

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 524
Committee Substitute Favorable 6/29/09
Committee Substitute #2 Favorable 7/7/09**

Short Title: Annexation – Omnibus Changes.

(Public)

Sponsors:

Referred to:

March 11, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY SIGNATORIES ON VOLUNTARY ANNEXATION REQUESTS;
3 TO REQUIRE VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE
4 PERCENT OF PROPERTY OWNERS IN DISTRESSED AREAS; TO PERMIT
5 VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE PERCENT OF
6 RESIDENT HOUSEHOLDS IN DISTRESSED AREAS; TO PROHIBIT THE USE OF
7 STREETS OR STREET RIGHT-OF-WAYS TO ESTABLISH CONTIGUITY FOR
8 PURPOSES OF VOLUNTARY AND INVOLUNTARY ANNEXATION; TO INCREASE
9 FROM FIVE THOUSAND TO TEN THOUSAND THE MUNICIPAL POPULATION
10 THRESHOLD FOR DETERMINING THE PROCEDURE FOR INVOLUNTARY
11 ANNEXATION; TO REQUIRE THE PROVISION OF AT LEAST TWO MEANINGFUL
12 SERVICES WITHIN EXISTING CORPORATE BOUNDARIES PRIOR TO INITIATING
13 AN INVOLUNTARY ANNEXATION; TO REQUIRE THE EXTENSION OF WATER
14 AND SEWER LINES WITHIN THREE YEARS OF THE ANNEXATION TO ALL
15 PROPERTIES WITHIN THE ANNEXED AREA; TO REQUIRE FINANCIAL IMPACT
16 STATEMENTS SUBMITTED WITH A PROPOSED ANNEXATION TO BE BASED
17 UPON A FIVE-YEAR PERIOD; TO ALLOW INVOLUNTARY ANNEXATION OF
18 AREAS COMPLETELY SURROUNDED BY THE MUNICIPAL CORPORATE
19 LIMITS; TO PROHIBIT INVOLUNTARY ANNEXATION OF AREAS BEING
20 SERVED BY A WATER AND SEWER SYSTEM OPERATED BY A MUNICIPALITY
21 OTHER THAN THE ANNEXING MUNICIPALITY; TO INCREASE THE URBAN
22 DENSITY STANDARDS FOR INVOLUNTARY ANNEXATION BY
23 MUNICIPALITIES BY REQUIRING AT LEAST SIXTY-FIVE PERCENT OF THE
24 LOTS TO BE IN USE AND THE RESIDENTIAL LOTS TO BE AT LEAST TWO AND
25 ONE-HALF ACRES IN SIZE; BY ADDING AN URBAN DENSITY TEST OF
26 RESIDENTIAL POPULATION EQUAL TO AT LEAST TWO AND THREE-TENTHS
27 PERSONS PER ACRE FOR INVOLUNTARY ANNEXATION BY SMALL
28 MUNICIPALITIES; TO REQUIRE ALL OF A SUBDIVISION TO BE ANNEXED IF
29 THE ANNEXATION IS INVOLUNTARY; TO AMEND THE PROCEDURE FOR
30 ANNEXATION TO CLARIFY THE TIME LINE AND PROVIDE ADDITIONAL
31 INFORMATION TO THE PROPERTY OWNERS AT THE PUBLIC HEARING AND
32 PUBLIC INFORMATIONAL MEETING; TO REQUIRE THE NOTICE OF PUBLIC
33 HEARING TO BE SENT TO PROPERTY OWNERS BY CERTIFIED MAIL; TO
34 REQUIRE THE EFFECTIVE DATE OF VOLUNTARY CONTIGUOUS AND
35 INVOLUNTARY ANNEXATION TO BE THE JUNE 30 NEXT FOLLOWING THE
36 ADOPTION OF THE ANNEXATION; TO REQUIRE MUNICIPALITIES TO REPORT



