

TOWN OF GREENVILLE  
ORDINANCE NO. 2009-R-034

**RESOLUTION ADOPTING A WRITTEN FISCAL PLAN AS  
THE DEFINITE POLICY OF THE TOWN OF GREENVILLE, INDIANA,  
WITH RESPECT TO THE PROVISION OF  
MUNICIPAL SERVICES TO AREAS THAT ARE PROPOSED  
TO BE ANNEXED INTO ITS CORPORATE BOUNDARIES**

**Whereas**, on or about May 11, 2009, Thieneman Development, LLC, and Thieneman Environmental, LLC, voluntarily filed a joint petition before the Greenville Town Council requesting the annexation of an approximately 98.526-acre tract of real estate presently located in the unincorporated territory of Floyd County, Indiana, into the corporate boundaries of the Town of Greenville, Indiana, pursuant to the provisions of IC 36-4-3-5; and,

**Whereas**, IC 36-4-3-3.1(d) requires the Greenville Town Council to adopt a written fiscal plan establishing a definite policy of the Town for the provision of municipal services to the proposed annexed area before the Greenville Town Council may introduce or adopt an ordinance effecting the requested annexation; and,

**Whereas**, the Greenville Town Council now deems it to be in the Town's best interests to adopt a written fiscal plan establishing a definite policy for the provision of municipal services to the proposed annexed area as set forth in this Resolution.

**NOW, THEREFORE, BE IT ORDAINED** by the Greenville Town Council of the Town of Greenville, Indiana, as follows:

1. The Fiscal Plan attached hereto as Exhibit "A" is hereby adopted as the definite policy of the Town of Greenville, Indiana, with respect to the provision of municipal services to the tract of real estate for which annexation is requested, which tract of real estate is more particularly described as follows, *to-wit*:

Part of Section #4 in Township 2 South, Range 5 East, Greenville Township, Floyd County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of Section #4, thence with the North line of said section South 89° 59' 59" East 9.57 feet, this being the point of beginning, thence continuing South 89° 59' 59" East 1517.99 feet, thence leaving said North line South 00° 14' 27" West 381.59 feet, thence North 88° 31' 03" East 246.85 feet, thence South 00° 14' 27" West 1830.89 feet, thence North 89° 59' 59" West 200.00 feet, thence South 00° 14' 27" West 303.95 feet to a point in the Northern right of way of State Road #150, thence with said right of way South 88° 29' 32" West 655.91 feet continuing with said right of way along a curve concave

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North-easterly whose radius is 1869.86 feet whose long chord bears North 74° 03' 43" West, having a length of 1121.18 feet, a distance of 1138.69 feet, thence North 28° 29' 39" East 332.21 feet to a point in the West line of said Section #4, thence with said line North 00° 20' 29" East 1041.44 feet, thence leaving said line North 00° 57' 37" East 886.06 feet, to the point of beginning, containing 98.526 acres, more or less.

2. Pursuant to the provisions of IC 36-4-3-2.2 and IC 36-4-3-2.1(b), a public hearing shall be held before this Town Council on the proposed annexation ordinance on the 13th day of July, 2009, at 7:00 P.M. (prevailing local time) at Greenville Town Hall, Greenville, Floyd County, Indiana, and , and notice of such hearing shall be sent by certified mail to each owner of real property whose real property is located within the territory proposed to be annexed at least sixty (60) days before the date of the hearing and published in accordance with Indiana law at least sixty (60) days before the holding of such hearing.

3. This Resolution shall take effect immediately upon its passage and adoption by this Town Council.

**EXHIBIT "A"**

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TOWN OF GREENVILLE, INDIANA  
ANNEXATION FISCAL PLAN SUMMARY**

The following is a detailed summary of the fiscal plan adopted by resolution of the Town Council of the Town of Greenville, Indiana, for the extension of services of both a non-capital and capital nature to the Annexation Area in the manner and scope required by the provisions of IC 36-4-3-13.

