

Annexation Element and Plan

Weslaco, along with other cities in the lower Rio Grande Valley, has experienced accelerated growth over the past several years both in the city and its extraterritorial jurisdiction (ETJ). Between 2000 and 2005, the City experienced a population growth of 17 percent compared to 13 percent for the State of Texas from 2000 to 2006. The projected growth trends and the importance of Valley cities to the Texas economy prompted Weslaco to develop a proactive approach with the development of an Annexation Plan. In the following text are explanations of the City's ability to annex, the required processes, and a long range approach to annexation. Also included are annexation policies that demonstrate the City's desire to balance existing needs with anticipated growth.

What is Annexation?

Annexation is a process by which **a city extends its municipal services, regulations, voting privileges and taxing authority to a new territory** in a well thought out, responsible way. Cities can grow sensibly by balancing current responsibilities with the anticipation of new developments and increased tax base.

Why Annex?

Annexation is a means where by Weslaco can allow and manage growth without creating hardships for existing neighborhoods. The following are some of reasons the City would choose to annex:

- To provide municipal services to developed and developing areas.
- To exercise regulatory authority necessary to protect public health, safety and general welfare as well as guide and assure orderly development.
- To ensure that residents and businesses outside the corporate limits share the tax and maintenance burdens for facilities, streets and utilities.
- To enable the city to regulate the subdivision and development of land in an expanded extraterritorial jurisdiction.

Authority to Annex

Weslaco, as a home rule city, may (under *Texas Local Government Code Chapter 43*) annex property both through voluntary and involuntary means.

- Voluntary annexation occurs when property owners petition the City to be included in the City's boundaries.
- Involuntary, or unilateral annexation, occurs regardless of whether property owners and/or residents in the affected area give their consent.

General Requirements for Annexation

Section 43.021 of the *Texas Local Government Code* authorizes Weslaco, a home-rule city, to fix municipal boundaries; extend those boundaries; annex area adjacent to the municipality; and exchange area with other municipalities. Before an area can be annexed, there are several requirements that must be fulfilled including the following:

- Area to be annexed must be contiguous to the city's corporate limits.
- Strip annexations less than 1,000 feet in width are prohibited unless initiated by the owner of the land.
- A city cannot annex additional land from strips less than 1,000 feet in width or from areas that are in the ETJ only because of the previous annexation of strips less than 1,000 feet in width.
- Two public hearings on a proposed annexation are required. Notice must be published in a local newspaper at least eleven (11) days, but not more than twenty (20) days before the hearing(s).

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- Cities are required to submit applications to the U.S. Department of Justice for pre-clearance at the earliest date permitted by federal law, and after receiving pre-clearance, must permit residents to vote in the next municipal annexation.

Though one reason for annexing land is to regulate land use under state law, there are certain limitations to this authority. Weslaco cannot prohibit the continuation of a legal land use if the use was in existence on the date annexation proceedings were instituted (first reading of the annexation ordinance) or for approved land uses under a Chapter 212 *Texas Local Government Code* Development Agreement. A city cannot prohibit a landowner from beginning to use land if the use was planned 90 days before the effective date of the annexation and a complete application for any required government permit was submitted before the date annexation proceedings were instituted. However, Weslaco can impose its own regulations relating to:

- Location of sexually oriented businesses;
- Colonias;
- Preventing imminent destruction of property or injury to persons;
- Public nuisances;
- Flood control;
- Storage and use of hazardous substances; and
- Sale and use of fireworks and the discharge of firearms.

Land Area of Annexation

Weslaco may annex up to ten percent (10%) of the amount of land area within its city limits each year up to a maximum amount of thirty percent (30%). As Weslaco has not annexed land in almost ten years, it can annex up to 30% of its current land area the first year it begins to annex. Based on the current size of the City, which is 9,041 acres, the City can annex up to 2,712 acres or 4.2 square miles in the first year. If the entire 30% is used, then the City may thereafter annex up to 10% each year. Should the City skip a year or not annex the entire available amount, it may be “rolled over” for future use, but not exceed the 30%. Since the City increases in size with each annexation, the 10% figure increases incrementally.