1 TO THE LOCAL GOVERNMENT COMMISSION ON THE PROVISION OF
2 MEANINGFUL SERVICES FOLLOWING THE ADOPTION OF AN ANNEXATION
3 ORDINANCE; TO EXTEND THE TIME PERIOD A PROPERTY OWNER MAY
4 APPEAL TO THE COURTS FOLLOWING AN INVOLUNTARY ANNEXATION
5 ORDINANCE FROM SIXTY DAYS TO NINETY DAYS; TO ALLOW THE COURT TO
6 ACCEPT ARGUMENT REGARDING THE PROVISION OF MEANINGFUL SERVICE
7 TO THE NEWLY ANNEXED AREA; TO PROVIDE OVERSIGHT OF INVOLUNTARY
8 ANNEXATION THROUGH A REFERENDUM, THAT MUST COINCIDE WITH A
9 GENERAL MUNICIPAL ELECTION, OF REGISTERED VOTERS OF THE
10 MUNICIPALITY AND THE PROPOSED ANNEXATION AREA UPON A VERIFIED
11 PETITION SIGNED BY AT LEAST FIFTEEN PERCENT OF THE TOTAL OF THE
12 REGISTERED VOTERS OF THE MUNICIPALITY AND THE PROPOSED
13 ANNEXATION AREA AS SHOWN BY THE REGISTRATION; TO REQUIRE
14 OVERSIGHT OF INVOLUNTARY ANNEXATIONS BY THE LOCAL GOVERNMENT
15 COMMISSION BY REQUIRING A FISCAL FEASIBILITY ASSESSMENT; TO
16 REQUIRE THE LOCAL GOVERNMENT COMMISSION TO PROHIBIT FURTHER
17 ANNEXATION IF THE ANNEXING MUNICIPALITY DOES NOT PROVIDE
18 SERVICES IN ACCORDANCE WITH AN INVOLUNTARY ANNEXATION WITHIN
19 THREE YEARS; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO
20 ABATE PROPERTY TAXES FOR PROPERTY OWNERS WITHOUT THE REQUIRED
21 SERVICES WITHIN THREE YEARS OF AN INVOLUNTARY ANNEXATION; TO
22 REQUIRE THE LOCAL GOVERNMENT COMMISSION TO REPORT ANNUALLY
23 TO THE GENERAL ASSEMBLY ON INVOLUNTARY ANNEXATIONS; TO
24 AUTHORIZE MUNICIPALITIES TO CONTRACT WITH PROPERTY OWNERS FOR
25 THE EXTENSION OF WATER SERVICE AND SEWER SERVICE AND NONAPPEAL
26 OF AN INVOLUNTARY ANNEXATION, WHICH MAY RUN WITH THE LAND; TO
27 PERMIT THE PAYMENT OF ASSESSMENTS FOR THE INSTALLATION OF
28 WATER OR SEWER SERVICE FOLLOWING AN INVOLUNTARY ANNEXATION
29 OVER A TWENTY-YEAR PERIOD; TO ALLOW THE PAYMENT OF TAP FEES
30 OVER A FIVE-YEAR PERIOD; TO GIVE PRIORITY TO A MUNICIPALITY
31 ANNEXING A DISTRESSED AREA WHEN THAT MUNICIPALITY APPLIES FOR
32 COMMUNITY DEVELOPMENT BLOCK GRANTS AND LOANS OR GRANTS FROM
33 THE WASTEWATER RESERVE OR DRINKING WATER RESERVE.

34 The General Assembly of North Carolina enacts:

35 **SECTION 1.** G.S. 160A-31 reads as rewritten:

36 **"§ 160A-31. Annexation by petition.**

37 (a) The governing board of any municipality may annex by ordinance any area
38 contiguous to its boundaries upon presentation to the governing board of a petition signed by
39 the owners of all the real property located within such area. The petition shall be signed by each
40 owner of real property in the area and shall contain the address of each such owner. The
41 petition need not be signed by the owners of real property that is wholly exempt from property
42 taxation under the Constitution and laws of North Carolina, nor by railroad companies, public
43 utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

44 (b) The petition shall be prepared in substantially the following form:

45 DATE:

46 To the _____ (name of governing board) of the (City or Town) of
47 _____

48 1. We the undersigned owners of real property respectfully request that the area described
49 in paragraph 2 below be annexed to the (City or Town) of _____

50 2. The area to be annexed is contiguous to the (City or Town) of _____ and the
51 boundaries of such territory are as follows:

(b1) Notwithstanding the provisions of subsections (a) and (b) of this section, if fifty-one percent (51%) of the households in an area petitioning for annexation pursuant to this section have incomes that are two hundred percent (200%) or less than the most recently published United States Census Bureau poverty thresholds, the governing board of any municipality shall annex by ordinance any area one-eighth of the aggregate external boundaries of which are contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of at least seventy-five percent (75%) of the parcels of real property in that area.

