

## CHAPTER 225. BOUNDARY ADJUSTMENT ACT\*

\*Cross references: Utilities, tit. 4; land development code, tit. 31 et seq.; comprehensive plan, ch. 321.

### **Sec. 225.01. Short title.**

This chapter shall be known and may be cited as the "Alachua County Boundary Adjustment Act."

(Laws of Fla., ch. 90-496, § 2)

### **Sec. 225.02. Purpose.**

The purposes of this act are to set forth procedures for establishing municipal reserve areas and for adjusting the boundaries of municipalities through annexations or contractions of corporate limits and to set forth criteria for determining when annexations or contractions may take place so as to:

- (1) Ensure sound urban development and accommodation to growth.
- (2) Ensure the efficient provision of urban services to areas that become urban in character.
- (3) Ensure that areas are not annexed unless municipal services can be provided to those areas.
- (4) Promote cooperation between municipalities and Alachua County regarding the provision of services and the regulation of urban areas at the boundaries of municipalities.
- (5) Assure that the procedures relating to annexation protect all parties affected.
- (6) Encourage development in designated reserve areas that efficiently utilize services and prevent urban sprawl.

(Laws of Fla., ch. 90-496, § 2)

### **Sec. 225.03. Supplemental; effect of other laws.**

The provisions of this act are supplemental and in addition to any general or special law relating to municipal annexations or contraction. However, when the reserve area designations and statements of a municipality become effective, this act shall be the sole method of annexation or contraction for that municipality. Notwithstanding any other provision of law, land may not be annexed by voluntary annexation under section 10 or F.S. § 171.044, from April 30, 1991, through July 31, 1991, in order to permit the orderly establishment of reserve areas under section 225.05.

(Laws of Fla., ch. 90-496, § 3; Laws of Fla., ch. 91-382, § 1)

#### **Sec. 225.04. Definitions.**

As used in this chapter, the following words and terms have the following meanings unless some other meaning is plainly indicated:

- (1) *Annexation* means the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.
- (2) *Compactness* means concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in the county shall be designed in such a manner as to ensure that the area will be reasonably compact.
- (3) *Comprehensive plan* means the local comprehensive plan adopted by the county or a municipality pursuant to F.S. ch. 163.
- (4) *Contiguous* means that a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. The separation of the territory sought to be annexed from the annexing municipality by a publicly owned county park; a right-of-way for a highway, road, railroad, canal, or utility; or a body of water, watercourse, or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this act, provided the presence of such a division does not, as a practical matter, prevent the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent their inhabitants from fully associating and trading with each other, socially and economically. However, nothing herein shall be construed to allow local rights-of-way, utility easements, railroad rights-of-way, or like entities to be annexed in a corridor fashion to gain contiguity.
- (5) *Contraction* means the reversion of real property within municipal boundaries to an unincorporated status.
- (6) *County* means Alachua County.
- (7) *Enclave* means:
  - (a) Any unincorporated area which is totally enclosed within and bounded by a single municipality;
  - (b) Any unincorporated area which is totally enclosed within and bounded by a single municipality and a natural or manmade obstacle which prohibits the passage of vehicular traffic to that unincorporated area unless the traffic passes through the municipality; or
  - (c) An unincorporated area which is totally enclosed within and bounded by more than one municipality, or more than one municipality and a natural or manmade obstacle which prohibits the passage of vehicular traffic unless the traffic passes through one or more of the municipalities.
- (8) *Most populous municipality* means the municipality having the highest population, according to the latest population census determination of the executive office of the governor, made pursuant to F.S. § 186.901, and prior to the deadline imposed by this act for the submission of the designation of proposed reserve areas.
- (9) *Municipality* means a municipality created pursuant to general or special law authorized or recognized pursuant to section 2, article VIII of the state constitution and located in Alachua County.

(10) *Newspaper of general circulation* means a newspaper printed in the language most commonly spoken in the area within which it circulates, which is readily available for purchase by all inhabitants in its area of circulation, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

(11) *Parties affected* means:

(a) Any persons or firms owning property in, or residing in, a municipality which is proposing annexation or contraction or which has annexed or contracted;

(b) Any persons or firms owning property or residing in an area which is proposed for annexation to a municipality, which has been annexed, which is proposed to be removed from the municipality by contraction, or which has been removed from the municipality by contraction;

(c) Any persons or firms owning property or residing in an area which will be in an enclave if a municipality annexes it as proposed, or which is in an enclave as result of an annexation; or

(d) Any governmental unit, including the regional planning agency, with jurisdiction over an area which is proposed to be annexed, which has been annexed, which is proposed to be removed from the municipality by contraction, or which has been removed from the municipality by contraction.

