

ANNEXATION

AN INTRODUCTION FOR LOCAL LEADERS



**WORKFORCE
SERVICES
HOUSING & COMMUNITY
DEVELOPMENT
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DEVELOPMENT OFFICE**

Annexation can be a complicated process to implement, but with the right guidance annexation can become an important tool to ensure the sustainability of your community's culture, finances, services, land use, and future development. It is important for local leaders to understand when, why, and how to annex. This guide introduces local leaders and officials to the basics of annexation in Utah.





ANNEXATION: GUIDING GROWTH

One day as you stop by the post office, you are approached by Mr. Johnson—an elderly gentleman whose property sits one-half mile outside of town along a county dirt road. He says that he is retiring from farming and is thinking about subdividing his property. He thinks he can get a few new homes built on his land, or perhaps an ATV rental shop and RV park. He asks you if the city would be willing to annex his land and if you could help get the process started for him.

As a local leader, you may not know where to begin. Annexation can be a daunting prospect for small cities with limited planning and administrative capacity. This guide will help elected officers understand the basics of municipal annexation and provide guidelines on what to consider when making annexation decisions.

Although this guide seeks to clearly explain the annexation process, annexation can be complicated. Keep in mind that this document should be treated as a guide and not as a legal resource. As with all municipal actions, please consult your clerk or recorder about the annexation process or your city attorney if you have questions regarding the interpretation or application of the law.

**In this document the terms cities, communities, and municipalities are all used interchangeably and refer to towns and cities of any class.*

IN UTAH
37 COMMUNITIES FILED FOR
ANNEXATION
IN 2016

51%
OF THOSE
WERE

RURAL
COMMUNITIES

ISA **ANNEXATION**
RURAL ISSUE

WHAT IS ANNEXATION?

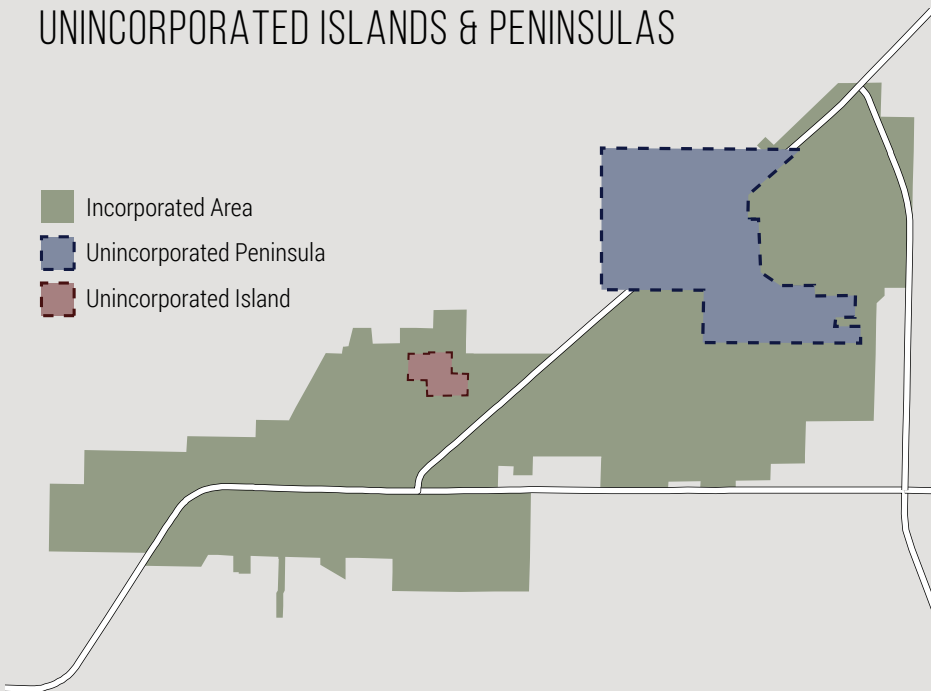
Municipal annexation is the process of integrating land into a community. Communities can annex territory that exists in the county, but not territory within another community or political organization's territory.

