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## Municipal Annexation: Growing City Borders *A Deeper Dive*

Municipal Clerks and  
Treasurers Institute  
Wed, January 29, 2025

Charlie Barrineau  
Field Service Manager



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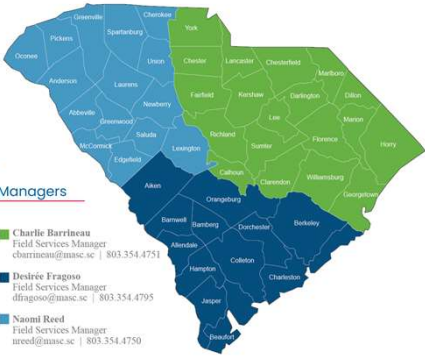
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## Politics of Annexation

- Controversial issue – property rights
- Legislature – rural orientation
- Special interest groups
  - Electric utilities
  - Special purpose districts
  - Conservation/environmental groups
- Counties – perception of diminished political power



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## Benefits to Property Owner

- Expanded/improved (urban) services
- Higher (urban) level of law enforcement and fire protection
- Lower property insurance premiums
- Planning, zoning and land use regulation
- Participation/voice in municipal government



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## Benefits to Municipality

- More residents with a stake and voice in municipal government
- Economies of scale for service delivery
- Increased revenue sharing and enlarged revenue base
- Unified planning for urbanized area



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## Policy Considerations

- There is nothing in statutory law prohibiting a municipality from promoting and financing the circulation of an annexation petition, except for property owned by the municipality.
- Tovey v. City of Charleston, 237 S.C. 475, 117 S.E.2d 872 (1961).



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## Public Relations

- Communicate effectively
- Identify friends and foes
- Provide complete and accurate information
- Provide opportunity for public input




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July 2016

**Greenwood, South Carolina**  
**City vs. County Cost Comparison**  
*A family with an \$160,000 house,  
a 2015 Ford Explorer and 2015 Toyota Camry (mid grade for both)*

Yearly Cost	City	County
Real Estate Taxes <sup>1</sup>	\$1,765.78	\$1,000.96
Personal Property Taxes (vehicle tax) <sup>2</sup>	\$1,369.53	\$1,028.31
Electricity <sup>3</sup>	\$2,246.77	\$2,910.98
Water <sup>4</sup>	\$252.24	\$453.72
Garbage (\$14 per month private pickup)	\$0	\$168
Fire Service Fee	\$0	\$46
<b>TOTALS</b>	<b>\$5,634.32</b>	<b>\$5,607.97</b>

**Total Difference (\$26.35)**

**Notes:**

- 2016 rate based on a 4% assessment; additional City tax is \$764.82
- Additional City tax for vehicles is \$341.22.
- Electricity based on 2,200 KWH consumption. City electricity by Greenwood CPW and includes fuel surcharge. County provided by Duke Energy Schedule RS and does not include additional cost for Purchased Fuel Adjustments.
- Based on a 1/2 inch water tap with monthly average consumption of 6,000 gallons (estimated 4 persons).

**Additional Savings:**

- Potential Federal Income Tax Deduction:** The IRS provides taxpayers with an itemized deduction for specifically listed taxes paid or accrued during the taxable year. Therefore, the additional City real estate and personal property taxes paid can be deducted from your gross income.
- Street Light Costs:** The cost of electricity for street lights located on public streets within the City is paid by the City. In the county, these costs are paid by a neighborhood assessment/regime fee or special tax. Note that the City does not pay the electricity costs for street lighting located on private streets.
- Property Insurance:** The City of Greenwood has an Insurance Service Office (ISO) public fire protection rating classification grade of two (2). **Contact your insurance agency for potential savings.**

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**ANNEXATION**

**What is annexation?**

Annexation simply means bringing your property inside the corporate limits of the City of Inman. No major changes in lifestyle or business operation are involved. Annexation is the best way for urban and suburban areas to receive services such as police, garbage and trash collection, sewer services, and other municipal services. It allows for public development in accordance with the community's existing and future needs. They protect, promote, and improve the public health, safety, morals, convenience, appearance, prosperity and general welfare of the City of Inman.

