

**PROCEDURE FOR PRE-ANNEXATION INTO VILLAGE
(PROPERTY IS NOT CONTIGUOUS):**

1. Owners and at least 51% of electors file a Petition to Enter into Pre-Annexation Agreement with Village of Winnebago (form available at Village Office). An elector is defined as anyone who is registered to vote. As an exhibit to the petition, the owner must provide a full legal description of the property, and as a second exhibit the owner must provide a copy of the proposed Pre-Annexation Agreement for the territory to be annexed. Although the statute does not specifically reference the same, I would recommend having the same signed by 100% of the landowners and 51% of the electors in the territory to be annexed. These are the same numbers that are required when the annexation petition is filed after the property becomes contiguous. A Pre-Annexation Agreement may be entered into before the property becomes contiguous, but the actual annexation ordinance and rezoning ordinance are not passed until the property becomes contiguous.
2. Once the owners and the Village Board work out the intended terms of the Pre-Annexation Agreement, a public hearing is held on the proposed Pre-Annexation Agreement, with publication of notice of the same in a newspaper of general circulation within the municipality not less than 15 days nor more than 30 days prior to the hearing (11-15.1-3). A municipality does not have to have a public hearing on a voluntary annexation petition, but must have a public hearing on a Pre-Annexation Agreement or Annexation Agreement.
3. The corporate authorities of the Village give notice of the proposed annexation and of all public hearings to each member of the library board, fire protection district, and township highway commission via Certified Mail Return Receipt Requested at their respective home addresses, or by personal service, at least 10 days prior to the action taken. State statute mandates at least 10 days notice and the form of service to the members of the library board and fire protection district, but no set time period is stated for the township and highway commission. Failure to give the requisite notice to the library board or fire protection district shall nullify the annexation attempt. Failure to provide such notice to the township shall result in the municipality having to reimburse the township for any loss or liability caused by the failure to give notice. An affidavit of service of notice must be completed by the Village Clerk and filed with the Winnebago County Recorder.
4. The corporate authorities then are presented with a final Pre-Annexation Agreement, with any changes from the public hearing and the Pre-Annexation Agreement is voted on. The Pre-Annexation Agreement must be approved by $\frac{2}{3}$ of the corporate authorities the holding office. This includes the Village President. The Pre-Annexation Agreement may be voted upon on the same evening as the public hearing is held, at a meeting scheduled for a time after the public hearing would be concluded. Naturally, if issues are brought up at the public hearing that merit consideration, the vote should be postponed.

5. If there is any rezoning of land involved then the matter has to be referred to the Planning & Zoning Committee, and that committee schedules a public hearing on that rezoning, with publication of the same in a newspaper of general circulation within the municipality not less than 15 days nor more than 30 days prior to the hearing. This public hearing must be held after the appropriate notice is given and before the pre-annexation agreement can be approved by the corporate authorities. The Planning & Zoning Committee prepares and submits findings and recommendations on the zoning to the Village Board.

6. The general rule, as established by the case of Village of Chatham v. County of Sangamon, Illinois, is that the municipality with which an individual or entity has a pre-annexation agreement is the one that controls the zoning. However, per 65 ILCS 5/11-15.1-2.1, for land located anywhere in the State of Illinois (except mainly Cook County) more than 1.5 miles from the corporate boundaries of the annexing municipality, the ordinances, control, and jurisdiction of the annexing municipality control, unless the county board governing the area of the property to be pre-annexed votes by a 2/3 affirmative vote to maintain jurisdiction. Therefore, in that situation a municipality desiring to pre-annex land outside the 1.5 mile area would have to go to the county board first to obtain the county board's blessing, so to speak.

7. Once the property becomes contiguous, a Petition for Annexation to the Village of Winnebago (With Prior Pre-Annexation Agreement) form is filed with the Village Clerk that must be signed by 100% of the landowners and 51% of the electors in the area that is the subject of the annexation. (Petition form available at Village Office) The petition shall request annexation and shall state that no electors reside therein, or that at least 51% of such electors residing therein join in the petition, whichever shall be the case. The petition must be made under oath. The annexation itself must be approved by a majority vote of the corporate authorities then holding office. This includes the Village President.

8. The Village Board votes on annexation, and rezoning of the property by way of passage of an annexation ordinance and a rezoning ordinance. Both of these require passage by a **majority** of the corporate authorities then holding office. This includes the Village President.

9. If the annexation is approved by a majority vote of the corporate authorities then holding office, the annexation is not effective until after 30 days from the successful annexation vote and after a written notice is sent of such annexation by registered mail to the highway commissioner of each road district within which the annexed territory is located and the election authority serving the area, and the post office branch serving the territory, within 30 days of when the action is taken by certified mail or registered mail. Failure to notify these particular authorities following the action taken shall not invalidate the ordinance. Election authorities mean the county clerk where the clerk acts as the Clerk of elections. However, if an annexation wherein electors reside is accomplished before any primary election to be held within the annexing municipality and after the time for filing nominating petitions that annexation shall not be effective until the day after the primary. If the annexation wherein electors reside is accomplished within 60 days before

any general election is held within the annexing municipality that annexation shall not be effective until the day after the primary election.

10. A copy of the annexation ordinance together with an accurate map of the annexed territory must be recorded with the Winnebago County Recorder within 90 days after the final step in the annexation process is completed. However, failure to file within 90 days will not invalidate the annexation. The Plat of annexation must be prepared by a registered land surveyor or a duly employed municipal engineer registered under the laws of the State of Illinois, provided this engineer has had training in the field of civil engineering.

11. The term of an annexation agreement or pre-annexation agreement is limited to 20 years, except that, as may otherwise be provided in the annexation agreement, zoning established for the annexed territory shall remain in effect, unless modified in accordance with law and does not revert to any earlier or other zoning following the termination of the annexation agreement. That 20 year time period may be extended, but is really an amendment, so hold a public hearing

12. To change any provision in a pre-annexation or annexation agreement, a public hearing must first be held, with publication of notice of the same with a newspaper of general circulation within the municipality not less than 15 days nor more than 30 days prior to the hearing.

13. Upon annexation, township and district roads become roads of the annexing municipality, while annexed highways that are part of a state or county system continue to be the responsibility of the governmental agency that had jurisdiction over them before annexation.

14. Soil and water conservation districts must be furnished with copies of all petitions to subdivide vacant or adjacent lands within the districts or to amend the zoning for such land. (70 ILCS 405/22.02a.)

Prepared by:

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