

Chapter 6

Boundaries - Changing Municipal Boundaries

Section 6-1 Annexation of contiguous territory on petition.

Upon receipt of a written petition requesting the annexation of territory contiguous to the city, describing the boundaries of such territory, the city council may by resolution include such territory or any part thereof within the city if the petition is signed by not less than three-fourths of the registered voters and by the owners of not less than three-fourths of the value of the territory sought to be annexed to the city.

For purposes of this section, “contiguous” includes territory separated from the city by reason of intervening ownership of any land used as a golf course or any land owned by the State of South Dakota or any subdivision thereof. (SDCL 9-4-1)

Section 6-2 Study required before annexation without petition.

Before the city may extend its boundaries to include contiguous territory, the governing body shall conduct a study to determine the need for the contiguous territory and to identify the resources necessary to extend the municipal boundaries. (SDCL 9-4-4.1)

Section 6-3 Resolution of intent to annex

Based on the study provided for in Section 6-2, the governing body may adopt a resolution of intent to extend its boundaries. The resolution shall contain those items required by SDCL 9-4-4.11 as it now exists or may hereafter be amended.

Section 6-4 Notice to county commissioners and landowners of hearing on resolution – Adoption.

Prior to adoption, copies of the resolution of intent with a notice of time and place of the public hearing shall, not less than ten days prior to the date of the public hearing, be forwarded, by certified mail to the county commissioners and the affected landowners. The resolution of intent shall be adopted with or without amendments after the public hearing. The governing body shall utilize and rely upon the records of the county director of equalization for the purposes of determining the affected landowners. (SDCL 9-4-4.3)

Section 6-5 Hearing on annexation--Notice to county commissioners and landowners--Adoption of annexation resolution--Contents.

The governing body shall hold a public hearing to consider extension of its boundaries within sixty days of the adoption of the resolution of intent provided for in Section 6-3. Prior to adoption of the resolution of annexation, a copy of the adopted resolution of intent and a notice of public hearing giving the time and place of the public hearing on the resolution of annexation shall be forwarded by certified mail to the county commissioners and the affected landowners. The governing body shall utilize and rely upon the records of the county director of equalization for the purposes of determining the affected landowners. The governing body may adopt an annexation resolution, containing the description and boundaries of the territory to be annexed within one hundred and twenty days of the public hearing. The governing body shall consider any objections to the resolution of annexation and the adopted resolution of intent, and may adopt the resolution of annexation with or without amendments, and may also add to the resolution of

annexation any amendments to the resolution of intent. No amendment may be made affecting any property not described in the original resolution. (SDCL 9-4-4.4)

Section 6-6 Petition for exclusion of territory from municipality--Resolution of governing body.

On petition in writing signed by not less than three-fourths of the legal voters and by the owners of not less than three-fourths in value of the property in any territory within any municipality being upon the border thereof and not being laid out into lots and blocks, the governing body may by resolution exclude such territory therefrom; provided, however, that if all the land sought to be excluded is more than one-half mile from any platted portion of the municipality, the petition in such case need be signed by the owner only. (SDCL 9-4-6)

Section 6-7 Publication of petition for exclusion of territory.

No final action shall be taken by the governing body upon any petition presented in pursuance of the provisions of Section 6-6 until notice of the presentation of such petition has been given by the petitioners by publication at least once each week for two successive weeks. (SDCL 9-4-7)

Section 6-8 Petition to circuit court for exclusion of territory after refusal by governing body.

Upon the failure of the governing body to grant the request contained in a petition presented in accordance with the provisions of Sections 6-6 & 6-7, for thirty days after the last publication of the notice or upon a refusal to grant such request, the petitioners may present their petition to the circuit court of the county in which such municipality or the greater portion of it is situated, by filing such petition with the clerk of courts. (SDCL 9-4-8)

Section 6-9 Recording of resolution or decree changing municipal boundaries--Effective date.

Whenever the limits of any municipality are changed by a resolution of the governing body or by a decree of court it shall be the duty of the mayor or the president of the city council to cause an accurate map of such territory, together with a copy of the resolution or decree duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated, and thereupon such territory shall become and be a part of such municipality or be excluded therefrom as the case may be. (SDCL9-4-11)