

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

[Arizona Revised Statutes Annotated](#)

[Title 9. Cities and Towns](#)

[Chapter 4. General Powers](#)

[Article 7. Extension of Corporate Limits; Platting Adjacent Subdivisions \(Refs & Annos\)](#)

A.R.S. § 9-471

§ 9-471. Annexation of territory; procedures; notice; petitions; access to information; restrictions

Effective: August 9, 2017

[Currentness](#)

A. The following procedures are required to extend and increase the corporate limits of a city or town by annexation:

1. A city or town shall file in the office of the county recorder of the county in which the annexation is proposed a blank petition required by paragraph 4 of this subsection setting forth a description and an accurate map of all the exterior boundaries of the territory contiguous to the city or town proposed to be annexed, except that a city or town shall not file an annexation petition that includes any territory for which an unsuccessful annexation was attempted by the same city or town until at least forty-five days after completion of the unsuccessful attempt. A property owner may waive the forty-five day waiting period for the owner's property that was part of the original unsuccessful annexation. Notice and a copy of the filing shall be given to the clerk of the board of supervisors and to the county assessor. The accurate map shall include all county rights-of-way and roadways that are within or contiguous to the exterior boundaries of the area of the proposed annexation. If state land, other than state land utilized as state rights-of-way or land held by the state by tax deed, is included in the territory, written approval of the state land commissioner and the selection board established by § 37-202 shall also be filed. The description shall identify the entity, if any, that will be responsible for maintaining the existing rights-of-way and roadways that are within or contiguous to the exterior boundaries of the area of the proposed annexation. For the purposes of this paragraph, "unsuccessful annexation" means an annexation attempt that was withdrawn or that was not completed pursuant to this section.

2. Signatures on petitions filed for annexation shall not be obtained for a waiting period of thirty days after filing the blank petition.

3. After filing the blank petition pursuant to paragraph 1 of this subsection, the governing body of the city or town shall hold a public hearing within the last ten days of the thirty-day waiting period to discuss the annexation proposal. The public hearing shall be held in accordance with title 38, chapter 3, article 3.1,<sup>1</sup> except that, notwithstanding § 38-431.02, subsections C and D, the following notices of the public hearing to discuss the annexation proposal shall be given at least six days before the hearing:

(a) Publication at least once in a newspaper of general circulation, which is published or circulated in the city or town and the territory proposed to be annexed, at least fifteen days before the end of the waiting period.

(b) Posting in at least three conspicuous public places in the territory proposed to be annexed.

(c) Notice by first class mail sent to the chairman of the board of supervisors of the county in which the territory proposed to be annexed is located.

(d) Notice by first class mail with an accurate map of the territory proposed to be annexed sent to each owner of the real and personal property as shown on the statement furnished pursuant to subsection G of this section that would be subject to taxation by the city or town in the event of annexation in the territory proposed to be annexed. For the purposes of this subdivision, "real and personal property" includes mobile, modular and manufactured homes and trailers only if the owner also owns the underlying real property.

4. Within one year after the last day of the thirty-day waiting period a petition in writing signed by the owners of one-half or more in value of the real and personal property and more than one-half of the persons owning real and personal property that would be subject to taxation by the city or town in the event of annexation, as shown by the last assessment of the property, may be circulated and filed in the office of the county recorder. For the purposes of this paragraph, "real and personal property" includes mobile, modular and manufactured homes and trailers only if the owner also owns the underlying real property.

5. Alterations increasing or reducing the territory sought to be annexed shall not be made after a petition has been signed by a property owner.

6. The petitioner shall determine and submit a sworn affidavit verifying that no part of the territory for which the filing is made is already subject to an earlier filing for annexation. The county recorder shall not accept a filing for annexation without the sworn affidavit.

**B.** All information contained in the filings, the notices, the petition, the tax and property rolls and other matters regarding a proposed or final annexation shall be made available by the appropriate official for public inspection during regular office hours.

**C.** Any city or town, the attorney general, the county attorney or any other interested party may on verified petition move to question the validity of the annexation for failure to comply with this section. The petition shall set forth the manner in which it is alleged the annexation procedure was not in compliance with this section and shall be filed within thirty days after adoption of the ordinance annexing the territory by the governing body of the city or town and not otherwise. The burden of proof shall be on the petitioner to prove the material allegations of the verified petition. An action shall not be brought to question the validity of an annexation ordinance unless brought within the time and for the reasons provided in this subsection. All hearings provided by this section and all appeals therefrom shall be preferred and heard and determined in preference to all other civil matters, except election actions. In the event more than one petition questioning the validity of an

annexation ordinance is filed, all such petitions shall be consolidated for hearing. If two or more cities or towns show the court that they have demonstrated an active interest in annexing any or all of the area proposed for annexation, the court shall consider any oral or written agreements or understandings between or among the cities and towns in making its determination pursuant to this subsection.

**D.** The annexation shall become final after the expiration of thirty days after the adoption of the ordinance annexing the territory by the city or town governing body, provided the annexation ordinance has been finally adopted in accordance with procedures established by statute, charter provisions or local ordinances, whichever is applicable, subject to the review of the court to determine the validity of the annexation ordinance if petitions in objection have been filed. After adoption of the annexation ordinance, the clerk of the city or town shall provide a copy of the adopted annexation ordinance to the clerk of the board of supervisors of each county that has jurisdiction over the annexed area within sixty days after the annexation becomes final.

**E.** For the purpose of determining the sufficiency of the percentage of the value of property under this section, the values of property shall be determined as follows:

1. In the case of property assessed by the county assessor, values shall be the same as shown by the last assessment of the property.
2. In the case of property valued by the department of revenue, values shall be appraised by the department in the manner provided by law for municipal assessment purposes.

**F.** For the purpose of determining the sufficiency of the percentage of persons owning property under this section, the number of persons owning property shall be determined as follows:

1. In the case of property assessed by the county assessor, the number of persons owning property shall be as shown on the last assessment of the property.
2. In the case of property valued by the department of revenue, the number of persons owning property shall be as shown on the last valuation of the property.
3. If an undivided parcel of property is owned by multiple owners, those owners shall be deemed as one owner for the purposes of this section.
4. If a person owns multiple parcels of property, that owner shall be deemed as one owner for the purposes of this section.

**G.** The county assessor and the department of revenue, respectively, shall furnish to the city or town proposing an annexation, within thirty days after a request, a statement in writing showing the owner, the address of each owner and the appraisal and assessment of all such property.

**H.** Territory is not contiguous for the purposes of subsection A, paragraph 1 of this section unless:

1. It adjoins the exterior boundary of the annexing city or town for at least three hundred feet.
2. It is, at all points, at least two hundred feet in width, excluding rights-of-way and roadways.
3. The distance from the existing boundary of the annexing city or town where it adjoins the annexed territory to the furthest point of the annexed territory from that boundary is no more than twice the maximum width of the annexed territory.

**I.** A city or town shall not annex territory if as a result of that annexation unincorporated territory is completely surrounded by the annexing city or town.

**J.** Notwithstanding any provisions of this article to the contrary, any town incorporated before 1950 that had a population of less than two thousand persons by the 1970 census and that is bordered on at least three sides by Indian lands may annex by ordinance territory owned by the state within the same county for a new townsite that is not contiguous to the existing boundaries of the town.

**K.** Subsections H and I of this section do not apply to territory that is surrounded by the same city or town or that is bordered by the same city or town on at least three sides.

**L.** A city or town annexing an area shall adopt zoning classifications that permit densities and uses no greater than those permitted by the county immediately before annexation. Subsequent changes in zoning of the annexed territory shall be made according to existing procedures established by the city or town for the rezoning of land.

**M.** The annexation of territory within six miles of territory included in a pending incorporation petition filed with the county recorder pursuant to § 9-101.01, subsection D shall not cause an urbanized area to exist pursuant to § 9-101.01 that did not exist before the annexation.

**N.** As an alternative to the procedures established in this section, a county right-of-way or roadway may be transferred to an adjacent city or town by mutual consent of the governing bodies of the county and city or town if the property transferred is adjacent to the receiving city or town and if the city or town and county each approve the proposed transfer as a published agenda item at a regular public meeting of their governing bodies. A transfer of property made pursuant to this subsection

shall be treated by the receiving city or town as if the transferred property was newly annexed territory.

**O.** On or before the date the governing body adopts the ordinance annexing territory, the governing body shall have approved a plan, policy or procedure to provide the annexed territory with appropriate levels of infrastructure and services to serve anticipated new development within ten years after the date when the annexation becomes final pursuant to subsection D of this section.

**P.** If a property owner prevails in any action to challenge the annexation of the property owner's property, the court shall allow the property owner reasonable attorney fees and costs relating to the action from the annexing municipality.

**Q.** A city or town may annex territory that is a county owned park or a park operated on public lands by a county as part of a management agreement if otherwise agreed to by the board of supervisors. If the board of supervisors does not agree to the annexation, the county owned park or park operated on public lands by a county as part of a management agreement shall be excluded from the annexation area, notwithstanding subsections H and I of this section. A county owned park or park operated on public lands by a county as part of a management agreement that is excluded from the annexation area pursuant to this subsection may subsequently be annexed with the permission of the board of supervisors notwithstanding any other provision of this section. For the purposes of this subsection, "public lands":

1. Has the same meaning prescribed in [§ 37-901](#).

2. Does not include lands owned by a flood control district.

**R.** Notwithstanding subsection H of this section, territory is considered contiguous for the purposes of subsection A, paragraph 1 of this section if all of the real property in the territory is owned by one person, the city or town and the owner of the real property agree to the annexation and the territory adjoins the exterior boundary of the annexing city or town for at least three hundred feet.

### Credits

Amended by Laws 1967, Ch. 93, § 1; Laws 1972, Ch. 38, § 2; Laws 1980, Ch. 226, § 1; Laws 1983, Ch. 168, § 1; Laws 1984, Ch. 383, § 3; Laws 1986, Ch. 45, § 2, eff. April 10, 1986; Laws 1989, Ch. 37, § 1; Laws 1996, Ch. 27, § 1; Laws 1997, Ch. 204, § 1; Laws 1999, Ch. 320, § 1; Laws 2000, 4th S.S., Ch. 1, § 7; Laws 2000, Ch. 179, § 1; Laws 2002, Ch. 144, § 1; Laws 2003, Ch. 145, § 1; Laws 2006, Ch. 63, § 1, eff. April 10, 2006; Laws 2008, Ch. 95, § 1; Laws 2010, Ch. 245, § 1; Laws 2011, Ch. 348, § 2; Laws 2013, Ch. 127, § 1; Laws 2014, Ch. 134, § 1; Laws 2016, Ch. 93, § 1; Laws 2017, Ch. 86, § 1.

### Footnotes

<sup>1</sup>

Section 38-431 et seq.

A. R. S. § 9-471, AZ ST § 9-471

Current through legislation effective April 1, 2019 of the First Regular Session of the Fifty-Fourth Legislature (2019).

