



## Legislation Text

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**File #:** 160216., **Version:** 4

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### **VOLUNTARY ANNEXATION - 100 ACRES OF PROPERTY SOUTHWEST OF THE CURRENT CITY BOUNDARY (B)**

Ordinance No. 160216

An ordinance of the City of Gainesville, Florida, annexing approximately 100 acres of city-owned and privately-owned property that is generally located south of Tax Parcel No. 07240-049-000 and the existing City of Gainesville boundary, west of SW 41st Boulevard and Interstate 75, north of SW Williston Road, and east of SW 75th Street, as more specifically described in this ordinance, as petitioned for by the property owner(s) pursuant to Chapter 171, Florida Statutes; making certain findings; providing for inclusion of the property in Appendix I of the City Charter; providing for land use plan, zoning, and subdivision regulations, and enforcement of same; providing for persons engaged in any occupation, business, trade, or profession; providing directions to the Clerk of the Commission; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

The City Commission adopt the proposed ordinance.

#### Introduction

This ordinance will annex into the corporate limits of the City of Gainesville approximately 100 acres of property that includes city and privately-owned property, and which is generally located south of Tax Parcel No. 07240-049-000 and the existing City of Gainesville boundary, west of SW 41st Boulevard and Interstate 75, north of SW Williston Road, and east of SW 75th Street, as more specifically described in the ordinance.

At the request of the property owners seeking annexation into the City of Gainesville, the City Commission on August 4, 2016, received and accepted a petition for voluntary annexation of the property and directed the City Attorney to prepare an annexation ordinance. On September 15, 2016, the City Commission approved a previous version of this Ordinance on first reading. Second reading of the previous version of this ordinance was continued multiple times, due to a hurricane, to allow time for City and County staff to coordinate transition of services issues and prepare an Urban Services Report, and at the private property owner's/petitioner's request. Because of the multiple continuations, and in order to provide the most thorough City Commission review and public participation possible, this ordinance was re-advertised for a first and second reading.

Municipal annexation in Florida is governed by the Municipal Annexation or Contraction Act (the "Act"), which is found in Chapter 171, Florida Statutes. Section 171.044, F.S., sets forth the requirements and procedure for voluntary annexation, whereby property owners may voluntarily request a municipality to include their property within the corporate limits of that municipality. Besides various procedural requirements, Section 171.044, F.S., sets forth the following substantive requirements for voluntary annexations: 1) the proposed annexation area must be "contiguous" to the municipality; 2) the proposed annexation area must be "reasonably compact"; and 3) the annexation must not create any "enclaves."

## Contiguous

Section 171.031, F.S., of the Act defines "contiguous" as follows: "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."

When used in the context of municipal annexation, a Florida District Court of Appeal has articulated further that "contiguous" means "touching or adjoining in a reasonably substantial...sense." *City of Sanford v. Seminole County*, 538 So. 2d 113 (Fla. 5th DCA 1989).

## Reasonably Compact

The Act requires voluntary annexations to be "reasonably compact," and defines "compactness" in Section 171.031, F.S., as: "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 any county in the state shall be designed in such a manner as to ensure that the area will be reasonably compact."

The Act provides no further definitions or explanation of the "reasonably compact" requirement (with the exception of defining "enclave" as discussed below; 'enclave' is mentioned in the Act both within the definition of 'compactness' and as a stand-alone provision of the Act). However, case law from Florida's mid-level courts (i.e., Florida District Courts of Appeal; no cases on point from the Supreme Court of Florida) provide further elaboration on the "reasonably compact" requirement. Specifically, case law has defined the term "pocket" (which is included in the statutory definition of "compactness") as meaning "a small isolated area or group" when viewed "in relationship to the overall scope and configuration of the parcel in question and the surrounding municipal property," or meaning a voluntary annexation may not leave a small isolated unincorporated area "in a sea of incorporated property." *City of Center Hill v. McBryde*, 952 So. 2d 599 (Fla. 5th DCA 2007); *City of Sanford v. Seminole County*, 538 So. 2d 113 (Fla. 5th DCA 1989). Further, the term "serpentine" (which is also included in the statutory definition of "compactness") has been defined to mean "winding or turning one way and another," meaning voluntary annexations may not be shaped in a finger pattern that are winding or turning. *City of Sanford v. Seminole County*.

## Enclave

Section 171.031, F.S., of the Act defines "enclave" as: "(a) any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality."

## General Purpose of Municipal Corporation

A Florida Court of Appeal has described that, as a city considers any particular annexation of land, it is helpful

to consider the general purpose and goals of a municipal corporation as follows: "the legal as well as the popular idea of municipal corporation in this country, both by name and use, is that of oneness, community, locality, vicinity; a collective body, not several bodies, a collective body of inhabitants-that is, a body of people collected or gathered together in one mass, not separated into distinct masses, and having a community of interest because residents of the same place, not different places. So, as to territorial extent, the idea of a city is one of unity, not of plurality; of compactness or contiguity, not separation or segregation." City of Sanford v. Seminole County.

## Discussion

It is the opinion of city staff that the procedural and substantive requirements for voluntary annexation described in Section 171.044, F.S., have been met as follows: First, the annexation area is "contiguous" to the city limits because a substantial part of a boundary of the annexation area is coterminous with a part of the city boundary, and is touching or adjoining the city limits in a reasonably substantial sense. Second, the annexation area is "reasonably compact" because it is a reasonable concentration of property in a single area and does not create any enclaves, pockets, or finger areas in serpentine patterns. This annexation would not result in a pattern of land that is winding or turning, and would not create any small isolated unincorporated area that is left in a sea of incorporated property when viewed in relationship to the overall scope and configuration of the annexation area and surrounding municipal property. Third, this annexation would not create any "enclaves" because the annexation would not result in any unincorporated property that is either enclosed and bound on all sides by the city limits; or enclosed within and bounded by the city limits and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the city.

Therefore, and in light of the general purpose of municipal incorporation described above and the fact that a property owner has voluntarily requested to be annexed into the City of Gainesville, city staff recommends adoption of this voluntary annexation ordinance.

The City Commission must decide, based on the Urban Services Report prepared by staff, the map of the annexation area, the opinion and testimony of city staff and other competent substantial evidence included in the record, whether the proposed annexation meets the essential requirements of the applicable state annexation law as described herein.

## CITY ATTORNEY MEMORANDUM

This ordinance requires two hearings and will become effective immediately upon adoption.