

# Expedited Type 1 Annexations: Petitions by All Property Owners With Consent of All Parties

## General Comments

The annexation law establishes three special annexation procedures. We will refer to these types of annexation as “expedited annexations” in this manual.

Chapter 4 will deal with “Expedited Type 1 Annexations” — those authorized under ORC 709.022. Expedited Type 1 Annexations require the signatures of all property owners in the territory proposed to be annexed. In addition, all of the following parties, practically speaking, must consent to the annexation:

- A. The municipality to which annexation is proposed.
- B. Each township, any portion of which is included within the territory proposed to be annexed.
- C. The agent for the petitioners.

Consent is evidenced by the petition being accompanied by an annexation agreement or a cooperative economic development agreement (CEDA) executed by the municipality and each township, any portion of which is included within the territory proposed for annexation, and by the petition containing signatures of all property owners in the territory proposed to be annexed.

## Special Nature of Annexation Proceedings

Under an Expedited Type 1 Annexation, the annexation proceedings are conducted under ORC 709.02 (C), (D), and (E) and ORC 709.021 and 709.022 to the exclusion of any other provisions in Chapter 709 of the Revised Code.

In addition, ORC 709.021 provides that the following ORC Sections apply to the granting of this type of annexation:

- A. 709.014 -- Establishment of fee schedule and delegation of authority to county administrator or clerk. (see Chapter 1)
- B. 709.015 -- Substantial compliance of procedural requirements provision. (see Chapter 1)
- C. 709.04 -- Municipal consideration of annexation petition.
- D. 709.10 -- Annexation effective 30 days after municipality passes resolution/ordinance accepting annexation.

- E. 709.11 -- Annexation petition to be filed in county in which the majority of acreage of the territory is situated. (see Chapter 1)
- F. 709.12 -- Apportioning of indebtedness of annexed territory.
- G. 709.192 -- Annexation agreements. (see Chapter 10)
- H. 709.20 -- Residents in territory have same rights as other municipal residents upon completion of annexation.
- I. 709.21 -- No error in annexation proceeding shall invalidate annexation once it has become final.

## Party or Parties to the Annexation

The “party” or “parties” to an Expedited Type 1 Annexation are:

- A. The municipality to which annexation is proposed.
- B. Each township, any portion of which is included within the territory proposed to be annexed.
- C. The agent for the petitioners.

ORC 709.021 (D)

## Filing of Petition

### Contents of Petition

An Expedited Type 1 Annexation petition must be submitted to the clerk of the board of county commissioners of the county where the territory is located. The petition must specifically request that the board follow ORC 709.022. If the territory is situated in more than one county, the annexation proceedings are to be in the county where the majority of acreage of the territory is located. The petition must contain the following information:

- A. Signatures of all of the property owners in the territory proposed to be annexed. To be a valid signature, it must be the signature of the owner of the property as of the date the petition is filed.
  1. The person who signs or the circulator of the petition must write the date the signature was made next to the owner’s name.
  2. Any signature obtained more than 180 days before the petition is filed is not a valid signature.
  3. 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 asking to have it removed. If the agent receives such a statement, the agent must strike through the signature, deleting it from the petition.
- B. Accurate legal description of the perimeter of the territory proposed to be annexed.
- C. Accurate map or plat of the territory.
- D. Name of person or persons to act as the agent for the petitioners. The agent may be an official, employee, or agent of the municipality to which annexation is proposed.

ORC 709.02 (C)  
ORC 709.021 (B)

## **Other Information that Must Be Filed With the Petition, But Is Not a Part of the Petition**

Other information that must be filed with the petition, but is not a part of the petition includes:

- A. List of all tracts, lots, or parcels in the territory proposed to be annexed, and all tracts, lots, or parcels located adjacent to the territory to be annexed or directly across the road when the road is adjacent to the territory to be annexed.
- B. The list is to include for each tract, lot, or parcel:
  1. Name of owner.
  2. Mailing address of owner.
  3. Permanent parcel number from the county auditor's permanent parcel numbering system. (ORC 319.28)
- C. Any error in the list shall not affect the validity of the petition.

ORC 709.02 (D)  
ORC 709.021 (B)  
ORC 709.022 (A)

Since the petition is filed under the Expedited Type 1 Annexation process, the petition must be accompanied by a certified copy of one of the following:

- A. A Cooperative Economic Development Agreement as provided for in ORC 701.07.
- B. An Annexation Agreement as provided for in ORC 709.192.