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Notes Of Decisions (161)

### Validity

Deannexation provision in this section, which is limited in application to 12 small cities and towns in one county, could be attacked as violative of equal protection and as unconstitutional special legislation; provision discriminates against small municipalities and discriminates in favor of larger municipalities. [Republic Inv. Fund I v. Town of Surprise \(1990\) 166 Ariz. 143, 800 P.2d 1251](#) . [Constitutional Law](#) 3483; [Municipal Corporations](#) 30; [Statutes](#) 1641

Deannexation provision in this section violated constitutional prohibition against special or local law when general law can be made applicable; remaining comprehensive annexation provisions were severable; deannexation provision was response to abuse of municipalities' power to annex strips; it applied to only 12 cities within county, immunized larger cities in county and similarly situated cities in other counties, and was limited to particular census for only 13 months; and general law would have provided remedy to individuals in all areas annexed by large or small cities within state. [Republic Inv. Fund I v. Town of Surprise \(1990\) 166 Ariz. 143, 800 P.2d 1251](#) . [Municipal Corporations](#) 29(1); [Statutes](#) 1678

Deannexation law [Laws 1986, Ch. 45, § 4, amended by Laws 1986, Ch. 414, § 1], effective on August 23, 1986 and only applicable for a thirteen-month period, violated constitutional prohibition against special or local laws, where deannexation law had limited geographic application and created window of time after which no other city or town could come within its purview; however, deannexation provision was severable from remaining sections, which remained in full force. [Petitioners for Deannexation v. City of Goodyear \(App. Div.1 1989\) 160 Ariz. 467, 773 P.2d 1026](#) , review granted, approved [166 Ariz. 143, 800 P.2d 1251](#) .

Requirement in this section that owners of not less than one-half value of real and personal property located in proposed annexation area sign annexation petition did not impermissibly delegate legislative power to property owners and did not violate due process, in that petitioners were "mere supplicants" and legal power to annex territory remained solely with governing body of city or town. [Roberts v. City of Mesa \(App. Div.2 1988\) 158 Ariz. 42, 760 P.2d 1091](#) . [Constitutional Law](#) 2442; [Constitutional Law](#) 4056; [Municipal Corporations](#) 29(1)

Petitioning process for municipal annexation of property under this section is not analogous to voting so as to infringe on a fundamental right, and thus, proper test in determining whether such statute denies equal protection is rational basis test, since annexation statute provides for neither annexation election nor veto by property owners over such an election and since actual annexation is by governing body of annexing city or town. [Goodyear Farms v. City of Avondale \(1986\) 148 Ariz. 216, 714 P.2d 386](#) .

Classification drawn by legislature in this section is rational and furthers legitimate state interests in orderly and prosperous growth of Arizona cities and towns, and thus, annexation statute does not violate equal protection. [Goodyear Farms v. City of Avondale \(1986\) 148 Ariz. 216, 714 P.2d 386](#) .

Even assuming that fact that plaintiff city would receive a proportionately smaller share of state sales tax revenue distributable to cities on basis of population by reason of annexation by defendant city resulted in plaintiff city having a "personal stake" in the outcome of controversy concerning the annexation, plaintiff city lacked standing to raise issue that annexation statute, § 9-471, was unconstitutional in that it abridged constitutional right to petition, since plaintiff city's interest in a few more tax dollars was not within the zone of interest protected by right to petition under [U.S.C.A. Const.Amend. 1](#) . [City of Douglas v. City of Sierra Vista \(App. Div.2 1973\) 21 Ariz.App. 71, 515 P.2d 896](#) . [Constitutional Law](#) 795

### Construction and application

Absolute and literal compliance with provisions of this section describing conditions of annexation is unnecessary; substantial compliance only is required. [Town of Scottsdale v. State ex rel. Pickrell \(1965\) 98 Ariz. 382, 405 P.2d 871](#) ; [State ex rel. Helm v. Town of Benson, Cochise County \(1964\) 95 Ariz. 107, 387 P.2d 807](#) .

Municipality cannot avoid statutory requirements governing annexation by enacting annexation measures as emergency measures. [Israel v. Town of Cave Creek \(App. Div.1 1999\) 196 Ariz. 150, 993 P.2d 1114](#) . [Municipal Corporations](#) 🗝️ 33(2)

Municipal annexation power, like other municipal powers, is entirely derivative of legislative grant. [Israel v. Town of Cave Creek \(App. Div.1 1999\) 196 Ariz. 150, 993 P.2d 1114](#) . [Municipal Corporations](#) 🗝️ 64

To annex parcel of land, city was required to strictly, rather than substantially, comply with statutory requirement that parcel be contiguous to city. [Town of Miami v. City of Globe \(App. Div.2 1998\) 195 Ariz. 176, 985 P.2d 1035](#) , review denied. [Municipal Corporations](#) 🗝️ 29(4)

Municipal acts which fix arbitrary and unreasonable boundaries or which deprive landowners of their property rights are unconstitutional, but annexation which bisected plaintiffs' land, did not fix an arbitrary and unreasonable boundary, despite claim that boundary deprived plaintiffs of industrial zoning and subjected them to residential zoning, higher property taxes, and city's building, housing, and other codes against their wishes. [Taylor v. City of Chandler \(App. Div.1 1972\) 17 Ariz.App. 346, 498 P.2d 158](#) .

The power of Legislature over methods and procedure of annexation is plenary. [Town of Scottsdale v. State ex rel. Pickrell \(1965\) 98 Ariz. 382, 405 P.2d 871](#) . [Municipal Corporations](#) 🗝️ 27

The reason for requirement of substantial compliance with this section is that annexation could affect title to property, taxes, bond issues, sewer, road and paving assessments, power and sewer lines, etc., and, since those are some of major factors that affect property owners, annexation procedure should be as conclusive and definitive as the law will permit. [Town of Scottsdale v. State ex rel. Pickrell \(1965\) 98 Ariz. 382, 405 P.2d 871](#) . [Municipal Corporations](#) 🗝️ 29(1)

Annexation of area was not rendered invalid because city at that time had no authority to provide residents with water. [Swift v. City of Phoenix \(1961\) 90 Ariz. 331, 367 P.2d 791](#) . [Municipal Corporations](#) 🗝️ 29(3)

When board of supervisors of county denied petitions to hold incorporation elections with respect to areas adjacent to but not part of city of Tucson, board made a "final determination" of proceedings before it, no appeal could be taken therefrom, and board had no further jurisdiction in the matter notwithstanding facts that petitioners might have applied to court for review by certiorari, and therefore city had jurisdiction to initiate annexation of area immediately after board denied petitions. [Burton v. City of Tucson \(1960\) 88 Ariz. 320, 356 P.2d 413](#) . [Municipal Corporations](#) 🗝️ 12(8); [Municipal Corporations](#) 🗝️ 33(1)

The extent of the right of municipalities to enlarge their boundaries is dependent entirely on the legislature, and its power in that respect is plenary in absence of constitutional limitations. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . [Municipal Corporations](#) 🗝️ 27

The question of including or excluding any given area in territory to be annexed to city is discretionary with governing body of city. [State ex rel. De Concini v. City of Phoenix \(1952\) 74 Ariz. 46, 243 P.2d 766](#) . [Municipal Corporations](#) 🗝️ 29(4)

Motives of governing body in annexing territory to city may not be inquired into by the courts. [State ex rel. De Concini v.](#)

[City of Phoenix \(1952\) 74 Ariz. 46, 243 P.2d 766](#) . [Municipal Corporations](#) 🔑 33(8)

### Purpose

Statute requiring that the territory of a proposed annexation be contiguous to the annexing city or municipality was designed to prevent “gerrymandered” annexation plans that result in “islands” of unincorporated territory isolated from competing annexation by intervening thin strips of incorporated areas. [Cornman Tweedy 560, LLC v. City of Casa Grande \(App. Div.2 2006\) 213 Ariz. 1, 137 P.3d 309](#) , review denied. [Municipal Corporations](#) 🔑 29(4)

### Standing

Town had standing to challenge neighboring city’s annexation of parcel of land, where parcel was located between city and town and terminated near town’s corporate limit, town provided sewer system service to property owners within area to be annexed, and city’s counsel acknowledged in letter to town’s counsel that annexation would directly and significantly impact town. [Town of Miami v. City of Globe \(App. Div.2 1998\) 195 Ariz. 176, 985 P.2d 1035](#) , review denied. [Municipal Corporations](#) 🔑 33(9)

### Discretion

Decision to annex is discretionary with the governing body. [Kempton v. City of Safford \(App. Div.2 1984\) 140 Ariz. 539, 683 P.2d 338](#) . [Municipal Corporations](#) 🔑 29(2)

When a requisite petition for annexation of realty by city had been filed, Code 1939, § 16-701 (now this section), governing annexation by petition of property owners gave city commission discretion as to whether request therein should be granted, and petitioners were mere supplicants with no legal rights to require annexation. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . [Municipal Corporations](#) 🔑 33(4); [Municipal Corporations](#) 🔑 33(5)

### Territory to be annexed

#### Territory to be annexed - In general

Fact that land included a wastewater reclamation facility did not preclude land from being a “park,” as would require county’s consent for annexation by town; land was planned as natural resource habitat and offered birding, picnicking, and hiking, and municipalities were statutorily authorized to acquire real property for public park purposes and for the location thereon of water and sewage plants. [Town of Marana v. Pima County \(App. Div.1 2012\) 230 Ariz. 142, 281 P.3d 1010](#) , review denied. [Municipal Corporations](#) 29(2)

City’s annexation of property failed to comply with all applicable procedures, and, therefore, it was null and void, where territory to be annexed was required by statute to be contiguous to the annexing city, and city’s method to determine the parcel’s length/width ratio did not conform with the method required by statute. [Copper Hills Enterprises, Ltd. v. Arizona Dept. of Revenue \(App. Div.1 2007\) 214 Ariz. 386, 153 P.3d 407](#) , review denied. [Municipal Corporations](#) 29(4)

Property owners’ annexation petitions requesting city to annex “our property” and not entire proposed area were not invalid because property owners did not ask for annexation of entire proposed area as described in petition. [Swift v. City of Phoenix \(1961\) 90 Ariz. 331, 367 P.2d 791](#) . [Municipal Corporations](#) 33(5)

#### Contiguous territory to be annexed

Requirement that the territory of a proposed annexation be contiguous to the annexing city or municipality must be strictly complied with. [Cornman Tweedy 560, LLC v. City of Casa Grande \(App. Div.2 2006\) 213 Ariz. 1, 137 P.3d 309](#) , review

denied. [Municipal Corporations](#) 🔑 29(4)

Length of parcel to be annexed by city was properly measured, for purposes of determining whether parcel satisfied statutory requirement that it be contiguous to city, by drawing and measuring a line from a point on the common boundary directly to point on parcel's perimeter furthest from original point, despite city's contention that alternative method it used conformed to generally accepted land surveying and engineering principles; city's proposed method did not comply with method required by statute. [Town of Miami v. City of Globe \(App. Div.2 1998\) 195 Ariz. 176,985 P.2d 1035](#) , review denied. [Municipal Corporations](#) 🔑 29(4)

In enacting exemption from restrictions in subsections in this section on size of annexed territory and against creating islands of unincorporated territory completely surrounded by annexing city, for annexations involving preexisting islands of unincorporated territory, legislature intended to permit cities surrounding unincorporated islands to annex less than entire island. [Roberts v. City of Mesa \(App. Div.2 1988\) 158 Ariz. 42, 760 P.2d 1091](#) . [Municipal Corporations](#) 🔑 29(4)

Long, narrow strip of land which physically touched boundaries of city was contiguous to then limits of city as required by this section. [Taylor v. City of Chandler \(App. Div.1 1972\) 17 Ariz.App. 346, 498 P.2d 158](#) . [Municipal Corporations](#) 🔑 29(4)

Land sought to be annexed is "contiguous" within requirement of this section if it touches land to which it is to be annexed. [City of Safford v. Town of Thatcher \(App. Div.2 1972\) 17 Ariz.App. 25, 495 P.2d 150](#) . [Municipal Corporations](#) 🔑 29(4)

Strip of land which began at southern boundary of town and extended to encircle more than 2000 acres of land not to be annexed, finally joining eastern boundary of town was "contiguous" within requirement of this section. [City of Safford v. Town of Thatcher \(App. Div.2 1972\) 17 Ariz.App. 25, 495 P.2d 150](#) . [Municipal Corporations](#) 🔑 29(4)

A municipality may lawfully complete a series of annexations which individually meet the requirements of subsection of this section, but in combination with one another do not; each annexation must be treated separately in assessing its compliance with the subsection. Op.Atty.Gen. No. 187-160, [1987 WL 121384](#) .