The ten percent annual limitation does not apply if an area is annexed at the request of the property owners, or a majority of the qualified voters of the area, or a majority of qualified voters and the owners of at least fifty percent (50%) of the land in the area or is owned by the municipality, a county, the state, or the federal government and is used for a public purpose.

Services to be provided upon Annexation

Upon annexation, the City is required to provide essential services to the newly annexed area. These include water and wastewater treatment, police protection, fire protection, emergency medical services, solid waste collection, operation and maintenance of roads and streets, and street lighting, operation and maintenance of parks and playgrounds, and operation and maintenance of other publicly owned facilities and services. The services provided must be equivalent to those provided in a similar area of the City, however services after annexation cannot be less than prior to annexation.

Prior to holding the first of the two required hearings, the City must compile a comprehensive inventory of services and facilities provided by public and private entities, directly or by contract in each area proposed for annexation. The inventory of service and facilities must include all services and facilities the municipality is required to provide or maintain following the annexation.

Annexation History

In the years since Weslaco was incorporated the corporate limits have expanded numerous times. The records of annexation since 1973 are shown on the **City of Weslaco Annexation Map**. There were 13 annexations from 1973 to 1995. These increased the size of the City by 4,490 acres or 7 square miles. There were also two major de-annexations. The first de-annexation, which occurred in 1991 by ordinance, involved 492 acres located west of Mile 6 W to Midway Road and from south of Business 83 to north of US Expressway 83. In 1993, 626 acres located west of Mile 3 West and north and south of Mile 6 North were de-annexed as requested by a vote of the property owners. The net area gained between 1973 and 1995 was 5.3 square miles or 3,372 acres. Between 1997 and the end of 2006, twenty-seven (27) voluntary annexations occurred. The increase in size was 991 acres or 1.6 square miles.

Annexation tended to slow down in the late 1990's due to more stringent legislation and requirements. Like most cities in Texas, Weslaco's annexations were on a voluntary basis.

General Annexation Plan (10-Year)

As noted above, while state law requires the adoption of a Three Year Annexation Plan for certain unilateral annexations, a city may adopt a general annexation plan that includes unilateral as well as voluntary or other annexations that need not be included in the statutory plan. Having such a plan allows the city to anticipate and direct growth and integrate service plans with its budget process and capital improvements plan to ensure that development happens in a logical manner.

Weslaco's General Annexation Plan begins with a goal for annexation followed by statements of policies by which the City will consider annexations over the next ten years.

Annexation Goal

Expand the corporate limits of the City of Weslaco responsibly to insure appropriate growth, quality residential and commercial development and equitable distribution of the cost of municipal services.

Policies

The policies for annexation focus on two primary approaches. One is to annex areas adjacent to the City that are either already developed or are anticipated to become so in the near future. The second is to annex relatively undeveloped areas in order to guide development through the City's policies and ordinances. Direct applications of those approaches were modified to create the following policies which of equal importance:

1. The City will entertain voluntary annexation petitions for property contiguous to the city limits.
2. The City will annex areas that are contiguous to the city limits that have both water and sewer facilities.
3. The City will annex those areas where there is existing or potential commercial development and where water and sewer infrastructure are nearby and the extensions of the lines are feasible.
4. The City will annex those areas that have water, but are without public sewer facilities in the effort to provide a more safe and healthy environment.
5. The City will annex land along major roadways to extend the municipal land use controls.
6. The City will enter into development agreements with land owners who do not presently require city services.
7. The City will annex areas identified as colonias to improve the current living conditions.
8. The City will annex land when the need for land use controls is in the best interest of the City.