INTRODUCTION

Annexation is the expansion of city limits through the incorporation of land. Through the annexation process, a municipality formally extends its jurisdiction and boundaries to a piece of land outside of its current borders. This incorporation brings the territory under the authority of the municipality and makes it subject to the city's plans, codes, and ordinances. In Utah, annexation is a municipal power defined in Title 10, Chapter 2 *Classification, Boundaries, Consolidation, and Dissolution of Municipalities* of the Utah Code. Landowners petition the municipality to annex their property, but the decision is ultimately left to the city council.

By law, annexed territory must be *contiguous* to the current municipal borders. This means that the annexation area must be a continuous and uninterrupted area that shares a common boundary with the municipality. This requirement helps eliminate the creation of unincorporated *islands* or *peninsulas*. State law requires that annexations not create situations where an island or peninsula is left behind, although exceptions can be made if the municipality and county consent. Islands and peninsulas complicate service provision for the municipality and the county and may leave residents in the unincorporated areas without a clear understanding of jurisdiction. Municipalities may want to consider working with their counties to annex islands and peninsulas.

UNINCORPORATED ISLANDS & PENINSULAS



Islands and peninsulas complicate annexation. Make sure that your city's annexations do not create unwanted configurations.

Islands: Area of unincorporated land completely surrounded by incorporated territory.

Peninsula: Area of unincorporated land that is surrounded on more than half its boundary distance by incorporated territory. Furthermore, the unincorporated area must be situated in a manner such that a line drawn across the area, from incorporated area to incorporated area, must be less than 25% of the length of the aggregate boundaries of the unincorporated area¹.

WHY SHOULD WE ANNEX?

There are many reasons why both property owners and municipalities may want a property to be annexed. As you think about annexation, consider what benefits the annexation will bring to your city and to the newly incorporated properties.

GENERATE PROPERTY TAX REVENUE

Property tax is a main revenue source for local governments and is considered **the most stable municipal revenue**. It is generated from the assessed valuation of property within a jurisdiction. Annexation increases the city's property tax base by increasing the amount of property subject to taxation. Depending on the value of the annexation, this can significantly increase immediate and future property tax revenue. Similarly, a municipality with an expanded tax base may be able to lower the property tax rate and still maintain its current level of tax revenue. However, the new tax revenue may be offset by the cost of extending services to newly annexed areas.

EXTEND MUNICIPAL SERVICES

Cities are required to provide services to properties within their boundaries². Annexation can increase those service areas. In some cases, municipal service provision will prompt annexation petitions from properties that may want or need the services provided by the municipality. Some of these services may include culinary water, sewage, waste management, or electricity. This can lead to **greater efficiency and organization of service delivery** between the county and the city.

2. See UCA 10-2-402(4)

MANAGE GROWTH

Land that is under municipal jurisdiction can be a selling point to buyers interested in development. The laws and services that a municipality provides can **encourage a desired type of growth** for a community. Cities regulate development within their jurisdiction through zoning and permits. Through annexation, cities are able to direct and influence land use, which can prevent undesirable or incompatible land use in the surrounding area and encourage desirable, compatible land uses instead.

ACQUIRE AN IMPORTANT ASSET

Annexation can help a community **acquire the territory necessary to meet its goals or needs**. For example, it may annex land with a spring or well to augment its water system, or annex a tract of land that allows it to complete a bike park. Remember that annexing and purchasing land are two different activities. Additional steps may be required after annexation to obtain easements or use eminent domain for future community benefit.

CREATE EQUITY

A fundamental best practice of municipal finance states that those who benefit from a service or asset should help pay for it. County residents may frequently use community assets (such as parks) at the same level as community members without having to help pay for the services. Annexing contiguous properties allows for a **more equitable distribution of community resources and obligations** among those who benefit. While a municipality may benefit financially, annexed areas benefit politically. Annexed residents gain the right to participate in local government and help determine the future of their community.