### **Territory to be annexed - Contiguous territory to be annexed**

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### **Location, territory to be annexed**

In enacting subsection of this section providing that city or town shall not annex territory if as result of such annexation unincorporated territory is completely surrounded by annexing city or town, legislature intended to prevent creation of “islands” of unincorporated territory which might forever remain unincorporated. [Roberts v. City of Mesa \(App. Div.2 1988\) 158 Ariz. 42, 760 P.2d 1091](#) . [Municipal Corporations](#) 🗝️ 29(4)

Annexation ordinance was not rendered invalid by annexing strip of land connecting several parcels of land located some distance from previous city limits. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848](#) . [Municipal Corporations](#) 🗝️ 33(2)

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### **Size or shape, territory to be annexed**

Contiguity requirement for annexation plan does not require that the length of a territory must necessarily be the longer of the measurements and the width the shorter. [Cornman Tweedy 560, LLC v. City of Casa Grande \(App. Div.2 2006\) 213 Ariz. 1, 137 P.3d 309](#) , review denied. [Municipal Corporations](#) 🗝️ 29(4)

In enacting subsection this section requiring that annexed territory adjoin exterior boundary of annexing city or town for at least 300 feet, be at least 200 feet in width, and being no more than twice as long as it is wide, legislature intended to prevent gerrymandered annexation. [Roberts v. City of Mesa \(App. Div.2 1988\) 158 Ariz. 42, 760 P.2d 1091](#) . [Municipal Corporations](#) 🗝️ 29(4)

Strip annexation was not unfair, although municipality annexed the strips of land owned by those who opposed the annexation and annexed entire parcels of those who favored annexation. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848](#) . [Municipal Corporations](#) 🗝️ 29(4)

Size and shape of parcel to be annexed is immaterial to validity of annexation. [City of Safford v. Town of Thatcher \(App.](#)

[Div.2 1972\) 17 Ariz.App. 25, 495 P.2d 150 . Municipal Corporations](#) 🔑 29(4)

Courts will not read into annexation statutes limitations relating to unusual or irregular shapes or patterns of territories annexed. [City of Safford v. Town of Thatcher \(App. Div.2 1972\) 17 Ariz.App. 25, 495 P.2d 150 . Municipal Corporations](#) 🔑 29(4)

Where petition for annexation of territory to city designated portion of proposed territory as north line of certain road, and, prior to filing of petition, board of supervisors of county adopted resolution the effect of which was to declare the boundaries of road changed by adding seven feet on both sides, and, in ordinance of annexation, boundary was described in conformity with line established by resolution, resolution established north boundary of road, but annexation ordinance did not embrace more territory than set forth in petition. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537 . Municipal Corporations](#) 🔑 33(2)

Under Code 1939, § 16-701 (now this section), which governed annexation of contiguous property by city upon filing of petition of property owners and which provided city was to file and record copy of the annexation ordinance with an accurate map of territory to be annexed, city was not required to adopt the map of the territory annexed as described in the petitions or as described in the petitions and modified by commission. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717 . Municipal Corporations](#) 🔑 33(1)

#### **Territory to be annexed - Size or shape**

Contiguity requirement for annexation plan does not require that the length of a territory must necessarily be the longer of the measurements and the width the shorter. [Cornman Tweedy 560, LLC v. City of Casa Grande \(App. Div.2 2006\) 213 Ariz. 1, 137 P.3d 309 , review denied. Municipal Corporations](#) 🔑 29(4)

In enacting subsection this section requiring that annexed territory adjoin exterior boundary of annexing city or town for at least 300 feet, be at least 200 feet in width, and being no more than twice as long as it is wide, legislature intended to prevent gerrymandered annexation. [Roberts v. City of Mesa \(App. Div.2 1988\) 158 Ariz. 42, 760 P.2d 1091 . Municipal Corporations](#) 🔑 29(4)

Strip annexation was not unfair, although municipality annexed the strips of land owned by those who opposed the annexation and annexed entire parcels of those who favored an annexation. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848 . Municipal Corporations](#) 🔑 29(4)

Size and shape of parcel to be annexed is immaterial to validity of annexation. [City of Safford v. Town of Thatcher \(App. Div.2 1972\) 17 Ariz.App. 25, 495 P.2d 150 . Municipal Corporations](#) 🔑 29(4)

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#### **Territory to be annexed - Width**

City's annexation of property failed to comply with all applicable procedures, and, therefore, it was null and void, where territory to be annexed was required by statute to be contiguous to the annexing city, and city's method to determine the parcel's length/width ratio did not conform with the method required by statute. [Copper Hills Enterprises, Ltd. v. Arizona Dept. of Revenue \(App. Div.1 2007\) 214 Ariz. 386, 153 P.3d 407](#) , review denied. [Municipal Corporations](#) 🔑 29(4)

In regard to the restriction on annexation of territory, the term "width of the annexed territory" as used in subsection of this section refers to the greatest width, not the average width, smallest width, or something else. [Op. Atty. Gen. No. 187-160, 1987 WL 121384](#) .

#### **Width, territory to be annexed**

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#### **Description, territory to be annexed**

Subsection of this section requiring expiration of 30 days from first reading of ordinance to finalize annexation by city or town did not permit city to make ordinance annexing property in "strip" fashion immediately final by passage as emergency measure pursuant to [A.R.S. § 19-142](#) , making emergency measures immediately final. [Salt River Project Agr. Imp. and Power Dist. v. City of St. Johns \(1986\) 149 Ariz. 282, 718 P.2d 184](#) . [Municipal Corporations](#) 🔑 33(2)

Typographical error in legal description of property to be annexed, resulting in legal description including 40 acres which were not shown on map attached to petition, did not render the annexation illegal. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848](#) . [Municipal Corporations](#) 🔑 33(5)

Absolute literal compliance with statutory annexation requirements is not required and minor, but not misleading, discrepancies between legal description and map are not fatal to validity of the annexation. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848](#) . [Municipal Corporations](#) 🔑 33(5)

Where city's annexation petition, following metes and bounds description of the territory to be annexed, recited that the parcels involved constituted a particular contiguous military reservation and referred to accurate map annexed to the petition, mistake in the "calls" in the metes and bounds description was not enough to invalidate the annexation proceedings. [City of Douglas v. City of Sierra Vista \(App. Div.2 1973\) 21 Ariz.App. 71, 515 P.2d 896](#) . [Municipal Corporations](#) 🔑 33(5)

Map of territory to be annexed to city filed with annexing ordinance did not render ordinance invalid because of minor deviations between map and descriptions where from descriptions, map and testimony in explanation thereof, the boundaries to be annexed could be accurately determined. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) .

**Municipal Corporations** 🔑 33(2)

Where only express reference in Code 1939, § 16-701 (now this section), requiring description of annexed area was a provision for filing of map by the city, the commission had power to describe the boundaries of area to be annexed even though such description was not embodied in annexation petitions of property owners, provided that at least 50 per cent of the value of the territory annexed was represented in petitions filed. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . **Municipal Corporations** 🔑 33(1)

Under Code 1939, § 16-701 (now this section), which required that petitions by property owners be signed by owners of not less than one half in value of property to be annexed, that petitions did not describe the entire area to be annexed so that a calculation of the value of area to be annexed could be made to determine whether 50 per cent in value of territory annexed was represented did not render petitions defective, where calculation had already been made and showed in excess of 60 per cent in value of territory to be annexed was represented in petitions filed. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . **Municipal Corporations** 🔑 33(5)

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excess of 60 per cent in value of territory to be annexed was represented in petitions filed. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . [Municipal Corporations](#) 🔑 33(5)

#### Conditions of annexation

When a statute is enacted prescribing conditions under which annexation may be accomplished, it is necessary that such conditions exist and are substantially complied with before municipality may legally bring additional territory within its boundaries. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . [Municipal Corporations](#) 🔑 29(1)

Legislature may give to municipalities the power to annex territory upon any condition it chooses to impose, either with or without the wishes of the inhabitants of the territory involved, either with or without notice to anyone, and with or without right of objecting inhabitants to protest. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . [Municipal Corporations](#) 🔑 29(2)

#### Effective date of annexation

Provision of this section granting to private citizens right to contest annexation by municipality took precedence and controlled over general, earlier statute § 19-142 authorizing cities or towns to waive 30-day provision as to ordinance finality by enacting emergency measure. [Gieszl v. Town of Gilbert \(App. Div.1 1974\) 22 Ariz.App. 543, 529 P.2d 255](#) . [Municipal Corporations](#) 🔑 29(1)

Sole authority of town of Gilbert to accomplish annexation was statutory, and it had no power to shorten time, i.e., 30 days, in which such power could be exercised. [Gieszl v. Town of Gilbert \(App. Div.1 1974\) 22 Ariz.App. 543, 529 P.2d 255](#) . [Municipal Corporations](#) 🔑 33(1)

#### Timeliness of annexation

Statute providing that annexation of property by city becomes final 30 days after adoption of annexation ordinance, subject to review of court to determine validity thereof if petitions in objection have been filed, evidences legislature's intent that timely challenged annexation does not automatically become final 30 days after annexation ordinance was adopted, but rather becomes final when judicial determination has been made as to challenged annexation's validity. [Tohono O'odham Nation v. City of Glendale \(App. Div.1 2011\) 227 Ariz. 113, 253 P.3d 632](#) , review denied. [Municipal Corporations](#) 🔑 35

Statute requiring that, upon annexation, parcel retain zoning classifications that permit uses no greater than what had been permitted prior to annexation and that "subsequent changes" be carried out in compliance with the appropriate rezoning provisions did not bar city from initiating rezoning proceedings before annexation of parcel was final. [Blanchard v. Show Low Planning and Zoning Com'n \(App. Div.1 1999\) 196 Ariz. 114, 993 P.2d 1078](#) , review denied. [Zoning And Planning](#) 🔑 1175

City was not prohibited from initiating rezoning process while annexation of parcel was pending where citizens were given appropriate notice and applicable hearing procedures were followed. [Blanchard v. Show Low Planning and Zoning Com'n \(App. Div.1 1999\) 196 Ariz. 114, 993 P.2d 1078](#) , review denied. [Zoning And Planning](#) 🔑 1180

Under circumstances, including fact that a temporary restraining order had been issued, delay of 14 months between circulation of some of annexation petitions and annexation by city was not unreasonable. [Swift v. City of Phoenix \(1961\) 90 Ariz. 331, 367 P.2d 791](#) . [Municipal Corporations](#) 🔑 33(5)

#### Effect and operation of annexation

Petitioners were not deprived of their constitutional right by action of city council which on same day that incorporation

petitions were denied passed emergency ordinance annexing areas which petitioners sought to have incorporated. [Burton v. City of Tucson \(1960\) 88 Ariz. 320, 356 P.2d 413](#) .