**I. CHARACTERISTICS OF ANNEXATION AREA.**

The Annexation Area consists of 206 residential lots, a common park area, and a wastewater treatment plant site, all as shown in Plat No. 1304 recorded as Instrument 200517630 in the office of the Recorder of Floyd County, Indiana on December 8<sup>th</sup>, 2005. There are sixteen (16) property owners within the Annexation Area, namely: Lot No. 1, Eric W. Lincks, Lot No. 2, Helen Bailey, Lot No. 4, Brian and Andrea Thomas, Lot No. 58, Kelly J. Williar, Lot No. 61, Michael P. and Krista D. Comer, Lot No. 62, Richard E. Pauley II and Lisa M. Kaliberg, Lot No. 63, Stephen M. Trepal, Lot No 64, Robert A. and Alysa D. Lambert, Lot. No. 81, Albert and Mary Vacca, Lot No. 82, Derek A. and Whitney L. Cassady, Lot No. 83, Roger J. and Jacqueline Ann Mumper, Lot No. 84, Dena L. Arrowood, Lot No. 85, Albert J. and Sarah A. Gore Jr., Lot No. 86, Jane N. Fender, Lot No. 87, Alexander S. and Kayla N. Porter. The remaining {191} lots which includes the WWTP Property are owned by Thieneman Development LLC and Thieneman Environmental LLC.

**II. NON-CAPITAL SERVICES.**

**A. Cost of Services**

The Annexation Area was evaluated to determine the services and facilities required to provide the same type of services and in the same manner as services that are currently provided within the existing Town's corporate limits.

The proposed Annexation Area will not require adding additional personnel or equipment.

The Town will provide all necessary non-capital services to the Annexation Area beginning effective at 12:01 a.m. on April 14, 2011 (excepting planning and zoning services which as of the effective date of the Annexation Ordinance), in a manner equivalent in standard and scope to those non-capital services provided to areas within the Town regardless of topography, patterns of land use, and population density.

**B. Marshal Protection**

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The Town of Greenville Marshal Department's primary purpose is the prevention of crime. The Marshal Department patrols the boundaries of the Town on a daily basis and responds to all alarm calls when called. In addition, the Marshal Department provides other services such as detection and apprehension of offenders, traffic control, and preservation of civil order. The Marshal Department does not distinguish between different areas of the Town. The same services are provided throughout the Town. The Town does not anticipate needing to hire any additional Marshal Department Members as a result of the annexation in order to maintain its current ratio of Marshal Members to Town population.

**C. Fire Protection**

The Town does not presently provide municipal fire protection service. The entire Town and all of the Annexation Area are located within the Greenville Township Volunteer Fire Department. No change in this service is expected to result from annexation.

**D. Emergency Medical Services**

The Town of Greenville currently has an agreement with the Greenville Township Volunteer Fire Department for EMS. Floyd County is solely responsible for the assignment of EMS service territories within the County to providers, including areas within both the Town and the Annexation Area. It is expected that there will be no change in this agreement as a result of this annexation.

**E. Street Maintenance**

The Greenville Town Council will be responsible for the maintenance, snow and ice removal of the streets in the Annexation Area. Publicly dedicated streets that are within the Annexation Area have been under the control of Floyd County and that will be assumed by the Town following annexation. The Town has a roads and streets funds to cover additional cost that is expected to result from this annexation.

**F. Trash Collection and Recycling**

The Town of Greenville will not provide garbage and yard refuse collection services to the sole existing single-family home that is on the Town Property within the Annexation Area. Therefore, no additional cost is expected to result from this annexation.

**G. Storm Drainage**

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Storm drainage maintenance throughout the Annexation Area will be consistent with the Town's current storm drainage maintenance throughout the Town. The Town does not anticipate needing to hire additional employees or purchase additional equipment to provide such service as a result of the annexation. Therefore, no additional cost is expected to result from this annexation.

### **H. Animal Control**

The Town utilizes the New Albany – Floyd County Animal Shelter to promote the rescue and adoption of domestic animals, The Town does not distinguish between different areas of the Town in providing such services. The same services are provided throughout the Town. The shelter doesn't anticipates needing any additional employees or equipment to provide this service as a result of the annexation. Therefore, no additional cost is expected to result from this annexation.

### **I. Parks**

The Town has one (1) existing park and recreation facility owned and operated by the Floyd County Parks Department the. No additional parkland or facilities are anticipated due to the Annexation Area.

### **J. Planning and Zoning**

The Floyd County Planning Commission through an agreement with the Town of Greenville is responsible for assisting citizens and developers with all aspects of their development needs. The department does not anticipate the need to hire any new personnel as a result of the annexation. Therefore, no additional cost is expected to result from this annexation.

