

Effective 5/12/2015

10-2-418 Annexation of an island or peninsula without a petition -- Notice -- Hearing.

- (1) For purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" for purposes of Subsection (2)(a)(ii)(B) does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.
- (2)
 - (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:
 - (i)
 - (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;
 - (B) the majority of each island or peninsula consists of residential or commercial development;
 - (C) the area proposed for annexation requires the delivery of municipal-type services; and
 - (D) the municipality has provided most or all of the municipal-type services to the area for more than one year;
 - (ii)
 - (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and
 - (B) the municipality has provided one or more municipal-type services to the area for at least one year; or
 - (iii)
 - (A) the area consists of:
 - (I) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and
 - (II) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; and
 - (B) the county in which the area is located, subject to Subsection (3)(b), and the municipality agree that the area should be included within the municipality.
 - (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:
 - (i) in adopting the resolution under Subsection (4)(a)(i), the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and
 - (ii) for an annexation of one or more unincorporated islands under Subsection (2)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(a)(ii)(A) relating to the number of residents.
- (3)
 - (a) This Subsection (3) applies only to an annexation within a county of the first class.
 - (b) A county of the first class shall agree to the annexation if the majority of private property owners within the area to be annexed has indicated in writing, subject to Subsection (3)(d), to the city or town recorder of the annexing city or town the private property owners' consent to be annexed into the municipality.

- (c) For purposes of Subsection (3)(b), the majority of private property owners is property owners who own:
 - (i) the majority of the total private land area within the area proposed for annexation; and
 - (ii) private real property equal to at least one half the value of private real property within the area proposed for annexation.
- (d)
 - (i) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form: "Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(a)(iv).".
 - (e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (4)(a)(iv).
- (4)
 - (a) The legislative body of each municipality intending to annex an area under this section shall:
 - (i) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed;
 - (ii) publish notice:
 - (A)
 - (I) at least once a week for three successive weeks in a newspaper of general circulation within the municipality and the area proposed for annexation; or
 - (II) if there is no newspaper of general circulation in the areas described in Subsection (4)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are most likely to give notice to the residents of those areas; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks;
 - (iii) send written notice to the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation and to the legislative body of the county in which the area proposed for annexation is located; and
 - (iv) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution under Subsection (4)(a)(i).
 - (b) Each notice under Subsections (4)(a)(ii) and (iii) shall:
 - (i) state that the municipal legislative body has adopted a resolution indicating its intent to annex the area proposed for annexation;
 - (ii) state the date, time, and place of the public hearing under Subsection (4)(a)(iv);
 - (iii) describe the area proposed for annexation; and
 - (iv) except for an annexation that meets the property owner consent requirements of Subsection (5)(b), state in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing under Subsection (4)(a)(iv), written protests to the annexation are filed by the owners of private real property that:
 - (A) is located within the area proposed for annexation;
 - (B) covers a majority of the total private land area within the entire area proposed for annexation; and

- (C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.
- (c) The first publication of the notice required under Subsection (4)(a)(ii)(A) shall be within 14 days of the municipal legislative body's adoption of a resolution under Subsection (4)(a)(i).
- (5)
- (a) Upon conclusion of the public hearing under Subsection (4)(a)(iv), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the city recorder or town clerk, as the case may be, by the owners of private real property that:
- (i) is located within the area proposed for annexation;
 - (ii) covers a majority of the total private land area within the entire area proposed for annexation; and
 - (iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.
- (b)
- (i) Upon conclusion of the public hearing under Subsection (4)(a)(iv), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (5)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.
 - (ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (5)(b)(i), the area annexed shall be conclusively presumed to be validly annexed.
- (6)
- (a) If protests are timely filed that comply with Subsection (5), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.
 - (b) Subsection (6)(a) may not be construed to prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(a)(ii) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (2)(b) to annex some or all of the remaining portion of the unincorporated island.

Amended by Chapter 352, 2015 General Session