

Appendix U

Ohio's Annexation Law Containing All Provisions of SB 5 and Other Current Sections of the Ohio Revised Code Relating to Annexation Not Changed by SB 5

Following are the sections from SB 5 and sections of the Ohio Revised Code relating to Annexation Law, which have been specifically mentioned in this manual. The sections which have text either underlined or struck-through are the sections comprising SB 5. The underlined text represents the new language provided by SB 5 while the text struck-through is the language removed by SB 5. Those sections which do not show changes and list a statutory history are sections of the Ohio Revised Code which were not changed by SB 5 and, thus, have been retained in law.

Sec. 305.21. Oath.

Any county commissioner may administer any oath necessary in the discharge of the duties of the board of county commissioners.

HISTORY: RS § 857; S&C 246; 51 v 422, § 15; GC § 2417; Bureau of Code Revision. Eff 10-1-53.

Sec. 311.17. Fees for Subpoenas.

For the services specified in this section, the sheriff shall charge the following fees, which the court or clerk thereof shall tax in the bill of costs against the judgment debtor or those legally liable therefor:

(A) For the service and return of the following writs and orders:

(1) Execution:

(a) When money is paid without levy or when no property is found, five dollars;

(b) When levy is made on real property, for the first tract, twenty dollars, and for each additional tract, five dollars;

(c) When levy is made on goods and chattels, including inventory, twenty-five dollars;

(2) Writ of attachment of property, except for purpose of garnishment, twenty dollars;

(3) Writ of attachment for the purpose of garnishment, five dollars;

(4) Writ of replevin, twenty dollars;

(5) Warrant to arrest, for each person named in the writ, five dollars;

(6) Attachment for contempt, for each person named in the writ, three dollars;

(7) Writ of possession or restitution, twenty dollars;

- (8) Subpoena, for each person named in the writ, if in a civil case three dollars, if in a criminal case one dollar;
- (9) Venire, for each person named in the writ, if in a civil case three dollars, if in a criminal case one dollar;
- (10) Summoning each juror, other than on venire, if in a civil case three dollars, if in a criminal case one dollar;
- (11) Writ of partition, fifteen dollars;
- (12) Order of sale on partition, for the first tract, twenty-five dollars, and for each additional tract, five dollars;
- (13) Other order of sale of real property, for the first tract, twenty dollars, and for each additional tract, five dollars;
- (14) Administering oath to appraisers, one dollar and fifty cents each;
- (15) Furnishing copies for advertisements, fifty cents for each hundred words;
- (16) Copy of indictment, for each defendant, two dollars;
- (17) All summons, writs, orders, or notices, for the first name, three dollars, and for each additional name, fifty cents.

(B) In addition to the fee for service and return, the sheriff may charge:

- (1) On each summons, writ, order, or notice, a fee of fifty cents per mile for the first mile, and twenty cents per mile for each additional mile, going and returning, actual mileage to be charged on each additional name;
- (2) Taking bail bond, one dollar;
- (3) Jail fees, as follows:
 - (a) For receiving a prisoner, four dollars, and for discharging or surrendering a prisoner, four dollars;
 - (b) Taking a prisoner before a judge or court, per day, three dollars;
 - (c) Calling action, fifty cents;
 - (d) Calling jury, one dollar;
 - (e) Calling each witness, one dollar;
 - (f) Bringing prisoner before court on habeas corpus, four dollars;
- (4) Poundage on all moneys actually made and paid to the sheriff on execution, decree, or sale of real estate, one per cent;
- (5) Making and executing a deed of land sold on execution, decree, or order of the court, to be paid by the purchaser, twenty-five dollars.

When any of the foregoing services are rendered by an officer or employee, whose salary or per diem compensation is paid by the county, the legal fees provided for such service in this section shall be taxed in the costs in the case, and when such fees are collected they shall be paid into the general fund of the county.

The sheriff shall charge the same fees for the execution of process issued in any other state as he charges for the execution of process of a substantively similar nature that is issued in this state.

HISTORY: RS § 1230; S&S 364; S&C 639; 73 v 127, § 11; 76 v 117, § 20; 77 v 116; GC § 2845; 102 v 277;

108 v PtlI, 1203(1214); Bureau of Code Revision, 10-1-53; 128 v 542 (Eff 7-17-59); 135 v S 208 (Eff 12-17-73); 138 v H 278 (Eff 6-12-80); 140 v H 897. Eff 12-26-84.

Sec. 503.07. Exclusion from Township.

When the limits of a municipal corporation do not comprise the whole of the township in which it is situated, or if by change of the limits of such corporation include territory lying in more than one township, the legislative authority of such municipal corporation, by a vote of the majority of the members of such legislative authority, may petition the board of county commissioners for a change of township lines in order to make them identical, in whole or in part, with the limits of the municipal corporation, or to erect a new township out of the portion of such township included within the limits of such municipal corporation. The board, on presentation of such petition, with the proceedings of the legislative authority authenticated, at a regular or adjourned session, shall upon the petition of a city change the boundaries of the township or erect such new township, and may upon the petition of a village change the boundaries of the township or erect such new township.

HISTORY: RS § 1380; S&C 1548; 70 v 4, § 480; 89 v 63; GC § 3249; Bureau of Code Revision, 10-1-53; 129 v 1300. Eff 10-20-61.

Sec. 505.62. Township May Hire Attorney & Consultants.

A board of township trustees may enter into a contract with, and may appropriate township general revenue fund moneys for the services of, an attorney to represent the township ~~at annexation hearings before the board of county commissioners and upon any appeal of the board's decision pursuant to section 709.07 or Chapter 2506. of the Revised Code.~~

~~The board of township trustees of a township that includes territory that is proposed to be annexed has standing in any appeal of the board of county commissioners' decision on the annexation of township territory that is taken pursuant to section 709.07 or Chapter 2506. of the Revised Code, if the board of township trustees was represented at the annexation hearing before the board of county commissioners, expert witnesses, and other consultants as the board determines are necessary for any potential or pending annexation action, including proceedings before a board of county commissioners or any court. The board also may appropriate general revenue fund moneys for any other expenses it considers necessary that are related to any potential or pending annexation actions.~~

Sec. 701.07. Cooperative Economic Development Agreements.

(A) The legislative authority of one or more municipal corporations, by ordinance or resolution, and the board of township trustees of one or more townships, by resolution, may enter into a cooperative economic development agreement under this section. The board of county commissioners of one or more counties may become a party to a cooperative economic development agreement upon the written consent of the legislative authority of each municipal corporation and the board of township trustees of each township that is a party to the agreement.

Before entering into a cooperative economic development agreement pursuant to this section, the parties to the agreement shall jointly hold a public hearing concerning the agreement. The parties shall provide to residents of the territory affected by the agreement at least thirty days' public notice of the time and place of the public hearing in one or more newspapers of general circulation in that territory. During the thirty-day period prior to the public hearing, each party to the agreement, except the state or any state agency or any person or private entity that becomes a party to the agreement under division (C)(10) or (F) of this section, shall make available for public inspection a copy of the proposed agreement.

(B) A cooperative economic development agreement may be amended at any time in the same manner as it was initially authorized. A cooperative economic development agreement shall designate the territory the agreement covers.

(C) A cooperative economic development agreement may provide for any of the following:

(1) The provision of joint services and permanent improvements within incorporated or unincorporated areas;

(2) The provision of services and improvements by a municipal corporation in unincorporated areas;

(3) The provision of services and improvements by a county or township within the territory of a municipal corporation;

(4) The payment of service fees to a municipal corporation by a township or county;

(5) The payment of service fees to a township or a county by a municipal corporation;

(6) The issuance of notes and bonds and other debt obligations by a municipal corporation, county, or township for public purposes authorized by or under a cooperative economic development agreement and provision for the allocation of the payment of the principal of, interest on, and other charges and costs of issuing and servicing the repayment of the debt;

(7) The issuance of industrial development notes, bonds, and debt obligations by a municipal corporation to finance projects in territory located outside the municipal corporation but located within the territory covered by a cooperative economic development agreement and provision for the allocation of the payment of the principal of, interest on, and other charges and costs of issuing and servicing the repayment of the debt. To implement division (C)(10) of this section, a municipal corporation may undertake projects under Chapter 165., 761., or 902. of the Revised Code even though the project is in territory located outside the municipal corporation.

(8) The territory to be annexed to a municipal corporation when agreed to by the municipal corporation to which annexation is proposed and the township in which the territory to be annexed is located;

(9) Any periods of time during which no annexations will occur and any areas that will not be annexed during the period when agreed to by the municipal corporation and township affected by the annexation moratorium;

(10) Agreements by a municipal corporation and a township, or by a municipal corporation and a county, with landowners or developers of land that is to be annexed, or with both such landowners and land developers, concerning the provision of public services, facilities, and permanent improvements. Any person or other private entity described in division (C)(10) of this section that enters into an agreement with a municipal corporation and a township, or with a municipal corporation and a county, pursuant to this division shall be considered to be a party to the agreement.

(11) The application of tax abatement statutes within the territory covered by the cooperative economic development agreement;

(12) Changing township boundaries under Chapter 503. of the Revised Code to exclude newly annexed territory from the original township and providing services to that territory;

(13) The earmarking by a municipal corporation for its general revenue fund of a portion of the utility charges it collects in territory located outside the municipal corporation but located within the territory covered by a cooperative economic development agreement, but only if the cooperative economic development agreement does not cover any matters relating to annexation;

(14) Payments in lieu of taxes, if any, to be paid to a township by a municipal corporation. These payments may be in addition to or in lieu of other payments required by law to be made to the township by that

municipal corporation.

(15) Any other matter pertaining to the annexation or development of territory, whether the territory is owned by a governmental entity or a person or private entity.

As used in division (C)(2) of this section, "improvement" includes, but is not limited to, sewers, roadways, public utilities, and the acquisition of land.

(D) Cooperative economic development agreements shall not be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, or any other provisions of the Ohio Constitution or of a municipal charter, nor shall municipal corporations and townships, or municipal corporations and counties, agree to share proceeds of any tax levy, although such proceeds may be used to make payments authorized in a cooperative economic development agreement.

(E) If any party to a cooperative economic development agreement believes any other party has failed to perform its part of any provision of the agreement, including the failure to make any payment of moneys due under the agreement, the complaining party shall give notice to the other party clearly stating what breach the complaining party believes has occurred. The party receiving the notice has ninety days from the receipt of that notice to cure the breach. If the breach has not been cured within that ninety-day period, the complaining party may sue for the recovery of the money due under the agreement, sue for specific enforcement of the agreement, or terminate the agreement by giving notice of termination to all other parties.

(F) In order to assist economic development or to provide appropriate state functions and services to any part of the state, the state or any state agency may become a party to a cooperative economic development agreement upon the approval of the governor and the written consent of the legislative authority or governing board of each government entity that is a party to the agreement and upon the approval of each person or private entity described in division (C)(10) of this section that is party to the agreement.

(G) A cooperative economic development agreement entered into under this section is in addition to any other agreements authorized by law between municipal corporations and counties or between municipal corporations and townships.

(H) The powers and authorizations provided for under this section and under any cooperative economic development agreement entered into pursuant to this section shall be liberally construed to allow parties to enter into cooperative economic development agreements and to carry out such an agreement by providing government improvements and facilities and services, by promoting and supporting economic development, by creating and preserving employment opportunities, and by allowing for the sharing by counties and townships in the benefits of economic development even if the economic development does not occur in an unincorporated area.

HISTORY: 147 v H 434. Eff 3-22-99.

Sec. 709.01. Annexation and Detachment of Territory.

Territory may be annexed to, or detached from, municipal corporations, in the manner provided in sections 709.01 to 709.47 of the Revised Code. No territory lying within the boundaries of a military base, camp, or similar installation under the jurisdiction of a military department of the United States government, that is used for the housing of members of the armed forces of the United States and is a center for military operations of the department shall be annexed to a municipal corporation under sections 709.01 to 709.21 of the Revised Code without the approval of the secretary of defense of the United States, his designee, or other person having authority under federal law to give such approval.