(12) *Public notice* means publication of the time and place of the hearing, including a short description of the proposed action, at least once a week for the two consecutive weeks immediately proceeding the date of the hearing in a newspaper of general circulation in the county.

(13) *Qualified voter* means any person registered to vote in accordance with law.

(14) *Regional planning agency* means the North Central Florida Regional Planning Council established pursuant to F.S. ch. 186.

(15) *Reserve area* means an area designated pursuant to section 225.05 of this chapter or as otherwise designated by special act as an area reserved for annexation by a municipality pursuant to the procedures set forth in this act.

(16) *Sufficiency of petition* means the verification of the signatures and addresses of all signers of a petition with the voting list maintained by the county supervisor of elections and certification that the number of valid signatures represents the required percentage of the total number of qualified voters in the area affected by a proposed annexation.

(17) *Urban in character* means an area used for residential, urban recreational or conservation parklands, commercial, industrial, institutional, or governmental purposes or an area undergoing development for any of these purposes, including any parcels of land retained in their natural state or kept free of development as greenbelt areas.

(18) *Urban purposes* means that land is used intensively for residential, commercial, industrial, institutional, and governmental purposes, including any parcels of land retained in their natural state or kept free of development as greenbelt areas.

(19) *Urban services* means any services, other than electric utility services, provided by a municipality on substantially the same basis and in the same manner, either directly or by contract, to its present residents.

(Laws of Fla., ch. 90-496, § 4; Laws of Fla., ch. 91-382, § 2)

**Cross references:** Definitions and rules of construction generally, § 10.02.

**Sec. 225.05. Establishment of reserve areas.**

- (1) Not later than January 31, 1991, the county and each municipality shall give public notice and shall hold a hearing on the designation of reserve areas.
- (2) Not more than 90 days after each hearing, the municipality shall designate, on a map or maps, a proposed reserve area or reserve areas for itself, and the county shall designate, on a map or maps, proposed reserve areas for each of the municipalities within its boundaries. Such proposed reserve areas shall meet the criteria specified in section 225.06.
- (3) The county shall also adopt a statement identifying any services, such as police, fire protection, solid waste disposal, potable water, sanitary sewer, drainage or flood control, parks and recreation, housing, street lighting, transportation, and other services, which are provided by the county to residents of its proposed reserve areas; any capital facilities being used to provide such services in the proposed reserve areas; and any plans it has to provide additional services or to provide services other than electric utility services to additional areas within its proposed reserve areas. The county shall also include in the statement an identification of the land uses and densities and intensities which are permitted in the proposed reserve areas by the county's comprehensive plan. The county shall also include in its statement its position regarding the requirements of paragraphs (7)(a), (b), (c), and (d).
- (4) Each municipality shall also adopt a statement identifying any services, such as police, fire protection, solid waste disposal, potable water, sanitary sewer, drainage or flood control, parks and recreation, housing, street lighting, transportation, and other services, which are provided by the municipality to residents of the municipality's proposed reserve area or areas; any capital facilities being used to provide such services in the proposed reserve area or areas; and any plans the municipality has to provide such additional services other than electric utility services or to provide services to additional areas within its proposed reserve area or areas. Each municipality shall also include in the statement an identification of the land uses and densities and intensities of development it deems most appropriate for its proposed reserve area or areas. The municipality shall also include in its statement its position regarding the requirements of paragraphs (7)(a), (b), (c), and (d).
- (5) (a) Not later than seven days after the deadline for designation of proposed reserve areas, the county and each municipality shall submit a copy of the map or maps of its proposed reserve area or areas and the statements required by subsections (3) and (4) to the other municipalities within the county in which such municipality lies and each municipality shall make the same submission to the county.  
(b) If a municipality or the county fails to submit its proposed reserve area designation and the required accompanying statement within seven days after the deadline for designation as required by this subsection, it waives all rights to participate in any proceedings conducted under this section for five years. No reserve area shall be designated for a municipality which fails to submit its proposed reserve area designation and the required accompanying statement as required by this subsection. Accordingly, the county, or the most populous municipality which is eligible to perform the duties required by this section, is prohibited from designating a reserve area for a municipality which fails to submit its proposed reserve area designation and the required accompanying statement as required by this subsection.