(b2) The petition under subsection (b1) of this section shall be prepared in substantially the following form:

DATE:

To the _____ (name of governing board) of the (City or Town) of _____

1. We the undersigned owners of real property believe that the area described in paragraph 2 below meets the requirements of G.S. 160A-31(b1) and respectfully request that the area described in paragraph 2 below be annexed to the (City or Town) of _____

2. The area to be annexed is contiguous to the (City or Town) of _____ and the boundaries of such territory are as follows:

(c) Upon receipt of the petition, the municipal governing board shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the result of ~~his~~the investigation. For petitions received under subsection (b1) or (i) of this section, the clerk shall receive the report from the Department of Revenue as provided in subsection (k) of this section before certifying the sufficiency of the petition. Upon receipt of the certification, the municipal governing board shall fix a date for a public hearing on the question of annexation, and shall cause notice of the public hearing to be published once in a newspaper having general circulation in the municipality at least 10 days prior to the date of the public hearing; provided, if there be no such paper, the governing board shall have notices posted in three or more public places within the area to be annexed and three or more public places within the municipality.

(d) At the public hearing ~~all persons resident or owning property in the area described in the petition to be annexed who allege an error in the petition and persons resident or owning property in the municipality~~ shall be given an opportunity to be heard, as well as residents of the municipality who question the necessity for annexation. The governing board shall then determine whether the petition meets the requirements of this section. Upon a finding that the petition meets the requirements of this section, the governing board shall have authority to pass an ordinance annexing the territory described in the petition. The governing board shall have authority to make the annexing ordinance effective immediately or on ~~any specified date within the June 30 next following six months from~~ the date of passage of the ordinance.

(e) From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in G.S. 160A-58.10. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

(f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the petition is submitted, such area either abuts directly on the municipal boundary or is separated from the municipal boundary by the width of a street or street right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina.

1 A connecting corridor consisting solely of a street or street right-of-way may not be used to
2 establish contiguity to an outlying, noncontiguous area. In describing the area to be annexed in
3 the annexation ordinance, the municipal governing board may include within the description
4 any territory described in this subsection which separates the municipal boundary from the area
5 petitioning for annexation.

6 (g) The governing board may initiate annexation of contiguous property owned by the
7 municipality by adopting a resolution stating its intent to annex the property, in lieu of filing a
8 petition. The resolution shall contain an adequate description of the property, state that the
9 property is contiguous to the municipal boundaries and fix a date for a public hearing on the
10 question of annexation. Notice of the public hearing shall be published as provided in
11 subsection (c) of this section. The governing board may hold the public hearing and adopt the
12 annexation ordinance as provided in subsection (d) of this section.

13 (h) A city council which receives a petition for annexation under this section may by
14 ordinance require that the petitioners file a signed statement declaring whether or not vested
15 rights with respect to the properties subject to the petition have been established under
16 G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been
17 established, the city may require petitioners to provide proof of such rights. A statement which
18 declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1
19 shall be binding on the landowner and any such vested right shall be terminated.

20 (i) Using the procedures under this section, the governing board of any municipality
21 may annex by ordinance any distressed area contiguous to its boundaries upon presentation to
22 the governing board of a petition signed by at least one adult resident of at least seventy-five
23 percent (75%) of the resident households located within such area. For purposes of this
24 subsection, a "distressed area" is defined as an area in which at least fifty-one percent (51%) of
25 the households in the area petitioning to be annexed have incomes that are two hundred percent
26 (200%) or less than the most recently published United States Census Bureau poverty
27 thresholds. The municipality may require reasonable proof that the petitioner in fact resides at
28 the address indicated.

