

CITY OF BARBOURMEADE

3516 BREELAND AVENUE
LOUISVILLE, KENTUCKY 40241

Mayor
ALBERT A. TOMASSETTI

City Commissioners
MERVYN BRANDES
DAVID BROWN
BILL HICKEY
DAN STREIT

City Clerk/Treasurer
DAVID B. BUTKE
City Attorney
L. STANLEY CHAUVIN
City Engineer
ROBERT T. TRAUTWEIN

February 5, 1999

RECEIVED

FEB 8 1999

OFFICE OF THE SECRETARY OF STATE
DEPARTMENT OF HEALTH OF KY

Office of the Secretary of State
700 Capitol Avenue, Suite 152
State Capitol Building
Frankfort, Kentucky 40601

Re: Barbourmeade Annexation of Area Known as Brownsboro Gardens

Dear Sir/Madam:

Pursuant to KRS 81A.470 (attached), enclosed please find the following items:

1. An accurate map of the annexed property known as Brownsboro Gardens.
2. Metes and Bounds description of same.
3. Duly certified copy of the annexing ordinance passed on December 21, 1998 and published in the Courier-Journal on January 6, 1999.

Please let me know immediately if this information is insufficient in any way, otherwise, thank you for your attention to this matter.

Very truly yours,



L. Stanley Chauvin, III

LSC:mdq
Enclosures

cc: Letter and Map
Louisville/Jefferson Planning and Zoning Commission
Metropolitan Sewer District
Louisville Gas and Electric
Louisville/Jefferson County Revenue Commission

DECISIONS UNDER PRIOR LAW

1. Collateral Attack.

Where final judgment of appellate court authorized annexation of territory by first-class city, sixth-class city could not invalidate annexation ordinance of first-class city on ground that annexation was precluded by former similar section because voters rejected proposal under KRS 81.300 to 81.360 for first-class city to extend its boundaries and

municipal services since such action was collateral attack on final judgment of appellate court, granting of supersedeas bond to stay annexation proceedings was void since Circuit Court had no jurisdiction to grant order of supersedeas to appellate court judgment. *City of Louisville v. City of St. Matthews*, 316 S.W.2d 210 (Ky. 1958).

81A.470. Map and certified copy of ordinance of annexed or severed area to be recorded — Taxation of residents or property in new territory by annexing city prohibited prior to compliance.

- (1) If the limits of a city are enlarged or reduced, the city shall, within sixty (60) days of the enlargement or reduction, cause an accurate map of the annexed, transferred, or severed area with a metes and bounds description, together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located, in the office of the Secretary of State, and in the Department of Local Government.
- (2) No city which has annexed unincorporated or accepted transfer of incorporated territory may levy any tax upon the residents or property within the annexed or transferred area until the city has complied with the provisions of subsection (1) of this section, and of KRS 81A.475. (Enact. Acts 1980, ch. 303, § 8, effective July 15, 1980; 1984, ch. 416, § 11, effective July 13, 1984; 1992, ch. 17, § 4, effective July 14, 1992; 1992, ch. 33, § 1, effective July 14, 1992.)

Legislative Research Commission Note. (7/14/92) This section was amended by two 1992 Acts which do not appear to be in conflict and have been compiled together.

Opinions of Attorney General. There is nothing in the annexation act that requires a city to comply with the provisions of this section and KRS 81A.475 on the sole ground that the annexation proposal embraces part of certain precincts which would naturally cause split precinct voting with respect to the referendum; since the referred to statutes are only post-annexation effective, the city is not required to comply therewith prior to the referendum. OAG 83-188.

This section and KRS 81A.475 establish requirements which are not to be complied with until after the territory has actually been annexed; these requirements are not to be complied with prior to the referendum on the question of whether or not the territory is to be annexed. OAG 83-188.

A city may not impose its occupational tax upon employers and employees within an annexed area immediately upon publication of the annexing ordinance, since subsection (2) of this section prohibits the levying of any form of tax in the annexed area until the reporting requirements have been complied with. On the other hand, any individual residing in the annexed territory, but who is employed in the city proper, would be subject to an occupational tax, as would any other nonresident who works in the city; the same rule would apply to employers who may also operate a business facility within the city, outside the area in question. OAG 84-363.

The imposition of an occupational tax upon employers and employees within an annexed area requires an amendment to the city's budget, pursuant to KRS 91A.030, since the budget should include the anticipated increase in tax revenue that may be expected from the annexed area. OAG 84-363.