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Considerations for Annexation

Based on the policies listed above, there are a number of considerations that should be balanced prior to expanding the corporate limits. Whether the annexation is voluntary, or city initiated, the following should be considered:

- Difficulty in identifying multiple ownership to meet property owner notification requirements,
- Identification of neighborhoods that are considered colonias,
- Prior service plans,
- Extension of municipal services (initial cost, operations and maintenance costs),
- Additional public facilities
- Public safety response time,
- Increased tax base,
- Increased land use controls, and
- Overlapping extraterritorial jurisdictions

Identification of Potential Tracts

In order to identify potential tracts or properties that may be considered for inclusion in the City over the next ten or more years **Figures 1-4 – Proposed Annexation Area Maps** and correlated spreadsheet, **Table 1-1 - Annexation Spreadsheet**, were created. For convenience the map is divided into four quadrants and each potential tract is given an identification letter. The colors indicate the possible future use of the land in the absence of a new Future Land Use Map of the Comprehensive Plan. The exact areas should be considered flexible and their exact dimensions will be modified as details and budgets for services are estimated. The spreadsheet details each area under consideration by size, percent of current City area, current development, and availability of utilities.

Priorities and timelines for annexation will be established by independent resolutions of the City Commission.

Since municipalities in Texas are required to adopt an Annexation Plan that identifies unilateral (City initiated) annexations that will occur beginning **three years from the adoption of a plan**, a Three-Year Annexation Plan for Weslaco may be needed since some unilateral annexations may be desirable or necessary for effective planning and the provision of services into outlying areas. Such a plan must be adopted, even if it says that no annexations required to be identified in a Three-Year Plan will take place. This plan is not complex in that all it must do is identify the tract through description (number of lots, residences, an estimated population) and map and set out the timeframe for the annexation.

Three Year Annexation Plan

The purpose of the Three-Year Annexation Plan is to clearly state the current intent of the City with respect to future unilateral annexation. The areas that are most affected by the requirements of the are developed predominantly for residential areas with over 100 lots.

The requirements for the Three-Year Annexation Plan are rather detailed, and strict compliance with the stature is necessary.

- The annexation plan and any updates and amendments must be posted on the city's website.
- Annexation can begin no sooner than the third anniversary of the adoption of the plan.
- Written notice must be given to the property owners, public entities, service providers and railroads within 90 days after adoption.

- Annexation must be completed within 31 days after the third anniversary of the annexation plan.
- Amendments and changes to this plan are allowed, but may delay the annexation of a particular tract by as much as five to eight years.

To provide the services to the area being annexed, the City must develop a “Service Plan” that provides a program for the acquisition or construction of capital improvements. It is very important that the service requirements be coordinated with the City’s Capital Improvements Program (CIP). The Service Plan will provide for the following:

- Construction time for improvements must be from two and one half (2½) to four and one half (4½) years from the effective date.
- Plan is valid for ten (10) years and may be renewed at the city’s option.
- City must provide services equivalent to a similar area in City.
- City must include an inventory of services and facilities required in the area and the physical condition of the roads and infrastructure.
- City must include a summary of capital, operational, and maintenance budgets, as well as the police requirements for dispatch, equipment, staffing, and expenditures.
- Failure to comply with the service plan could mean legal action by an affected land owner, disannexation of the annexed territory, and possible payment of the plaintiff’s (in addition to the city’s) attorney’s fees.

Specific Tracts for the Three-Year Annexation Plan

The tracts proposed for annexation by the Weslaco as **City-Initiated Annexations** subject to inclusion in Three-Year Annexation Plan are shown in the worksheets beginning on the last page of this document. The adoption of a Three Year Annexation Plan by the City Commission will be by separate ordinance.

Exceptions to the Three-Year Annexation Plan Requirements

As discussed briefly in the section on General Annexation Plan, not all annexations are required to be included in a Three-Year Annexation Plan. Voluntary annexations, colonias, sparsely populated areas containing less than 100 separate tracts with one or more residences on each tract, or annexations done to protect the city or area from destruction of property or injury or a condition that constitutes public or private nuisance are all exempted from inclusion in the Three-Year Annexation Plan. They may be included in the General Annexation Plan, so that any annexation, and the required provision of services, is analyzed and considered with the city’s capital improvements plan and budget limitations.