Annexation by city of areas in question, immediately following decision by county board of supervisors denying petitions for incorporation elections, foreclosed judicial review of actions of boards of county supervisors by certiorari but did not deprive petitioners of any constitutionally protected vested rights. [Burton v. Kautenburger \(1960\) 88 Ariz. 319, 356 P.2d 412](#) . [Constitutional Law](#) 🔑 2642 ; [Constitutional Law](#) 🔑 2654 ; [Municipal Corporations](#) 🔑 12(12)

An incorporated city by annexing pursuant to Civ.Code 1901, §§ 509 to 517 (now this section and §§ 9-472 and 9-473), part of a road district, acquired the right to exercise over property and inhabitants in the annexed territory all political and governmental powers delegated to it by law. [Blount v. MacDonald \(1916\) 18 Ariz. 1, 155 P. 736](#) . [Municipal Corporations](#) 🔑 35

Under Laws 1907, Ch. 66, § 9, touching payment of road district bonds, property situated in territory which was part of a road district at the time the district issued bonds, although the territory including it was subsequently annexed by a city, as authorized by Civ.Code 1901, §§ 509 to 517 (now this section and §§ 9-472 and 9-473), was subject to a levy to pay the bonds or interest. [Blount v. MacDonald \(1916\) 18 Ariz. 1, 155 P. 736](#) . [Municipal Corporations](#) 🔑 36(3)

A city, by annexation of a road district under statutory authority, acquired no rights and assumed no liabilities of the district not of a political or governmental nature. [Blount v. MacDonald \(1916\) 18 Ariz. 1, 155 P. 736](#) . [Municipal Corporations](#) 🔑 36(1)

In the absence of express statutory provision, a city which annexed part of a road district did not acquire power to tax the annexed property to redeem bonds of the district and pay interest. [Blount v. MacDonald \(1916\) 18 Ariz. 1, 155 P. 736](#) . [Municipal Corporations](#) 🔑 36(3)

Annexation of a strip of land by two municipalities in manner by which an inhabited unincorporated territory was separated from city to which it wished to annex did not violate rights of residents of the unincorporated territory. Op.Atty.Gen. No. 59-34.

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### **Jurisdiction**

Once superior court acquired jurisdiction over subject matter of incorporation of town and parties thereto, council of neighboring city could not oust court of that jurisdiction by annexation of territory within six miles of the new town. [Jay v. Kreigh \(1974\) 110 Ariz. 299, 518 P.2d 122](#) . [Municipal Corporations](#) 🔑 12(12)

Where petition for annexation of territory to town was filed with town clerk before petition for annexation of territory to city was filed with city clerk, but no steps were taken by town council to consider its petition prior to time city considered and acted upon petition presented to its council, city acquired jurisdiction first and had right to proceed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(1)

Upon annexation of an addition to city, the title and jurisdiction of the streets and alleys in the annexed territory vested in the city for all purposes, and 20-foot alleyway extending through the middle of blocks in addition shown on plat attached to ordinance of annexation and filed and recorded in county recorder's office was dedicated to the public. [Collins v. Wayland \(1942\) 59 Ariz. 340, 127 P.2d 716](#) , certiorari denied [63 S.Ct. 760, 318 U.S. 767, 87 L.Ed. 1138](#) . [Dedication](#) 🔑 19(4); [Municipal Corporations](#) 🔑 35

### **Zoning application to property annexed**

#### **Zoning application to property annexed - In general**

Where relief prayed for by landowners was for a declaration that city's annexation of property in recorded plat and zoning changes after recordation of plat did not affect plat's validity or their right to develop lots as recorded, a judgment that subdivision was subject to city's zoning was appropriate. [Dawe v. City of Scottsdale \(1978\) 119 Ariz. 486, 581 P.2d 1136](#) . [Zoning And Planning](#) 🔑 1716

#### **Recorded plats, zoning application to property annexed**

Recording of subdivision plat did not give landowners vested right to develop vacant and unimproved property in accordance with plat contrary to subsequent subdivision ordinance adopted after plat was recorded and after city annexed property covered by plat. [Dawe v. City of Scottsdale \(1978\) 119 Ariz. 486, 581 P.2d 1136](#) . [Zoning And Planning](#) 🔑 1460

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### Rescission of annexation

Rescission of annexation ordinances by city and town prior to their having become final avoided statutory effect of withdrawing the territory in question from annexation and, hence, such territory, otherwise contiguous to city, could be proper subject of subsequent annexation ordinance passed by city. [Kempton v. City of Safford \(App. Div.2 1984\) 140 Ariz. 539, 683 P.2d 338](#) . [Municipal Corporations](#) 🔑 29(4)

### Objections, protest, or contest

Legislative intent in conferring upon private citizens right to contest annexation was that for at least 30 days a municipality cannot interfere with such right. [Gieszl v. Town of Gilbert \(App. Div.1 1974\) 22 Ariz.App. 543, 529 P.2d 255](#) . [Municipal Corporations](#) 🔑 33(9)

Where statutory requirements governing annexation of contiguous territory by petition of property owners are met, no dissatisfied person within the territory which city purposes to add to its boundaries is given any legal right to effectively protest action of the commission and the absence of a delineation of the entire proposed area in the petition deprives no one of any legal right. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . [Municipal Corporations](#) 🔑 33(9)

A citizen affected by municipality's purported annexation of additional territory may challenge jurisdiction of city to make such annexation at any time until such territory becomes part of city by ordinance that has force and effect of law. [City of Phoenix v. Lockwood \(1953\) 76 Ariz. 46, 258 P.2d 431](#) . [Municipal Corporations](#) 🔑 29(3)

A landowner may not attack an annexation ordinance of a city after the ordinance is complete. [Gorman v. City of Phoenix \(1950\) 70 Ariz. 59, 216 P.2d 400](#) .

The right, if any, to object to annexation of addition to city ceased after adoption of ordinance providing for such annexation and the acceptance by city of the annexation, particularly where city in pursuance thereof subsequently exercised municipal control for many years, levying and collecting taxes and treating addition in all respects as an integral part of municipal organization. [Collins v. Wayland \(1942\) 59 Ariz. 340, 127 P.2d 716](#) , certiorari denied [63 S.Ct. 760, 318 U.S. 767, 87 L.Ed. 1138](#) . [Municipal Corporations](#) 🔑 33(10)

The rule that only the attorney general and the county attorney may question the validity of the annexation of territory to a city applies only to an attempt to impeach a record which shows on its face a valid proceeding, and an interested taxpayer may bring an action to prevent the completion of an attempt to change boundaries or incorporate a municipality on ground of lack of jurisdiction. [Colquhoun v. City of Tucson \(1940\) 55 Ariz. 451, 103 P.2d 269](#) . [Municipal Corporations](#) 🔑 33(10); [Municipal Corporations](#) 🔑 993(1)

### Petitions

#### Petitions - In general

A city's petition to annex portion of certain land as to which another city had filed an earlier petition was invalid; statute required municipality filing an annexation petition to include a sworn affidavit verifying that no part of the territory was already subject to an earlier filing for annexation, but city's affidavit stated that no part of the territory for which the

petition was made was already subject to a valid earlier filing for annexation, but the qualifying language “valid earlier filing” was not part of the statute, which contained no provision for filing a contingent petition to secure priority in the event a prior petition were successfully challenged. [Cornman Tweedy 560, LLC v. City of Casa Grande \(App. Div.2 2006\) 213 Ariz. 1, 137 P.3d 309](#), review denied. [Municipal Corporations](#) 🔑 33(5)

Where annexation petition does not comport with statutory requirements, governing body of city has no jurisdiction to enact annexation ordinance. [Fry v. Mayor and City Council of Sierra Vista \(App. Div.2 1970\) 11 Ariz.App. 490, 466 P.2d 41](#). [Municipal Corporations](#) 🔑 33(5)

Alleged fact that proponents of annexation of territory to city may have tacitly agreed with country club that golf course would be excluded from area to be annexed did not vitiate petitions for annexation. [State ex rel. De Concini v. City of Phoenix \(1952\) 74 Ariz. 46, 243 P.2d 766](#). [Municipal Corporations](#) 🔑 33(5)

Where petition for election to determine whether area contiguous to city of Tucson should be incorporated as town of South Tucson was filed with clerk of board of supervisors of Pima county, board acquired jurisdiction of proceedings, notwithstanding that when petition was filed board was not then in session, that petition for annexation of substantially the same area to the city of Tucson was filed with council of city of Tucson, and that an ordinance was passed declaring area annexed before board took any action on petition for incorporation, since city council had no jurisdiction of annexation proceedings affecting territory covered by petition for incorporation until petition for incorporation was finally disposed of. [Colquhoun v. City of Tucson \(1940\) 55 Ariz. 451, 103 P.2d 269](#). [Municipal Corporations](#) 🔑 12(1)

#### **Necessity, petitions**

Until a sufficient annexation petition is filed, city commission is without jurisdiction to pass an ordinance of annexation. [Gorman v. City of Phoenix \(1950\) 70 Ariz. 59, 216 P.2d 400](#). [Municipal Corporations](#) 🔑 33(5)

An annexation petition signed by owners of not less than one-half in value of property in area sought to be annexed as shown by last assessment must be presented to city commission. [Gorman v. City of Phoenix \(1950\) 70 Ariz. 59, 216 P.2d 400](#). [Municipal Corporations](#) 🔑 29(4); [Municipal Corporations](#) 🔑 33(5)

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#### **Circulators, petitions**

Use of paid city employees to secure property owners’ signatures on annexation petition is not prohibited by this section which does not require petition circulators to be property owners. [Swift v. City of Phoenix \(1961\) 90 Ariz. 331, 367 P.2d 791](#). [Municipal Corporations](#) 🔑 33(5)

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### **Petitions - Presentation**

Because of delay occasioned by court proceedings brought by interested citizen to obtain production of annexation petitions, order allowing citizen to inspect and copy the petitions would also allow her a reasonable time from entry of that order during which no annexation petition could be presented to the governing body. [Moorehead v. Arnold \(App. Div.2 1981\) 130 Ariz. 503, 637 P.2d 305](#) . [Municipal Corporations](#) 🔑 33(5)

This section requiring “presentation” of annexation petition to governing body did not require “filing,” which has significance of being received by a particular officer appointed by law. [State ex rel. Helm v. Town of Benson, Cochise County \(1963\) 95 Ariz. 107, 387 P.2d 807](#) . [Municipal Corporations](#) 🔑 33(5)

There was sufficient “presentation” of annexation petition to town council, where town had engaged attorney to obtain proper signatures to annexation petition and he had done so and had received into his possession a proper petition and he had advised the council that he had in his possession a petition signed in accordance with the directions of this section. [State ex rel. Helm v. Town of Benson, Cochise County \(1963\) 95 Ariz. 107, 387 P.2d 807](#) . [Towns](#) 🔑 9

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There was sufficient “presentation” of annexation petition to town council, where town had engaged attorney to obtain proper signatures to annexation petition and he had done so and had received into his possession a proper petition and he had advised the council that he had in his possession a petition signed in accordance with the directions of this section. [State ex rel. Helm v. Town of Benson, Cochise County \(1963\) 95 Ariz. 107, 387 P.2d 807](#) . [Towns](#) 🔑 9

### **Petitions - Presumptions**

Validity of petition filed seeking annexation is presumed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) .

### **Presumptions, petitions**

Validity of petition filed seeking annexation is presumed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) .