Please see the brochures on this page for more information about annexation.

**What is the City's goal in pursuing annexation, in general and specifically?**

Growth is generally considered good because it expands services in urban areas, expands the tax base, increases the population, and involves more citizens in the political process which affects the level of service they receive.

**Under what circumstances may a property owner be annexed without his/her consent?**

A method, the 75% petition, may be used for multiple parcels. This property must be contiguous to the City at some point. At least 75% of all property owners within the petition area must sign, and the signatories must also represent 75% of the total assessed land value.

**Business Annexation Advantages**

Businesses located within the City of Inman enjoy numerous benefits, including street lights, lower rates and fees for sewer services, taxes paid to the City are tax deductible, police and fire protection, and more.

**Annexation Downloads**

- [Residential Annexation Advantages \(pdf\)](#)
- [Business Annexation Advantages \(pdf\)](#)
- [Annexation Agreement \(pdf\)](#)
- [100 Percent Petition Form \(pdf\)](#)

**City of Inman Map**

Click map below to view enlarged image.






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## City leaders: Florence annexation policy not aggressive

Matthew Christian Reporter mchristian@florencenews.com Jul 28, 2018



Florence  
MORNING NEWS STAFF PHOTO



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## Public Relations

- State law does not require notification to adjoining property owner(s)...however, it is recommended.
- Example – Town of Bluffton requires certified letter notification 30 days prior to public hearing.



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## Annexation

S.C. Code of Laws  
Title 5, Chapter 3

General Requirements



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**Authorized Annexation  
Methods  
Title 5, Chapter 3**

- Three approved methods for annexation of private property
  - 100% petition
  - 75% petition
  - Petition/election
- General requirements apply to all methods



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**Contiguous  
Section 5-3-305**

- Property to be annexed and property in the municipality share a continuous border – properties physically touch



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**Contiguous  
Section 5-3-305**

- Contiguity not established by using a
  - Road
  - Waterway
  - Right of way
  - Easement
  - Railroad track
  - Marshland or
  - Utility line which connects one property to other



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## Contiguous Section 5-3-305

- Can use items in previous slide to connect two otherwise unconnected properties, if but for the intervening connector, the properties would share a continuous border
- Intervening connector does not destroy contiguity



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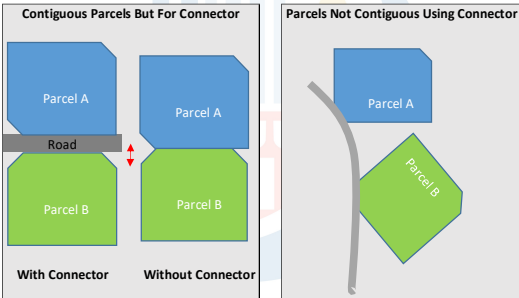
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## Contiguity Section 5-3-305



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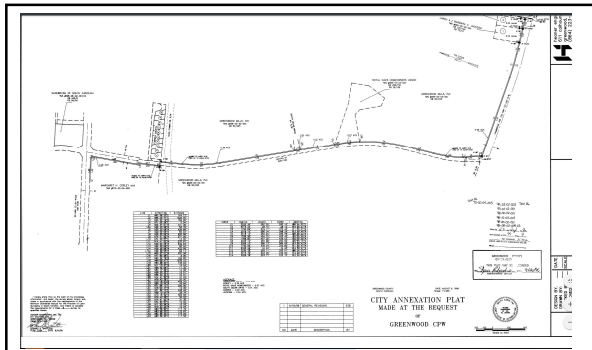
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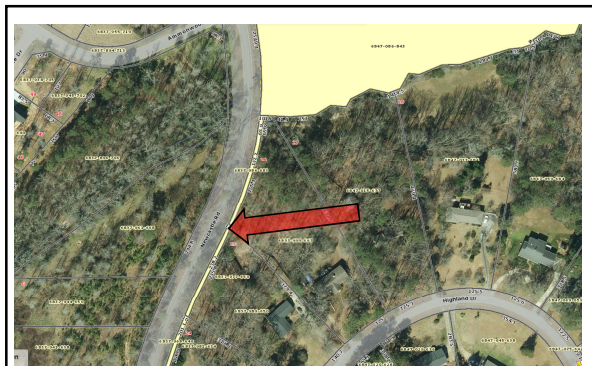
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## Freeholder Definition Section 5-3-240