Such an agreement must be entered into by the municipality and each township, any portion of which is included within the territory proposed to be annexed.

## **Waiver of Right to Appeal & Special Disclosure Notice on Petition**

Under an Expedited Type 1 Annexation, owners who sign the petition requesting the special procedure be used waive their right to appeal any action taken by the board of county commissioners. There is no appeal from the board's decision in law or in equity.

For an Expedited Type 1 Annexation petition to be valid, the petition circulated to collect signatures must contain the following notice in boldface capital letters immediately above the heading of the place for signatures on each part of the petition:

ORC 709.021 (B)  
ORC 709.022 (B)

**“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.”**

## **Definition of Owner or Owners**

The term “owner” or “owners” means any of the following who is seized of a freehold estate in land:

- A. Any adult individual who is legally competent.
- B. The state or any political subdivision as defined in ORC 5713.081.

ORC 709.02 (E)  
ORC 709.021 (B)

1. Authorized agent of the state or political subdivision must sign the petition.
  2. Authorized agent of the state is the Director of Administrative Services.
  3. If an authorized agent does not sign, the state or political subdivision shall not be considered an owner and shall not be included in determining the number of owners needed to sign the petition.
- C. Any firm, trustee, or private corporation. If the owner is a corporation, partnership, business trust, estate, trust, organization, association, group, institution, or society, the petition must be signed by a person authorized to sign for that entity.

In addition, an owner is determined as of the date the petition is filed with the board of county commissioners.

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.

**Ownership Interests Specifically Excluded from Definition of Owner or Owners**

Items specifically excluded from the definition of “owner” or “owners” includes:

- A. Easements.
- B. Any railroad, utility, street, or highway rights-of-way held in fee, by easement, or by dedication and acceptance.
- C. Any person, firm, trustee, private corporation, the state, or any political subdivision that has become an owner of real estate if the primary purpose of the conveyance is to affect the number of owners required to sign an annexation petition.

ORC 709.02 (E)  
ORC 709.021 (B)

**Action by the Commissioners**

**Approval of the Petition**

After the receipt of an Expedited Type 1 Annexation petition, along with either an annexation agreement or a cooperative economic development agreement, that meets the requirements of the law, the board shall adopt a resolution granting the annexation at the board’s next regular session. No public hearing is required.

After the board grants the annexation, the clerk must deliver a certified copy of the entire record of the annexation proceedings to the clerk or auditor of the municipality to which annexation is proposed.

The entire record of the proceedings includes:

- A. All resolutions of the board, signed by a majority of the members of the board.
- B. The petition.
- C. The map.

ORC 709.022

- D. All other papers on file.
- E. The recording of the proceedings, if a copy is available.

## **Commentary on Statutory Ambiguities and Other Issues**

- A. There are no notice requirements which must be met by either the agent for the petitioners, the clerk, or the board.
- B. The law does not provide for any involvement or public comment regarding the petition. However, since all sessions of the board are open to the public, CCAO believes it is within the discretion of the board to accept public comment during any meeting on the petition.
- C. There is no specific statutory authority given for the board to refer the legal description and map/plat to the county engineer for review. CCAO suggests that such action is inherent in the statutory language that the petition must contain an accurate legal description and plat/map. (ORC 709.02 (C) (2))
- D. Since no hearing is required for an Expedited Type 1 Annexation, commissioners should take special care to assure that the petition is valid. Such special care is advised by CCAO because in the absence of a hearing, the opportunity for parties to point out problems with the petition will be more limited than when a hearing is conducted.

For the petition to be valid, it must conform with all of the statutory requirements as outlined in this chapter. This includes that the petition and attachments, including a certified copy of either an annexation agreement or a cooperative economic development agreement, are accurate and complete, the petition contains the required language waiving the right to appeal; the land is contiguous to the municipality; and, the owners who sign the petition are “owners” as now defined in ORC 709.02.

## **Refer to Appendix for Flow Chart and Checklists**

In the appendix of this manual, the following appendices may be helpful in processing an Expedited Type 1 Annexation:

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| Appendix I | Procedural Flow Chart for Expedited Type 1 Annexations |
| Appendix J | Procedural Checklist for Expedited Type 1 Annexations  |
| Appendix K | Technical Checklist for Expedited Type 1 Annexations   |