Annexation of Brownsboro Gardens
into the City of Barbourmeade
(Plat Book 27 Page 82)



Beginning at a stone in the existing boundary line of the City of Barbourmeade, said point being the southwest corner of Brownsboro Vista Section 2 as recorded in Plat Book 21, Page 21; thence with the southern property line of the City of Barbourmeade N 55° 40' 30" E, a distance of 732.83 feet to an iron pipe; thence leaving the southern property line of the City of Barbourmeade S 34° 22' E, a distance of 525.90 feet to an iron pipe in the northern property line of the City of Goose Creek Section 4 as recorded in Plat Book 25, Page 8; thence along said northern property line S 55° 38' W, a distance of 738.44 feet to an iron pipe on the east property line of Standard Country Club; thence along said Standard Country Club property line N 33° 45' W, a distance of 526.30 feet to the point of beginning containing 8.89 acres.

Area of present City of Barbourmeade is 234.4 acres.

Percentage increase of Barbourmeade = $8.89/234.4 \times 100 = 3.79\%$

August 27, 1998

Birch, Trautwein & Mims, Inc.
Consulting Engineers Landscape Architects Planners
4124 Taylorsville Road Louisville, Kentucky 40220
(502) 459-8402 FAX (502) 459-8427

Equal Opportunity Employer

CITY OF BARBOURMEADE
ORDINANCE NO. 6, SERIES 1998

AN ORDINANCE ANNEXING THE TERRITORY
KNOWN AS BROWNSBORO GARDENS

WHEREAS, Jefferson County and the City of Louisville have agreed to allow annexations of areas which constitute less than ten percent of the area of the City of Barbourmeade as an exemption to the County Compact,

WHEREAS, the City of Louisville through the enactment of Ordinance No. 216, Series 1998 has consented to said annexation and said Ordinance is attached hereto as "Exhibit A",

WHEREAS, City of Barbourmeade has made application to Jefferson County and Louisville with its ten percent annexation plan and has received approval of this plan from both Jefferson County and the City of Louisville,

AND WHEREAS, the last step for this voluntary annexation after obtaining the written consent of the property owners is to pass the annexing ordinance pursuant to KRS 81A.412.

NOW THEREFORE, be it ordained by the City of Barbourmeade;

SECTION 1:

That the territory described below is hereby annexed with the City of Barbourmeade;

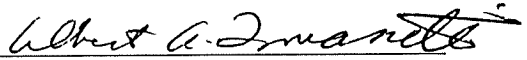
Beginning at a stone in the existing boundary line of the City of Barbourmeade, said point being the southwest corner of Brownsboro Vista Section 2 as recorded in Plat Book 21, Page 21; thence with the southern property line of the City of Barbourmeade N 55° 40' 30" E, a distance of 732.83 feet to an iron pipe; thence leaving the southern property line of the City of Barbourmeade S 34° 22' E, a distance of 525.90 feet to an iron pipe in the northern property line of the City of Goose Creek Section 4 as recorded in Plat Book 25, Page 8; thence along said northern property line S 55° 38' W, a distance of 738.44 feet to an iron pipe on the east property line of Standard Country Club; thence along said Standard Country Club property line N 33° 45' W, a distance of 526.30 feet to the point of beginning

containing 8.89 acres.

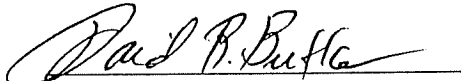
SECTION 2:

This ordinance shall be effective upon its passage and upon publication as required by law.

First Reading	<u>November 16, 1998</u>
Seconding Reading	<u>December 21, 1998</u>
Passed and Approved	<u>December 21, 1998</u>


Albert A. Tomassetti
Albert A. Tomassetti
Mayor

ATTEST:


David B. Butke
David B. Butke
City Clerk

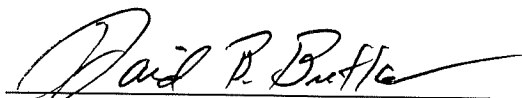
Those Voting Aye:

Albert A. Tomassetti,	Mayor
Mervyn Brandes	Commissioner
David Brown	Commissioner
Dan Streit	Commissioner
Bill Hickey	Commissioner

Those Voting Nay:

CERTIFICATION

The undersigned as City Clerk for the City of Barbourmeade hereby certifies that the foregoing is a true and accurate copy of City of Barbourmeade Ordinance No. 6, Series 1998 annexing the property known as Brownsboro Gardens which was read first on November 16, 1998 and read for the second time on December 21, 1998 and passed and approved on that same date.



David B. Butke, City Clerk
City of Barbourmeade

Subscribed, sworn and acknowledged to before me by David B. Butke, City Clerk, City of Barbourmeade on this the 28th day of DECEMBER, 1998.

My Commission expires: 1/24/2000.


NOTARY PUBLIC

OVERSIZE MAP INCLUDED WITH
SUBMISSION.

To research the map, contact the
Office of Secretary of State
or the County Clerk.