

**16-117. Annexation; powers; procedure; hearing.**

(1) Except as provided in sections 13-1111 to 13-1120 and 16-130 and subject to this section, the mayor and city council of a city of the first class may by ordinance at any time include within the corporate limits of such city any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character and in such direction as may be deemed proper. Such grant of power shall not be construed as conferring power upon the mayor and city council to extend the limits of a city of the first class over any agricultural lands which are rural in character.

(2) The invalidity of the annexation of any tract of land in one ordinance shall not affect the validity of the remaining tracts of land which are annexed by the ordinance and which otherwise conform to state law.

(3) The city council proposing to annex land under the authority of this section shall first adopt both a resolution stating that the city is proposing the annexation of the land and a plan for extending city services to the land. The resolution shall state:

(a) The time, date, and location of the public hearing required by subsection (5) of this section;

(b) A description of the boundaries of the land proposed for annexation; and

(c) That the plan of the city for the extension of city services to the land proposed for annexation is available for inspection during regular business hours in the office of the city clerk.

(4) The plan adopted by the city council shall contain sufficient detail to provide a reasonable person with a full and complete understanding of the proposal for extending city services to the land proposed for annexation. The plan shall (a) state the estimated cost impact of providing the services to such land, (b) state the method by which the city plans to finance the extension of services to the land and how any services already provided to the land will be maintained, (c) include a timetable for extending services to the land proposed for annexation, and (d) include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the city, the proposed boundaries of the city after the annexation, and the general land-use pattern in the land proposed for annexation.

(5) A public hearing on the proposed annexation shall be held within sixty days following the adoption of the resolution proposing to annex land to allow the city council to receive testimony from interested persons. The city council may recess the hearing, for good cause, to a time and date specified at the hearing.

(6) A copy of the resolution providing for the public hearing shall be published in the official newspaper in the city at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first-class mail following its passage to the school board of any school district in the land proposed for annexation.

(7) Any owner of property contiguous or adjacent to a city of the first class may by petition request that such property be included within the corporate limits of such city. The mayor and city council may include such property within the corporate limits of the city without complying with subsections (3) through (6) of this section.

(8) Notwithstanding the requirements of this section, the mayor and city council are not required to

approve any petition requesting annexation or any resolution or ordinance proposing to annex land pursuant to this section.

**Source:** Laws 1967, c. 64, § 1, p. 213; Laws 1989, LB 421, § 1; Laws 2007, LB11, § 1; Laws 2009, LB495, § 3.

## **Annotations**

### **1. Character of land**

### **2. Statute of limitations**

### **3. Miscellaneous**

#### **1. Character of land**

So long as a substantial part of the connecting boundary touches the corporate limits, an annexation will not be void simply because parts of the connecting side do not touch the city or because portions of the annexed territory are narrower than the rest. *County of Sarpy v. City of Papillion*, 277 Neb. 829, 765 N.W.2d 456 (2009).

The use of land for agricultural purposes is not dispositive of the character of the land, nor does it mean it is rural in character. It is the nature of its location as well as its use which determines whether it is rural or urban in character. *Swedlund v. City of Hastings*, 243 Neb 607, 501 N.W.2d 302 (1993).

A city of the first class may annex land contiguous to its corporate limits which is urban or suburban, including segments of highway, as determined by the characteristic of the land adjacent to that being annexed. *Piester v. City of North Platte*, 198 Neb. 220, 252 N.W.2d 159 (1977).

Under this section, a city of the first class may annex contiguous urban or suburban lands which are not agricultural lands rural in character. *Webber v. City of Scottsbluff*, 187 Neb. 282, 188 N.W.2d 814 (1971).

Agricultural lands which are urban not rural in character may be annexed. *Voss v. City of Grand Island*, 186 Neb. 232, 182 N.W.2d 427 (1970).

Section does not require legislative body to conduct trial-type evidentiary hearing or make express finding on character of land. *Meyer v. City of Grand Island*, 184 Neb. 657, 171 N.W.2d 242 (1969).

Words "as are urban or suburban in character" used in this section are not so vague and indefinite as to violate due process clause of the Constitution. *Plumfield Nurseries, Inc. v. Dodge County*, 184 Neb. 346, 167 N.W.2d 560 (1969).

The character of a segment of an interstate highway sought to be annexed by a city of the first class is determined by the characteristic of the land immediately adjacent to the segment sought to be annexed. *Adam v. City of Hastings*, 12 Neb. App. 98, 668 N.W.2d 272 (2003).

## 2. Statute of limitations

An action to enjoin a school district or part thereof, consequent upon annexation of territory by a city of the first class, is barred by the statute of limitations unless brought within one year from effective date of annexation ordinance. *School Dist. No. 127 of Lincoln County v. Simpson*, 191 Neb. 164, 214 N.W.2d 251 (1974).

## 3. Miscellaneous

The valid part of an annexation ordinance may be carried into effect if what remains after the invalid part is eliminated contains the essential elements of a complete ordinance. *County of Sarpy v. City of Papillion*, 277 Neb. 829, 765 N.W.2d 456 (2009).

A city of the first class must adopt a specified annexation resolution and plan for extending services before annexing land. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).

A city of the first class has no power to annex territory which is not contiguous or adjacent. *Doolittle v. County of Lincoln*, 191 Neb. 159, 214 N.W.2d 248 (1974).

City could not annex strategic air command base where its sole purpose was to increase city's revenue. *United States v. City of Bellevue*, 474 F.2d 473 (8th Cir. 1973).

United States had no standing to contest validity of city's annexation of alleged agricultural lands not owned and in which it had no interest, though but for such annexation lands of United States would not be lands contiguous to city, subject to annexation as such. *United States v. City of Bellevue*, 334 F.Supp. 881 (D. Neb. 1971).