HISTORY: RS Bates § 1536-30; 96 v 21, § 6; GC § 3547; Bureau of Code Revision, 10-1-53; 133 v H 590 (Eff 11-21-69); 136 v H 1482. Eff 10-1-76.

Sec. 709.011. Duties of Municipal Clerks; Notification to Board of Elections.

The clerk or clerk of council of a municipal corporation shall notify the board of elections of all vacancies caused by death, resignation, or otherwise in the elective offices of the municipal corporation. Such notification shall be made in writing and filed not later than ten days after the vacancy occurs with the board of elections of the county or counties in which the municipal corporation is located.

The clerk or clerk of council of a municipal corporation shall notify the board of elections of all changes in the boundaries of the municipal corporation. Such notification shall be made in writing and contain a plat clearly showing all boundary changes and shall be filed with the board of elections of the county or counties in which the municipal corporation is located within thirty days after such change occurs.

HISTORY: 125 v S 242 (Eff 1-1-54); 132 v S 220. Eff 12-1-67.

Sec. 709.012. Reduction in Number of Township Firefighters; Order of Dismissal; Priority for Employment in Municipal Fire Department.

When a municipal corporation annexes township territory which results in a reduction of the firefighting force of the township or joint township fire district, the reduction shall be made by dismissal of firefighters in the inverse order of seniority, with the employee with least time of service being dismissed first. The annexing municipal corporation shall offer employment in the inverse order of dismissal by the township to such firefighters if a vacancy exists in the municipal fire department and if they:

(A) Were full-time paid active members of the township or joint township firefighting force for at least six months prior to dismissal and have made application to the municipal corporation within sixty days after the effective date of dismissal;

(B) Have passed a physical examination as prescribed by the physician of the annexing municipal corporation and meet the requirements necessary to perform firefighting duties;

(C) Meet minimum standards of the municipal corporation with respect to moral character, literacy, and ability to understand oral and written instructions as determined by an interview conducted by the fire department of the municipal corporation. The applicant shall be at least twenty-one years of age on the date of application.

(D) Are able to qualify for membership in the Ohio police and fire pension fund.

If no vacancy exists in the municipal fire department at the time of the application referred to in division (A) of this section, the application shall be held until a vacancy occurs. When such a vacancy occurs, the applicant shall be entitled to employment in accordance with the requirements of divisions (A), (B), (C), and (D) of this section. So long as any application for employment has been made and is being held under this section, the municipal corporation shall not fill any vacancy in its fire department by original appointment. If there are individuals who are entitled to reinstatement in the municipal fire department and the vacancies therein are insufficient to permit both such reinstatements and employment of all those applying for employment under division (A) of this section, the persons having the greatest length of service, whether with the municipal or township fire department, shall be entitled to fill the vacancies as they occur.

A person employed under this section, upon acceptance into the municipal fire department, shall be given the rank of "firefighter" and entitled to full seniority credit for prior service in the township or joint township fire district. The person shall be entitled to the same salary, future benefits, vacations, earned time, sick leave, and other rights and privileges as the municipal fire department extends to other employees with the same amount of prior service. The person may take promotional examinations only after completion of one year of service with the municipal fire department and after meeting any applicable civil service requirements for such examination.

Compliance with this section is in lieu of compliance with section 124.42 of the Revised Code or any other requirements for original appointment to a municipal fire district.

HISTORY: 134 v H 665 (Eff 3-22-72); 137 v H 1 (Eff 8-26-77); 148 v H 222. Eff 11-2-99.

Sec. 709.013. Consider Petitions in Order Filed.

(A) If, after a petition for annexation is filed with the board of county commissioners, one or more other petitions are filed containing all or a part of the territory contained in the first petition, the board shall hear and decide the petitions in the order in which they were filed.

(B) The effect of granting any petition under division (A) of this section shall be to delete from any subsequently filed petition any territory contained in the petition that was granted.

(C) If two or more petitions for annexation are filed seeking to annex part or all of the same territory and appeals are subsequently filed under section 709.07 of the Revised Code, each court shall decide the appeal on the first-filed petition before considering the appeal in any subsequently filed petition.

Sec. 709.014. Fee Schedule & Delegation of Duties to Clerk or County Administrator.

(A) The board of county commissioners may establish a reasonable fee or schedule of fees to cover its costs incurred in any annexation proceedings that take place under this chapter. The board also may require an initial deposit to be paid at the time a petition for annexation is filed under sections 709.02 to 709.21 of the Revised Code or promptly after that time. The clerk of the board shall maintain an accurate and detailed accounting of all funds received and expended in the processing of a petition for annexation filed under sections 709.02 to 709.21 of the Revised Code.

(B) Notwithstanding anything to the contrary in division (E) of section 709.024 and division (A) of section 709.03 of the Revised Code, the board of county commissioners, by resolution, may appoint the clerk of the board or the county administrator to set the date, time, and place for hearings, and to provide associated notices to the agent for the petitioners, required under those divisions instead of the board.

Sec. 709.015. Substantial Compliance with Procedural Requirements.

The procedural requirements set forth in sections 709.02 to 709.21 of the Revised Code are directory in nature. Substantial compliance with the procedural requirements of those sections is sufficient to grant the board of county commissioners jurisdiction to hear and render its decision on a petition for annexation filed under those sections. The board shall cure a procedural defect and shall not deny a petition for annexation solely upon the basis of procedural defects.

Sec. 709.02. Annexation of Adjacent Territory; Petition; Owner Defined.

(A) The owners of real estate adjacent contiguous to a municipal corporation may, at their option, cause such territory to be annexed thereto, petition for annexation to a municipal corporation in the manner provided by sections ~~709.03~~ 709.02 to 709.11 of the Revised Code. Application

(B) Application for such annexation shall be made by a petition, addressed to filed with the clerk of the board of county commissioners of the county in which the territory is located, and signed by a majority of the owners of real estate in such territory. Such

(C) The petition required by this section shall contain the following:

~~(A) A full (1) The signatures of a majority of the owners of real estate in the territory proposed for annexation. The person who signs or the circulator of the petition also shall write the date the signature was made next to the owner's name. No signature obtained more than one hundred eighty days before the date on which the petition is filed shall be counted in determining the number of signers of the petition. Any owner who signed the petition may have the signature removed before the document is filed by delivering a signed statement to the agent for the petitioners expressing the owner's wish to have the signature removed. Upon receiving a signed statement, the agent for the petitioners shall strike through the signature, causing the signature to be deleted from the petition.~~

~~(2) An accurate legal description of the perimeter and an accurate map or plat of the territory sought to be annexed proposed for annexation;~~

~~(B) A statement of the number of owners of real estate in the territory sought to be annexed;~~

~~(C)(3) The name of a person or persons to act as agent for the petitioners. The agent for the petitioners may be an official, employee, or agent of the municipal corporation to which annexation is proposed.~~

~~(D) At the time of filing the petition for annexation, the agent for the petitioners also shall file with the clerk of the board a list of all tracts, lots, or parcels in the territory proposed for annexation, and all tracts, lots, or parcels located adjacent to that territory or directly across the road from it when the road is adjacent to it, including the name and mailing address of the owner of each tract, lot, or parcel, and the permanent parcel number from the county auditor's permanent parcel numbering system established under section 319.28 of the Revised Code for each tract, lot, or parcel. This list shall not be considered to be a part of the petition for annexation, and any error on the list shall not affect the validity of the petition.~~

~~(E) As used in sections 709.02 to 709.21 and, 709.38, and 709.39 of the Revised Code, "owner" or "owners" means any adult individual seized of a freehold estate in land who is legally competent, the state or any political subdivision as defined in section 5713.081 of the Revised Code, and any firm, trustee, or private corporation that, any of which is seized of a freehold estate in land; except that individuals, firms, and corporations holding easements and any railroad, utility, street, and highway rights-of-way held in fee, by easement, or by dedication and acceptance are not included within such those meanings; and no person, firm, trustee, or private corporation, the state, or any political subdivision, that has become an owner of real estate by a conveyance, the primary purpose of which is to affect the number of owners required to sign an annexation a petition for annexation, is included within such those meanings. For purposes of sections 709.02 to 709.21, 709.38, and 709.39 of the Revised Code, the state or any political subdivision shall not be considered an owner and shall not be included in determining the number of owners needed to sign a petition unless an authorized agent of the state or the political subdivision signs the petition. The authorized agent for the state shall be the director of administrative services.~~

~~An owner is determined as of the date the petition is filed with the board of county commissioners. If the owner is a corporation, partnership, business trust, estate, trust, organization, association, group, institution, society, state, or political subdivision, the petition shall be signed by a person who is authorized to sign for that entity. A person who owns more than one parcel of real estate, either individually or as a tenant in common or by survivorship tenancy, shall be counted as one owner for purposes of this chapter.~~

Sec. 709.021. Expedited Annexation Petition Filing; Definition of Party.

~~(A) When a petition signed by all of the owners of real estate in the unincorporated territory of a township proposed for annexation requests the annexation of that territory to a municipal corporation contiguous to that territory under one of the special procedures provided for annexation in sections 709.022, 709.023, and 709.024 of the Revised Code, the annexation proceedings shall be conducted under those sections to the exclusion of any other provisions of this chapter unless otherwise provided in this section or the special procedure section chosen.~~

(B) Application for annexation shall be made by a petition filed with the clerk of the board of county commissioners of the county in which the territory is located, and the procedures contained in divisions (C), (D), and (E) of section 709.02 of the Revised Code shall be followed, except that all owners, not just a majority of owners, shall sign the petition. To be valid, each petition circulated for the special procedure in section 709.022 or 709.023 of the Revised Code shall contain the notice provided for in division (B) of section 709.022 or division (A) of section 709.023 of the Revised Code, whichever is applicable.

(C) Except as otherwise provided in this section, only this section and sections 709.014, 709.015, 709.04, 709.10, 709.11, 709.12, 709.192, 709.20, and 709.21 of the Revised Code apply to the granting of an annexation described in this section.

(D) As used in sections 709.022 and 709.024 of the Revised Code, “party” or “parties” means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

Sec. 709.022. Expedited Type 1 Annexation Petitions: Consent of All Parties with Either an Annexation Agreement or Cooperative Economic Development Agreement.

(A) A petition filed under section 709.021 of the Revised Code that requests to follow this section is for the special procedure of annexing land with the consent of all parties. The petition shall be accompanied by a certified copy of an annexation agreement provided for in section 709.192 of the Revised Code or of a cooperative economic development agreement provided for in section 701.07 of the Revised Code, that is entered into by the municipal corporation and each township any portion of which is included within the territory proposed for annexation. Upon the receipt of the petition and the applicable agreement, the board of county commissioners, at the board’s next regular session, shall enter upon its journal a resolution granting the annexation, without holding a hearing.

(B) Owners who sign a petition requesting that the special procedure in this section be followed expressly waive their right to appeal any action taken by the board of county commissioners under this section. There is no appeal from the board’s decision under this section in law or in equity.

The petition circulated to collect signatures for the special procedure in this section shall contain in bold-face capital letters immediately above the heading of the place for signatures on each part of the petition the following: “WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL ANY ACTION ON THE PETITION TAKEN BY THE BOARD OF COUNTY COMMISSIONERS. THERE ALSO IS NO APPEAL FROM THE BOARD’S DECISION IN THIS MATTER IN LAW OR IN EQUITY.”

(C) After the board of county commissioners grants the petition for annexation, the clerk of the board shall deliver a certified copy of the entire record of the annexation proceedings, including all resolutions of the board, signed by a majority of the members of the board, the petition, map, and all other papers on file, and the recording of the proceedings, if a copy is available, to the auditor or clerk of the municipal corporation to which annexation is proposed.

Sec. 709.023. Expedited Type 2 Annexation Petitions: Petitions by All Property Owners With or Without Consent of Municipality & Township(s).

(A) A petition filed under section 709.021 of the Revised Code that requests to follow this section is for the special procedure of annexing land into a municipal corporation when, subject to division (H) of this section, the land also is not to be excluded from the township under section 503.07 of the Revised Code. The owners who sign this petition by their signature expressly waive their right to appeal in law or equity from the board of county commissioners’ entry of any resolution under this section, waive any rights they may have to sue on any issue relating to a municipal corporation requiring a buffer as provided in this section,

and waive any rights to seek a variance that would relieve or exempt them from that buffer requirement.