(6) The municipalities within the county and the county itself shall attempt, through informal negotiation or mediation, assisted, upon request, by the regional planning council or other mediator mutually acceptable to the county and the municipality or municipalities negotiating with the county, to eliminate any conflicts or overlaps in the proposed reserve area designations, and the positions of the county and the municipalities within the county with regard to the statements required by paragraphs (7)(a), (b), (c), and (d). Such negotiations shall be completed not later than 120 days following the deadline for designation of proposed reserve areas.

(7) After the informal negotiation, but not more than 90 days after the end of the 120-day period permitted for negotiation pursuant to subsection (6), the county shall adopt a final reserve area designation for each of the municipalities within its boundaries and shall submit copies of such designation to each municipality within its boundaries. The county shall also adopt a statement for each reserve area stating:

(a) Whether the comprehensive plan and land use regulations of the county or the municipality for which the reserve area is designated shall apply prior to its being annexed.

(b) Whether the municipality or the county shall enforce and administer the comprehensive plan and how proceeds from fines and fees charged pursuant to such enforcement will be distributed.

(c) Which services identified pursuant to this section the county shall provide and which services the municipality shall provide in the reserve area, both before and after annexation, and how these services will be financed.

(d) Any other matters related to the reserve area designation on which there is agreement.

Such statements shall include only statements on which there is agreement between the county and the municipality for which the reserve area has been designated. Prior to adopting the designation and statements pursuant to this subsection, the county shall give public notice and shall hold a public hearing. The designations of reserve areas made by the county pursuant to this subsection shall be limited to resolving any remaining areas of overlap and conflict in the initial designations made pursuant to subsections (1), (2), (3), and (4) and shall incorporate agreements made pursuant to the informal negotiations. The reserve areas designated by the county under this subsection shall be the reserve areas for the municipalities unless a municipality or affected person challenges the designation of a reserve area pursuant to subsection (8). The county shall submit copies of the final designations and statements to each municipality which has not waived its rights to participate in proceedings under this section. If the county has failed to submit a reserve area designation and statements as required under subsection (5), the most populous municipality therein which has submitted a reserve area designation and statements as required under subsection (5) shall perform the duties of the county pursuant to this subsection. If the county did designate a reserve area and submitted statements as required under subsection (5) but fails to perform the duties required by this subsection, the most populous municipality therein which is eligible to perform the duties required by this subsection shall perform such duties and the county shall have waived its rights to participate in any proceedings conducted under this section for five years. Any municipality failing to perform its duties as required hereunder shall have waived its rights to participate in any proceedings conducted under this section, and its right to have

a reserve area designated for it, for five years. Failure of the county to adopt the final reserve area designations for each of the municipalities as required by this subsection shall extend the 90-day time limit for an additional 90 days for the next succeeding most populous municipality.

(8) Within 60 days after the adoption of the county's designation and statements pursuant to subsection (7), any municipality which has not waived its rights to participate in proceedings conducted under this section may agree to binding arbitration pursuant to F.S. ch. 682 or any such municipality or any affected person may file a petition with the division of administrative hearings challenging the final designation of the county developed pursuant to subsection (7) and proposing changes in the designation. The county shall, for purposes of such challenge, be considered a state agency. A challenge by a municipality shall be limited to those parts of the designation which affect the challenging municipality. All challenges shall be based on allegations that the designation does not meet the standards of section 225.06. Within ten days after receiving such a petition, the division shall assign a hearing officer and open a docket. For purposes of this section, an "affected person" is limited to a person or firm residing in or owning property within a reserve area or within a municipality for which a reserve area has been designated; however, in proceedings conducted under this section, an affected person may only challenge the reserve area in which he resides or owns property or the reserve area of the municipality in which he resides. The final designation and statement adopted by the county shall be effective 61 days after its adoption, unless such designation is challenged by the filing of a petition pursuant to this subsection, in which case the designation shall be effective on the latter of the 61st day after the division's final order.

(9) The hearing officer assigned shall commence the hearing pursuant to F.S. § 120.57 no later than 120 days after the request for a hearing. The issues to be resolved in the hearing shall be those issues raised in the petition filed pursuant to subsection (8), except that the county and municipalities may not raise issues previously decided by arbitration proceedings pursuant to subsection (8). If the county has not waived its rights to participate, it shall be a party to the hearing, as well as any municipality within the county which has not waived its rights to participate. Municipalities may only raise such issues as are related to their own reserve areas. Any affected person shall be entitled to participate in the hearing as a party and in any subsequent proceedings conducted under this section as a party. The hearing officer may, at his discretion, consolidate all petitions from municipalities and affected persons within the county and hold only one hearing on challenges of the designations from the county.