29 (j) The petition under subsection (i) of this section shall be prepared in substantially the
30 following form:

31 DATE:

32 To the _____ (name of governing board) of the (City or Town) of
33 _____

34 1. We the undersigned residents of real property believe that the area described in
35 paragraph 2 below meets the requirements of G.S. 160A-31(i) and respectfully request that the
36 area described in paragraph 2 below be annexed to the (City or Town) of _____

37 2. The area to be annexed is contiguous to the (City or Town) of _____ and the
38 boundaries of such territory are as follows:

39 (k) For purposes of determining whether the percentage of households in the area
40 petitioning for annexation meets the poverty thresholds under subsections (b1) and (i) of this
41 section, the petitioners shall submit to the municipal governing board any reasonable evidence
42 that demonstrates the area in fact meets the income requirements of that subsection. The
43 evidence presented may include data from the most recent federal decennial census, other
44 official census documents, signed affidavits by at least one adult resident of the household
45 attesting to the household size and income level, or any other documentation verifying the
46 incomes for a majority of the households within the petitioning area. Petitioners may select to
47 submit name, address, and social security number to the clerk, who shall in turn submit the
48 information to the Department of Revenue. Such information shall be kept confidential and is
49 not a public record. The Department shall provide the municipality with a summary report of
50 income for households in the petitioning area. Information for the report shall be gleaned from

1 income tax returns, but the report submitted to the municipality shall not identify individuals or
2 households."

3 **SECTION 2.(a)** Part 2 of Article 4A of Chapter 160A of the General Statutes reads
4 as rewritten:

5 "Part 2. Annexation by Cities of Less than ~~5,000~~10,000."

6 **SECTION 2.(b)** G.S. 160A-34 reads as rewritten:
7 **"§ 160A-34. Authority to annex.**

8 The governing board of any municipality having a population of less than ~~5,000~~10,000
9 persons according to the last federal decennial census may extend the corporate limits of such
10 municipality under the procedure set forth in this Part, except that this Part does not apply to
11 any municipality in Craven County having a population of less than 500 persons according to
12 the last federal decennial census unless that municipality provides at least six of the seven
13 categories of municipal services listed in G.S. 136-41.2(c). This Part does not apply to any
14 municipality unless it provides, at the time of adoption of the resolution of intent, at least two
15 meaningful services within its existing corporate boundaries. To qualify under this section, the
16 meaningful service must be provided directly by the municipality, provided by a joint agency
17 or authority of which the municipality is a full participating member, or provided by contract
18 between the municipality and a third party. In the case of police protection provided by contract
19 between the municipality and the sheriff's department, to qualify under this section the contract
20 must establish a higher level of service than is otherwise provided in the area, such as a
21 designated deputy or increased patrols."

22 **SECTION 3.** G.S. 160A-35 reads as rewritten:

23 **"§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

24 A municipality exercising authority under this Part shall make plans for the extension of
25 meaningful services to the area proposed to be annexed and shall, prior to the public hearing
26 provided for in G.S. 160A-37, prepare a report setting forth such plans to provide meaningful
27 services to such area. The report shall include:

- 28 (1) A map or maps of the municipality and adjacent territory to show the
29 following information:
30 a. The present and proposed boundaries of the municipality.
31 b. The proposed extensions of water ~~mains and mains~~, sewer ~~outfalls~~
32 outfall lines, sewer lines, and waterlines to serve the annexed area, if
33 such utilities are operated by the municipality. The water and sewer
34 map must bear the seal of a registered professional engineer or a
35 licensed surveyor.
- 36 (2) A statement showing that the area to be annexed meets the requirements of
37 G.S. 160A-36.
- 38 (3) A statement setting forth the plans of the municipality for extending to the
39 area to be annexed each ~~major municipal~~meaningful service performed
40 within the municipality at the time of annexation. Specifically, such plans
41 shall:
42 a. Provide for extending police protection, fire protection, solid waste
43 collection and street maintenance services to the area to be annexed
44 on the date of annexation on substantially the same basis and in the
45 same manner as such services are provided within the rest of the
46 municipality prior to annexation. A contract with a rural fire
47 department to provide fire protection shall be an acceptable method
48 of providing fire protection. If a water distribution system is not
49 available in the area to be annexed, the plans must call for reasonably
50 effective fire protection services until such time as waterlines are
51 made available in such area under existing municipal policies for the