*Annexation:
The act or instance
of adding to
something larger*



WHEN SHOULD WE ANNEX?

In Utah, property owners petition municipalities for annexation³; however, local governments have the final say on whether or not to annex. It is at the discretion of the city's legislative body to annex land. Annexation may not always be the correct decision for your city. Leaders should carefully consider their city's interest in annexing, as well as the annexation's potential impact on culture, finances, and infrastructure. Towns should not wait until they receive a petition for annexation to develop criteria for deciding on future annexation requests.

1 WHEN PLANS CALL FOR IT

A city's general plan must plan for future development, land use, and population changes. The general plan should define the city's long-term goals and needs. A general plan should also identify potential annexation boundaries and outline the criteria used to determine when and where to annex. This can be accomplished effectively through a state-required annexation policy plan.

The annexation policy plan is a separate document from the general plan and must identify the territory the city has identified for potential annexation in order to grow and develop in a well-planned manner. A town cannot annex unincorporated land unless they have adopted an annexation policy plan. Towns should ensure an annexation policy plan is created and adopted before they receive an annexation petition. This will allow better growth management. If an annexation opportunity arises and meets the standards in the plan as well as the community's goals and criteria, it may be annexed.

2 WHEN YOU HAVE THE RESOURCES TO ANNEX

Towns should not annex if they do not have the resources to adequately service the annexed area. State law prevents a municipality from annexing territory if it does not have the ability or intent to provide services to that area. This could mean significant capital improvements such as roads or sewers that will require future maintenance, which may place a strain on city budgets. Before annexing, towns should understand the proposed area's current and future resource requirements.

Towns also need to consider the community's political will to annex. Annexation petitions must be signed by the owners of private real property that covers the majority of land area in the planned annexation and

represent at least one-third of its market value. Annexation can also affect other political entities, such as special districts or nearby municipalities. State law allows these affected entities to file a protest to annexation. Towns should coordinate with these entities to ensure that annexation does not conflict with regional plans and to prevent overlap of local government functions. The annexation process also permits citizens in counties of the first class (population of 700,000 or more) to submit formal protests to annexation. Although not required by law, cities should carefully consider the opinions of all landowners and residents within a proposed annexation as well as current city residents.

ANNEXATION POLICY PLAN

An annexation policy plan must be in place before a city can annex territory. The planning commission recommends the annexation policy plan to the city council after both a public meeting and a public hearing. The city council can adopt the plan after holding an additional public hearing.

The annexation policy plan must include and address the following seven elements:

1. *Map of the expansion area*
2. *Character of the community*
3. *Need for municipal services in developed and undeveloped unincorporated areas*
4. *Plans for extension of municipal services*
5. *How the services will be financed*
6. *Estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area*
7. *Interests of all affected entities*

When developing, considering, and adopting an annexation policy plan, state code also requires communities to:

- *Avoid gaps between or overlaps with the expansion areas of other municipalities*
- *Consider population growth projections for the municipality and adjoining areas for the next 20 years, as well as residential, commercial, and industrial land needs in that time*
- *Consider current and projected costs of infrastructure, urban services and public facilities*
- *Consider the reasons to include agricultural lands, forests, recreational areas, and wildlife management areas*

Source: Utah Code Annotated 10-2-401.5



*An annexation policy plan
is intended to guide the
community through the
annexation process.*

HOW DO WE ANNEX?

In Utah, state law requires that property owners petition the city for annexation⁴. Municipalities may only initiate the process when annexing a peninsula or island. Property owners sign an annexation petition and submit it to the clerk or recorder. Along with the petition, property owners should submit a plat map of the proposed annexation area. Once the petition is filed with the city, the property owners should submit a copy to the county clerk. It is appropriate to charge an administrative fee for filing an annexation petition to cover costs such as notice publication and postage.

