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What is it?

Black's Law Dictionary does not define "Deannexation"

The definition for "Annexation" provides:

1. The act of attaching; the quality, state, or condition of being attached.
2. Property. The point at which a fixture becomes a part of the realty to which it is attached.
3. **A formal act by which a country, state, or municipality incorporates land within its dominion.**
4. The annexed land itself.

ANNEXATION, Black's Law Dictionary (10th ed. 2014)

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Why would a City deannex property?

A review of deannexation across the country indicates that the most common uses of deannexation are in situations where territories wish to **incorporate as new cities** or **merge with an adjacent municipality**.

Additionally, a study of annexation nationwide was able to identify only a few examples of deannexations in which territory **returned to the unincorporated county**.

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The State of the Union

As of January 2017, **thirty-six (36)** of the fifty (50) United States had state laws governing deannexation.

Ten (10) state laws only allow city initiated deannexation
Alabama, Alaska, Arizona, Arkansas, Delaware, Idaho, Kentucky, Oregon, Tennessee, and Virginia.

Fifteen (15) state laws allow only resident or owner initiated deannexation
Colorado, Georgia, Illinois, Indiana, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, South Dakota, Utah, West Virginia, Wisconsin, and Wyoming

Eleven (11) state laws allow both city and resident or owner initiated deannexation
Florida, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nevada, Oklahoma, South Carolina, Texas, and Washington

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Concerns?

Concerns About Residents or Owners Initiating Proceedings

Losing ability to recoup the cost of services, amenities and infrastructure extended to areas that would be deannexed

Preference to avoid donut holes and confusion about who's responsible for providing services to those areas to be deannexed

Statutory Solutions from other States

Authority for cities to continue taxation and service charges for a period of time to recoup costs

Prohibit deannexations that create donut hole, limiting deannexation to areas on city borders.

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Concerns?

Concerns raised by the impacted County

Deannexation of roads and bridges to avoid maintenance and counties have no say in the process.

Statutory Solutions

In Wyoming, a city has to give sixty (60) days notice to the County for the County can study the potential effect on their service burden.

In Kentucky, Counties have the ability to refuse to accept uninhabited territory deannexed by cities.

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Authority

In Missouri, "deannexation" or "diminishing the boundaries" may occur in one (1) of five (5) ways.

- Section 71.015.1(7) RSMo 2016**, provides:
Failure to comply in providing services to the said area or to zone in compliance with the plan of intent within three years after the effective date of the annexation, unless compliance is made unreasonable by an act of God, shall give rise to a cause of action for deannexation which may be filed in the circuit court by any resident of the area who was residing in the area at the time the annexation become effective
- Op. Atty Gen. No. 102-89 (May 12, 1989)** provides authority for a charter city to establish its own deannexation framework in its charter concluding that:
It is the opinion of this office that a constitutional charter city has the power to alter its boundaries so as to exclude territory from its corporate limits and such city is empowered to develop its own procedures to accomplish this.
- Section 77.020 RSMo** provides:
The mayor and council...shall have power to extend the limits of the city over territory adjacent thereto, and to diminish the limits of the city by excluding territory therefrom...
- Section 79.020 RSMo** provides:
The Mayor and board of aldermen...shall have power to extend the limits of the city over territory adjacent thereto, and to diminish the limits of the city by excluding territory therefrom...
- Section 71.011 RSMo** provides:
...property of a municipality which abuts another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing bodies of each municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be concurrently detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation.

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Comprehensive Plans often address Annexation, however, some comprehensive plans may also seek to provide guidance related to right sizing the city boundaries as cities age and develop.

What the municipal goals need to be considered when developing a Deannexation decision?

Is it beneficial to articulate those goals and considerations in a policy.



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Foundation Documents

City of Memphis, Tennessee, Deannexation Framework and Analysis, January 2017

Missouri Annexation Caselaw



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In **Missouri**, factors to be considering in determining whether **annexation** decision was reasonable and necessary include:

1. need for residential or industrial sites within proposed area;
2. city's inability to meets its needs without expansion;
3. consideration only of needs which are reasonably foreseeable and not visionary;
4. past growth relied on to show future necessity;
5. in evaluating future needs, extent to which past growth has caused city to spill over into the proposed area;
6. beneficial effect of uniform application and enforcement of municipal zoning ordinances in city and in annexed area; and
7. need for or the beneficial effect of uniform application and enforcement of municipal codes.



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 **Reverse Engineering**

- ▶ Using these seven (7) factors, and other Missouri case law, we “reverse engineered” a deannexation policy.
- ▶ The same land use, infrastructure and tax revenue analysis and consideration inform deannexation decisions as annexation decisions except without the promise.
- ▶ There is an inherent failure or deficiency from somewhere that fosters deannexation.