- Term freeholder applies to 100% and 75% methods
- Freeholder defined as any person at least 18 years of age or a corporation with title to a minimum 1/10 interest in single tract of property




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## Freeholder Definition Section 5-3-240

- Name appears on county tax records as owner
- Ownership must exist on date of petition
- A person owning multiple parcels equals one freeholder regardless of number of parcels owned



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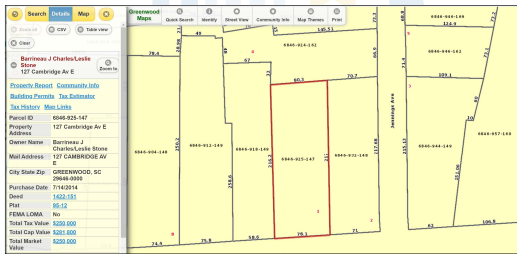
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## Freeholder Example

- Two freeholders



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## Filing Notice of Annexation

- A notice of annexation must be given to:
  - Secretary of State
  - Department of Transportation
  - Department of Public Safety
  - Office of Revenue and Fiscal Affairs



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## Filing Notice of Annexation

- Recommended notice to other interested parties
  - Municipal departments
  - County government
  - Sherriff
  - 911 and emergency service providers
  - County board of voter registration
  - Utility franchisees



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## Legal Standing and Challenge Period

- Legal standing is the legal right to contest an action
- Standing varies by annexation method
- Limited standing = lowers chance of a successful legal challenge
- Standing can affect preferred method/strategy



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## Legal Standing and Challenge Period

- Challenge period
  - 60 days - written notice filed with municipal clerk and clerk of court
  - 90 days - summons and complaint filed in circuit court
- Other legal restrictions
  - A mayor/council member owning property or stock may not vote



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## Annexation & Zoning

- State law does not provide a method for zoning property at the time of annexation.
- Annexation is not required to be considered by a Planning Commission...however, may be helpful.
- Petitioner cannot demand specific land use to be assigned. Recommend separate zoning application request.
- Assigning land use can be completed concurrently or separately.



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## Annexation & Zoning

### Example City of Aiken Zoning Ordinance

- A. Public notice shall be required for any proposed annexation. The City shall post a public notice sign on each street frontage of the subject property no later than 20 days prior to the public hearing before the Planning Commission.
- B. An appropriate zoning district for the land areas proposed to be annexed shall be recommended to City Council by the Planning Commission.
- C. Adjustments shall be made on the Zoning Map within 60 days after the effective date of any annexation. Information regarding the annexation shall be made readily available to the public in the interim.



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## Annexation & Zoning

### Example Seabrook Island

- Comprehensive Plan & Land Use Element

**Future Land Use Recommendations (Outside Town Limits)**  
Several parcels of land adjacent, or in close proximity, to the Town could be annexed sometime in the future. It is in the Town's best interest to consider what type of development would best serve the needs of the community in the event that these properties were to be annexed. Two future land use recommendations for the extraterritorial parcels identified in Figure 9.4 provide guidance for future development in the event any or all of these properties are annexed:



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## 100% Ordinance Method



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## 100% Ordinance Method Section 5-3-150(3)

- Fastest, least controversial and safest annexation method
- Petition must be in writing and
  - Reference state code section 5-3-150(3)
  - Have signatures of 100% of property owners in annexation area
- Council accepts petition/adopts ordinance



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## 75% Ordinance Method Section 5-3-150

- Detailed review and notice process required
- Petition requirement- 75% freeholders - owning 75% assessed valuation
- Freeholder = property owner with minimum 1/10 interest