### **Signers and signatures**

#### **Signers and signatures - In general**

Where record showed that petition seeking annexation of territory to city was signed by property owner at time of presentation to commission, valuation of his property was properly included in determining whether petition had been signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed, even

though signature was not dated and signer could not remember exactly when he had signed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Where party signed petition seeking annexation of territory to city as commander of veterans organization but testified that he had no express authority from organization and that he did not know whether he had such authority, and constitution and by-laws of organization could not be interpreted as giving express or implied authority, signing of petition was not connected with or incident to his duties, and valuation of organization's property, represented by his signature could not be included in determining whether petition was signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Consenting to become part of municipality is not equivalent of alienating or encumbering of property. [Gorman v. City of Phoenix \(1953\) 76 Ariz. 35, 258 P.2d 424](#) .

Code 1939, § 16-701 (now this section) providing for annexation of land to cities "on presentation of a petition in writing, signed by the owners of not less than one half in value of the property in any territory contiguous to the city" required such signatures of owners of real but not of personal property. [Gorman v. City of Phoenix \(1953\) 76 Ariz. 35, 258 P.2d 424](#) . [Municipal Corporations](#) 🔑 33(5)

Test whether signer of petition for annexation of territory to city was entitled to sign was whether he owned realty within the territory in question at time he signed. [State ex rel. De Concini v. City of Phoenix \(1952\) 74 Ariz. 46, 243 P.2d 766](#) . [Municipal Corporations](#) 🔑 33(5)

Property of signers of petition to annex a subdivision to city could be counted in determining sufficiency of the petition notwithstanding that signers had authorized the circulator of the petition to change, if he saw fit, the boundaries of the property to be annexed before submitting the petition to the city commission. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

Under Code 1939, § 16-701 (now this section), relating to annexation of additional territory to city by petition of property owners, it was an indispensable "condition precedent" that a petition for annexation be signed by the owners of not less than one-half in value of the property in any territory contiguous to the city as shown by the last assessment of the property. [City of Phoenix v. State ex rel. Harless \(1941\) 58 Ariz. 8, 117 P.2d 87](#) . [Municipal Corporations](#) 🔑 33(5)

### **Conditional signers and signatures**

Annexation petitions were insufficient to confer jurisdiction upon city council to adopt annexation ordinance, where assessed valuation of property represented by petitions, excluding those petitions which were signed by public utilities and which were nullities because conditioned on understanding that owners of more than half of property in area had also signed, was less than one-half of assessed valuation in area. [State ex rel. Pickrell v. Town of Scottsdale \(1965\) 99 Ariz. 103, 407 P.2d 72](#) . [Municipal Corporations](#) 🔑 33(5)

The annexation statute was not substantially complied with and hence annexation was invalid where petitions signed and presented to city council by two public utilities were conditional in form and, excluding amount represented by such conditional petitions, city council did not have the required one-half of assessed value of property in area to confer jurisdiction to annex the area. [Town of Scottsdale v. State ex rel. Pickrell \(1965\) 98 Ariz. 382, 405 P.2d 871](#) . [Municipal Corporations](#) 🔑 33(5)

### **Signers and signatures - Conditional signers and signatures**

Annexation petitions were insufficient to confer jurisdiction upon city council to adopt annexation ordinance, where

assessed valuation of property represented by petitions, excluding those petitions which were signed by public utilities and which were nullities because conditioned on understanding that owners of more than half of property in area had also signed, was less than one-half of assessed valuation in area. [State ex rel. Pickrell v. Town of Scottsdale \(1965\) 99 Ariz. 103, 407 P.2d 72](#) . [Municipal Corporations](#) 🔑 33(5)

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### Owners, signers and signatures

For purposes of requirement that municipality show petition signed by owners of one-half or more in value of real and personal property and more than one-half of persons owning real and personal property in area before it may annex territory, joint tenants only own proportional undivided interest in joint tenancy property so that signature of one such tenant represents only that tenant's proportionate share of total value of property for purposes of meeting value requirements for annexation. [Northwest Fire Dist. v. City of Tucson \(App. Div.2 1995\) 185 Ariz. 102, 912 P.2d 1331](#) , review denied. [Municipal Corporations](#) 🔑 34

Where municipality received signatures from 18 people out of 36 joint tenants involved with 17 joint tenancy parcels and municipality counted 17 owners as signing rather than only 8.5 owners, as signing as required to show proper proportionate share of total value of property, municipality fell short of necessary signatures for annexation of area. [Northwest Fire Dist. v. City of Tucson \(App. Div.2 1995\) 185 Ariz. 102, 912 P.2d 1331](#) , review denied. [Municipal Corporations](#) 🔑 34

After ordinance annexing territory had been passed, evidence that assessment roll showed that, at time of assessment, person other than signer owned property included in annexed territory was insufficient to show invalidity of signature of another person, who had signed petition for annexation as owner of such property. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) .

Where purchasers of realty under land contract were in possession of and exercised dominion over and could rent or lease their parcels and paid taxes thereon and to the extent of their payments were the equitable owners of their parcels, such purchasers as "owners" were authorized to sign petition to annex property to city notwithstanding that legal title to the parcels had not passed to purchasers. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

Where property for which owner signed petition to annex subdivision to city stood in the name of another to whom it had been conveyed by an estate, such property was properly not counted in determining sufficiency of petition. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

Where son of property owners, without authority, signed petition to annex subdivision to city, such property was properly not counted in determining sufficiency of petition. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

An administratrix of property owner's estate was not the "owner" of the property and hence such property was improperly on petition to annex subdivision to city. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

Under provision of Code 1939, § 16-701 (now this section) that, on presentation of a petition in writing signed by owners

of not less than one-half in value of property in any territory contiguous to city as shown by last assessment of property and not embraced within its limits, city might annex such territory, a high school district owning three-fourths of territory sought to be annexed to city was not qualified to sign a petition for annexation, since under [Const. Art. 9, § 2](#), property of district was not and could not be made subject to any form of taxation and could not legally be assessed, and it was not intended that owners of property which could not bear any of burdens of annexation should be entitled to be heard upon the question. [City of Phoenix v. State ex rel. Harless \(1941\) 58 Ariz. 8, 117 P.2d 87](#). [Municipal Corporations](#) 🔑 33(5)

### Signers and signatures - Owners

For purposes of requirement that municipality show petition signed by owners of one-half or more in value of real and personal property and more than one-half of persons owning real and personal property in area before it may annex territory, joint tenants only own proportional undivided interest in joint tenancy property so that signature of one such tenant represents only that tenant's proportionate share of total value of property for purposes of meeting value requirements for annexation. [Northwest Fire Dist. v. City of Tucson \(App. Div.2 1995\) 185 Ariz. 102, 912 P.2d 1331](#), review denied. [Municipal Corporations](#) 🔑 34

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Where purchasers of realty under land contract were in possession of and exercised dominion over and could rent or lease their parcels and paid taxes thereon and to the extent of their payments were the equitable owners of their parcels, such purchasers as "owners" were authorized to sign petition to annex property to city notwithstanding that legal title to the parcels had not passed to purchasers. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#). [Municipal Corporations](#) 🔑 33(5)

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Under provision of Code 1939, § 16-701 (now this section) that, on presentation of a petition in writing signed by owners of not less than one-half in value of property in any territory contiguous to city as shown by last assessment of property and not embraced within its limits, city might annex such territory, a high school district owning three-fourths of territory sought to be annexed to city was not qualified to sign a petition for annexation, since under [Const. Art. 9, § 2](#), property of district was not and could not be made subject to any form of taxation and could not legally be assessed, and it was not

intended that owners of property which could not bear any of burdens of annexation should be entitled to be heard upon the question. [City of Phoenix v. State ex rel. Harless \(1941\) 58 Ariz. 8, 117 P.2d 87](#) . [Municipal Corporations](#) 🔑 33(5)

### **Agents, signers and signatures**

In absence of evidence showing that person who signed petition as agent of another did so without authority, property valuation represented by signature was properly included in determining whether petition seeking annexation was signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

### **Signers and signatures - Agents**

In absence of evidence showing that person who signed petition as agent of another did so without authority, property valuation represented by signature was properly included in determining whether petition seeking annexation was signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

### **Husband and wife, signers and signatures**

Where no spouse who signed petitions favoring annexation purported to be signing on behalf of other spouse who owned property in joint tenancy, city could not show that spouse had authority to sign for the other for purposes of showing that city met annexing requirement of showing appropriate number of signatures; where signature of one tenant in joint tenancy was on petition, but not other, signature represented only single tenant's proportionate share of total value of property. [Northwest Fire Dist. v. City of Tucson \(App. Div.2 1995\) 185 Ariz. 102, 912 P.2d 1331](#) , review denied. [Municipal Corporations](#) 🔑 34

If there is some indicia of agency presented, spouse will be presumed to have authority to sign an annexation petition on behalf of other spouse's separate property, and party objecting to annexation ordinance will have burden of submitting evidence to show the lack of authority of the signing spouse, but, absent any indicia of agency, signature of one spouse cannot be presumed to also represent the separate property interests of the other spouse. [Ferree v. City of Yuma \(App. Div.1 1979\) 124 Ariz. 225, 603 P.2d 117](#) . [Municipal Corporations](#) 🔑 33(5); [Municipal Corporations](#) 🔑 33(6)

In regard to situation in which 23 of the parcels included within petition for annexation to city were assumed to be held in joint tenancy by spouses and in which only one joint tenant of each of the parcels signed petition on behalf of each parcel, only the proportionate undivided interests of the signing joint tenants could be included in determining whether the requirement under provision of this section that petition be signed by owners of property, whose assessed valuation exceeded one half of valuation of area sought to be annexed, had been satisfied, absent any indicia of agency. [Ferree v. City of Yuma \(App. Div.1 1979\) 124 Ariz. 225, 603 P.2d 117](#) . [Municipal Corporations](#) 🔑 33(5)

Where wife signed her name on petition, for annexation of territory to city, for separate property owned by husband and signed for community property by signing husband's name, and both husband and wife testified that husband had authorized wife to sign for both properties, valuation of both properties was properly considered in determining whether petition had been signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Merely showing that property was community property and that only wife had signed petition seeking annexation of territory, including such property, to city, was not sufficient to overcome presumption of validity of petition. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Fact that thereafter community would be subject to city taxation did not make husband's signing of annexation petition a

“conveyance” or “incumbrance” requiring both husband and wife to join in the petition, but husband as managing agent of the community was authorized to sign petition to annex property to city. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

A wife, at instigation of husband, was authorized to sign for both a petition to annex property embracing parties’ community property to city, since petition was not a “deed” but was only the expression of a desire that property be counted in determining whether the property should be annexed. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

### Signers and signatures - Husband and wife

Where no spouse who signed petitions favoring annexation purported to be signing on behalf of other spouse who owned property in joint tenancy, city could not show that spouse had authority to sign for the other for purposes of showing that city met annexing requirement of showing appropriate number of signatures; where signature of one tenant in joint tenancy was on petition, but not other, signature represented only single tenant’s proportionate share of total value of property. [Northwest Fire Dist. v. City of Tucson \(App. Div.2 1995\) 185 Ariz. 102, 912 P.2d 1331](#) , review denied. [Municipal Corporations](#) 🔑 34

If there is some indicia of agency presented, spouse will be presumed to have authority to sign an annexation petition on behalf of other spouse’s separate property, and party objecting to annexation ordinance will have burden of submitting evidence to show the lack of authority of the signing spouse, but, absent any indicia of agency, signature of one spouse cannot be presumed to also represent the separate property interests of the other spouse. [Ferree v. City of Yuma \(App. Div.1 1979\) 124 Ariz. 225, 603 P.2d 117](#) . [Municipal Corporations](#) 🔑 33(5); [Municipal Corporations](#) 🔑 33(6)

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### **Wife and husband, signers and signatures**

Where no spouse who signed petitions favoring annexation purported to be signing on behalf of other spouse who owned property in joint tenancy, city could not show that spouse had authority to sign for the other for purposes of showing that city met annexing requirement of showing appropriate number of signatures; where signature of one tenant in joint tenancy was on petition, but not other, signature represented only single tenant's proportionate share of total value of property. [Northwest Fire Dist. v. City of Tucson \(App. Div.2 1995\) 185 Ariz. 102, 912 P.2d 1331](#) , review denied. [Municipal Corporations](#) 🔑 34

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### **Corporations, signers and signatures**

Although all stockholders of corporation signed petition, seeking annexation of territory to city, as owners individually, not in name of corporation, valuation of corporate property was properly considered in determining whether petition had been signed by owners of 50 per cent of property valuation which would be subject to taxation if territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Signing of petition for annexation by local manager of corporation pursuant to permission of his immediate superior was

proper without authorization of board of directors. [Gorman v. City of Phoenix \(1953\) 76 Ariz. 35, 258 P.2d 424](#) .

