated population. The information filed with the secretary of state shall be utilized in making recommendations for adjustments to entitlements under the federal revenue sharing program and distribution of funds under ch. 79. The clerk shall certify annually to the secretary of state and record with the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) Within 10 days of receipt of the ordinance, certificate and plat, the secretary of state shall forward 2 copies of the ordinance, certificate and plat to the department of transportation, one copy to the department of administration, one copy to the department of revenue, one copy to the department of public instruction, one copy to the department, one copy to the department of natural resources, one copy to the department of agriculture, trade and consumer protection and 2 copies to the clerk of the municipality from which the territory was annexed.

(c) Any city or village may direct a survey of its present boundaries to be made, and when properly attested the survey and plat may be filed in the office of the register of deeds in the county in which the city or village is located. Upon filing, the survey and plat are prima facie evidence of the facts set forth in the survey and plat.

66.0217(10) QUALIFICATIONS OF ELECTORS AND OWNERS; ELECTOR DETERMINATION.

(a) Under this section, qualifications as to electors and owners shall be determined as of the date of filing a petition, except that all qualified electors residing in the territory proposed for annexation on the day of a referendum election may vote in the election. Residence and ownership shall be bona fide and not acquired for the purpose of defeating or invalidating the annexation proceedings.

(b) For purposes of this section, if a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. 60.74 (6).

66.0217(11) ACTION TO CONTEST ANNEXATION.

(a) An action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation shall be commenced within the time after adoption of the annexation ordinance provided by s. 893.73 (2). During the action, the application of, and jurisdiction over, any county zoning in the area annexed is as provided under s. 59.69(7).

(b) An action contesting an annexation shall be given preference in the circuit court.

(c) No action on any grounds, whether procedural or jurisdictional, to contest the validity of an annexation under sub. (2), may be brought by any town.

66.0217(12) VALIDITY OF PLATS. If an annexation is declared invalid but before the declaration and subsequent to the annexation a plat is submitted and is approved as required in s. 236.10 (1)

(a), the plat is validly approved despite the invalidity of the annexation.

66.0217(13) EFFECTIVE DATE OF ANNEXATIONS. Because the creation of congressional, legislative, supervisory and aldermanic districts of equal population is a matter of statewide concern, any annexation action that affects a tract of land that is the subject of an ordinance enacted or resolution adopted by any city during the period from January 1, 1990, to April 1, 1991, or any later date, expressing an intent to not exercise the city's authority to annex territory before April 1, 1991, or the specified later date, taken by a municipality during the period beginning on April 1 of the year commencing after each federal decennial census of population and ending on June 30 of the year commencing after that census, is effective on July 1 of the year commencing after that census or at such later date as may be specified in the annexation ordinance. This subsection first applies to annexations effective after March 31, 1991.

66.0217(14) (14) LIMITATIONS ON ANNEXATION AUTHORITY.

(a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.

2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

66.0217(15) LAW APPLICABLE. Section 66.0203 (8) (c) applies to annexations under this section.

Annexation by City or Village Initiated Referendum

66.0219 Annexation by referendum initiated by city or village.

As a complete alternative to any other annexation procedure, and subject to sub. (10) and s. 66.0307 (7), unincorporated territory which contains electors and is contiguous to a city or village may be annexed to the city or village under this section. The definitions in s. 66.0217 (1) apply to this section.

(1) PROCEDURE FOR ANNEXATION.

(a) The governing body of the city or village to which it is proposed to annex territory shall, by resolution adopted by two-thirds of the members-elect, declare its intention to apply to the circuit court for an order for an annexation referendum, and shall publish the resolution in a newspaper having general circulation in the area proposed to be annexed, as a class 1 notice, under ch. 985. The governing body shall prepare a scale map of the territory to be annexed, showing it in relation to the annexing city or village. The resolution shall contain a description of the territory to be affected, sufficiently accurate to determine its location, the name of the municipalities directly affected and the name and post-office address of the municipal official responsible for the publication of the resolution. A copy of the resolution together with the scale map shall be served upon the clerk of the town or towns from which the territory is to be detached within 5 days of the date of publication of the resolution. Service may be either by personal service or by registered mail and if by registered mail an affidavit shall be on file with the annexing body indicating the date on which the resolution was mailed. The annexation is considered commenced upon publication of the resolution.

(b) Application to the circuit court shall be by petition subscribed by the officers designated by the governing body, and shall have attached the scale map, a certified copy of the resolution of the governing body and an affidavit of the publication and filing required under par. (a). The petition shall be filed in the circuit court not less than 30 days but no more than 45 days after the publication of the notice of intention.

(2) PROTEST TO COURT BY ELECTORS; HEARING.

(a) If, prior to the date set for hearing upon an application filed under sub. (1) (b), there is filed with the court a petition signed by a number of qualified electors residing in the territory equal to at least a majority of the votes cast for governor in the territory at the last gubernatorial election or the owners of more than one-half of the real property in assessed value in the territory, protesting against the annexation of the territory, the court shall deny the application for an annexation referendum. If a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. 60.74 (6).

(b) If a petition protesting the annexation is found insufficient the court shall proceed to hear all parties interested for or against the application. The court may adjourn the hearing from time to time, direct a survey to be made and refer any question for examination and report. A town whose territory is involved in the proposed annexation shall, upon application, be a party and is entitled to be heard on any relevant matter.