The city council will accept or deny the petition at its next council meeting that is at least 14 days after the filing date. Acceptance of the petition does not mean approval; rather, it only means that the petition is permitted to move forward in the process. Remember, the petition is automatically accepted if the city council acts on the petition in that meeting. If the petition is denied, the town must notify the petitioners within five days. If it is accepted, the clerk or recorder will then cooperate with the municipal attorney and the county's assessor, clerk, surveyor, and recorder to determine if the petition meets state annexation requirements. This must be done within 30 days of the approval.

Upon the clerk's or recorder's positive review or certification of the petition, the municipality must notice the certification in the proposed annexation area. It must also notice in the unincorporated area within a half-mile of the proposed annexation. Furthermore, the municipality must also mail a written notice to each entity affected by the annexation. Towns should ensure that the notice describes the proposed annexation area and provides instructions on how affected entities can submit a written protest to the annexation.

After the protest period, the city council must hold a public hearing on the annexation, and may then approve the annexation petition through ordinance. If a protest has been submitted, the city council may deny or further review the petition. Within 30 days of approving annexation, the city council must file a plat map and notice of impending boundary action (such as amended Articles of Incorporation) with the lieutenant governor, who will then issue a certificate of annexation.

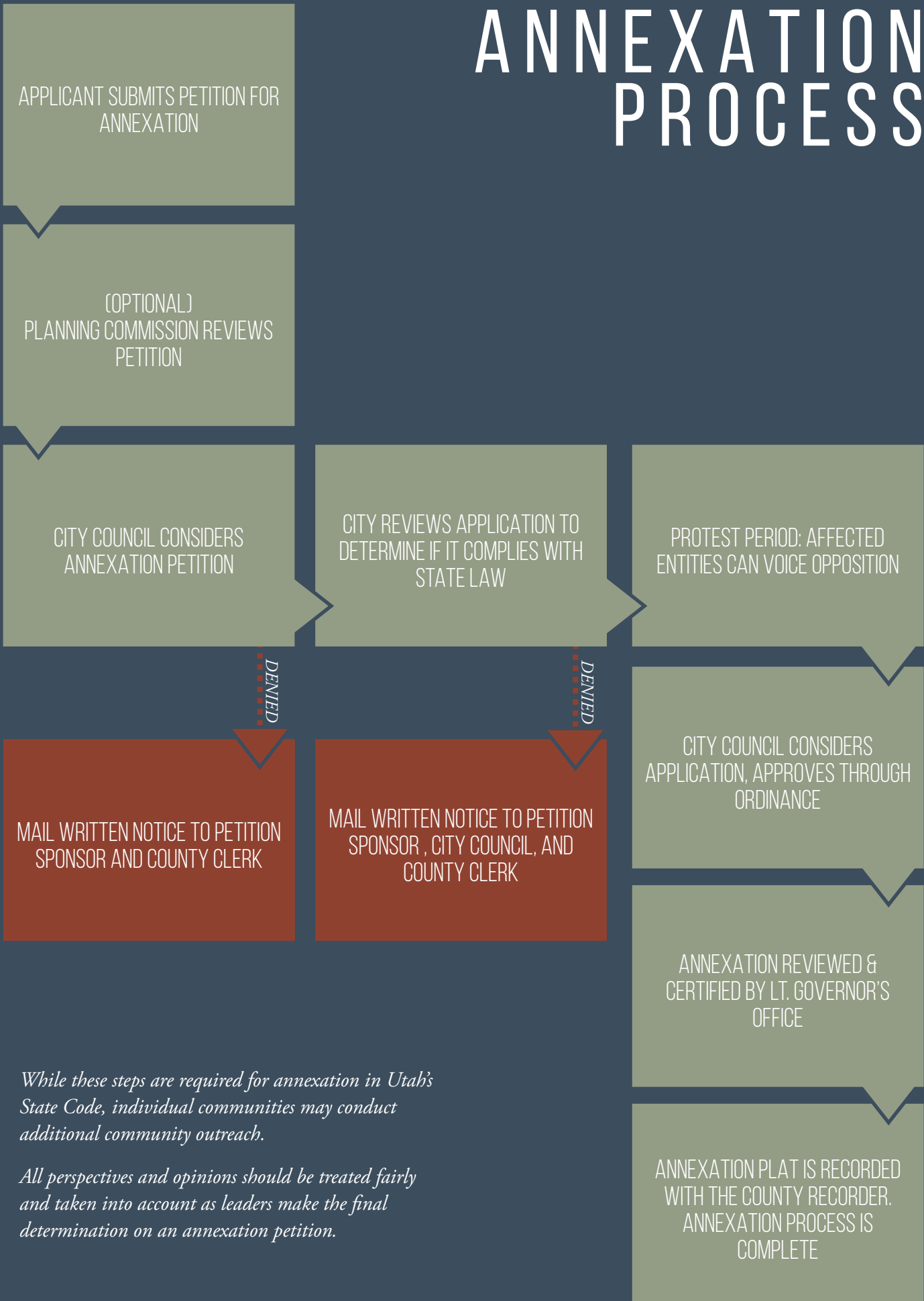
Finally, the clerk or recorder will submit the certificate of annexation, plat map, and copy of the approving ordinance to the county recorder as well as the Department of Health. The clerk or recorder will also send a notice of annexation to each affected entity.