### **L. Building Commission**

The Floyd County Planning Commission is responsible for the issuance of construction trade licenses and permits related to new construction, alterations, repair and additions to existing structures. Inspection activities are conducted to insure that the minimum levels of construction are in compliance with the Indiana Building Code and local ordinances. The Floyd County Planning Commission does not anticipate needing to hire any new personnel as a result of the annexation. Therefore, no additional cost is expected to result from this annexation.

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**M. Governmental Administrative Services**

The administrative services of the Town will become available to the residents of the Annexation Area by April 14, 2011. These services include, but are not limited to, the Greenville Town Council, The Marshal Department and the Greenville Clerk-Treasurer. The costs of these services are not directly related to the size and population of the Annexation Area initially; therefore this Fiscal Plan does not include cost estimates.

**III. CAPITAL SERVICES.**

**A. Cost of Services**

The Annexation Area was evaluated to determine the services and facilities required to provide the same type of services and in the same manner as services that are currently provided within the existing Town's corporate limits.

The Town will provide all necessary capital improvements to the Annexation Area by April 14<sup>th</sup>, 2013, in a manner equivalent in standard and scope to those capital services provided to areas within the Town regardless of topography, patterns of land use, and population density.

**B. Water Service**

The Greenville Water Utility is currently responsible for serving the Annexation Area and this will continue following annexation. No additional costs will be incurred by the Town regarding the providing of water service.

**C. Wastewater Service**

The wastewater collection and treatment service is presently provided in the Annexation Area by Thieneman Environmental LLC. The Town desires to annex the Annexation Area in order to be able to use the existing plant to service Town existing and future customers. The Town plans to extend sewer service from this plant to the single-family homes and businesses that presently exist on the Town Property. The Town will pay this expense from general utility revenues, grants, or from the proceeds of the bonds.

**D. Storm Drainage**

Storm drainage throughout the Annexation Area will be consistent with the Town's current storm drainage policies and practices throughout the Town. The annexation will not create the need for any new personnel or equipment to provide these services. Therefore, no additional cost is expected to result from this annexation.

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**E. Street Maintenance and Construction**

There are publicly dedicated streets in the Annexation Area that are under the jurisdiction of Floyd County and that will be assumed by the Town. Construction of any new streets within the developments in the Annexation Area will be the responsibility of the appropriate developer in accordance with the Town's policies. Therefore, no additional cost is expected to result from this annexation.

**F. Trash Collection and Recycling**

Trash collection and recycling to the sole existing single-family home on the Town Property within the Annexation Area will be consistent with the Town's current trash collection and recycling policies. The annexation will not create the need for any new personnel or equipment to provide this service. Therefore, no additional cost is expected to result from this annexation.

**G. Street Lighting**

The Town does not anticipate any capital expenses related to providing streetlights in the Annexation Area. When streetlights are added to parts of the Annexation Area the capital cost of those lights will be the responsibility of Duke Energy.

**IV. FISCAL IMPACT**

As a result of this annexation, the assessed value for the Town will increase. This represents a negligible increase of approximately 0.0463%. Property tax controls instituted by the 2003 Indiana General Assembly limit the Town to a property tax increase equal to the six-year average non-farm income (3.9% for 2006 budget year) annually for most funds. The net impact of increasing the Town's assessed value will not result in substantial additional property tax revenues to the Town (particularly as the State Property and the Town Property are exempt), but may assist in stabilizing or lowering property tax rates for Town residents.

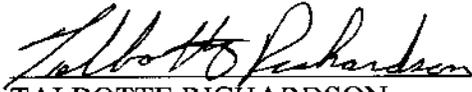
Annexation Area residents will not pay property taxes to the Town until 2012 payable 2013. However, the Town will begin providing non-capital municipal services to the property owners at 12:01 a.m. on April 14, 2011, with the exception of planning and zoning, which will be provided immediately following the effective date of annexation. It is anticipated that there will not be significant additional costs to the Town as a result of the annexation. Detailed revenue projections were not included in this Fiscal Plan because of the property tax controls. The majority of property taxes paid within the Annexation Area do not represent new revenues, but represent the portion of the Town's levy that is applicable to the Annexation Area taxpayers. Additional state revenues based on population will not be adjusted until the next census. The cost of a special census to modify the portion the Town would receive is cost prohibitive and is not being contemplated by the Town at this time.