The petition circulated to collect signatures for the special procedure in this section shall contain in bold-face capital letters immediately above the heading of the place for signatures on each part of the petition the following: "WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY FROM THE BOARD OF COUNTY COMMISSIONERS' ENTRY OF ANY RESOLUTION PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE."

(B) Upon the filing of the petition in the office of the clerk of the board of county commissioners, the clerk shall cause the petition to be entered upon the board's journal at its next regular session. This entry shall be the first official act of the board on the petition. Within five days after the filing of the petition, the agent for the petitioners shall notify in the manner and form specified in this division the clerk of the legislative authority of the municipal corporation to which annexation is proposed, the clerk of each township any portion of which is included within the territory proposed for annexation, the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed, and the owners of property adjacent to the territory proposed for annexation or adjacent to a road that is adjacent to that territory and located directly across that road from that territory. The notice shall refer to the time and date when the petition was filed and the county in which it was filed and shall have attached or shall be accompanied by a copy of the petition and any attachments or documents accompanying the petition as filed.

Notice to a property owner is sufficient if sent by regular United States mail to the tax mailing address listed on the county auditor's records. Notice to the appropriate government officer shall be given by certified mail, return receipt requested, or by causing the notice to be personally served on the officer, with proof of service by affidavit of the person who delivered the notice. Proof of service of the notice on each appropriate government officer shall be filed with the board of county commissioners with which the petition was filed.

(C) Within twenty days after the date that the petition is filed, the legislative authority of the municipal corporation to which annexation is proposed shall adopt an ordinance or resolution stating what services the municipal corporation will provide, and an approximate date by which it will provide them, to the territory proposed for annexation, upon annexation. The municipal corporation is entitled in its sole discretion to provide to the territory proposed for annexation, upon annexation, services in addition to the services described in that ordinance or resolution.

If the territory proposed for annexation is subject to zoning regulations adopted under either Chapter 303. or 519. of the Revised Code at the time the petition is filed, the legislative authority of the municipal corporation also shall adopt an ordinance or resolution stating that, if the territory is annexed and becomes subject to zoning by the municipal corporation and that municipal zoning permits uses in the annexed territory that the municipal corporation determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining within the township from which the territory was annexed, the legislative authority of the municipal corporation will require, in the zoning ordinance permitting the incompatible uses, the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township. For the purposes of this section, "buffer" includes open space, landscaping, fences, walls, and other structured elements; streets and street rights-of-way; and bicycle and pedestrian paths and side-walks.

The clerk of the legislative authority of the municipal corporation to which annexation is proposed shall file the ordinances or resolutions adopted under this division with the board of county commissioners within twenty days following the date that the petition is filed. The board shall make these ordinances or resolutions available for public inspection.

(D) Within twenty-five days after the date that the petition is filed, the legislative authority of the municipal corporation to which annexation is proposed and each township any portion of which is included within the territory proposed for annexation may adopt and file with the board of county commissioners an ordinance or resolution consenting or objecting to the proposed annexation. An objection to the proposed annexation shall be based solely upon the petition's failure to meet the conditions specified in division (E) of this section.

If the municipal corporation and each of those townships timely files an ordinance or resolution consenting to the proposed annexation, the board at its next regular session shall enter upon its journal a resolution granting the proposed annexation. If, instead, the municipal corporation or any of those townships files an ordinance or resolution that objects to the proposed annexation, the board of county commissioners shall proceed as provided in division (E) of this section. Failure of the municipal corporation or any of those townships to timely file an ordinance or resolution consenting or objecting to the proposed annexation shall be deemed to constitute consent by that municipal corporation or township to the proposed annexation.

(E) Unless the petition is granted under division (D) of this section, not less than thirty or more than forty-five days after the date that the petition is filed, the board of county commissioners shall review it to determine if each of the following conditions has been met:

(1) The petition meets all the requirements set forth in, and was filed in the manner provided in, section 709.021 of the Revised Code.

(2) The persons who signed the petition are owners of the real estate located in the territory proposed for annexation and constitute all of the owners of real estate in that territory.

(3) The territory proposed for annexation does not exceed five hundred acres.

(4) The territory proposed for annexation shares a contiguous boundary with the municipal corporation to which annexation is proposed for a continuous length of at least five per cent of the perimeter of the territory proposed for annexation.

(5) The annexation will not create an unincorporated area of the township that is completely surrounded by the territory proposed for annexation.

(6) The municipal corporation to which annexation is proposed has agreed to provide to the territory proposed for annexation the services specified in the relevant ordinance or resolution adopted under division (C) of this section.

(7) If a street or highway will be divided or segmented by the boundary line between the township and the municipal corporation as to create a road maintenance problem, the municipal corporation to which annexation is proposed has agreed as a condition of the annexation to assume the maintenance of that street or highway or to otherwise correct the problem. As used in this section, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(F) Not less than thirty or more than forty-five days after the date that the petition is filed, if the petition is not granted under division (D) of this section, the board of county commissioners, if it finds that each of the conditions specified in division (E) of this section has been met, shall enter upon its journal a resolution granting the annexation. If the board of county commissioners finds that one or more of the conditions specified in division (E) of this section have not been met, it shall enter upon its journal a resolution that states which of those conditions the board finds have not been met and that denies the petition.

(G) If a petition is granted under division (D) or (F) of this section, the clerk of the board of county commissioners shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code, except that no recording or hearing exhibits would be involved. There is no appeal in law or equity from the board's entry of any resolution under this section, but any party may seek a writ of mandamus to compel the board of county commissioners to perform its duties under this section.

(H) Notwithstanding anything to the contrary in section 503.07 of the Revised Code, unless otherwise provided in an annexation agreement entered into pursuant to section 709.192 of the Revised Code or in a cooperative economic development agreement entered into pursuant to section 701.07 of the Revised Code, territory annexed into a municipal corporation pursuant to this section shall not at any time be excluded from the township under section 503.07 of the Revised Code and, thus, remains subject to the township's real property taxes.

(I) Any owner of land that remains within a township and that is adjacent to territory annexed pursuant to this section who is directly affected by the failure of the annexing municipal corporation to enforce compliance with any zoning ordinance it adopts under division (C) of this section requiring the owner of the annexed territory to provide a buffer zone, may commence in the court of common pleas a civil action against that owner to enforce compliance with that buffer requirement whenever the required buffer is not in place before any development of the annexed territory begins.

Sec. 709.024. Expedited Type 3 Annexation Petitions: Petitions by All Property Owners For Undertaking a Significant Economic Development Project.

(A) A petition filed under section 709.021 of the Revised Code that requests to follow this section is for the special procedure of annexing land into a municipal corporation for the purpose of undertaking a significant economic development project. As used in this section, "significant economic development project" means one or more economic development projects that can be classified as industrial, distribution, high technology, research and development, or commercial, which projects may include ancillary residential and retail uses and which projects shall satisfy all of the following:

(1) Total private real and personal property investment in a project shall be in excess of ten million dollars through land and infrastructure, new construction, reconstruction, installation of fixtures and equipment, or the addition of inventory, excluding investment solely related to the ancillary residential and retail elements, if any, of the project. As used in this division, "private real and personal property investment" does not include payments in lieu of taxes, however characterized, under Chapter 725. or 1728. or sections 5709.40 to 5709.43, 5709.73 to 5709.75, or 5709.78 to 5709.81 of the Revised Code.

(2) There shall be created by the project an additional annual payroll in excess of one million dollars, excluding payroll arising solely out of the retail elements, if any, of the project.

(3) The project has been certified by the state director of development as meeting the requirements of divisions (A)(1) and (2) of this section.

(B) Upon the filing of the petition under section 709.021 of the Revised Code in the office of the clerk of the board of county commissioners, the clerk shall cause the petition to be entered upon the journal of the board at its next regular session. This entry shall be the first official act of the board on the petition. Within five days after the filing of the petition, the agent for the petitioners shall notify in the manner and form specified in this division the clerk of the legislative authority of the municipal corporation to which annexation is proposed, the clerk of each township any portion of which is included within the territory proposed for annexation, the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed, and the owners of property adjacent to the territory proposed for annexation or adjacent to a road that is adjacent to that territory and located directly across that road from that territory. The notice shall refer to the time and date when the petition was filed and the county in which it was filed and shall have attached or shall be accompanied by a copy of the petition and any attachments or documents accompanying the petition as filed.

Notice to a property owner is sufficient if sent by regular United States mail to the tax mailing address listed on the county auditor's records. Notice to the appropriate government officer shall be given by certified mail, return receipt requested, or by causing the notice to be personally served on the officer, with

proof of service by affidavit of the person who delivered the notice. Proof of service of the notice on each appropriate government officer shall be filed with the board of county commissioners with which the petition was filed.

(C)(1) Within thirty days after the petition is filed, the legislative authority of the municipal corporation to which annexation is proposed and each township any portion of which is included within the territory proposed for annexation may adopt and file with the board of county commissioners an ordinance or resolution consenting or objecting to the proposed annexation. An objection to the proposed annexation shall be based solely upon the petition's failure to meet the conditions specified in division (F) of this section. Failure of the municipal corporation or any of those townships to timely file an ordinance or resolution consenting or objecting to the proposed annexation shall be deemed to constitute consent by that municipal corporation or township to the proposed annexation.

(2) Within twenty days after receiving the notice required by division (B) of this section, the legislative authority of the municipal corporation shall adopt, by ordinance or resolution, a statement indicating what services the municipal corporation will provide or cause to be provided, and an approximate date by which it will provide or cause them to be provided, to the territory proposed for annexation, upon annexation. If a hearing is to be conducted under division (E) of this section, the legislative authority shall file the statement with the clerk of the board of county commissioners at least twenty days before the date of the hearing.

(D) If all parties to the annexation proceedings consent to the proposed annexation, a hearing shall not be held, and the board, at its next regular session, shall enter upon its journal a resolution granting the annexation. There is no appeal in law or in equity from the board's entry of a resolution under this division. The clerk of the board shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code.

(E) Unless the petition is granted under division (D) of this section, a hearing shall be held on the petition. The board of county commissioners shall hear the petition at its next regular session and shall notify the agent for the petitioners of the hearing's date, time, and place. The agent for the petitioners shall give, within five days after receipt of the notice of the hearing from the board, to the parties and property owners entitled to notice under division (B) of this section, notice of the date, time, and place of the hearing. Notice to a property owner is sufficient if sent by regular United States mail to the tax mailing address listed on the county auditor's records. At the hearing, the parties and any owner of real estate within the territory proposed to be annexed are entitled to appear for the purposes described in division (C) of section 709.032 of the Revised Code.

(F) Within thirty days after a hearing under division (E) of this section, the board of county commissioners shall enter upon its journal a resolution granting or denying the proposed annexation. The resolution shall include specific findings of fact as to whether or not each of the conditions listed in this division has been met. If the board grants the annexation, the clerk of the board shall proceed as provided in division (C)(1) of section 709.033 of the Revised Code.

The board shall enter a resolution granting the annexation if it finds, based upon a preponderance of the substantial, reliable, and probative evidence on the whole record, that each of the following conditions has been met:

(1) The petition meets all the requirements set forth in, and was filed in the manner provided in, section 709.021 of the Revised Code.

(2) The persons who signed the petition are owners of real estate located in the territory proposed to be annexed in the petition and constitute all of the owners of real estate in that territory.

(3) No street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or if the street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will

assume the maintenance of that street or highway. For the purposes of this division, “street” or “highway” has the same meaning as in section 4511.01 of the Revised Code.

(4) The municipal corporation to which the territory is proposed to be annexed has adopted an ordinance or resolution as required by division (C)(2) of this section.

(5) The state director of development has certified that the project meets the requirements of divisions (A)(1) and (2) of this section and thereby qualifies as a significant economic development project. The director’s certification is binding on the board of county commissioners.