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## Petition Requirements

- A 75% method petition must
  - Be dated before first signature affixed
  - Be open to public inspection
  - Reference state code section 5-3-150(1) as authority for annexation
  - Contain a description and plat of annexation area



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## 75% Ordinance Method Section 5-3-150(1)

- Council presented with petition
- Accepts or rejects concept of moving forward with annexation
- Annexation review begins
- Detailed feasibility process defined in state law must be followed exactly to avoid annexation challenge
- Legal standing very broad



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## Feasibility Study

- Should be considered for all annexations
- Required for 75% petition method
- Minimum feasibility study requirements include:



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## Feasibility Study

- Inventory of existing outside services identifying
  - Each service provider,
  - Contractual obligations,
  - Services to be assumed/provided by municipality
  - Efficiency of service areas and



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## Feasibility Study

- Areas which cannot be fully serviced
- Projected level of taxes and fees to support services
- Comparison of cost to property owners before and after annexation
- Identify burdens and benefits of annexation



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## Feasibility Study

- Determination of the following
  - Level of services needed
  - Most cost effective way to provide services
  - Projected timetable for services
  - Needed revenues
  - Estimated revenues from current taxes, fees and service charges



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### **Mandatory Public Notice**

- 30 days before acting on petition
- Printed in newspaper of general circulation
- Posted on municipal bulletin board
- Provided in writing to
  - property owners in area
  - chief administrative officer in county
  - public service/special purpose districts
  - fire departments



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### **Public Hearing**

- Must include projected timetables for provision of services
- Items covered at public hearing
  - Map and complete legal description of area
  - Statement of public services to be assumed or provided
  - Taxes and fees for services



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### **Council Approval**

- After presenting feasibility report and conducting the mandatory public hearing, the municipal council
  - Accepts or rejects petition for annexation
  - If petition accepted, adopts ordinance approving annexation
  - If petition rejected, annexation process terminates



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## 25% Petition and Election Method



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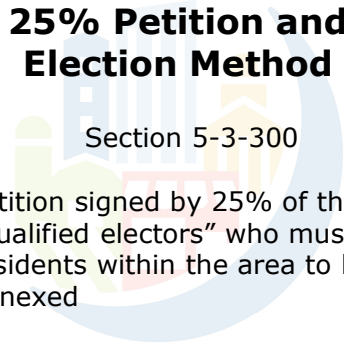
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## 25% Petition and Election Method

Section 5-3-300

Petition signed by 25% of the "qualified electors" who must be residents within the area to be annexed



Municipal Association of South Carolina

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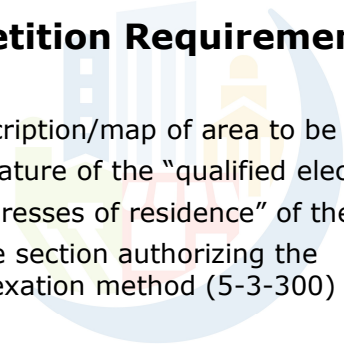
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## Petition Requirements

- Description/map of area to be annexed
- Signature of the "qualified elector"
- "Addresses of residence" of the elector
- Code section authorizing the annexation method (5-3-300)



Municipal Association of South Carolina

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### **Certifying Petition**

- Petition reviewed by county election commission to verify signatures by at least 25% of qualified electors in area to be annexed
- Municipal council by written resolution must certify the petition to the county election commission



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### **County Election Commission Must Conduct Election**

- Provide at least 30 days public notice
- Pre-clearance by the U.S. Department of Justice (*Shelby*)?
- Voting limited to registered/qualified electors residing in the area to be annexed
- Election results certified by CEC to the municipal council



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### **Opt-out Procedures for 25% Method**

- Certain owners must be notified by certified mail of proposed annexation
  - Single property owner(s) owning 25% of the assessed value and/or
  - Owner(s) of "agricultural real property"
- To opt out, owner must file written notice with clerk at least 10 days prior to election



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### **Definition - Agricultural Real Property**

- Timber tract 10 acres or more, or tracts which are part of a management system which are more than 10 acres
- Tracts other than timberland if the property owner reported at least \$1,000 of gross farm income for three of the last five years on his federal income tax return