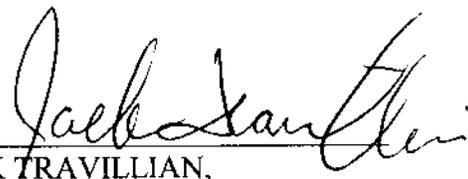
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Additional state revenues based on population will not be adjusted until the next census. The cost of a special census to modify the portion the Town would receive is cost prohibitive and is not being contemplated by the Town at this time.

**ADOPTED BY THE TOWN COUNCIL OF GREENVILLE, INDIANA, ON  
THE 13th DAY OF JULY, 2009.**

PRESIDENT OF THE TOWN  
COUNCIL OF GREENVILLE,  
INDIANA

  
TALBOTTE RICHARDSON,

  
JACK TRAVILLIAN,  
CLERK/TREASURER

PREPARED BY:  
RANDAL JOHNES

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**IC 36-4-3-13**

**Remonstrances; hearing; order; requirements**

Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section

1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate

external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan

must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific

services that will be provided and the dates the services will begin.

(4) That planned services of a non-capital nature, including police protection, fire

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protection, street and road maintenance, and other non-capital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those non-capital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and storm-water drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision

(2) Order a proposed annexation not to take place if the court finds that all of the conditions set

forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection, (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

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(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 1 l(b) of this chapter.

(f) The municipality under subsection (e) (2) (C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed

was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the

hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection, (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

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(i) A majority of the owners of land in the territory proposed to be annexed, (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed, (h) the most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

**IC 36-4-3**

Chapter 3. Municipal Annexation and Disannexation

**IC 36-4-3-2.1**

**Public hearing; notice**

Sec. 2.1. (a) This section does not apply to an annexation under section 5.1 of this chapter.

(b) A municipality may adopt an ordinance under this chapter only after the legislative body has held a public hearing concerning the proposed annexation. The municipality shall hold the public hearing not earlier than sixty (60) days after the date the ordinance is introduced. All interested parties must have the opportunity to testify as to the proposed annexation. Except as provided in subsection (d), notice of the hearing shall be:

- (1) published in accordance with IC 5-3-1 except that the notice shall be published at least sixty (60) days before the hearing; and
- (2) mailed as set forth in section 2.2 of this chapter, if section 2.2 of this chapter applies to the annexation.

(c) A municipality may adopt an ordinance under this chapter not earlier than thirty (30) days or not later than sixty (60) days after the legislative body has held the public hearing under subsection (b).

(d) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. Notice of the hearing shall be:

- (1) published one (1) time at least twenty (20) days before the hearing in accordance with IC 5-3-1; and
- (2) mailed as set forth in section 2.2 of this chapter.

*As added by P.L.231-1996, SEC.I. Amended by P.L.248-1999, SEC.I; P.L.49-2000, SEC.I; P.L.224-2001, SEC.I.*

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IC 36-4-3-2.2

**Notice by certified mail**

Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection (e), the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) The notice required by this section must include the following:

- (1) A legal description of the real property proposed to be annexed.
- (2) The date, time, location, and subject of the hearing.
- (3) A map showing the current municipal boundaries and the proposed municipal boundaries.
- (4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.
- (5) A detailed summary of the fiscal plan described in section 13 of this chapter.
- (6) The location where the public may inspect and copy the fiscal plan.
- (7) A statement that the municipality will provide a copy of the fiscal plan after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.
- (8) The name and telephone number of a representative of the municipality who may be contacted for further information.
- (9) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(d) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

*As added by P.L.248-1999, SEC.2. Amended by P.L.217-1999, SEC.2; P.L.49-2000, SEC.2; P.L.224-2001, SEC.2.  
, P.L.308, SEC.2; P.L.333-1985, SEC.2; P.L.5-1989, SEC.91; P.L.3-1993, SEC.262.*

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**IC 36-4-3-3.1 Written fiscal plan**

Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5 or 5.1 of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

*As added by P.L.248-1999, SEC.3. Amended by P.L.217-1999, SEC.3; P.L.224-2001, SEC.3.*

**IC 36-4-3-5**

**Private lands; petition requesting ordinance to annex; filing; proceedings**

Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition: (1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(e)

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

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- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.3; P.L.5-1989, SEC.93; P.L.3-1993, SEC.264; P.L.255-1997(ss), SEC.II; P.L.224-2001, SEC.5; P.L.173-2003, SEC.22.*