

Procedures for Changing a County Boundary Line and Settling a County Boundary Line Dispute

****The procedures for settling county line disputes are detailed in O.C.G.A. § 36-3-1 et seq. The information provided here is for guidance only, and all legal interpretations must be guided by the Georgia Code rather than this document.***

I. Procedure to Change a County Boundary Line

A. Proposing the boundary line change

1. Whenever **one or more citizens** of any county want to have the boundary line of their county changed, they must file a written petition with the probate judges of all the counties that would be affected by the change. The written petition must include:
 - a. The exact character of the proposed change, specifying the direction or metes and bounds of the current line and existing marks and monuments, if such marks or monuments exist.
 - b. Describe specifically the direction, location, and length of the proposed new line; and
 - c. Explain the reasons for the change.
2. The **person(s) proposing the change** must give notice of their intention to apply for the change by publishing a notice of petition for at least 30 days preceding the next term of the superior courts in the counties to be affected. The publication of this notice must include:
 - a. Publication in a public newspaper having general circulation in each of the counties to be affected by the proposed change; and
 - b. Publication of the notice at the door of the courthouse in each of the counties and at three public places in every militia district adjacent to the line to be changed.
3. On the first day of the next term of the superior courts, after the notice has been published and the petition filed, the **judges of the probate courts** of the counties affected must convene a **grand jury** in each respective county.
4. The **probate courts** must provide to the grand juries:
 - a. the original petition, and
 - b. all maps, plats, and other papers that have been filed.
5. The **grand juries** convened by the probate courts in the affected counties must either accept (see Part IB) or reject (see Part IC) the proposed boundary line change.

B. Acceptance by Grand Juries of the Proposed Boundary Line Change:

1. The **grand juries** may approve the change applied for by a *two-thirds' vote* of their respective bodies.

2. If the grand juries approve the change, the **clerks of the superior courts** of the affected counties must certify the decisions of the grand juries to the County Commission or **county governing authority** of each affected county.
3. Within 30 days of the certification, the **county governing authorities** must approve or disapprove the application and certify that decision to the **judges of the probate courts** of their respective counties.
4. When the **judges of the probate courts** have satisfactory evidence of the concurrent approval by the grand juries and by the county governing authorities in the counties to be affected, the probate courts must publish an official notice of the concurrent approval and a description of the new line in a public newspaper having general circulation in their respective counties for at least 30 days.
5. The boundary line change will be established and finalized once all the proceedings are completed in the manner prescribed above, and as prescribed in O.C.G.A. §§ 36-3-1 and 36-3-2, and the judges of the probate courts record in the minutes of their respective courts the proceedings and changes to the boundary line.
6. When all proceedings above are complete, three (3) copies of the survey and plat showing the change in county boundary lines, and a copy of the resolution approving the change from the governing authority of each county, must be filed jointly by the **judges of the probate court** of each county with the **Secretary of State**.
7. After the **Secretary of State** receives the copies of the survey and plat and the resolutions, the Secretary of State must certify the survey and plat and send a certified copy of it to the clerk of the superior court of each county affected by the change in county lines.
8. The **clerk of the superior court** must record the survey and plat in the same book in which other plats of the county are recorded.
9. The **Secretary of State** must file one copy of the survey and plat.
10. The entire costs of advertising and recording the petition, descriptions, and all other papers and proceedings relating to the proposed change in the boundary line of a county shall be paid by the **person(s) who proposed the change**.

C. Rejection by Grand Juries of the Proposed Boundary Line Change:

1. In the event the **grand juries** of the affected counties do *not* approve the change applied for, the line is not changed.

II. Procedure to *Dispute* a County Boundary Line

A. Presenting the boundary line dispute

1. In any county that wishes to dispute its boundary line with another county, a grand jury must present that the boundary line needs to be surveyed, marked out and defined. The **clerk of the superior court** in the county where the presentments were made must certify the presentments to the **Governor**.
2. The county line dispute may be resolved by the Secretary of State (see Section IIB) or by mutual agreement of the counties (see Section IIC).