4. See UCA 10-2-418

PLANNING COMMISSION REVIEW

If a town wishes for their planning commission to review the petition, this should take place before the city council meets to accept or deny the petition. While state law does not require the participation of the planning commission, towns may find the commission's recommendations valuable. Additionally, this may be a time for the planning commission to discuss the property's zoning upon annexation. If no designation is given when the property is annexed, the annexed territory becomes a zone compatible with surrounding land uses. *UCA 10-9a-506*

ANNEXATION PROCESS

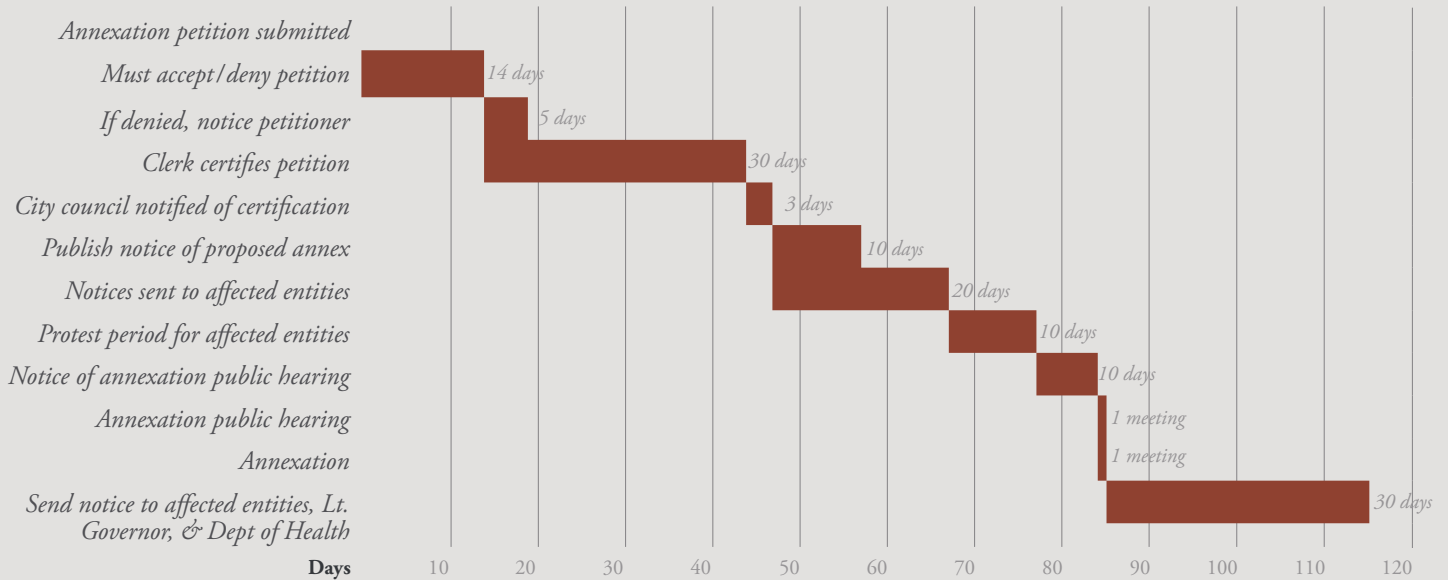


While these steps are required for annexation in Utah's State Code, individual communities may conduct additional community outreach.

All perspectives and opinions should be treated fairly and taken into account as leaders make the final determination on an annexation petition.

ANNEXATION TIMELINE

The following timeline highlights required time frames for annexation to occur. Towns and petitioners should understand that annexation takes time; local officials can increase, but not decrease, these time frames according to local considerations. For the exact time frame of each event, please consult state code.



ADDITIONAL RESOURCES

Utah State Code. Title 10, Chapter 2, Part 4. *Annexation*. <http://le.utah.gov/xcode/Title10/Chapter2/10-2-P4.html>

Utah Municipal Clerks Association. *UMCA Recordors Handbook*, Chapter 7. Updated May, 2015. www.umca.org

Utah League of Cities & Towns. *Annexation Guidebook*. Updated September, 2014. www.ulct.org

Special thanks to Kevin Sonico for his efforts on this project.



ANNEXATION CHECKLIST

This checklist comprises the requirements for annexations to occur. Leaders can use the checklist to track progress of a proposed annexation. Fill-out top-to-bottom, left-to-right.