- 1 extension of waterlines. A contract with a private firm to provide
2 solid waste collection services shall be an acceptable method of
3 providing solid waste collection services.
- 4 b. Provide for extension of water ~~mains-mains, sewer outfall lines, and~~
5 sewer ~~lines~~lines, and waterlines into the area to be annexed so that
6 property owners in the area to be annexed will be able to secure
7 public water and sewer services according to the policies in effect in
8 such municipality ~~for extending water and sewer lines to individual~~
9 ~~lots or subdivisions prior to annexation.~~ If the municipality must, at
10 its own expense, extend water and/or sewer mains into the area to be
11 annexed before property owners in the area can, according to
12 municipal policies, make such connection to such lines, then the
13 plans must call for contracts to be let and construction to begin on
14 such lines within one year following the effective date of annexation.
15 In areas where the installation of sewer is not ~~economically-fiscally~~
16 ~~feasible or would be environmentally damaging~~ due to the unique
17 topography or environmental qualities of the area, the municipality
18 may agree to provide septic system maintenance and repair service
19 until such time as sewer service is provided to properties similarly
20 situated. In any event, the plans shall call for construction to be
21 completed within three years of the effective date of annexation.
- 22 c. Set forth the method under which the municipality plans to finance
23 extension of each meaningful service ~~services~~ into the area to be
24 annexed. In calculating the cost of extending water or sewer services
25 to the area to be annexed, the municipality shall include the cost of
26 extending water and sewer lines to individual lots of property owners
27 and may estimate the number of eligible property owners that will
28 request to tap into the extended water and sewer lines.
- 29 (4) A statement of the impact of the annexation on any rural fire department
30 providing service in the area to be annexed and a statement of the impact of
31 the annexation on fire protection and fire insurance rates in the area to be
32 annexed, if the area where service is provided is in an insurance district
33 designated under G.S. 153A-233, a rural fire protection district under Article
34 3A of Chapter 69 of the General Statutes, or a fire service district under
35 Article 16 of Chapter 153A of the General Statutes. The rural fire
36 department shall make available to the city not later than 30 days following a
37 written request from the city all information in its possession or control,
38 including but not limited to operational, financial and budgetary information,
39 necessary for preparation of a statement of impact. The rural fire department
40 forfeits its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to
41 make a good faith response within 45 days following receipt of the written
42 request for information from the city, provided that the city's written request
43 so states by specific reference to this section.
- 44 (5) A statement showing how the proposed annexation will affect the city's
45 finances and services, including city revenue change estimates. Estimates
46 must include projections for at least a five-year period beyond the first year
47 that expenditures are to be made for the provision of city services to the
48 annexed area with accounting by revenue source and category of
49 expenditure. This statement shall be delivered to the clerk of the board of
50 county commissioners at least 30 days before the date of the public
51 informational meeting on any annexation under this Part."

1 **SECTION 4.** G.S. 160A-36 reads as rewritten:

2 "**§ 160A-36. Character of area to be annexed.**

3 (a) A municipal governing board may extend the municipal corporate limits to include
4 any area which meets the general standards of ~~subsection (b)~~, subsection (b) of this section and
5 ~~which meets the requirements of subsection (e)~~, subsection (c) of this section, or that is
6 completely surrounded by the municipality's primary corporate limits.

7 (b) The total area to be annexed must meet the following standards:

8 (1) It must be adjacent or contiguous to the municipality's boundaries at the time
9 the annexation proceeding is begun, except if the entire territory of a county
10 water and sewer district created under G.S. 162A-86(b1) is being annexed,
11 the annexation shall also include any noncontiguous pieces of the district as
12 long as the part of the district with the greatest land area is adjacent or
13 contiguous to the municipality's boundaries at the time the annexation
14 proceeding is begun.

15 (2) At least ~~one-eighth~~ one-fifth of the aggregate external boundaries of the area
16 must coincide with the municipal boundary. A connecting corridor
17 consisting solely of a public street or street right-of-way may not be used to
18 establish contiguity to an outlying, noncontiguous area.