(G) An owner who signed the petition may appeal a decision of the board of county commissioners denying the proposed annexation under section 709.07 of the Revised Code. No other person has standing to appeal the board’s decision in law or in equity. If the board grants the annexation, there shall be no appeal in law or in equity.

(H) Notwithstanding anything to the contrary in section 503.07 of the Revised Code, unless otherwise provided in an annexation agreement entered into pursuant to section 709.192 of the Revised Code or in a cooperative economic development agreement entered into pursuant to section 701.07 of the Revised Code, territory annexed into a municipal corporation pursuant to this section shall not at any time be excluded from the township under section 503.07 of the Revised Code and, thus, remains subject to the township’s real property taxes.

(I) A municipal corporation to which annexation is proposed is entitled in its sole discretion to provide to the territory proposed for annexation, upon annexation, services in addition to the services described in the ordinance or resolution adopted by the legislative authority of the municipal corporation under division (C)(2) of this section.

Sec. 709.03. Petition Filed; Notice Requirements; Hearing Set.

The (A) Once a petition required by described in section 709.02 of the Revised Code shall be is filed in, the office clerk of the board of county commissioners and the clerk shall cause the petition to be entered upon the record of proceedings journal of the board, which at its next regular session. This entry shall be the first official act of the board on the annexation petition, and shall cause the petition to be filed in the office of the county auditor, where it shall be subject to the inspection of any interested person. The agent for the petitioners shall cause written notice of the filing of the petition with the board of county commissioners and the date of such filing to be delivered to the clerk of the legislative authority of the municipal corporation to which annexation is proposed and to the clerk of each township any portion of which is included within the territory sought to be annexed. Any person. Within five days after the filing of the petition, the board shall set the date, time, and place for the hearing on the petition and shall notify the agent for the petitioners. The date for the hearing shall be not less than sixty or more than ninety days after the petition is filed with the clerk of the board.

(B) Upon being notified of the date of the hearing, the agent for the petitioners shall do all of the following:

(1) Within five days cause written notice of the filing of the petition with the board of county commissioners, the date and time of the filing, and the date, time, and place of the hearing, to be delivered to the clerk of the legislative authority of the municipal corporation to which annexation is proposed, to the clerk of each township any portion of which is included within the territory proposed for annexation, and to the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed. The notice shall state the date and time when the petition was filed and the county in which it was filed and shall have attached or shall be accompanied by a copy of the petition and any attachments or documents accompanying the petition as filed. The notice shall be given by certified mail, return receipt requested, or by causing the notice to be personally served on the appropriate governmental officer, with proof of service being by affidavit of the person who

delivered the notice. Within ten days after the date of completion of service, the agent for the petitioners shall file proof of service of the notice with the board of county commissioners with which the petition was filed.

(2) Within ten days send by regular mail a copy of the notice of the board of county commissioners of the hearing to all owners of property within the territory proposed to be annexed, and to all owners of property adjacent to the territory proposed to be annexed or adjacent to a road that is adjacent to that territory and located directly across that road from that territory, whose names were provided by the agent for the petitioners under division (D) of section 709.02 of the Revised Code, along with a map of the territory proposed to be annexed and a statement indicating where the full petition for annexation can be reviewed. The notice also shall include a statement that any owner who signed the petition may remove the owner's signature by filing with the clerk of the board of county commissioners a written notice of withdrawal of the owner's signature within twenty-one days after the date the agent mails the notice; the agent shall include with each mailed notice a certification of the date of its mailing for this purpose. Within ten days after the mailing of the notices, the agent shall file with the board of county commissioners with which the petition was filed, a notarized affidavit that a notice was sent by regular mail to these property owners.

(3) Cause a notice containing the substance of the petition, and the date, time, and place of the hearing, to be published at least once and at least seven days prior to the date fixed for the hearing, in a newspaper of general circulation in each county in which territory proposed for annexation is situated. Within ten days after the date of completion of the publication or at the hearing, whichever comes first, the agent for the petitioners shall file proof of publication of the notice with the board of county commissioners with which the petition was filed.

(C) Any owner who signed the petition for annexation may remove his ~~that~~ signature by filing with the clerk of the board of county commissioners a written notice of withdrawal of ~~his~~ the owner's signature within ~~twenty~~ twenty-one days after ~~such a notice of filing is delivered to the clerk of the township in which he resides~~ the date the agent for the petitioners mailed the notice of the hearing to the owner as provided in division (B)(2) of this section. Thereafter, signatures may be withdrawn or removed only in the manner authorized by section 709.032 of the Revised Code.

(D) Upon receiving the notice described in division (B)(1) of this section, the legislative authority of the municipal corporation shall adopt, by ordinance or resolution, a statement indicating what services the municipal corporation will provide, and an approximate date by which it will provide them, to the territory proposed for annexation, upon annexation. The statement shall be filed with the board of county commissioners at least twenty days before the date of the hearing. The municipal corporation is entitled in its sole discretion to provide to the territory proposed for annexation, upon annexation, services in addition to the services described in the ordinance or resolution it adopts under this division.

Sec. 709.031. Legal Description to County Engineer; Petition Amendments; Proof of Authority to Sign Petition.

(A) Within five days after the petition for annexation is filed with the board of county commissioners, the clerk of the board shall refer the legal description of the perimeter and the map or plat of the territory proposed to be annexed to the county engineer for a report upon the accuracy of the legal description of the perimeter, map, or plat. Upon receiving these items, the county engineer shall file, at least twenty-five days before the hearing, a written report with the board based on the engineer's findings, which shall not be conclusive upon the board. Failure of the engineer to make the report shall not affect the jurisdiction or duty of the board to proceed.

(B) The petition may be amended without further notice by leave of the board of county commissioners and with the consent of the agent for the petitioners if the amendment does not add to the territory embraced in the original petition and is made at least fifteen days before the date of the hearing. The board

may rerefer the legal description of the perimeter, map, or plat to the county engineer if revisions are made in them, for a report on their accuracy. Upon receiving these items, the county engineer shall file, on or before the date of the hearing, a written report with the board based on the engineer's findings, which shall not be conclusive upon the board. Failure of the engineer to make the report shall not affect the jurisdiction or duty of the board to proceed.

(C) The board of township trustees of any township containing any territory proposed for annexation and any owners of real estate in the territory proposed for annexation may request that reasonable proof be presented of the authority of a person signing the petition on behalf of any person other than a natural being, the state, or a political subdivision of the state. The request shall be in writing and be filed with the board of county commissioners and with the agent for the petitioners at least fifteen days prior to the hearing on the petition. When such a request is filed, the agent for the petitioners shall present to the board of county commissioners at the hearing held under section 709.032 of the Revised Code sufficient evidence by affidavit or testimony to establish that the owner is a person other than a natural being, the state, or a political subdivision of the state and that the owner authorized the person whose signature is on the petition to sign the petition on its behalf. If the board does not find the evidence sufficient to establish this authority, it shall remove the signature from the petition.

Sec. 709.032. Necessary Party Defined; Subpoenas; Hearing Testimony.

(A) As used in this section, "necessary party" means the municipal corporation to which annexation is proposed, each township any portion of which is included within the territory proposed for annexation, and the agent for the petitioners.

(B) The hearing provided for in section ~~709.034~~ 709.03 of the Revised Code shall be public. ~~Any~~ The board of county commissioners may, or at the request of any necessary party shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the petition, directed to the sheriff of each county where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases. The fees and mileage of sheriffs and witnesses shall be the same as those allowed by the court of common pleas in criminal cases. The fee and mileage expenses incurred at the request of a party shall be paid in advance by the party, and the remainder of the expenses shall be paid out of fees charged by the board for the annexation proceedings. In case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the court of common pleas of the county in which the disobedience, neglect, or refusal occurs, or any judge of that court, on application of the board, any member of the board, or a necessary party, may compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. An owner of a company, firm, partnership, association, or corporation that is subpoenaed may have an agent or attorney appear before the board on that owner's behalf in response to the subpoena.

The board of county commissioners shall make, by electronic means or some other suitable method, a record of the hearing. If a request, accompanied by a deposit to pay the costs, is filed with the board not later than seven days before the hearing, the board shall provide an official court reporter to record the hearing. The record of the hearing need not be transcribed unless a request, accompanied by an amount to cover the cost of transcribing the record, is filed with the board.

(C) Any person may appear, in person or by attorney, and, after being sworn, may support or contest the granting of the prayer of the petition provided for by section 709.02 of the Revised Code. Affidavits presented in support of or against the prayer of such petition shall be considered by the board, but only if the affidavits are filed with the board and served as provided in the Rules of Civil Procedure upon the necessary parties to the annexation proceedings at least fifteen days before the date of the hearing; provided

that the board shall accept an affidavit after the fifteen-day period if the purpose of the affidavit is only to establish the affiant's authority to sign the petition on behalf of the entity for which the affiant signed. Necessary parties or their representatives are entitled to present evidence, examine and cross-examine witnesses, and comment on all evidence, including any affidavits presented to the board under this division.

~~(D)~~ At the hearing, any owner who signed the petition for annexation may appear; and, after being sworn as provided by section 305.21 of the Revised Code, testify orally that ~~his~~ the owner's signature was obtained by fraud, duress, misrepresentation, including any misrepresentation relating to the provision of municipal services to the territory proposed to be annexed, or undue influence. Any person may testify orally after being so sworn in support of or rebuttal to ~~such~~ the prior testimony by the owner. ~~The commissioners, the agent for the petitioners or his attorney, and such owner or his attorney may examine such witnesses, including the owner~~ Any witnesses and owners who testify shall be subject to cross-examination by the necessary parties to the annexation proceedings. If a majority of the county commissioners find that ~~such~~ the owner's signature was obtained under circumstances that did constitute fraud, duress, misrepresentation, or undue influence, they shall find the signature to be void; and shall order it removed from the petition as of the time the petition was filed.

~~The petition may be amended without further notice by leave of the county commissioners with the consent of the agent for the petitioners where such amendment does not add to the territory embraced in the original petition. If any amendment is permitted, whereby territory not before embraced is added, the board shall appoint another time for the hearing, of which notice shall be given as specified in section 709.031 of the Revised Code.~~

Sec. 709.033. Conditions for Annexation; Commissioners Grant or Deny Annexation.

~~(A)~~ After the hearing on a petition ~~to annex~~ for annexation, the board of county commissioners shall enter an order upon its journal allowing a resolution granting the annexation if it finds, based upon a preponderance of the substantial, reliable, and probative evidence on the whole record, that each of the following conditions has been met:

~~(A)(1)~~ The petition contains all matter required in meets all the requirements set forth in, and was filed in the manner provided in, section 709.02 of the Revised Code.

~~(B)~~ Notice has been published as required by section 709.031 of the Revised Code.

~~(C)(2)~~ The persons whose names are subscribed to who signed the petition are owners of real estate located in the territory proposed to be annexed in the petition, and, as of the time the petition was filed with the board of county commissioners, the number of valid signatures on the petition constituted a majority of the owners of real estate in the ~~that~~ territory proposed to be annexed.

~~(D)(3)~~ The municipal corporation to which the territory is proposed to be annexed has complied with division ~~(B)(D)~~ of section 709.031 709.03 of the Revised Code.

~~(E)(4)~~ The territory included in the annexation petition proposed to be annexed is not unreasonably large; the map or plat is accurate; and,

(5) On balance, the general good of the territory sought proposed to be annexed will be served, and the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be annexed and the surrounding area, if the annexation petition is granted. As used in division (A)(5) of this section, "surrounding area" means the territory within the unincorporated area of any township located one-half mile or less from any of the territory proposed to be annexed.

(6) No street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or, if a street or highway will be so divided

or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway. For the purposes of this division, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(B) The board of county commissioners shall ~~grant~~ enter upon its journal a resolution granting or deny denying the petition for annexation within ~~ninety~~ thirty days after the hearing ~~set pursuant to~~ provided for in section ~~709.034~~ 709.032 of the Revised Code. The resolution shall include specific findings of fact as to whether each of the conditions listed in divisions (A)(1) to (6) of this section has been met. Upon journalization of the resolution, the clerk of the board shall send a certified copy of it to the agent for the petitioners, the clerk of the legislative authority of the municipal corporation to which annexation is proposed, the clerk of each township in which the territory proposed for annexation is located, and the clerk of the board of county commissioners of each county in which the territory proposed for annexation is located other than the county in which the petition is filed. The clerk of the board shall take no further action until the expiration of thirty days after the date of journalization.