### **Signers and signatures - Corporations**

Although all stockholders of corporation signed petition, seeking annexation of territory to city, as owners individually, not in name of corporation, valuation of corporate property was properly considered in determining whether petition had been signed by owners of 50 per cent of property valuation which would be subject to taxation if territory were annexed.

[McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Signing of petition for annexation by local manager of corporation pursuant to permission of his immediate superior was proper without authorization of board of directors. [Gorman v. City of Phoenix \(1953\) 76 Ariz. 35, 258 P.2d 424](#) .

### **Signers and signatures - Withdrawal of signatures**

Individual signer of annexation petition may withdraw his signature at any time before affirmative legislative action has commenced upon a petition for annexation. [Moorehead v. Arnold \(App. Div.2 1981\) 130 Ariz. 503, 637 P.2d 305](#) . [Municipal Corporations](#) 🔑 33(5)

Burden was on custodian of annexation petitions to show why they should not be made available to interested citizens who sought to persuade signers to withdraw their signatures. [Moorehead v. Arnold \(App. Div.2 1981\) 130 Ariz. 503, 637 P.2d 305](#) . [Records](#) 🔑 34

The signer of a petition for annexation of territory to city could withdraw his name from the petition prior to its filing but not after petition had been finally acted upon and ordinance has been adopted; mere checking or filing of petition is not affirmative action which will prevent signers of petition from withdrawing their names. [State ex rel. De Concini v. City of Phoenix \(1952\) 74 Ariz. 46, 243 P.2d 766](#) . [Municipal Corporations](#) 🔑 33(5)

Where petitions for annexation of territory to city were presented to city council at meeting, and ordinance for annexation was twice read, discussion was had, and matter was then continued until following morning for third and final reading, signers of petitions could not thereafter withdraw their signatures. [State ex rel. De Concini v. City of Phoenix \(1952\) 74 Ariz. 46, 243 P.2d 766](#) . [Municipal Corporations](#) 🔑 33(5)

### **Withdrawal of signatures, signers and signatures**

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### Presumptions, signers and signatures

Where § 42-274 relating to persons claiming exemption from taxation under [Const. Art. 9, § 2](#) provision contained no exception as to inventory property at time annexation proceedings by city were commenced, it would be presumed that no exception was intended with respect to requirement that annexation petition contain signatures of owners of more than one-half in value of real and personal property subject to taxation in area sought to be annexed, and if requisite affidavit was not made as to allegedly exempt property, exemption would be waived. [Fry v. Mayor and City Council of Sierra Vista \(App. Div.2 1970\) 11 Ariz.App. 490, 466 P.2d 41](#) . [Municipal Corporations](#) 🔑 33(5); [Municipal Corporations](#) 🔑 967(1)

Where assessment roll showed that one person owned property at time of assessment, the strongest possible effect that could be given such evidence would be presumption that ownership continued until contrary were shown or a different presumption raised. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5); [Property](#) 🔑 9

### Signers and signatures - Presumptions

Where § 42-274 relating to persons claiming exemption from taxation under [Const. Art. 9, § 2](#) provision contained no exception as to inventory property at time annexation proceedings by city were commenced, it would be presumed that no exception was intended with respect to requirement that annexation petition contain signatures of owners of more than one-half in value of real and personal property subject to taxation in area sought to be annexed, and if requisite affidavit was not made as to allegedly exempt property, exemption would be waived. [Fry v. Mayor and City Council of Sierra Vista \(App. Div.2 1970\) 11 Ariz.App. 490, 466 P.2d 41](#) . [Municipal Corporations](#) 🔑 33(5); [Municipal Corporations](#) 🔑 967(1)

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### Burden of proof, signers and signatures

Where petition for annexation of territory to city was signed by one party as agent of another and also by agent in her own name, burden was on party attacking ordinance annexing territory to prove that ordinance was invalid on ground of lack of authority of agent and that property valuation represented by signature of agent should not be included in determining whether petition seeking annexation was signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 122.1(2)

### Signers and signatures - Burden of proof

Where petition for annexation of territory to city was signed by one party as agent of another and also by agent in her own name, burden was on party attacking ordinance annexing territory to prove that ordinance was invalid on ground of lack of authority of agent and that property valuation represented by signature of agent should not be included in determining whether petition seeking annexation was signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 122.1(2)

## Hearing

Before reaching the stage of finality, a town proposing annexation must satisfy a series of statutory requirements designed to assure public participation and support, one of which is to conduct a public hearing. [Israel v. Town of Cave Creek \(App. Div.1 1999\) 196 Ariz. 150, 993 P.2d 1114](#) . [Municipal Corporations](#) 🔑 33(1)

Municipality's annexation proposal cannot be deemed a final legislative act which is subject to referendum before mandatory public hearing on required by statute has been held. [Israel v. Town of Cave Creek \(App. Div.1 1999\) 196 Ariz. 150, 993 P.2d 1114](#) . [Municipal Corporations](#) 🔑 108.8

## Ordinances

### Ordinances - In general

Validity of an annexation ordinance depends upon presentment of annexation petitions which substantially comply with statutes. [Moorehead v. Arnold \(App. Div.2 1981\) 130 Ariz. 503, 637 P.2d 305](#) . [Municipal Corporations](#) 🔑 33(2)

Extension of city limits by ordinance was not amendment of charter, which could be amended only as provided by Constitution. [Amish v. City of Phoenix \(1929\) 36 Ariz. 21, 282 P. 42](#) . [Municipal Corporations](#) 🔑 46

### Filing, ordinances

County recorder of county in which territory annexed to city or town is located must accept for filing and file a copy of annexation ordinance, with an accurate map of territory annexed, certified by mayor of city or town, and his recording copy of annexation ordinance, with accurate map of territory annexed, certified by mayor of annexing city or town, constitutes a sufficient compliance with this section, to accomplish a valid annexation, despite a failure to file such documents. Op.Atty.Gen. No. 68-16-L.

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### Notice, ordinances

City's failure to give notice of annexation ordinance did not, in absence of statutory duty requiring any additional notice, constitute denial of due process. [Swift v. City of Phoenix \(1961\) 90 Ariz. 331, 367 P.2d 791](#) . [Constitutional Law](#) 🔑 4056

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### Ordinances - Publication

Publication of annexation ordinance three times rather than the four times required by § 39-204 was not question which could be raised to invalidate the ordinance by taxpayers owning and residing on property located within boundaries of area claimed to have been annexed. [Kempton v. City of Safford \(App. Div.2 1984\) 140 Ariz. 539, 683 P.2d 338](#) . [Municipal Corporations 33\(9\)](#)

Emergency ordinance adopted in manner provided for by sections of charter of city of Tucson was not invalid or incomplete because it was not published. [Burton v. City of Tucson \(1960\) 88 Ariz. 320, 356 P.2d 413](#) . [Municipal Corporations 110](#)

In view of section of Tucson city charter to effect that no ordinance should become operative until 30 days after its passage except measures necessary for immediate preservation of peace, health, or safety of city, another section of charter to effect that all ordinances adopted except emergency ordinances should be published and that no ordinance should take effect until 30 days after its passage would be construed to read that no ordinance "required to be published" should take effect until 30 days after its passage and emergency ordinance annexing adjacent territory was complete upon compliance with annexation statute, and was thereafter not vulnerable to attack by residents of areas which were annexed by city. [Burton v. City of Tucson \(1960\) 88 Ariz. 320, 356 P.2d 413](#) . [Municipal Corporations 33\(2\)](#) ; [Municipal Corporations 120\(14\)](#)

Under Code 1939, § 16-701 (now this section), providing that annexation of additional territory could only be effected by ordinance, and municipal charter requiring publishing of ordinances, process of annexation of territory to city was not complete until after publication of ordinance, and, therefore, the Superior Court, in action by three citizens affected by annexation to enjoin city, its officers, and newspaper, from proceeding with annexation, had power to issue such temporary restraining order prior to such publication. [City of Phoenix v. Lockwood \(1953\) 76 Ariz. 46, 258 P.2d 431](#) . [Municipal Corporations 33\(2\)](#) ; [Municipal Corporations 33\(9\)](#)

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restraining order prior to such publication. [City of Phoenix v. Lockwood \(1953\) 76 Ariz. 46, 258 P.2d 431](#) . [Municipal Corporations 33\(2\)](#); [Municipal Corporations 33\(9\)](#)

### **Ordinances - Presumptions**

Ordinance annexing territory to city and proceedings authorizing its adoption were presumed to be regular, and presumption of validity includes presumption of validity of petition filed seeking annexation. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations 33\(5\)](#)

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### **Burden of proof, ordinances**

Where ordinance annexing territory to city was attacked, city council initially had no burden to support its action in passing the ordinance. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations 122.1\(2\)](#)

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### **Notice, generally**

Code 1939, § 16-701 (now this section), governing annexation by petition of property owners required no notice to any one of city's intention to recognize petition for annexation of realty by city. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) .

