THE LIMBAUGH FIRM
ATTORNEYS AT LAW
EST. 1916

Memo

To: **Matt Winters, City Administrator and Dwain Hahs, Mayor**

From: **Curt Poore**

Date: **April 27, 2026**

Re: **Involuntary Annexation Authority and Procedure under RSMo. § 71.015**

This memorandum provides an overview of the City of Jackson's authority to pursue involuntary annexation of unincorporated territory under Missouri Revised Statutes § 71.015, and addresses key procedural steps, judicial standards, and practical considerations. It concludes with a comparison of the advantages and disadvantages of involuntary versus voluntary annexation.

No Need to Amend City Ordinances

Although the City Code does not address involuntary annexation, the City is not required to pass a separate ordinance specifically authorizing involuntary annexation. Section 58-3 of the City Code states that "all annexation of land or territory into the City of Jackson shall be done in accordance with the laws of the State of Missouri." This broad incorporation of state law, combined with the direct grant of authority in § 71.015, provides sufficient legal basis for the Board of Aldermen to initiate the process. The detailed procedural requirements of § 71.015 control, and the City's existing voluntary annexation provisions in Chapter 58 do not limit or prohibit use of the involuntary process.

Overview of the § 71.015 Procedure

When the City seeks to annex unincorporated area to which objection is made (i.e. involuntary annexation), the following steps must be satisfied:

1. **Contiguity and Compactness Determination** (as a condition precedent before any resolution or ordinance): The Board must first determine that the land is contiguous to existing city limits and that the length of the common boundary is at least 15% of the perimeter of the area proposed for annexation (or meets the alternative standard allowing for an intervening highway or railroad right-of-way while still satisfying the 15% shared-border test).

2. **Proposed Ordinance**: The Board proposes an ordinance that affirmatively states: (a) the area and that its boundaries comply with the contiguity/compactness requirement; (b) that

the annexation is reasonable and necessary to the proper development of the City; (c) that the City has developed a plan of intent to provide services; (d) that a public hearing will be held; and (e) the proposed effective date (up to 36 months from any election).

3. **Public Hearing and Notice**: The City sets a hearing date and provides notice by certified mail to all fee owners of record (30–60 days in advance) and by newspaper publication (three consecutive weeks, with the last notice 10–20 days before the hearing).

4. **Presentation of Plan of Intent**: At the hearing, the City presents its plan of intent and supporting evidence, including: a list of major services currently provided; a proposed schedule for extending those services (within three years of the effective date); property assessment and tax rates; proposed zoning; and the effective date.

5. **Board Action and Declaratory Judgment**: If the Board votes favorably by ordinance, the City files a declaratory judgment action in Cape Girardeau County Circuit Court as a class action. The petition must demonstrate contiguity/compactness, reasonableness and necessity, and the City's ability to furnish normal municipal services within a reasonable time (not to exceed three years).

6. **Election (if Court Authorizes)**: A separate majority vote is required in both the City and the area to be annexed. If the area vote fails but the City vote passes, a second election may be held within 120 days requiring a two-thirds majority in the area. Failure at election generally bars re-proposal for two years (subject to limited owner-petition exceptions).

7. **Post-Annexation Obligations and Deannexation Risk**: The City must provide services and zone in compliance with the plan of intent within three years (absent an act of God). Failure creates a cause of action for deannexation by affected residents or owners.

Judicial Review of Reasonableness

The circuit court does not second-guess the wisdom or advisability of annexation. It asks only whether the annexation is reasonable (i.e., whether the question is fairly debatable based on the evidence). Courts consider factors such as the City's reasonably foreseeable future needs (not visionary or speculative); the extent of spillover growth from the City into the area; the benefits of uniform enforcement of ordinances, building codes, health regulations, and police protection; the City's ability to extend essential services; and the regularity of resulting boundaries. Annexation solely to increase tax revenue is not permitted, but modern economic and social trends may be considered. The existence of voluntary annexation petitions from abutting property does not preclude involuntary annexation of other nearby land.

Contiguous and Compact Requirement

The terms "contiguous" and "compact" require more than mere touching at a point or along a narrow strip. The annexation must result in boundaries that are more regular and produce one closely grouped tract of land with a reasonable border-to-area ratio. A "flagpole" or strip

annexation that creates irregular boundaries or leaves unincorporated pockets is generally not compact.

Common Reasons Annexations Fail

Annexations have been found unreasonable where projected growth was speculative, the City had ample undeveloped land inside its limits, population was declining rather than spilling over, large portions of the proposed area were agricultural or otherwise unsuitable for urban development, or the City could not demonstrate timely ability to provide services.

Positives and Negatives: Involuntary vs. Voluntary Annexation

Voluntary annexation (governed by §§ 71.012/71.014 and Chapter 58) is the City's current, preferred approach for existing platted developments and other owner-initiated requests.

Advantages: It is simpler and faster, often requiring only a petition signed by all owners, a public hearing, and a single ordinance with no court action or election if no objections are filed. It allows negotiation of specific terms (infrastructure upgrades, timing, zoning, etc.) and is far less adversarial, preserving goodwill with property owners. The City's detailed Chapter 58 requirements (plans for streets, water, sewer, electric, stormwater, etc.) ensure orderly integration.

Disadvantages: It depends entirely on owner consent. The City cannot reach unwilling owners or strategically important parcels that owners decline to petition for, potentially leaving gaps in growth corridors or service areas.

Involuntary annexation under § 71.015 allows the City to move forward despite objections.

Advantages: It provides a tool for comprehensive, orderly planning when voluntary efforts fall short—particularly where contiguous land is needed for future growth, spillover development exists, or uniform municipal services and regulations would benefit the area and the City. It enables the City to address broader public-interest goals such as efficient extension of utilities, police/fire protection, and code enforcement across a larger, more regular boundary.

Disadvantages: The process is significantly longer, more expensive, and procedurally complex (certified mail notice, multiple publications, court filing, potential elections). There is litigation risk at the declaratory judgment stage and political risk at the ballot box. Even after success, the City faces ongoing obligations and potential deannexation suits if services are not delivered on schedule. It can create adversarial relationships with affected residents and may generate community opposition.

In summary, voluntary annexation remains the most efficient and cooperative path when owner support is available. Involuntary annexation under § 71.015 is a statutorily authorized option when broader planning needs justify proceeding over objections, but it should be approached deliberately given the heightened procedural and litigation demands.