(C) After the expiration of that thirty-day period, if no appeal has been timely filed under section 709.07 of the Revised Code, the clerk of the board of county commissioners shall take one of the following actions:

(1) If the board of county commissioners ~~grants~~ granted the petition for annexation it, the clerk shall enter on its journal all the orders of the board relating to the annexation and deliver a certified transcript of ~~copy~~ of the entire record of the annexation proceedings, including all ~~orders~~ resolutions of the board, signed by a majority of the members of the board, the petition, map, and all other papers on file, the recording of the proceedings, if a copy is available, and exhibits presented at the hearing relating to the annexation proceedings, to the auditor or clerk of the municipal corporation to which annexation is proposed.

(2) If the board of county commissioners ~~denies~~ denied the petition for annexation, it the clerk shall send a certified copy of its ~~order~~ resolution denying the annexation to the agent for the petitioners and to the clerk of the municipal corporation to which the annexation was proposed. If, on any appeal of any such annexation denial, a court holds that the board's denial was contrary to law, and if the court orders the clerk of the board of county commissioners to enter on the journal of the board an order approving the annexation, then the clerk shall enter the order.

(D) If an appeal is filed in a timely manner under section 709.07 of the Revised Code from the determination of the board of county commissioners granting or denying the petition for annexation, the clerk of the board shall take further action only in accordance with that section.

Sec. 709.04. Acceptance of Territory by Annexing Municipal Corporation.

At the next regular session of the legislative authority of the municipal corporation to which annexation is proposed, after the expiration of sixty days from the date of filing ~~with him as~~ the delivery required by division (C) of section 709.022 or division (C)(1) of section 709.033 of the Revised Code, the auditor or clerk of ~~such~~ that municipal corporation shall lay the transcript resolution of the board granting the petition and the accompanying map or plat and petition ~~required by such section~~ before the legislative authority. Thereupon ~~the~~ The legislative authority, by resolution or ordinance, then shall accept or reject the ~~application~~ petition for annexation. If the legislative authority fails to pass an ordinance or resolution accepting the application petition for annexation within a period of one hundred twenty days after ~~the transcript is~~ those documents are laid before it by the auditor or clerk, the application petition for annexation shall be deemed considered rejected by the legislative authority, ~~unless it has been prevented from acting by a temporary restraining order, a temporary injunction, or some other order of a court.~~

Sec. 709.05. Rejection of Application; Effect.

If the resolution or ordinance required by section 709.04 of the Revised Code is a rejection of the applica-

tion for annexation, no further proceedings shall be had. Such rejection shall not be a bar to application thereafter to the board of county commissioners on the same subject.

HISTORY: RS § 1592; Bates § 1536-34; 66 v 265, § 683; GC § 3551; Bureau of Code Revision. Eff 10-1-53.

Sec. 709.06. Proceedings When Application Allowed.

If the resolution or ordinance required by section 709.04 of the Revised Code is an acceptance of the proposed annexation, the auditor or clerk of the municipal corporation to which annexation is proposed shall make three copies, containing the petition, the map or plat accompanying the petition, a transcript of the proceedings of the board of county commissioners, and resolutions and ordinances in relation to the annexation, with a certificate to each copy that it is correct. Such certificate shall be signed by the auditor or clerk in his official capacity, and shall be authenticated by the seal of the municipal corporation if there is any. The auditor or clerk shall forthwith deliver one such copy to the county auditor and one such copy to the county recorder, who shall make a record thereof in the proper book of records and file and preserve it. The other copy shall be forwarded by the auditor or clerk to the secretary of state.

HISTORY: RS § 1593; Bates § 1536-35; 66 v 265, § 684; GC § 3552; Bureau of Code Revision, 10-1-53; 132 v S 220. Eff 12-1-67.

Sec. 709.07. Appeals.

(A) The agent for the petitioners, any owner of real estate in the territory proposed for annexation, any township in which territory proposed for annexation is located, and the municipal corporation to which the territory is proposed to be annexed may file an appeal under Chapter 2506. of the Revised Code from a resolution of the board of county commissioners granting or denying the petition. The agent for the petitioners, any township in which the territory proposed for annexation is located, and any municipal corporation to which the territory is proposed to be annexed are necessary parties in an appeal. The filing of a notice of appeal with the clerk of the board of county commissioners shall operate as a stay of execution upon that clerk and all parties to the appeal, which stay shall not be lifted until the court having jurisdiction over the proceedings enters a final order affirming or reversing the decision of the board of county commissioners and the time limits for an appeal of that final order have passed without a notice of appeal being filed.

(B) Any party filing an appeal from the court of common pleas or court of appeals decision in an annexation matter shall serve on the clerk of the board of county commissioners a time-stamped copy of the notice of appeal. Upon issuance of a final order of any court regarding an annexation appeal, the clerk of the court shall forward a certified copy of the court's order to the clerk of the board of county commissioners that rendered the annexation decision that was appealed.

(C) If, after all appeals have been exhausted, the final determination of the court is that the petition for annexation should be granted, the board of county commissioners shall enter on its journal a resolution granting the annexation, if such a resolution has not already been journalized, and the clerk of the board shall deliver a certified copy of that journal entry and of the entire record of the annexation proceedings, including all resolutions of the board, signed by a majority of the members of the board, the petition, map, and all other papers on file, the transcript of the proceedings, and exhibits presented at the hearing relating to the annexation proceedings, to the auditor or clerk of the municipal corporation to which annexation is proposed. The municipal auditor or clerk shall lay these certified papers, along with the copy of the court's order, before the legislative authority at its next regular meeting. The legislative authority then shall proceed to accept or reject the petition for annexation as provided under section 709.04 of the Revised Code.

(D) If, after all appeals have been exhausted, the final determination of the court is that the petition for

annexation should be denied, the board of county commissioners shall enter on its journal a resolution denying the annexation, if such a resolution has not already been journalized.

Sec. 709.08. Repealed.

Sec. 709.09. Repealed.

Sec. 709.10. Effective Date and Rights of Inhabitants.

The annexation shall become effective thirty days after the passage of the resolution or ordinance by the legislative authority of the municipal corporation accepting annexation, provided that if the resolution or ordinance is subjected to a referendum, the annexation, if approved by the electors, shall become effective thirty days after such approval. The territory annexed is a part of the municipal corporation, and the inhabitants residing therein shall have all the rights and privileges, and shall be subject to the powers, of the municipal corporation as are the inhabitants within the original limits of such municipal corporation.

HISTORY: RS § 1597; Bates § 1536-39; 66 v 266, § 688; GC § 3556; Bureau of Code Revision, 10-1-53; 132 v S 220 (Eff 12-1-67); 133 v H 1. Eff 3-18-69.

Sec. 709.11. Petition to Be Filed in County with Majority of Acreage.

If the territory proposed for annexation under this chapter is situated in more than one county, the annexation proceedings shall be in the county in which the majority of acreage of the territory proposed for annexation is situated.

Sec. 709.12. Apportioning of Indebtedness of Annexed Territory; Division of Funds.

When proceedings have been commenced to annex a portion of a township, or portions of more than one township, to a municipal corporation upon which the tax levies made by the board of township trustees for the payment of the township debt do not apply, the county auditor shall ascertain and apportion the amount of existing net indebtedness of the township which shall be assumed and paid by the municipal corporation. The apportionment shall be made in the proportion of the total duplicate for the annexed territory transferred to the municipal corporation to the total tax duplicate remaining in and for the unannexed portion of the township. The auditor shall ascertain, adjust, and divide between the municipal corporation and the unannexed portion of the township any unencumbered balance on hand to the credit of any fund of such township, in the same proportion as is provided in this section for the division and apportionment of indebtedness. No division shall be made of a balance in any fund of a township that is required for the retirement of its indebtedness. In case any net indebtedness is assumed by the municipal corporation as provided in this section, the legislative authority of such municipal corporation shall provide for the payment of such indebtedness by the levy of taxes therefor, or by the appropriation from an appropriate fund. The proceeds of such levy or appropriation shall be transferred to the proper authorities of the township for the final redemption of its indebtedness.

HISTORY: GC § 3557-1; 112 v 215; Bureau of Code Revision, 10-1-53; 132 v S 220. Eff 12-1-67.

Sec. 709.13. Annexation of Territory Upon Action by Inhabitants Generally.

The inhabitants, generally, of a municipal corporation may enlarge the limits of such ~~the~~ the municipal corpo-

ration by the annexation of contiguous territory in the manner provided by sections 709.14 to ~~709.21~~, inclusive; 709.16 of the Revised Code.

Sec. 709.14. Preliminary Action by Legislative Authority.

The legislative authority of a municipal corporation ~~which that~~ proposes to annex contiguous territory shall pass, by a vote of not less than a majority of the members elected ~~thereto to the legislative authority~~, pass an ordinance authorizing the annexation to be made; and directing the village solicitor or city director of law of the municipal corporation, or ~~some one~~ someone to be named in the ordinance, to prosecute the proceedings necessary to effect it.

Sec. 709.15. Petition to Board of County Commissioners.

The application of a municipal corporation to the board of county commissioners requesting the annexation of contiguous territory under section 709.16 of the Revised Code shall be by a petition; setting forth that, under an ordinance of the legislative authority of the municipal corporation, the territory described in the petition was authorized to be annexed to the municipal corporation. The petition shall contain an accurate legal description of the ~~territory perimeter~~ and shall be accompanied by an accurate map or plat ~~thereof of the territory proposed for annexation~~.

Sec. 709.16. Board of County Commissioners Acts on Municipal Petition.

(A) A municipal corporation may petition the board of county commissioners to annex contiguous territory owned only by the municipal corporation, a county, or the state. The clerk of the board shall cause the petition to be entered upon the board's journal at its next regular session. This entry shall be the first official act of the board upon the petition. Proceedings on the petition shall be conducted under this section to the exclusion of any other provisions of this chapter except for sections 709.014, 709.14, 709.15, 709.20, and 709.21 of the Revised Code.

(B) If the only territory to be annexed is contiguous territory owned by a municipal corporation, the board of county commissioners, by resolution, shall grant the annexation. The annexation shall be complete upon the entry upon the journal of the board of the resolution granting the annexation.

(C) If the only territory to be annexed is contiguous territory owned by a county, the board of county commissioners, by resolution, may grant or deny the annexation. The annexation shall be complete upon the entry upon the journal of the board of a resolution granting the annexation.

(D) If the only territory to be annexed is contiguous territory owned by the state and the director of administrative services has filed a written consent to the granting of the annexation with the board of county commissioners, the board, by resolution, shall grant the annexation. The annexation shall be complete upon the entry upon the journal of the board of a resolution granting the annexation.

(E) The board of county commissioners shall act upon a petition for annexation filed under this section within thirty days after receipt of the petition.

(F) No appeal in law or in equity shall be allowed from the granting of an annexation under this section.

(G) When a municipal corporation purchases real property below an appraised fair market value and sells or agrees to sell the property back to the person that sold it to the municipal corporation, an annexation of that property completed under this section shall be void, and the annexed property shall become part of the township from which it was annexed, if it still exists. If the township no longer exists, the board of county commissioners shall attach the annexed territory to another township.

(H) Territory annexed under this section shall not be excluded from the township under section 503.07 of the Revised Code.

Sec. 709.17. Repealed.

Sec. 709.18. Repealed.

Sec. 709.19. Reparations.