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Municipal Policy Goals

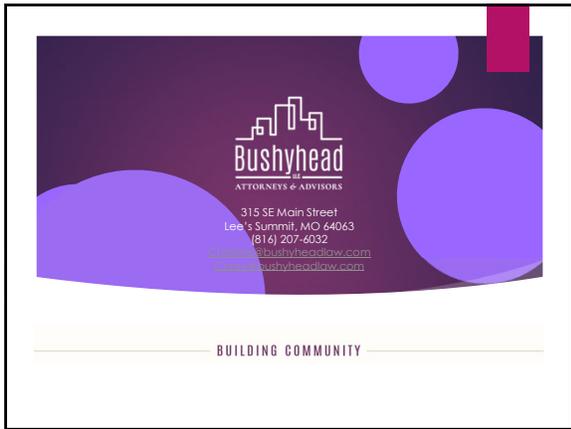
1. To deannex land area which was subject to involuntary annexation to which the City failed to provide timely connection and/or provision of city services provided to the other property owners of the City.
2. Deannexation should allow for the most efficient and effective provision of the services residents want and need.
3. For deannexations in which the territory returns to the unincorporated county, the deannexation should not unreasonably destabilize the City’s or the County’s finances.
4. The change in jurisdictional boundaries should not undermine the overall economic competitiveness of either the City or the County.

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 **Policy Procedure**

1. File Application
2. Application Contents
3. Review of Application and Negotiation of Deannexation Agreement
4. Public Hearing
5. Resolutions approving Agreement and Ballot Question
6. Election

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Deannexation Policy and Procedure

POLICY

Purpose

The purpose for developing a deannexation policy for the City is to provide a consistent and objective methodology for making deannexation decisions. By employing a prescribed process, the Board of Aldermen will use consistent criteria provided in determining whether or not an individual deannexation request will be in the best interest of the City. The policy will also enable the City to proactively identify areas for deannexation and provide for meaningful public participation in formulating deannexation plans.

Municipal Policy Goals

Municipal Policy goals for Deannexation consideration and determination may include the following:

1. To deannex land area which was subject to involuntary annexation to which the City failed to provide timely connection and/or provision of city services provided to the other property owners of the City.
2. Deannexation should allow for the most efficient and effective provision of the services residents want and need.
3. For deannexations in which the territory returns to the unincorporated county, the deannexation should not unreasonably destabilize the City's or the County's finances.
4. The change in jurisdictional boundaries should not undermine the overall economic competitiveness of either the City or the County.

The most common uses of deannexation are in situations where territories wish to incorporate as new cities or merge with an adjacent municipality.

Three Types of Deannexation

There are three types of deannexation:

1. By petition based upon a failure to timely extend services to an involuntarily annexed area,
2. By a property owner petition, or
3. A city-initiated process.

The City recognizes that a deannexation determination must have the effect of good to the benefit of the city. There is currently no Missouri statutory or case law guidance for specific deannexation considerations. However, there is extensive guidance in Missouri on the reasonableness of an involuntary annexation decision, and these same considerations can inform a deannexation decision. Those reasonable considerations follow:

1. The impact on the regularity of the city limits.
2. Whether the property is currently receiving sewer service from the City.
3. A need for residential or industrial sites within the proposed area
4. The city's inability to meet its needs with deannexation
5. The beneficial effect of uniform application and enforcement of municipal zoning ordinances in the city and in the deannexed area
6. The need for or the beneficial effect of uniform application and enforcement of municipal building, plumbing and electrical codes
7. The need for or the beneficial effect of removing police protection from the deannexed area
8. The need for or beneficial effect of uniform application and enforcement of municipal ordinances or regulations pertaining to health
9. The need for and the ability of the city to extend essential municipal services into or around the deannexed area
10. Enhancement in value by reason of adaptability of the land proposed to be deannexed for future prospective city uses

PROCEDURE

1. Filing of an application by property owner or city-initiated process.
2. Deannexation Application shall include:
 - a. Verified Petition (notarized)
 - b. Legal Description
 - c. Legal Description Closure Report—only required for metes and bounds descriptions
 - d. Economic Analysis
 - i. Actual Property Tax Revenue
 - ii. Sales Tax Revenue generated from Subject Property Land Use
 - iii. License Fee and Franchise Fees generated from Subject Property
 - iv. Other applicable public revenues generated from Subject Property
 - v. Description of current services received from City
 - vi. Description of other infrastructure and/or services provided by other political subdivisions
 - vii. What, if any, incentive programs are inclusive of the Subject Property
 - e. Description of Comprehensive Plan description of current and future land use for the Subject Property, including existing and future public infrastructure facilities
 - f. Name of potentially impacted County
 - g. Filing Fee
3. Official review of application and negotiate the terms of a Deannexation Agreement.
4. A public hearing shall be held prior to the adoption of a resolution approving the ballot question to be forwarded to the local election Board for placement on the next regular election for which timely notice may be given.

The public hearing shall be held after at least fifteen (15) days notice of the time and place of such hearing published in an official paper or a paper of general circulation in such municipality.
5. The Resolution for the approval of the Deannexation Agreement shall be approved concomitant with the approval of the Resolution to place the deannexation question on the ballot.
6. Election. A majority of the legal voters of the City voting in the deannexation election must vote “yes” for the deannexation to be approved.