Procedures for annexations **exempt** from the Three-Year Annexation Plan are similar to those for a Three-Year Annexation Plan in terms of public hearings and service plans—except such annexations are effective within 90 days.

An Additional Consideration for Annexation Planning

Weslaco’s location with respect to its neighboring cities requires mutual clarification of city limits and extraterritorial jurisdictions before the City can annex some of the tracts identified in this plan. At the highest level, there must be a “meeting of the minds” that determines each city’s extraterritorial jurisdiction. This process will not only benefit Weslaco in the long term, but will establish a smooth path for future annexations.

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Conclusions

Annexation is a key factor in the future of Weslaco. Careful management of annexation activities will ensure that Weslaco continues to balance growth to sustain its quality of life expected by its current and future citizens.

Annexations will be guided by the policies and consideration established in this plan in concert with the foresight of the City Commission. The spreadsheet identifies generally parcels that can be considered. The City Commission will look at the best interest of the community as a whole.

Annexation Worksheet for Areas Exempt from Three-Year Annexation Plan

	REQUIRED ACTION	DEADLINE
1	Select Area or Areas to be Annexed	as City Commission determines
2	<p>Direct planning or other dept. to develop plan to provide full municipal services within 2 ½ yrs. of annexation, or if services cannot be reasonably be provided within 2 ½ yrs, then within 4 ½ yrs.</p> <p>The following services must be provided immediately upon annexation:</p> <p>police, fire, EMS, solid waste collection, operation and maintenance of water and wastewater facilities (if not in service area of another water or wastewater utility); operation and maintenance of streets and street lighting, operation and maintenance of parks, playgrounds, and swimming pools</p>	
3	<p>complete draft service plan</p> <p>(services must be comparable to the level of services, infrastructure and infrastructure maintenance available in other parts of the municipality with topography, land use, and population density similar to those reasonably contemplated or projected in the area)</p>	on or before the first PH on the annexation
4	<p>for areas exempt from 3-yr plan because < 100 lots w/ dwellings, notify in writing of intent to annex:</p> <p>(a) property owners,</p> <p>(b) each public entity and any private entity that provides services</p> <p>(c) any railroad if the railroad ROW is to be annexed (by certified mail to railroad if on municipal tax roll)</p> <p>for all areas: the school district</p>	before the 30 th day before the first PH
5	Post notice of two public hearings (PHs) on City's website	on or after 20 th day before PH but before 10 th day before PH; must remain posted until PHs complete
6	Publish notice of PHs in the newspaper	on or after 20 th day before PH but before 10 th day before PH
7	Hold two public hearings	not more than 40 days nor less than 20 days before first reading of ordinance
8	Approve annexation ordinance, including service plan, on first reading.	
9	Adopt annexation ordinance, including service plan, on second reading	must be completed within 90 days "after the date [Weslaco] institutes the annexation proceedings

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Annexation Worksheet for Three-Year Annexation Plan

		Name of area:	
	Size:		
	Population		
	Action	Required Action Timeline	Dates
1	Select area(s) to be annexed		
2	Discuss with City Commission		
3	Adopt Plan /post on website		
4	Receive certified list of all affected property owners from HCAD		
5	Send notice by certified letter to all property owners, public and private entities, and railroads Post on website	Before 90 th day after the Annexation Plan is adopted	
6	Receive requested information from service providers (public and private)	90 days after the date utilities received notice/request	
7	Complete inventory of services and make available for inspection	60 days after information received from utilities	
8	Develop preliminary Service Plan	Prior to public hearings	
9	Post notice of 1 st public hearing	On or after 20 days but at least 10 days before the hearing	
10	Post notice of 2 nd public hearing	On or after 20 days but at least 10 days before the hearing	
11	Hold public hearings	Not later than 90 days from completion of the inventory	
12	Negotiations for provision of services	After hearings, before completion of the final service plan	
13	Complete final Service Plan	Before the first day of the 10 th month after the completion of the inventory	
14	Request for arbitration	Before the 60 th day after the service plan is completed	
15	Annexation of the area	Approve on second reading before three years plus thirty one days	