19 (3) No part of the area shall be included within the boundary of another
20 incorporated municipality.

21 (4) No part of the area may be served by a water and sewer system operated by a
22 municipality other than the annexing municipality, unless in accordance with
23 an annexation agreement in effect under Part 6 of this Article, or the system
24 is operated pursuant to an interlocal agreement under Article 20 of this
25 Chapter to which the annexing municipality is a party, or the system is
26 operated by an authority or joint agency of which the annexing municipality
27 is a full participating member.

28 (c) The area to be annexed must be developed for urban purposes at the time of
29 approval of the report provided for in G.S. 160A-35. For purposes of this section, a lot or tract
30 shall not be considered in use for a commercial, industrial, institutional, or governmental
31 purpose if the lot or tract is used only temporarily, occasionally, or on an incidental or
32 insubstantial basis in relation to the size and character of the lot or tract. For purposes of this
33 section, acreage in use for commercial, industrial, institutional, or governmental purposes shall
34 include acreage actually occupied by buildings or other man-made structures together with all
35 areas that are reasonably necessary and appurtenant to such facilities for purposes of parking,
36 storage, ingress and egress, utilities, buffering, and other ancillary services and facilities. Area
37 of streets and street rights-of-way shall not be used to determine total acreage under this
38 section. An area developed for urban purposes is defined ~~as:~~ as any of the following:

39 (1) Any area which is so developed that at least ~~sixty percent (60%)~~ sixty-five
40 percent (65%) of the total number of lots and tracts in the area at the time of
41 annexation are used for residential, commercial, industrial, institutional or
42 governmental purposes, and is subdivided into lots and tracts such that at
43 least sixty percent (60%) of the total acreage, not counting the acreage used
44 at the time of annexation for commercial, industrial, governmental or
45 institutional purposes, consists of lots and tracts ~~three-two and one-half~~ acres
46 or less in size.

47 (1a) An area with a total resident population equal to at least two and three-tenths
48 persons for each acre of land included within its boundaries.

49 (2) An area so developed that, at the time of the approval of the annexation
50 report, all tracts in the area to be annexed are used for commercial,
51 industrial, governmental, or institutional purposes.

1 (3) The entire area of any county water and sewer district created under
2 G.S. 162A-86(b1), but this subsection only applies to annexation by a
3 municipality if that:

4 a. Municipality has provided in a contract with that district that the area
5 is developed for urban purposes; and

6 b. Contract provides for the municipality to operate the sewer system of
7 that county water and sewer district;

8 provided that the special categorization provided by this subsection only
9 applies if the municipality is annexing in one proceeding the entire territory
10 of the district not already within the corporate limits of a municipality.

11 (d) In fixing new municipal boundaries, a municipal governing board shall use recorded
12 property lines and streets as boundaries. Some or all of the boundaries of a county water and
13 sewer district may also be used when the entire district not already within the corporate limits
14 of a municipality is being annexed.

15 (e) The area of an abolished water and sewer district shall be considered to be a water
16 and sewer district for the purpose of this section even after its abolition under
17 G.S. 162A-87.2(b).

18 (f) If the area includes any residential lot that is shown on a subdivision plat approved
19 and recorded as a final plat pursuant to an ordinance adopted under Article 18 of Chapter 153A
20 of the General Statutes or under Article 19 of this Chapter, the area must include all other
21 residential lots shown on the same recorded final subdivision plat, except for lots already
22 included in the corporate limits of the annexing municipality or another municipality. If the
23 subdivision is in more than one county, the annexation area need not include lots across the
24 county line. For purposes of this section, if the subdivision was approved as a phased
25 development, each phase may be considered a separate subdivision."