(3) DISMISSAL. If for any reason the proceedings are dismissed, the court may order entry of judgment against the city or village for disbursements or any part of disbursements incurred by the parties opposing the annexation.

(4) (a) If the court, after the hearing, is satisfied that the description of the territory or any survey is accurate and that the provisions of this section have been complied with, it shall make an order so declaring and shall direct a referendum election within the territory described in the order, on the question of whether the area should be annexed. Such order shall be filed as provided in s. 8.37. The order shall direct 3 electors named in the order residing in the town in which the territory proposed to be annexed lies, to perform the duties of inspectors of election.

(b) The referendum election shall be held not less than 42 days nor more than 72 days after the filing of the order as provided in s. 8.37, in the territory proposed for annexation, by the electors of that territory as provided in s. 66.0217 (7), so far as applicable. The ballots shall contain the words "For Annexation" and "Against Annexation". The certification of the election inspectors shall be filed with the clerk of the court, and the clerk of any municipality involved, but need not be filed or recorded with the register of deeds.

(c) All costs of the referendum election shall be borne by the petitioning city or village.

(5) DETERMINATION BY VOTE.

(a) If a majority of the votes cast at the referendum election is against annexation, no other proceeding under this section affecting the same territory or part of the same territory may be commenced by the same municipality until 6 months after the date of the referendum election.

(b) If a majority of the votes cast at the referendum election is for annexation, the territory shall be annexed to the petitioning city or village upon compliance with s. 66.0217 (9).

(6) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED.

An interim zoning ordinance to become effective only upon approval of the annexation at the referendum election may be enacted by the governing body of the city or village. Subject to s. 59.692 (7), the ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance shall be referred to and recommended by the plan commission prior to introduction. Authority to make a temporary classification is not effective when the county zoning ordinance prevails during litigation as provided in s. 59.69 (7).

(7) APPEAL. An appeal from the order of the circuit court is limited to contested issues determined by the circuit court. An appeal shall not stay the conduct of the referendum election, if one is ordered, but the statement of the election results and the copies of the certificate and plat may not be filed with the secretary of state until the appeal has been determined.

(8) LAW APPLICABLE. Ss. 66.0203 (8) (c) and 66.0217 (11) apply to annexations under this section.

(9) TERRITORY EXCEPTED. This section does not apply to any territory located in an area for which a certificate of incorporation was issued before February 24, 1959, by the secretary of state, even if the incorporation of the territory is later held to be invalid by a court.

(10) LIMITATIONS ON ANNEXATION AUTHORITY.

(a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount

equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.

2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

Annexation of Town Islands

66.0221 Annexation of and creation of town islands.

(1) Upon its own motion and subject to sub. (3) and s. 66.0307 (7), a city or village, by a two-thirds vote of the entire membership of its governing body, may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the city or village on December 2, 1973. The ordinance shall include all surrounded town areas except those that are exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a legal description of the territory and the name of the town or towns from which the territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file 6 certified copies of the ordinance in the office of the secretary of state, together with 6 copies of a scale map. The secretary of state shall forward 2 copies of the ordinance and scale map to the department of transportation, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of administration. This subsection does not apply if the town island was created only by the annexation of a railroad right-of-way or drainage ditch. This subsection does not apply to land owned by a town government which has existing town government buildings located on the land. No town island may be annexed under this subsection if the island consists of over 65 acres or contains over 100 residents. Section 66.0217 (11) applies to annexations under this subsection. Except as provided in sub. (2), after December 2, 1973, no city or village may, by annexation, create a town area which is completely surrounded by the city or village.

(2) A city or village may, by annexation, create a town area that is completely surrounded by the city or village if a cooperative plan for boundary change under s. 66.0307, to which the town and the annexing city or village are parties, applies to the territory that is annexed.

(3)

(a) 1. Except as provided in subd. 2., no territory may be annexed by a city or village under this section unless the city or village agrees to pay annually to the town, for 5 years, an amount

equal to the amount of property taxes that the town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

2. No payments under subd. 1. must be made if the city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

(b) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

1. The town board adopts a resolution approving the proposed annexation.
2. The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

Annexation of Territory Owned by a City or Village

66.0223 Annexation of territory owned by a city or village.

(1) In addition to other methods provided by law and subject to sub. (2) and ss. 59.692 (7) and 66.0307 (7), territory owned by and lying near but not necessarily contiguous to a village or city may be annexed to a village or city by ordinance enacted by the board of trustees of the village or the common council of the city, provided that in the case of noncontiguous territory the use of the territory by the city or village is not contrary to any town or county zoning regulation. The ordinance shall contain the exact description of the territory annexed and the names of the towns from which detached, and attaches the territory to the village or city upon the filing of 7 certified copies of the ordinance in the office of the secretary of state, together with 7 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the department of transportation, one copy to the department of administration, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of public instruction. Within 10 days of filing the certified copies, a copy of the ordinance and plat shall be mailed or delivered to the clerk of the county in which the annexed territory is located. Sections 66.0203 (8) (c) and 66.0217 (11) apply to annexations under this section.

(2) No territory may be annexed by a city or village under this section if no part of the city or village is located in the same county as the territory that is subject to the proposed annexation unless all of the following occur:

(a) The town board adopts a resolution approving the proposed annexation.

(b) The county board of the county in which the territory is located adopts a resolution approving the proposed annexation.

(c) The city or village, and the town, enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.