(A) As used in this section:

(1) ~~“Annexation period” means a period of one, two, or three consecutive twelve-month periods, whichever is less, during which one or more municipal corporations annex territory of a township that includes at least fifteen per cent but less than one hundred per cent of the total taxable value of the real, public utility, and tangible personal property subject to taxation in that township in the base year. No annexation period shall include a month that is part of another annexation period.~~

(2) ~~“Base year” means the calendar year immediately preceding an annexation period.~~

(3) ~~“Taxes” means the real and public utility property taxes charged by a township in the base year or, in an annexation under division (F) of this section, the real, public utility, and tangible personal property taxes that would have been charged by the township, if no annexation had occurred, in the year immediately preceding the year in which the payment is made, and payable after the reduction required by section 319.301 of the Revised Code but prior to the reduction required by section 319.302 of the Revised Code, and the taxes levied for such year by the township against tangible personal property. “Taxes” excludes taxes for the payment of debt charges.~~

(4) ~~“Township taxes in the annexed territory” means the taxes against the real, public utility, and tangible personal property subject to taxation in the base year in territory annexed from the township to a municipal corporation during an annexation period or, in an annexation under division (F) of this section, the taxes against the real, public utility, and tangible personal property that would have been subject to taxation in the annexed territory in the year immediately preceding the year in which the payment is to be made, if no annexation had occurred.~~

(5) ~~“International airport” means any airport that is:~~

(a) Designated as an international airport or a landing rights airport by the United States secretary of the treasury;

(b) Owned and operated by a municipal corporation;

(c) An unincorporated area not contiguous to the municipal corporation that owns it.

(2) “Commercial,” “industrial,” “residential,” and “retail,” in relation to property, mean property classified as such by the tax commissioner for the purposes of valuing property for taxation, except that “commercial,” in relation to property, does not include any property classified as “retail.”

(B) ~~If the annexation of territory of any township by one or more municipal corporations under this chapter constitutes an annexation period of twelve consecutive months, except as provided in division (G) of this section, each municipal corporation that annexed territory of that township during that annexation period shall pay the township during each of the seven years following the annexation period:~~

(1) ~~In each of the first three years, one hundred per cent of the township taxes in the annexed territory;~~

~~(2) In the fourth year, eighty per cent of the township taxes in the annexed territory;~~

~~(3) In the fifth year, sixty per cent of the township taxes in the annexed territory;~~

~~(4) In the sixth year, forty per cent of the township taxes in the annexed territory;~~

~~(5) In the seventh year, twenty per cent of the township taxes in the annexed territory.~~

~~(C) If the annexation of territory of any township by one or more municipal corporations under this chapter constitutes an annexation period of thirteen to twenty-four consecutive months, except as provided in division (C) of this section, each municipal corporation that annexed territory of that township during that annexation period shall pay the township during each of the six years following the annexation period:~~

~~(1) In each of the first two years, one hundred per cent of the township taxes in the annexed territory;~~

~~(2) In the third year, eighty per cent of the township taxes in the annexed territory;~~

~~(3) In the fourth year, sixty per cent of the township taxes in the annexed territory;~~

~~(4) In the fifth year, forty per cent of the township taxes in the annexed territory;~~

~~(5) In the sixth year, twenty per cent of the township taxes in the annexed territory.~~

~~(D) If the annexation of territory of any township by one or more municipal corporations under this chapter constitutes an annexation period of twenty-five to thirty-six consecutive months, except as provided in division (C) of this section, each municipal corporation that annexed territory of that township during that annexation period shall pay the township during each of the five years following the annexation period:~~

~~(1) In the first year, one hundred per cent of the township taxes in the annexed territory;~~

~~(2) In the second year, eighty per cent of the township taxes in the annexed territory;~~

~~(3) In the third year, sixty per cent of the township taxes in the annexed territory;~~

~~(4) In the fourth year, forty per cent of the township taxes in the annexed territory;~~

~~(5) In the fifth year, twenty per cent of the township taxes in the annexed territory unincorporated territory is annexed to a municipal corporation and excluded from a township under section 503.07 of the Revised Code, upon exclusion of that territory, the municipal corporation that annexed the territory shall make payments to the township from which the territory was annexed only as provided in this section, except that, if the legislative authority of the municipal corporation enters into an agreement under section 701.07, 709.191, or 709.192 of the Revised Code with the township from which the territory was annexed that makes alternate provisions regarding payments by the municipal corporation, then the payment provisions in that agreement shall apply in lieu of the provisions of this section.~~

~~(C)(1) Except as provided in division (C)(2) of this section, the municipal corporation that annexed the territory shall make the following payments to the township from which the territory was annexed with respect to commercial and industrial real, personal, and public utility property taxes using the property valuation for the year that the payment is due:~~

~~(a) In the first through third years following the annexation and exclusion of the territory from the township, eighty per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;~~

~~(b) In the fourth and fifth years following the annexation and the exclusion of the territory from the township, sixty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;~~

~~(c) In the sixth and seventh years following the annexation and exclusion of the territory from the township,~~

sixty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;

(d) In the eighth and ninth years following the annexation and exclusion of the territory from the township, fifty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred;

(e) In the tenth through twelfth years following the annexation and exclusion of the territory from the township, forty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for commercial and industrial real, personal, and public utility property taxes if no annexation had occurred.

(2) If there has been an exemption by the municipal corporation of commercial and industrial real, personal, or public utility property taxes pursuant to section 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.62, or 5709.88 of the Revised Code, there shall be no reduction in the payments owed to the township due to that exemption. The municipal corporation shall make payments to the township under division (C)(1) of this section, calculated as if the exemption had not occurred.

(D) The municipal corporation that annexed the territory shall make the following payments to the township from which the territory was annexed with respect to residential and retail real property taxes using the property valuation for the year that the payment is due:

(1) In the first through third years following the annexation and exclusion of the territory from the township, eighty per cent of the township taxes in the annexed territory that would have been due the township for residential and retail real property taxes if no annexation had occurred;

(2) In the fourth and fifth years following the annexation and exclusion of the territory from the township, fifty-two and one-half per cent of the township taxes in the annexed territory that would have been due the township for residential and retail real property taxes if no annexation had occurred;

(3) In the sixth through tenth years following the annexation and exclusion of the territory from the township, forty per cent of the township taxes in the annexed territory that would have been due the township for residential and retail real property taxes if no annexation had occurred;

(4) In the eleventh and twelfth years following the annexation and exclusion of the territory from the township, twenty-seven and one-half per cent of the township taxes in the annexed territory that would have been due the township for residential and retail real property taxes if no annexation had occurred.

(E) If, pursuant to division (F) of this section, a municipal corporation annexes an international airport that it owns, the municipal corporation shall pay the township one hundred per cent of the township taxes in the annexed territory that would have been due the township; if no annexation had occurred; for each of the twenty-five years following the annexation.

(F)(1) Notwithstanding any other provision of this chapter, a board of county commissioners may authorize a municipal corporation to annex an international airport that the municipal corporation owns. Unless a contract is entered into pursuant to division (F)(2) of this section, any municipal corporation that annexes an international airport under this division shall make payments to the township from which the international airport is annexed, in the manner provided in division (E) of this section. No territory annexed pursuant to this division shall be considered part of the municipal corporation for the purposes of subsequent annexation, except that the board of county commissioners may authorize subsequent annexation under this division if the board determines that ~~such~~ subsequent annexation is necessary to the continued operation of the international airport.

(2) The chief executive of a municipal corporation that annexes territory pursuant to this division may enter

into a contract with the board of township trustees of the township that loses the territory whereby the township agrees to provide the annexed territory with police, fire, or other services it is authorized to provide in exchange for specified consideration as agreed upon by the board of township trustees and the chief executive. In no instance shall the consideration received by the township be less than the payments that would be required under division (F)(1) of this section if no contract were entered into.

~~(G) If after an annexation period for which payments are being made or are to be made to a township by one or more municipal corporations under division (B), (C), or (D) of this section, the remainder of the unincorporated territory of the township is annexed to another municipal corporation or incorporates as a municipal corporation, the balance of the payments due the township under division (B), (C), or (D) of this section shall be made to the municipal corporation to which the remainder of the township territory was annexed or to the municipal corporation incorporated from the remainder of the township territory.~~

~~No payment shall be made to a municipal corporation pursuant to this division unless the remainder of the unincorporated territory of the township referred to in this division constitutes at least fifty per cent of the area of the unincorporated area of the township prior to the annexation period.~~

~~(H) After consultation with the chief executive officer of the municipal corporation and the board of township trustees, the county auditor shall determine by which of the following methods the municipal corporations that annexed township territory shall pay the township the amounts prescribed in divisions (B) to (F) of this section, except that if the payments are made pursuant to division (G) of this section, they shall be made by the first method listed below:~~

~~(1) The county auditor shall issue a warrant semiannually against the taxes charged and payable against real and public utility property located in the municipal corporation and the taxes levied against tangible personal property located in the municipal corporation, and the county treasurer shall distribute such amount to the township or, pursuant to division (G) of this section, to the municipal corporation to which the remainder of the township territory was annexed or to the municipal corporation incorporated from the remainder of the township territory; or~~

~~(2) The county budget commission shall pay such amounts to the township from the amount apportioned to the municipal corporations from the undivided local government fund. The payment shall be over and above the amount apportioned to the township pursuant to section 5747.51 or 5747.53 of the Revised Code, and the apportionment of the municipal corporations shall be reduced by like amounts.~~

~~(I) Upon written notification to the county auditor and the chief executive officer of each municipal corporation that annexes township territory during an annexation period, a board of township trustees may decline to accept the payments required under divisions (B), (C), (D), and (F) of this section, and a municipal corporation may decline to accept the payments required under division (G) of this section.~~

~~A municipal corporation need not make any payment required by this section if its legislative authority enters into an agreement under section 709.191 of the Revised Code.~~

Sec. 709.191. Agreement for Annual Payments to Compensate for Lost Tax Revenues.

In lieu of making any of the payments required by section 709.19 of the Revised Code and for any proposed annexation which does not require payments under that section, the legislative authority of a municipal corporation which proposes to annex unincorporated territory of a township may enter into an agreement with the board of township trustees of the township in which the territory to be annexed is located, whereby the municipal corporation agrees to make an annual payment to the township to compensate for lost tax revenues. The agreement shall set forth the amount of the annual payment and the number of payments to be made.

If a municipal corporation fails to make an annual payment pursuant to an agreement entered into under

this section, the board of township trustees shall notify the county budget commission in writing of the amount owed by the municipal corporation to the township. The county budget commission shall reduce the amount apportioned to the municipal corporation from the undivided local government fund pursuant to section 5747.51 or 5747.53 of the Revised Code by the amount of the payment due the township under the municipal- township agreement and shall increase, by an amount equal to this reduction, the amount apportioned to the township from the undivided local government fund.

HISTORY: 139 v H 19. Eff 2-2-82.

Sec. 709.192. Annexation Agreements.

(A) The legislative authority of one municipal corporation, by ordinance or resolution, and the board of township trustees of one or more townships, by resolution, may enter into annexation agreements under this section.

(B) An annexation agreement may be entered into for any period of time and may be amended at any time in the same manner as it was initially authorized.

(C) Annexation agreements may provide for any of the following:

(1) The territory to be annexed;

(2) Any periods of time during which no annexations will be made and any areas that will not be annexed;

(3) Land use planning matters;

(4) The provision of joint services and permanent improvements within incorporated or unincorporated areas;

(5) The provision of services and improvements by a municipal corporation in the unincorporated areas;

(6) The provision of services and improvements by a township within the territory of a municipal corporation;

(7) The payment of service fees to a municipal corporation by a township;

(8) The payment of service fees to a township by a municipal corporation;

(9) The reallocation of the minimum mandated levies established pursuant to section 5705.31 of the Revised Code between a municipal corporation and a township in areas annexed after the effective date of this section;

(10) The issuance of notes and bonds and other debt obligations by a municipal corporation or township for public purposes authorized by or under an annexation agreement and provision for the allocation of the payment of the principal of, interest on, and other charges and costs of issuing and servicing the repayment of the debt;

(11) Agreements by a municipal corporation and township, with owners or developers of land to be annexed, or with both those landowners and land developers, concerning the provision of public services, facilities, and permanent improvements;

(12) The application of tax abatement statutes within the territory covered by the annexation agreement subsequent to its execution;

(13) Changing township boundaries under Chapter 503. of the Revised Code to exclude newly annexed territory from the original township and providing services to that territory;

(14) Payments in lieu of taxes, if any, to be paid to a township by a municipal corporation, which payments may be in addition to or in lieu of other payments required by law to be made to the township by that municipal corporation;

(15) Any other matter pertaining to the annexation or development of publicly or privately owned territory.