### **Valuation of property**

#### **Valuation of property - In general**

Term "value," as used in this section setting forth annexation petition procedure, requires signatures of owners of one-half or more in assessed value of real and personal property, rather than appraised or market value of property. [City of Phoenix v. Town of Cave Creek \(App. Div.1 1990\) 167 Ariz. 227, 805 P.2d 1048](#) , review denied. [Municipal Corporations 33\(5\)](#)

Even if there had been some personal property located on land annexed and some of that property did not appear on county assessment rolls, municipality did not violate provision of this section requiring that petitions for annexation be signed by owners of not less than one-half in value of real or personal property shown by last assessment, since municipality was not required to do independent assessment and municipality used latest assessment rolls in making its computation. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848](#) . [Municipal Corporations 33\(5\)](#)

Under provision of this section requiring that petition for annexation be signed by owners of not less than one-half in value of real and personal property shown by last assessment, entire value of every parcel of property involved in annexation should not be used in computing base for 50% owner consent, where only strips of land of opponents of annexation were

annexed. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848](#) . [Municipal Corporations](#) 🔑 33(5)

Where property value shown on assessor's statement furnished to governing body of city seeking to annex an area was last assessment of property located in area to be annexed, property values in assessor's statement controlled determination of sufficiency of annexation petition required to be signed by owners of more than one-half in value of real and personal property subject to taxation in area sought to be annexed. [Fry v. Mayor and City Council of Sierra Vista \(App. Div.2 1970\) 11 Ariz.App. 490, 466 P.2d 41](#) . [Municipal Corporations](#) 🔑 33(5)

Where record showed that petition seeking annexation of territory to city was signed by property owner at time of presentation to commission, valuation of his property was properly included in determining whether petition had been signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed, even though signature was not dated and signer could not remember exactly when he had signed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Where valuation of portion of property in territory to be annexed to city was represented in petition seeking annexation by signature of two persons, resulting in double valuation for same property, valuation represented by one signature should be deducted in determining whether petition was signed by owners of 50% of property valuation which would be subject to taxation in event territory were annexed. [McCune v. City of Phoenix \(1957\) 83 Ariz. 98, 317 P.2d 537](#) . [Municipal Corporations](#) 🔑 33(5)

Under Code 1939, § 16-701 (now this section), refusal, in calculating valuation of properties represented in petitions, to take into consideration telephone and telegraph company's poles, lines, and cables, railroad's personality and realty, and light and power company's gas mains, electric transmission lines, meters, and property necessary to enable company to service area was proper. [Gorman v. City of Phoenix \(1953\) 76 Ariz. 35, 258 P.2d 424](#) . [Municipal Corporations](#) 🔑 33(5)

#### **Conclusiveness of valuation, valuation of property**

Valuations made pursuant to this section were conclusive at time of annexation proceedings, and claimed errors in methods of valuation could not be tested in an action brought to test the validity of the annexation. [State ex rel. Helm v. Town of Benson, Cochise County \(1963\) 95 Ariz. 107, 387 P.2d 807](#) . [Municipal Corporations](#) 🔑 33(9)

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#### **Subject to taxation**

##### **Subject to taxation - In general**

"Subject to taxation," within provision of this section requiring annexation petition to contain signatures of owners of more than one-half in value of real and personal property subject to taxation in area sought to be annexed, merely means liable to taxation rather than that the property must be subjected to taxation; whether property is ultimately subjected to taxation is immaterial for purpose of determination of sufficiency of annexation petition. [Fry v. Mayor and City Council of Sierra Vista \(App. Div.2 1970\) 11 Ariz.App. 490, 466 P.2d 41](#) . [Municipal Corporations](#) 🔑 33(5)

##### **Soldiers and widows, subject to annexation, subject to taxation**

Signatures of widows and veterans on petitions for annexation of territory to city were not required to be stricken because

of the fact that realty of widows and veterans might be tax exempt, either in whole or in part. [State ex rel. De Concini v. City of Phoenix \(1952\) 74 Ariz. 46, 243 P.2d 766](#) . [Municipal Corporations](#) 🔑 33(5)

Widows and soldiers were “owners” of their property authorized to sign petition to annex property to city notwithstanding that they claimed their \$2,000 exemption where, as a class, some of them had only a partial exemption and others had no exemption. [City of Phoenix v. State ex rel. Harless \(1943\) 60 Ariz. 369, 137 P.2d 783, 146 A.L.R. 1255](#) . [Municipal Corporations](#) 🔑 33(5)

#### **Subject to taxation - Widows and soldiers**

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#### **Approval by state**

City did not secure valid approval from the state to include certain state trust lands within its proposed annexation territory as required by statute, where it relied on the approval it acquired in the context of an earlier annexation; state’s approval of the earlier proposal did not constitute approval of the current proposal, as that would deny the selection board and the state land commissioner their statutory prerogative to evaluate the effect the current proposal might have on the state lands in question. [Cornman Tweedy 560, LLC v. City of Casa Grande \(App. Div.2 2006\) 213 Ariz. 1, 137 P.3d 309](#) , review denied. [Municipal Corporations](#) 🔑 33(1)


#### **Injunctions**


If petitions for annexation of realty by the city are insufficient as a matter of law to give city council jurisdiction to enact annexation ordinance, Superior Court has power and jurisdiction to enjoin passage of such ordinance. [City of Tucson v. Garrett \(1954\) 77 Ariz. 73, 267 P.2d 717](#) . [Injunction](#) 1254

Where it was alleged that large portion of realty sought to be annexed by city belonged to churches, schools, and the state, so as to be exempt from taxation, and that other portions included therein were not contiguous to city, landowners were entitled, during process of annexation, to maintain suit to enjoin annexation. [Gorman v. City of Phoenix \(1950\) 70 Ariz. 59, 216 P.2d 400](#) . [Municipal Corporations](#) 33(9)

Where annexation of territory by a city has not been completed, a landowner within affected area may maintain an action to prevent completion of annexation, and, where city commission is without jurisdiction to pass ordinance of annexation, injunction will lie to enjoin its enactment. [Gorman v. City of Phoenix \(1950\) 70 Ariz. 59, 216 P.2d 400](#) . [Municipal Corporations 33\(9\)](#)

### **Declaratory judgments**

Where a city annexed contiguous territory under a valid statute, a resident and property owner of annexed territory was not entitled to a declaratory judgment determining whether annexation proceedings were in accordance with the statute governing such proceedings, since such right was reserved to the attorney general and county attorney. [Skinner v. City of Phoenix \(1939\) 54 Ariz. 316, 95 P.2d 424](#) . [Declaratory Judgment](#)  291

Where a city annexed certain contiguous territory, a resident and property owner within annexed territory, after refusal of attorney general and county attorney to contest annexation, could secure a declaratory judgment on question whether statute under which territory was annexed was constitutional, since if the statute was unconstitutional all the proceedings taken thereunder were void for lack of jurisdiction. [Skinner v. City of Phoenix \(1939\) 54 Ariz. 316, 95 P.2d 424](#) . [Declaratory Judgment](#)  124.1

### **Review**

Judicial inquiry in annexation case is limited to question whether municipality has followed steps outlined in statute for enacting annexation ordinance, and courts will not concern themselves with motive, reasonableness, or wisdom of annexation. [Taylor v. City of Chandler \(1972\) 17 Ariz.App. 346, 498 P.2d 158](#) ; [City of Safford v. Town of Thatcher \(1972\) 17 Ariz.App. 25, 495 P.2d 150](#) .

Even if county's designation of land containing wastewater reclamation facility as a "park" was a political maneuver designed to thwart town's annexation of land, this did not invalidate designation; designation was a legislative decision, and legislators' motives and reasoning were not proper subjects for judicial inquiry. [Town of Marana v. Pima County \(App. Div.1 2012\) 230 Ariz. 142, 281 P.3d 1010](#) , review denied. [Municipal Corporations 29\(4\)](#)

In action challenging neighboring city's annexation of land, town preserved for appellate review its argument that city was required to strictly, rather than substantially, comply with statutory requirement that land to be annexed be contiguous to city, though town did not specifically argue below that strict compliance was necessary, where town argued that contiguity requirement was not met if parcel's length exceeded twice the width, and trial court construed town's argument as urging strict compliance standard. [Town of Miami v. City of Globe \(App. Div.2 1998\) 195 Ariz. 176, 985 P.2d 1035](#) , review denied. [Appeal And Error 179\(1\)](#)

Court of Appeals would not consider constitutional questions, not raised in trial court, concerning strip annexation, on ground of general public importance. [Glick v. Town of Gilbert \(App. Div.1 1979\) 123 Ariz. 395, 599 P.2d 848](#) . [Appeal And Error 170\(2\)](#)

Where there was direct attack upon action of board of supervisors which, in effect, denied existence of facts which would compel approval of incorporation of town, determination of existence of such facts was a judicial matter for court and review of denial of petition for incorporation was not limited to determining whether there had been an abuse of discretion. [Jay v. Kreigh \(1974\) 110 Ariz. 299, 518 P.2d 122](#) . [Municipal Corporations 12\(12\)](#)

Superior court has jurisdiction to enjoin passage of annexation ordinance if petitions are insufficient as matter of law to give city council jurisdiction to enact ordinance, but, if city is acting within its legitimate legislative power, court may not interfere. [Swift v. City of Phoenix \(1961\) 90 Ariz. 331, 367 P.2d 791](#) . [Municipal Corporations 33\(9\)](#)

Legislature had no constitutional mandate to provide for judicial review of denial by board of supervisors of county of incorporation petitions. [Burton v. City of Tucson \(1960\) 88 Ariz. 320, 356 P.2d 413](#) .

Determination by city commission of question whether petition was signed by the owners of not less than one-half in value of the realty in the territory sought to be annexed is a judicial function and, therefore, subject to review by court. [Gorman v. City of Phoenix \(1950\) 70 Ariz. 59, 216 P.2d 400](#) . [Municipal Corporations 33\(8\)](#)

## Editor's and Revisor's Notes (64)

### HISTORICAL AND STATUTORY NOTES

#### Source:

Civ.Code 1901, § 509.

Laws 1907, Ch. 26, § 1.

Civ.Code 1913, § 1908.

Rev.Code 1928, § 416.

Code 1939, § 16-701.

Laws 1954, Ch. 127, § 1.

As enacted in the revision effective January 9, 1956, this section read:

**" A.** A city or town may extend and increase its corporate limits in the following manner:

"On presentation of a petition in writing signed by the owners of not less than one half in value of the real and personal property as would be subject to taxation by the city or town in the event of annexation, in any territory contiguous to the city or town, as shown by the last assessment of the property, and not embraced within the city or town limits, the governing body of the city or town may, by ordinance, annex the territory to such city or town (upon filing and recording a copy of the ordinance, with an accurate map of the territory annexed, certified by the mayor of the city or town, in the office of the county recorder of the county where the annexed territory is located.

**" B.** The petition submitted to the owners of property for their signature under the provisions of subsection A shall set forth a description of all the exterior boundaries of the entire area proposed to be annexed to the city or town. The petition shall have attached to it at all times an accurate map of the territory desired to be annexed, and no additions or alterations increasing the territory sought to be annexed shall be made after the petition to which it is attached has been signed by any owner of property in such territory, but a reduction in the territory sought to be annexed may be made.

**" C.** For the purpose of determining the sufficiency of the percentage of the value of property under this section, such values of property shall be determined as follows:

"1. In the case of property assessed by the county assessor, values shall be the same as shown by the last assessment of the property.

"2. In the case of property assessed by the state tax commission, values shall be appraised and assessed by the state tax commission in the manner provided by law for municipal assessment purposes.

**" D.** The county assessor and the state tax commission, respectively, shall furnish to the city or town within thirty days after a request therefor, a statement in writing showing the appraisal and assessment of all such property."

The 1967 amendment by Ch. 93 designated the first paragraph following the introductory clause of subsec. A as par. 1; deleted “upon filing and recording a copy of the ordinance, with an accurate map of the territory annexed, certified by the mayor of the city or town, in the office of the county recorder of the county where the annexed territory is located” at the end of par. 1, subsec. A; redesignated former subsec. B as par. 2 of subsec. A; deleted “under the provisions of subsections A” following “signature” in par. 2, subsec. A; inserted par. 3 of subsec. A and inserted subsections B, C, and D; and relettered former subsections C and D as subsections E and F.

The 1972 amendment by Ch. 38 substituted “property valued by the department of property valuation” for “property assessed by the state tax commission” and “appraised by the department” for “appraised and assessed by the state tax commission” in par. 2 of subsec. E, and substituted “department of property valuation” for “state tax commission” in subsec. F.

Laws 1972, Ch. 38, § 1 provides:

**“ Section 1. Purpose of act**

“The purpose of this act is to correct a statutory reference to the assessment of certain city or town property by the state tax commission, which assessment is now the duty of the department of property valuation.”

Laws 1978, Ch. 94, § 7, which provided for annexation for certain territories expired by provisions of § 8 of that act, effective June 30, 1979.

The 1980 amendment by Ch. 226 added subsections G through J.