PETITION

Petition submitted to planning commission? <input type="checkbox"/>		Date:	Annexation Policy Plan In Place? <input type="checkbox"/>
Petition Contact Name:			Date:
Address:	Phone:		Notes:
	Email:		
Petition filing fee paid? <input type="checkbox"/>	Date:	Amount:	
Adequate signatures on petition? <input type="checkbox"/>	Number of Signatures:		Notes:
Copy of petition and plat map submitted to county clerk and mailed to affected entities? <input type="checkbox"/>		Date:	
Plat map prepared by licensed surveyor? <input type="checkbox"/>	Firm:		

PETITION REVIEW

Petition placed on city council agenda? <input type="checkbox"/>		Meeting date:	Planning Commission Review (Optional) <input type="checkbox"/>
City Council Action: Accepted <input type="checkbox"/> Denied <input type="checkbox"/>	Reason for Denial:		Date:
Resolution #:	Notification of decision sent to petitioner? <input type="checkbox"/>	Date:	
Recorder / Clerk Certification: Certified <input type="checkbox"/> Rejected <input type="checkbox"/>	Reason for Rejection:		
Date:	Published notice of certification? <input type="checkbox"/>	Date:	

DECISION

Public hearing notice (<i>must be 10 days prior</i>) <input type="checkbox"/>	Date:		
Annexation adopted by city council? Accepted <input type="checkbox"/> Rejected <input type="checkbox"/>	Reason for Rejection:	Ordinance #:	

SUBMISSION

Filed with Lieutenant Governor's Office <input type="checkbox"/>	Date:	Notes:
Receipt of annexation received from Lt. Gov <input type="checkbox"/>	Date:	
Submitted to county recorder: <input type="checkbox"/>	Date:	
Submitted to Department of Health: <input type="checkbox"/>	Date:	
Notices sent to affected entities <input type="checkbox"/>	Date:	



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