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### **Definition - Agricultural Real Property**

- Municipality may request verification of agricultural use and income



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### **Opt-out Procedures for 25% Method**

- Opt-out provision problematic
- Tracts qualifying for opt-out need to be identified early in annexation process
- Annexation strategy or design needs to prevent properties eligible for opt-outs from destroying contiguity
- Consequence – invalid or partial annexation



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## Vote in Favor of Annexation

- If vote passes, the municipal council must (by written resolution) publish the results including:
  - Description of area to be annexed, adjusted for any opt outs
  - Section authorizing the annexation (5-3-300)
  - Statement that the qualified electors of the area voted to be annexed



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## Challenge by City Electors

- Council can annex by ordinance, unless a petition calling for a city election is:
  - Signed by 5% or more of qualified electors of the city and,
  - Received by council within 30 days of the date of publication of the annexation election results



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## Challenge by Electors

- If challenge petition received: Municipal Election Commission certifies petition and conducts city wide election
  - If majority votes in favor, council may give final reading to annexation ordinance.
  - If majority opposes, council must table the proposed ordinance for at least 24 months



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## Annexation Covenants

- An annexation covenant is a legal agreement to petition for annexation in exchange for utility services to outside properties
- By signing the covenant, a property owner agrees to annex if or when
  - The property becomes contiguous to city and
  - The municipal council determines annexation is in best interest of city



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## Annexation Covenants

- Binding covenants require
  - Properly constructed covenant document
  - Covenant signed by property owners and properly notarized/ witnessed
  - Covenant recorded and made part of the chain of title for the property



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## Annexation Covenants

- S.C. courts have upheld use of properly constructed and recorded utility covenants and ordered specific performance for individuals who signed a covenant but refused to petition for annexation after becoming contiguous



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## **Annexing all or part of special purpose district**

(Sections 5-3-300 to Section 5-3-315)

- 100% Petition/Ordinance Method
- 75% Petition/Ordinance Method
- 25% Petition/Election/Ordinance Method



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## **Annexing Property in Special Purpose District (5-3-310)**

- Municipality may elect (as its sole option) to provide service and give SPD notice
- Special Purpose District
  - Continues serving until notice given
  - Retains option to maintain ownership of property unless entire district annexed



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## **Annexing Property in Special Purpose District (5-3-310)**

- Municipal and district develop plan for transfer of assets (5-3-300)



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### The Plan

- Formulated by agreement of the district and municipality
- If no agreement after 90 days, form a committee of three members
  - one appointed by municipality
  - one appointed by district
  - one appointed by both



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### The Plan

- Committee selects chairman within 10 days
- Within 60 days of selecting chairman, develop a plan
- If either municipality or district objects to plan, they have 30 days to appeal to court of common pleas



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### Special Annexations

- City/County Property (5-3-100) – Council
- Department of Transportation (5-3-110) – Director
- Corporation (5-3-120) – Stockholders
- School District (5-3-130) – Trustees



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## Special Annexations

- Federal or State Government (5-3-140)
  - Budget & Control Board
- Cemetery (5-3-250) – Cannot tax
- Church (5-3-260) – Board



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## Reduction in Corporate Limits (5-3-280)

- Petition by majority of resident freeholders
- Public notice of an election for 10 days
- Majority must approve reduction
- Ordinance passed by council
- Notify Secretary of State



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## Current Annexation Legislation

- Enclave or donut hole



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## Annexation and Incentives

- Infrastructure reimbursement programs
- Multi-County Park/Special Source Revenue Credit
- Textile Mill Credit
- Abandoned building credit



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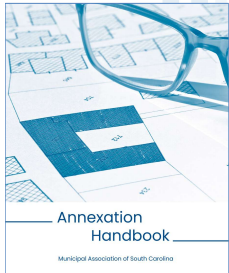
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## Resources



Municipal Association  
of South Carolina  
[www.masc.sc](http://www.masc.sc)  
Keyword: annexation

S.C. Code of Laws  
Title 5, Chapter 3



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