B. Resolution of the dispute by the Secretary of State

1. The **Governor**, by Executive Order, must appoint a land surveyor, who shall not reside in either county, to survey, mark out, and define the boundary line in dispute.
2. The **Secretary of State** or his/her designee will establish the surveyor's fee, which must be based on reasonable compensation for the work to be performed and the rates normally charged by land surveyors in the same geographical area as the disputed line. The surveyor's fee must be negotiated before the survey begins.
3. The Secretary of State may appoint an **advisory committee** to be composed of three registered land surveyors to assist with the establishment of the fee. One of the members of the advisory committee must be a county surveyor who must be selected by the Secretary of State from a list of at least three county surveyors submitted to the Secretary of State by the Association County Commissioners of Georgia. The members of the advisory committee will receive no compensation for their services.
4. Once the fee is established, the **Secretary of State** must notify the **governing authorities** of the counties affected of the fee which has been negotiated.
5. The **governing authorities** of each of the counties affected by the survey are required to pay the surveyor's fee at a rate in proportion to the total number of counties directly affected by the survey. The governing authority of each county may pay such fees and levy such taxes as may be necessary for the payment of the surveyor's fees.
6. Before the **surveyor** begins the survey process, the appointed surveyor must give the authorities having charge of the revenues of the counties at least ten (10) days' notice of the time and place the surveyor intends to begin the survey. The notice must be given by mail or in person.
7. During the survey process, the surveyor must use temporary markers for the purpose of performing the survey; however, the boundary line may not be permanently marked out or defined until the survey and plat are recorded in the Secretary of State's Office. [This is a Best Practice that will be required by the Secretary of State.]
8. Upon completion of the survey and plat, the survey and plat must be filed, but not recorded, in the **Secretary of State's Office** and a copy of the survey and plat must be furnished to the judges of the probate courts or chairmen of the boards of

county commissioners of the respective counties at the same time.

9. The survey and plat that are filed with the Secretary of State's Office will not be *recorded* until thirty (30) days after the filing. During that time, if no written protest or exception is filed, see Section 9a for procedures; and if a written protest or exception is filed, see Section 9b for procedures.

a. Recording of the Survey and Plat if NO Written Protest or Exception is Filed

1. If no written protest or exception is filed within the thirty (30) days, the **Secretary of State** will record the survey and plat in a book to be kept for that purpose, and the survey and plat will be final and conclusive as to the boundary line in dispute.
2. Once the survey and plat have been recorded, the boundary line shall will be permanently marked out and defined.
3. When the boundary line in dispute has been established as final and conclusive, the same boundary line may not again be subject to the procedures set forth in this article, and the boundary line may subsequently be changed only in accordance with O.C.G.A. § 36-1-1 *et seq.*

b. Recording of the Survey and Plat if a Written Protest or Exception is Filed

1. If the **board of county commissioners** for any of the affected counties is dissatisfied with the filed survey and plat, the dissatisfied party must file a written protest or exception to the survey and plat with the Secretary of State's Office within the thirty (30) days prior to recording of the survey and plat.
2. If such a written protest is filed the Secretary of State will have a hearing on the protest or exceptions.
3. The **Secretary of State** will provide written notice, through the mail, at least ten (10) days prior to the date of the hearing.
4. The party challenging the filed survey and plat will have the burden of proof by a preponderance of the evidence on the challenges contained within the written protest or exceptions.
5. The Secretary of State will conduct the hearing and determine from the law and evidence the true boundary line in dispute between the counties.
6. Once the Secretary of State has made a determination of the boundary line, he/she will record the survey and plat in a book to be kept for that purpose, and the survey and plat will be final and conclusive as to the boundary line in dispute.
7. Once the survey and plat have been recorded, the boundary line will be permanently marked out and defined. [This is a Best Practice that will be required by the Secretary of State.]
8. When the boundary line in dispute has been established as final and

conclusive, the same boundary line may not again be subject to the procedures set forth in this article, and the boundary line may subsequently be changed only in accordance with O.C.G.A. § 36-1-1 *et seq.*

C. Settlement of the dispute by mutual agreement:

1. At any time after certification of the grand jury presentment to the Governor and prior to a final determination by the Secretary of State, the **governing authorities of the affected counties** may enter a mutual agreement to determine the location of the boundary line.
2. Any mutual agreement must be documented by the adoption of a concurrent unanimous resolution by the governing authority of each affected county; and
3. The concurrent unanimous resolution must incorporate, or incorporate by reference, an agreed upon plat, description, or other means of definitely ascertaining the boundary line.
4. The resolutions of the affected counties must be filed with the Secretary of State and the Department of Community Affairs, together with the agreed upon plat, description, or other means of definitely ascertaining the county line.
5. Upon being filed with the Secretary of State, the Secretary of State must find:
 - a. that the resolutions meet the requirements of O.C.G.A. § 36-3-24;
 - b. that the agreed upon plat, description, or other means adequately defines the boundary line;
 - c. that the surveyor, if appointed, has been adequately compensated for services performed to date or adequate arrangements have been made for the payment of such compensation; and
 - d. that the agreement is otherwise proper to terminate the boundary dispute.
6. Upon making such finding, the Secretary of State may enter a written determination that the disputed boundary line has been determined by agreement as authorized by the O.C.G.A. § 36-3-24.
7. After the **Secretary of State** makes the written determination, the written determination, the concurrent resolutions of the affected counties, and the plat, description or other means of definitely ascertaining the boundary line must be recorded in the same manner and with the same effect as provided for in O.C.G.A. § 36-3-25.