(D) Annexation agreements shall not be in derogation of the powers granted to municipal corporations by Article XVIII, Ohio Constitution, by any other provisions of the Ohio Constitution, or by the provisions of a municipal charter, nor shall municipal corporations and townships agree to share proceeds of any tax levy, although those proceeds may be used to make payments authorized in an annexation agreement.

(E) If any party to an annexation agreement believes another party has failed to perform its part of any provision of that agreement, including the failure to make any payment of moneys due under the agreement, that party shall give notice to the other party clearly stating what breach has occurred. The party receiving the notice has ninety days from the receipt of that notice to cure the breach. If the breach has not been cured within that ninety-day period, the party that sent the notice may sue for recovery of the money due under the agreement, sue for specific enforcement of the agreement, or terminate the agreement upon giving notice of termination to all the other parties.

(F) In order to promote economic development or to provide appropriate state functions and services to any part of the state, the state may become a party to an annexation agreement upon the approval of the director of development and with the written consent of the legislative authority of the municipal corporation and each of the boards of township trustees that are parties to the agreement.

(G) The board of county commissioners, by resolution, or any person, upon request, may become a party to an annexation agreement, but only upon the approval of the legislative authority of the municipal corporation and each of the boards of township trustees that are parties to the agreement, except that, if the state is a party to the agreement, the director of development is responsible for giving the approval.

(H) The powers granted by this section and any annexation agreement entered into under this section shall be liberally construed to allow parties to these agreements to carry out the agreements' provisions relevant to government improvements, facilities, and services, and to promote and support economic development and the creation and preservation of economic opportunities.

Sec. 709.20. Rights When Annexation Complete.

When the annexation of the territory described in the petition mentioned in section 709.15 of the Revised Code has been completed, such territory is a part of the annexing municipal corporation, and the inhabitants residing in the territory shall have all the rights and privileges of the inhabitants residing within the original limits of such municipal corporation.

HISTORY: RS § 1604; Bates § 1536-47; 66 v 267, § 695; GC § 3564; Bureau of Code Revision. Eff 10-1-53.

Sec. 709.21. Errors Not Fatal to Proceedings.

No error, irregularity, or defect in the proceedings under sections 709.01 to 709.20, ~~inclusive,~~ of the Revised Code, shall render them invalid, if once annexation has become final and the annexed territory has been recognized as a part of the annexing municipal corporation, and taxes levied upon it as such have been paid, and it has been subjected to the authority of the legislative authority of such the annexing municipal corporation, ~~without objection from the inhabitants of such territory.~~

Sec. 929.02. Application to Place Land in Agricultural District; Auditor to Notify Owner; Withdrawal Penalty.

(A) Any person who owns agricultural land may file an application with the county auditor to place the land in an agricultural district for five years if, during the three calendar years prior to the year in which that

person files the application, the land has been devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government and if:

- (1) The land is composed of tracts, lots, or parcels that total not less than ten acres; or
- (2) The activities conducted on the land produced an average yearly gross income of at least twenty-five hundred dollars during that three-year period or the owner has evidence of an anticipated gross income of that amount from those activities. The owner shall submit with the application proof that the owner's land meets the requirements established under this division. If the county auditor determines that the application does not meet the requirements of this section, the county auditor shall deny the application and notify the applicant by certified mail, return receipt requested, within thirty days of the filing of the application. The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice. If the county auditor determines that the application meets the requirements of this section, the county auditor shall approve the application and notify the applicant within thirty days of the filing of the application. An application that is not denied shall be deemed to be approved. The county auditor shall provide an applicant with a copy of an approved application within thirty days of the filing of the application. An application that is approved is effective upon the date of the filing of the application.

The county auditor shall keep a record of all land in the county that is within an agricultural district, including a copy of the final action taken by a legislative body regarding applications modified by a legislative body pursuant to division (B) of this section.

(B) If the land of a person who files an application under division (A) of this section is within a municipal corporation or if an annexation petition that includes the land has been filed with the board of county commissioners under section ~~709.03~~ 709.02 of the Revised Code at the time of the filing, the owner also shall file a copy of the application for inclusion in an agricultural district with the clerk of the legislative body of the municipal corporation. No later than thirty days after the filing of an application; or, in the case of an annexation petition filed pursuant to section ~~709.03~~ 709.02 of the Revised Code, no later than thirty days after the petition has been granted, the legislative body shall conduct a public hearing on the application. The clerk of the legislative body shall cause a notice containing the substance of the application and the time and place where it will be heard to be published in a newspaper of general circulation in the county in which the application or annexation petition is filed no later than seven days prior to the time fixed for the hearing. The clerk of the legislative body also shall notify the applicant of the time and place of the hearing by certified mail sent no later than ten days prior to the hearing. Any interested person or representative of an interested person may appear in support of or to contest the granting of the application. Affidavits presented in support of or against the application shall be considered by the legislative body. Within thirty days of the hearing, the legislative body may approve the application, modify the application and approve the application as modified, or reject the application. An application that is not modified or rejected by a majority vote of the members of the legislative body shall be deemed to be approved. Prior to rejecting an application, the legislative body shall make every effort to modify the application. Modifications may include the length of time during which land is considered to be within an agricultural district, size of the agricultural district ~~as well as, and~~ and any provisions of sections 929.03 to 929.05 of the Revised Code. If the applicant disapproves of the modifications made by the legislative body, the applicant may withdraw the application to place the land in an agricultural district. In rejecting or modifying an application to place land in an agricultural district, the legislative body shall demonstrate that the rejection or modification is necessary to prevent a substantial, adverse effect on the provision of municipal services within the municipal corporation, efficient use of land within the municipal corporation, the orderly growth and development of the municipal corporation, or the public health, safety, or welfare.

If an annexation petition is denied under section ~~709.03~~ 709.033 of the Revised Code, ~~or~~ if a legislative body fails to conduct a hearing in the time prescribed by this section, or if an application is approved, the application shall be deemed to have been approved and shall become effective as of the date the applica-

tion was filed. An application approved with modifications shall become effective as of the date the application was filed unless the modification provides otherwise.

The clerk of the legislative body shall notify the applicant by certified mail, return receipt requested, sent within five days of the decision to approve, modify, or reject an application for inclusion of land in an agricultural district. The clerk of the legislative body shall also transmit a copy of the decision to approve, modify, or reject an application to the county auditor. An applicant may appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection.

(C) At any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, the owner of land in the agricultural district may file a renewal application to continue the inclusion of all or part of the owner's land in an agricultural district for a period of time ending on the first Monday in April of the fifth year following the renewal application. The requirements for continued inclusion in the agricultural district and the renewal application procedure shall be the same as those required for the original application for placing land in an agricultural district. The county auditor shall notify owners of land in agricultural districts eligible to file a renewal application for continued inclusion in an agricultural district on or prior to the first Monday in February or the date upon which the county auditor notifies owners of land valued at agricultural use value for real property tax purposes of the necessity of filing a renewal application to continue valuing the land at agricultural use value. On or before the second Tuesday after the first Monday in March, the county auditor shall determine whether the owner of any land in an agricultural district eligible to file a renewal application failed to file a renewal application with respect to ~~such~~ that land and shall forthwith notify each ~~such~~ owner of the land by certified mail that unless a renewal application is filed prior to the first Monday in April, the land will be removed from the agricultural district upon its termination date. An approved renewal application is effective on the termination date of the preceding agricultural district. Failure of an owner to file a renewal application prior to the first Monday in April of the year during which the owner's agricultural district terminates shall not prevent the owner from filing an application to include the owner's land in an agricultural district.

Land that is transferred to a new owner during the period in which the land is an agricultural district shall continue in the agricultural district under the terms of the existing district unless the new owner elects to discontinue inclusion in the agricultural district and files the election with the county auditor within sixty days after the transfer. Failure of the new owner to continue inclusion in the agricultural district for the duration of the period in which the land is in the agricultural district is withdrawal from an agricultural district subject to penalty.

(D) If, at any time during which land is in an agricultural district, the owner withdraws the land from the district, the owner shall notify the county auditor of the withdrawal and shall pay to the county auditor a withdrawal penalty calculated as follows:

(1) If the owner's action also disqualifies the owner's land for any tax savings that it had been receiving under sections 5713.30 to 5713.38 of the Revised Code, the owner shall pay a percentage of the amount charged under section 5713.34 of the Revised Code that is equal to the average bank prime rate at the time the amount charged under that section is required to be paid. The withdrawal penalty shall be in addition to the amount charged under that section.

(2) If the land had not been receiving any tax savings under those sections, or if the owner's action does not disqualify the land for tax savings under them, the owner shall pay a percentage of the amount that would have been charged under section 5713.34 of the Revised Code if the owner's land had been receiving tax savings and became disqualified for them in an amount that is equal to the average bank prime rate at the time the amount that would have been charged under that section would have been required to be paid.

For the purposes of divisions (D)(1) and (2) of this section, the county auditor shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal

reserve board, or any successor publication. If the statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the county auditor shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

The county auditor shall calculate the amount of the withdrawal penalty that is due and shall notify the owner of it. The auditor also shall note the withdrawal in the auditor's records.

The county auditor shall distribute the moneys collected under division (D) of this section in the manner provided in section 5713.35 of the Revised Code for moneys that the county auditor collects under that section.

(E) Land that is included in an agricultural district under this section and that is subsequently annexed by a municipal corporation shall not be subject to division (B) of this section either at the time of annexation or at the time of any subsequent application or renewal application for inclusion in the district if, at the time of annexation, its owner did not sign a petition favoring annexation under section 709.02 of the Revised Code ~~or vote for annexation in an election held in accordance with section 709.17 of the Revised Code~~. If its owner did sign a petition favoring annexation ~~or vote for annexation~~, as provided in ~~those sections~~ that section, or if the owner who opposed annexation has sold or transferred the land to another person who is keeping the land in the agricultural district, the land shall be subject to division (B) of this section at the time of any subsequent application or renewal application for inclusion in the district.

(F) The director of agriculture shall prescribe the application and renewal forms required under this section and shall furnish them to county auditors. In prescribing the forms, the director shall consult with the tax commissioner to determine if a single form can be developed for the purposes of this section and section 5713.31 of the Revised Code.

Sec. 5705.31. Powers of Budget Commission to Reduce Tax Levies; Limitation.

The county auditor shall present to the county budget commission the annual tax budgets submitted to ~~him~~ under sections 5705.01 to 5705.47 of the Revised Code, together with an estimate prepared by ~~such~~ the auditor of the amount of any state levy, the rate of any school tax levy as previously determined, the tax commissioner's estimate of the amount to be received in the county library and local government support fund, and such other information as the commission requests or the tax commissioner prescribes. The budget commission shall examine such budget and ascertain the total amount proposed to be raised in the county for the purposes of each subdivision and other taxing units ~~therein~~ in the county.

The commission shall ascertain that the following levies have been properly authorized and, if so authorized, shall approve them without modification:

(A) All levies in excess of the ten-mill limitation;

(B) All levies for debt charges not provided for by levies in excess of the ten-mill limitation, including levies necessary to pay notes issued for emergency purposes;

(C) The levies prescribed by division (B) of sections 742.33 and 742.34 of the Revised Code;

(D) A ~~Except as otherwise provided in this division, a~~ minimum levy within the ten-mill limitation for the current expense and debt service of each subdivision or taxing unit, which shall equal two-thirds of the average levy for current expenses and debt service allotted within the fifteen-mill limitation to such subdivision or taxing unit during the last five years the fifteen-mill limitation was in effect unless such subdivision or taxing unit requests an amount requiring a lower rate. Except as provided in section 5705.312 of the Revised Code, if the levies required in divisions (B) and (C) of this section for the subdivision or taxing unit equal or exceed the entire minimum levy of the subdivision as fixed, the minimum levies of the other subdivisions or taxing units shall be reduced by the commission to provide for the levies and an operating

levy for the subdivision. Such additional levy shall be deducted from the minimum levies of each of the other subdivisions or taxing units, but the operating levy for a school district shall not be reduced below a figure equivalent to forty-five per cent of the millage available within the ten-mill limitation after all the levies in divisions (B) and (C) of this section have been provided for.