The 1983 amendment by Ch. 168, in subsec. B, added the second sentence and made a nonsubstantive change; inserted “or subsection B” in the first sentence of subsec. C; and inserted “owner, the address of each owner and the” in subsec. F.

The 1984 amendment by Ch. 383 inserted “or subsection B” preceding “and shall be filed” in subsec. C; substituted “revenue” for “property valuation” in subsections E, par. 2 and F; and substituted “appraisal” for “appraisement” in subsec. F.

For purpose of Laws 1984, Ch. 383, see Historical and Statutory Notes following § 5-321.

Laws 1985, Ch. 3, § 1, effective February 14, 1985, which provided for a moratorium on annexation of state land, was repealed by Laws 1986, Ch. 45, § 5, effective April 10, 1986.

Laws 1985, Ch. 10, §§ 1, 3 and 4, which were effective March 13, 1985, and which provided for a moratorium on annexation of land and an exemption therefrom, for a joint legislative committee on urban growth policy, and for the effect of the act on existing law, were repealed by Laws 1986, Ch. 45, § 6, effective April 10, 1986.

The 1986 amendment by Ch. 45 rewrote the section. (See 1989 note post).

Laws 1986, Ch. 45, § 4, as amended by Laws 1986, Ch. 414, § 1, providing for deannexation by petition to the superior court, violated constitutional prohibition against special or local laws. See Notes of Decisions, Validity, post.

Laws 1986, Ch. 45, § 8, effective April 10, 1986, provides:

**“ Sec. 8. Applicability; expiration**

**“ A.** Section 9-471, Arizona Revised Statutes, as amended by this act, applies to any annexation process which begins after the effective date of this act.

“ B. Except as provided in subsection C or D of this section, any annexation process which began before the effective date of this act but which did not become final before the effective date of this act for any reason, including the application of the moratoriums of Laws 1985, chapter 3 or 10, is null and void. Any attempt to reinstitute such an annexation is subject to § 9-471, Arizona Revised Statutes, as amended by this act.

“ C. This act except for the provisions of § 4 does not affect the validity of any annexation ordinance passed before the effective date of this act and finally determined to be valid by a court of competent jurisdiction before or after the effective date of this act. This act does not affect the validity of any annexation ordinance passed in accordance with applicable law after March 13, 1985 and before the effective date of this act which becomes final on or after the effective date of this act.

“ D. This act does not affect the validity of any annexation by a city or town in a county having a population in excess of two hundred fifty thousand persons according to the 1980 United States decennial census if the annexation is pursuant to a petition circulated after March 13, 1985 and signed by seventy-five per cent of the real property owners in the territory proposed to be annexed, including the state land commissioner if state lands are included and if the annexation ordinance is passed before June 1, 1986.”

The 1989 amendment by Ch. 37 added subsec. N.

[Laws 1989, Ch. 242](#), § 1 provides:

“ **Section 1. Limitation on deannexation of city territory; reannexation**

“ A. Notwithstanding any other provision of law, territory which has previously been deannexed from a city or town, which deannexed territory consists of less than eighty contiguous acres, which deannexed territory is not currently part of a city or town and which territory is completely surrounded by two or more cities or towns may be reannexed as provided in subsection B.

“ B. The city or town may reannex the deannexed territory meeting the requirements of subsection A back to the city or town by ordinance without a petition. Any costs or expenses paid to the city or town by petitioners in the deannexation for improvements or other costs related to providing municipal services or paid by the petitioners to the county for extraordinary expenses in providing normal government services shall be reimbursed by the city or town to the person paying the expenses if the payments were made pursuant to court order.”

The 1996 amendment by Ch. 27 rewrote par. 6 of subsec. A.

The 1997 amendment by Ch. 204 inserted the second and third sentences of subsec. A, par. 1; inserted “last ten days of the” preceding “thirty day waiting period” in subsec. A, par. 3; inserted provisions stating “real and personal property includes mobile, modular and manufactured homes and trailers only if the owner also owns the underlying real property” in subsec. A, par. 3(d) and par. 4; substituted “excluding rights-of-way and roadways” for “exclusive of highways” in subsec. H, par. 2; and substituted “as an alternative to the procedures established in this section, a county right-of-way or roadway” for “Notwithstanding any other provision of this section, a county right-of-way”, in subsec. N.

The 1999 amendment by Ch. 320 inserted “, other than state land utilized as state rights-of-way or land held by the state by tax deed,” in subsec. A, par. 1.

The amendment by Laws 2000, 4th S.S., Ch. 1 added subsec. O, requiring approval of an infrastructure and services plan.

The 2000 amendment by Ch. 179 added subsec. O (subsequently designated as subsec. P in the 2000 blend).

The 2002 amendment by Ch. 144 added subsec. Q.

The 2003 amendment by Ch. 145, rewrote subsec. Q, which had read:

“ **Q.** A city or town may annex territory that is a county owned park, a park operated on public lands by a county as part of a management agreement or land owned by a flood control district if otherwise agreed to by the board of supervisors. For the purposes of this subsection, ‘public lands’ has the same meaning prescribed in § 37-901.”

The 2006 amendment by Ch. 63 rewrote subsec. A, par. 1, and subsec. K, which had read:

[A.] “1. A city or town shall file in the office of the county recorder of the county in which the annexation is proposed a blank petition required by paragraph 4 of this subsection setting forth a description and an accurate map of all the exterior boundaries of the territory contiguous to the city or town proposed to be annexed. Notice and a copy of the filing shall be given to the clerk of the board of supervisors and to the county assessor. The accurate map shall include all county rights-of-way and roadways with no taxable value that are within or contiguous to the exterior boundaries of the area of the proposed annexation. If state land, other than state land utilized as state rights-of-way or land held by the state by tax deed, is included in the territory, written approval of the state land commissioner and the selection board established by § 37-202 shall also be filed.”

“ **K.** The provisions of subsections H and I of this section shall not apply to territory which is surrounded by the same city or town or which is bordered by the same city or town on at least three sides.”

The 2008 amendment by Ch. 95 substituted “the owner’s property” for “their property” in the second sentence of subsec. A, par. 1; inserted the last sentence of subsec. D; and made other nonsubstantive changes.

The 2010 amendment by Ch. 245 deleted “with no taxable value” from after “all county rights-of-way and roadways” in the fourth sentence of subsec. A, par. 1; inserted “within sixty days of the annexation becoming final” at the end of the last sentence of subsec. D; and deleted “with no taxable real property” from after “county right-of-way or roadway” in subsec. N.

The 2011 amendment by Ch. 348 substituted “§ 9-101.01, subsection D” for “§ 9-101.01, subsection C” in subsec. M.

The 2013 amendment by Ch. 127 substituted “statement” for “list” in the first sentence of subsec. A, par. 3(d); rewrote subsec. D; substituted “a statement in writing showing the owner” for “therefor a statement in writing showing the owner” in subsec. G; rewrote subsecs. J and N; and made many nonsubstantive changes. Subsections D, J, and N had read:

“**D.** The annexation shall become final after the expiration of thirty days from the adoption of the ordinance annexing the territory by the city or town governing body, provided the annexation ordinance has been finally adopted in accordance with procedures established by statute, charter provisions or local ordinances, whichever is applicable, subject to the review of the court to determine the validity thereof if petitions in objection have been filed. After adoption of the annexation ordinance, the clerk of the city or town shall provide a copy of the adopted annexation ordinance to the clerk of the board of supervisors of each county that has jurisdiction over the annexed area within sixty days of the annexation becoming final.”

“**J.** Notwithstanding any provisions of this article to the contrary, any town incorporated prior to 1950 which had a population of less than two thousand persons by the 1970 census and which is bordered on at least three sides by Indian lands may annex by ordinance territory owned by the state within the same county for a new townsite which is not contiguous to the existing boundaries of the town.”

“**N.** As an alternative to the procedures established in this section, a county right-of-way or roadway may be annexed to an adjacent city or town by mutual consent of the governing bodies of the county and city or town if the property annexed is adjacent to the annexing city or town for the entire length of the annexation and if the city or town and county each

approve the proposed annexation as a published agenda item at a regular public meeting of their governing bodies.”

[Laws 2014, Ch. 134, § 3](#) , provides:

**“ Sec. 3. Applicability; existing and future improvement districts formed for purchasing energy for the lighting of public streets and parks**

“This act applies to:

“1. Any county improvement district that is formed for purchasing energy for the lighting of public streets and parks before or after the effective date of this act, and a city or town governing body may lawfully assume jurisdiction over an existing county improvement district pursuant to this act or a county improvement district that is formed after the effective date of this act.

“2. Any municipal improvement districts that are formed by a city or town for purchasing energy for the lighting of public streets and parks before or after the effective date of this act.”

The 2014 amendment by Ch. 134, in subsec. N, substituted “receiving” for “annexing” in the first sentence, and inserted the second sentence.

[Laws 2016, Ch. 93](#) , added subsec. R; and made nonsubstantive changes.

[Laws 2017, Ch. 86](#) , inserted the penultimate sentence in subsec. A, par. 1; substituted “within sixty days after the annexation becomes final” for “within sixty days of the annexation becoming final” in the last sentence of subsec. D; and made a nonsubstantive change.

**Reviser’s Notes:**

R.C.1928, §§ 417, 418, 419, 420 (16-702, 16-703, 16-704, 16-705, C. ‘39) provided for annexation of territory contiguous to a city or town by petition to the superior court. The provisions are omitted as unconstitutional. See *In re City of Phoenix*, [52 Ariz. 65, 79 P.2d 347 \(1938\)](#) .

**1983 Note.** Pursuant to authority of § 41-1304.02, in subsection B, second sentence, “Within ten days from the date of the first reading” was transposed to precede “the governing body of the city or town” [this provision was deleted in the 1986 amendment].

**2000 Note.** Prior to the 2002 amendments, this section contained the amendments made by Laws 2000, Fourth Special Session, Ch. 1, sec. 7 and Second Regular Session, Ch. 179, sec. 1 that were blended together pursuant to authority of § 41-1304.03.

**2011 Note.** In the chapter version in subsection Q, first sentence “may” should have appeared instead of “my”. Pursuant to authority of § 41-1304.02, “may” was substituted for “my” in the chapter version to correct a manifest clerical error.

### Context and Analysis (10)

### Cross References (3)

Special taxing districts, improvements districts for purchasing energy for lighting streets or parks, see [§ 48-961.01](#).  
Territory in adjacent county, see [§ 9-134](#).  
Townsites, see [§ 9-1101 et seq.](#)

### Law Review And Journal Commentaries (1)

Privateland use, public regulation. Milton R. Schroeder, *Law & Soc.Ord.*, 1973, p. 747.

### ALR Library (2)

[17 American Law Reports 5th 195](#), Right of One Governmental Subdivision to Challenge Annexation Proceedings by Another Such Subdivision.  
[62 American Law Reports 1011](#), Facts Warranting Extension or Reduction of Municipal Boundaries.

### Encyclopedias (1)

[81 Am. Jur. Proof of Facts 3d 285](#), Proof of Lack of Contiguity of Land Annexed by Municipality.

### Treatises and Practice Aids (3)

[11 Arizona Practice A.R.S. § 9-471](#), Annexation of Territory; Procedures; Notice; Petitions; Access to Information; Restrictions.  
[11A Arizona Practice A.R.S. § 37-202](#), Selection Board; Powers and Duties; Distribution of Central Arizona Project Water to State Trust Lands.  
[3 Rathkopf's The Law of Zoning and Planning § 35:14 \(4th ed.\)](#), Standards for Incorporation and Annexation.