(10) Within 60 days after the hearing required pursuant to subsection (9), the hearing officer shall issue a final order denying, approving, or approving with modifications, the petition filed pursuant to subsection (8). The hearing officer's final order shall not approve, or approve with modifications, a municipality's petition to alter a reserve area designation unless the hearing officer finds that there is substantial competent evidence showing that the final designation does not meet the criteria set forth in section 225.06 and that the designation proposed by the petition does meet the criteria.

(11) If the final order approves or approves with modifications any petition made pursuant to subsection (8), the designations adopted pursuant to subsection (7), as modified by the final order of the division of administrative hearings pursuant to this subsection, shall be the designations for the municipalities, and the county and

municipalities shall be bound by such designations unless the designations are the subject of an appeal. The final order of the division may be appealed as provided by general law.

(12) Such designations of reserve areas and statements shall, on the effective date of such designations, become effective. Subsequently, the county and municipalities shall amend the intergovernmental coordination elements of the local comprehensive plans adopted pursuant to F.S. § 163.3177(6)(h), reflecting such designations. Each municipality and county shall also adopt such plan amendments as will make the other portions of their comprehensive plans consistent with the reserve area designations.

(13) Reserve areas or their designations, or both, shall not affect:

- (a) Electric utility service areas;
- (b) The exclusive jurisdiction of the Florida Public Service Commission over electric utility service areas, territorial agreements, territorial disputes, and the Florida grid; or
- (c) The right and duties of all electric utilities to serve consumers in the state, including areas reserved or annexed hereunder.

(Laws of Fla., ch. 90-496, § 5; Laws of Fla., ch. 91-382, § 3)

#### **Sec. 225.06. Criteria for designating reserve areas.**

Reserve areas designated for a municipality shall comply with the following criteria:

(1) Reserve areas designated for a municipality shall:

- (a) Be adjacent to the municipality.
- (b) Be urban in character or likely to become urban in character within the next ten years.
- (c) Be areas in which population growth should be directed so as to promote efficient delivery of urban services, including police, fire protection, solid waste disposal, potable water, sanitary sewer, drainage or flood control, parks and recreation, housing, street lighting, transportation and other services, and to encourage more concentrated urban development.

(2) Reserve areas designated for a municipality shall not:

- (a) Contain areas outside the county in which the municipality lies, contain areas within the corporate limits of another municipality, or contain areas within another municipality's reserve area.
- (b) Contain areas which could be provided with urban services more efficiently by the county or other municipality.
- (c) Contain areas which cannot reasonably be foreseen to be provided with the urban services provided by the municipality within the next 10 years.
- (d) Contain areas which the municipality cannot reasonably have the capacity or capital facilities within the next 10 years to provide, at a minimum, the level of services provided by the county to the reserve areas.

(Laws of Fla., ch. 90-496, § 6; Laws of Fla., ch. 91-382, § 4)

**Sec. 225.07. Procedure for amending reserve area designations and statements.**

- (1) Every five years after the final designation of all of the reserve areas in the county, each municipality in the county shall review its reserve areas and accompanying statements and the county shall review all of the reserve areas and accompanying statements for municipalities within the county.
  - (2) Based on the review, if the county desires a change in any of the reserve area designations or statements, or if a municipality desires a change in its own reserve area designations and statements, the county shall, within 90 days after the initiation of the review, notify all municipalities in the county and, in the case of a municipality desiring a change, the county. The notice shall include the proposed changes in reserve area designations and statements. The county or municipality shall also notify the regional planning agency of the desired changes in reserve areas and statements.
  - (3) Municipalities desiring a change in their own reserve areas or statements, the county, and any other municipality affected shall participate in the proceedings required pursuant to section 225.05, adjusting such proceedings as may be required to accommodate amendments to designations and statements, rather than proposals for them.
  - (4) Municipalities not desiring to change their designations and statements, and not affected by proposals of the municipalities or by the county's proposals regarding changes, need not participate in proceedings under this section.
  - (5) Changes in designations and statements shall be made pursuant to this section only when such changes are in accordance with the standards provided in section 225.06.
- (Laws of Fla., ch. 90-496, § 7)