If a municipal corporation and a township have entered into an annexation agreement under section 709.192 of the Revised Code in which they agree to reallocate their shares of the minimum levies established under this division and if that annexation agreement is submitted along with the annual tax budget of both the township and the municipal corporation, then, when determining the minimum levy under this division, the auditor shall allocate, to the extent possible, the minimum levy for that municipal corporation and township in accordance with their annexation agreement.

(E) The levies prescribed by section 3709.29 of the Revised Code.

Divisions (A) to (E) of this section are mandatory and commissions shall be without discretion to reduce such minimum levies except as provided in such divisions.

If any debt charge is omitted from the budget, the commission shall include it therein.

Sec. 5705.315. Levies.

With respect to annexations granted on or after the effective date of this section and during any tax year or years within which any territory annexed to a municipal corporation is part of a township, the minimum levy for the municipal corporation and township under section 5705.31 of the Revised Code shall not be diminished, except that in the annexed territory and only during those tax year or years, and in order to preserve the minimum levies of overlapping subdivisions under section 5705.31 of the Revised Code so that the full amount of taxes within the ten-mill limitation may be levied to the extent possible, the minimum levy of the municipal corporation or township shall be the lowest of the following amounts:

(A) An amount that when added to the minimum levies of the other overlapping subdivisions equals ten mills;

(B) An amount equal to the minimum levy of the municipal corporation or township, provided the total minimum levy does not exceed ten mills.

The municipal corporation and the township may enter into an agreement to determine the municipal corporation's and the township's minimum levy under this section. If it cannot be determined what minimum levy is available to each and no agreement has been entered into by the municipal corporation and township, the municipal corporation and township shall each receive one-half of the millage available for use within the portion of the territory annexed to the municipal corporation that remains part of the township.

Sec. 2317.21. Attachment of Witness Who Disobeys Subpoena.

When a witness, except a witness who has demanded and has not been paid his traveling fees and fee for one day's attendance when a subpoena is served upon him, as authorized by the provisions of section 2317.18* of the Revised Code, fails to obey a subpoena personally served, the court or officer, before whom his attendance is required, may issue to the sheriff or a constable of the county, a writ of attachment, commanding him to arrest and bring the person named in the writ before such court or officer at the time and place the writ fixes, to give his testimony and answer for the contempt. If such writ does not require the witness to be immediately brought, he may give bond for a sum fixed by the court of common pleas or the court which issued the subpoena, with surety, for his appearance, which sum shall be endorsed on the back of the writ, except that, if no sum is so endorsed, it shall be one hundred dollars. When

the witness was not personally served, the court, by a rule, may order him to show cause why such writ should not issue against him.

HISTORY: RS § 5253; S&C 1039; 51 v 57, § 323; GC § 11511; Bureau of Code Revision, 10-1-53; 129 v 325 (Eff 10-2-61); 139 v S 114. Eff 10-27-81.

* Repealed, 133 v H 1201. See now CivR 45(B).

Sec. 2317.22. Punishment for Contempt.

Punishment for the acts of contempt specified in section 2317.20* of the Revised Code shall be as follows: When the witness fails to attend in obedience to a subpoena, the court or officer may fine him not more than fifty dollars; in other cases, not more than fifty dollars nor less than five dollars; or the court or officer may imprison such witness in the county jail, there to remain until he submits to be sworn, testifies, or gives his deposition.

HISTORY: RS § 5254; S&C 1039; 77 v 42, 45; GC § 11512; Bureau of Code Revision. Eff 10-1-53.

* Repealed, 133 v H 1201. See now CivR 45(E).

Sec. 2317.23. Disposition of Fines.

A fine imposed under section 2317.22 of the Revised Code by the court shall be paid into the county treasury; that imposed by an officer shall be for the use of the party for whom the witness was subpoenaed. The witness also shall be liable to the party injured for any damages occasioned by his failure to attend, or refusal to be sworn, to testify, or to give his deposition.

HISTORY: RS § 5254; S&C 1039; 77 v 42, 45; GC § 11513; Bureau of Code Revision. Eff 10-1-53.

Sec. 2317.24. Release of Witness from Imprisonment.

A witness imprisoned by an officer under section 2317.22 of the Revised Code may apply to a judge of the supreme court, court of appeals, court of common pleas, or probate court, who may discharge him if it appears that such imprisonment is illegal.

HISTORY: RS § 5255; S&C 1040; 51 v 57, § 325; 82 v 16, 33; GC § 11514; 103 v 405(426); Bureau of Code Revision. Eff 10-1-53.

Sec. 2317.25. Contents of Attachment or Order to Commit.

Every attachment for the arrest or order to commit a witness to prison by a court or officer, pursuant to sections 2317.21 and 2317.22 of the Revised Code, must be under seal of the court or official seal of the officer, if he has one, and must particularly specify the cause of the arrest or commitment. When committed for a refusal to answer a question, the question must be stated in the order.

HISTORY: RS § 5256; S&C 1040; 51 v 57, § 326; GC § 11515; Bureau of Code Revision. Eff 10-1-53.

Sec. 2317.26. Order of Commitment.

The order of commitment mentioned in section 2317.25 of the Revised Code may be directed to the sheriff or a constable of the county where the witness resides, or is at the time, and shall be executed by

committing him to the jail of such county, and delivering a copy of it to the jailer.

HISTORY: RS § 5256; S&C 1040; 51 v 57, § 326; GC § 11516; Bureau of Code Revision, 10-1-53; 139 v S 114. Eff 10-27-81.

Sec. 2506.02. Filing of Transcript.

Within forty days after filing the notice of appeal, the officer or body from which the appeal is taken, upon the filing of a praecipe, shall prepare and file in the court to which the appeal is taken, a complete transcript of all the original papers, testimony, and evidence offered, heard, and taken into consideration in issuing the final order, adjudication, or decision appealed from. The costs of such transcript shall be taxed as a part of the costs of the appeal.

HISTORY: 127 v 963 (Eff 9-16-57); 141 v H 412. Eff 3-17-87.

Sec. 2505.04. Appeal Perfected.

An appeal is perfected when a written notice of appeal is filed, in the case of an appeal of a final order, judgment, or decree of a court, in accordance with the Rules of Appellate Procedure or the Rules of Practice of the Supreme Court, or, in the case of an administrative-related appeal, with the administrative officer, agency, board, department, tribunal, commission, or other instrumentality involved. If a leave to appeal from a court first must be obtained, a notice of appeal also shall be filed in the appellate court. After being perfected, an appeal shall not be dismissed without notice to the appellant, and no step required to be taken subsequent to the perfection of the appeal is jurisdictional.

HISTORY: GC § 12223-4; 116 v 104; Bureau of Code Revision, 10-1-53; 141 v H 412. Eff 3-17-87.

Sec. 2505.07. Time for Perfecting Appeal.

After the entry of a final order of an administrative officer, agency, board, department, tribunal, commission, or other instrumentality, the period of time within which the appeal shall be perfected, unless otherwise provided by law, is thirty days.

HISTORY: GC § 12223-7; 116 v 104; 117 v 615; 118 v 78; 121 v 366; Bureau of Code Revision, 10-1-53; 125 v S 158 (Eff 10-27-53); 129 v 582(743) (Eff 1-10-61); 141 v H 412. Eff 3-17-87.

Sec. 4511.01. Definition of “Street” or “Highway” (excerpt).

(BB) “Street” or “highway” means the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel.

HISTORY: GC § 6307-2; 119 v 766, § 2; 120 v 221; 124 v 514; Bureau of Code Revision, 10-1-53; 126 v 392(408) (Eff 3-17-55); 126 v 790 (Eff 9-14-55); 126 v 115 (Eff 10-1-56); 127 v 54 (Eff 8-27-57); 128 v 1270 (Eff 11-4-59); 129 v 1273 (Eff 10-26-61); 130 v 1068 (Eff 8-5-63); 130 v 1074 (Eff 10-10-63); 131 v 1094 (Eff 10-15-65); 132 v H 634 (Eff 11-24-67); 132 v H 380 (Eff 1-1-68); 132 v H 878 (Eff 12-14-67); 132 v S 451 (Eff 2-29-68); 135 v H 200 (Eff 9-23-73); 135 v S 108 (Eff 11-21-73); 135 v H 995 (Eff 1-1-75); 136 v H 338 (Eff 1-9-76); 136 v S 56 (Eff 5-25-76); 136 v H 235 (Eff 10-1-76); 137 v S 100 (Eff 4-1-78); 138 v S 9 (Eff 6-20-79); 139 v H 53 (Eff 7-1-82); 143 v H 258 (Eff 11-2-89); 143 v H 319 (Eff 7-2-90); 143 v S 272 (Eff 11-28-90); 143 v S 382 (Eff 12-31-90); 144 v H 485 (Eff 10-7-92); 144 v S 98 (Eff 11-12-92); 144 v H 356 (Eff 12-31-92); 146 v S 293 (Eff 9-26-96); 148 v H 484. Eff 10-5-2000.

Sec. 5713.081. Collection of Delinquent Taxes on Publicly Owned Property.

No application for real property tax exemption and tax remission shall be filed with, or considered by, the tax commissioner in which tax remission is requested for more than three tax years, and the commissioner shall not remit more than three years' delinquent taxes, penalties, and interest.

All taxes, penalties, and interest, that have been delinquent for more than three years, appearing on the general tax list and duplicate of real property which have been levied and assessed against parcels of real property owned by the state, any political subdivision, or any other entity whose ownership of real property would constitute public ownership, shall be collected by the county auditor of the county where the real property is located. Such official shall deduct from each distribution made by him, the amount necessary to pay the tax delinquency from any revenues or funds to the credit of the state, any political subdivision, or any other entity whose ownership of real property would constitute public ownership thereof, passing under his control, or which come into his possession, and such deductions shall be made on a continuing basis until all delinquent taxes, penalties, and interest noted in this section have been paid.

As used in this section, "political subdivision" includes townships, municipalities, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership.

HISTORY: 132 v S 351 (Eff 11-24-67); 136 v H 920 (Eff 10-11-76); 140 v H 260 (Eff 9-27-83); 144 v H 399. Eff 11-28-91.

Civil Rules of Procedures Rule 5 B.

(B) Service: how made. Whenever under these rules service is required or permitted to be made upon a party who is represented by an attorney of record in the proceedings, the service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or party shall be made by delivering a copy to the person to be served, transmitting it to the office of the person to be served by facsimile transmission, mailing it to the last known address of the person to be served or, if no address is known, leaving it with the clerk of the court. The served copy shall be accompanied by a completed copy of the proof of service required by division (D) of this rule. "Delivering a copy" within this rule means: handing it to the attorney or party; leaving it at the office of the person to be served with a clerk or other person in charge; if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, leaving it at the dwelling house or usual place of abode of the person to be served with some person of suitable age and discretion then residing in the dwelling house or usual place of abode. Service by mail is complete upon mailing. Service by facsimile transmission is complete upon transmission.

Ohio Rules of Appellate Procedure Rule 4 A.

(A) Time for appeal. A party shall file the notice of appeal required by App.R. 3 within thirty days of the later of entry of the judgment or order appealed or, in a civil case, service of the notice of judgment and its entry if service is not made on the party within the three day period in Rule 58 (B) of the Ohio Rules of Civil Procedure.

Rules of Practice of the Supreme Court Rule II, Section 2 (A) (1) (excerpt).

(A) Perfection of Appeal.

(1) To perfect an appeal from a court of appeals to the Supreme Court, other than in a certified conflict

case (which is addressed in S. Ct. Prac. R. IV), the appellant shall file a notice of appeal in the Supreme Court within 45 days from the entry of the judgement being appealed. The date the court of appeals filed its judgement entry to journalization with its clerk, in accordance with App. R. 22 (E), shall be considered the date of entry of the judgment being appealed. ...