26 **SECTION 5.** G.S. 160A-37 reads as rewritten:

27 **"§ 160A-37. Procedure for annexation.**

28 (a) Notice of Intent.—Resolution of Consideration. — Any municipal governing board
29 desiring to annex territory under the provisions of this Part shall first pass a resolution
30 identifying the area as being under consideration for annexation. The resolution of
31 consideration may have a metes and bounds description or a map and shall remain effective for
32 two years after adoption and shall be filed with the city clerk. A new resolution of
33 consideration adopted before expiration of the two-year period for a previously adopted
34 resolution covering the same area shall relate back to the date of the previous resolution.
35 Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to
36 any other city. A notice of adoption of the resolution of consideration shall be published once a
37 week for two successive weeks, with each publication being on the same day of the week, in a
38 newspaper having general circulation in the municipality. The second publication shall be no
39 more than 30 days following adoption of the resolution. The notice shall contain a map or
40 description of the area under consideration and a summary of the annexation process and time
41 lines.

42 (a1) Resolution of Intent. — At least one year after adoption of the resolution of
43 consideration, the municipal governing body may adopt a resolution stating the intent of the
44 municipality to ~~consider annexation.~~ proceed with annexation of some or all of the area
45 described in a resolution of consideration. Such resolution of intent shall describe the
46 boundaries of the area ~~under consideration,~~ intended for annexation, fix a date for the public
47 informational meeting, and fix a date for a public hearing on the question of annexation. The
48 date for the public informational meeting shall be not less than 45 days and not more than 55
49 days following passage of the resolution. The date for the public hearing to be not less than 60
50 days and not more than 90 days following passage of the ~~resolution.~~ resolution of intent.

1 (b) Notice of Public Information Meeting and Public Hearing. – The notice of public
2 information meeting and public hearing shall:shall be a combined notice that includes at least
3 all of the following:

- 4 (1) Fix the date, hour and place of the public informational meeting and the
5 date, hour, and place of the public hearing.
- 6 (2) Describe clearly the boundaries of the area under consideration, and include
7 a legible map of the area.
- 8 (3) State that the report required in G.S. 160A-35 will be available at the office
9 of the municipal clerk at least 30 days prior to the date of the public
10 informational meeting.
- 11 (4) Include an explanation of an owner's rights pursuant to subsection (f1) and
12 (f2) of this section.
- 13 (5) Include a summary of the annexation process with time lines and a summary
14 of available statutory remedies for contesting the annexation and the failure
15 to provide services.
- 16 (6) Include information on how to request to become a customer of the water
17 service or sewer service, the cost of requesting that service along with the
18 option of paying that cost in accordance with G.S. 160A-232(c), and any
19 forms to request that service.
- 20 (7) Describe clearly the distinction between the public informational meeting
21 and the public hearing.

22 Such notice shall be given by publication once a week for at least two successive weeks
23 prior to the date of the informational ~~meeting-meeting~~, with each publication being on the same
24 day of the week, in a newspaper having general circulation in the municipality and, in addition
25 thereto, if the area to be annexed lies in a county containing less than fifty percent (50%) of the
26 land area of the municipality, in a newspaper having general circulation in the area of proposed
27 annexation. ~~The period from the date of the first publication to the date of the last publication,~~
28 ~~both dates inclusive, shall be not less than eight days including Sundays, and the date of the last~~
29 ~~publication shall be not more than seven days preceding the date of public informational~~
30 ~~meeting.~~ If there be no such newspaper, the municipality shall post the notice in at least five
31 public places within the municipality and at least five public places in the area to be annexed
32 for 30 days prior to the date of public informational meeting. In addition, notice shall be mailed
33 at least four weeks prior to date of the informational meeting, by ~~first class mail, postage~~
34 ~~prepaid certified mail~~ to the owners as shown by the tax records of the county of all freehold
35 interests in real property located within the area to be annexed. The person or persons mailing
36 such notices shall certify to the governing board that fact, and such certificate shall become a
37 part of the record of the annexation proceeding and shall be deemed conclusive in the absence
38 of fraud. If the notice is returned to the city by the postal service by the tenth day before the
39 informational meeting, a copy of the notice shall be sent by certified mail, return receipt
40 requested, at least seven days before the informational meeting. Failure to comply with the
41 mailing requirement of this subsection shall not invalidate the annexation unless it is shown
42 that the requirements were not substantially complied with.

43 If the governing board by resolution finds that the tax records are not adequate to identify
44 the owners of some or all of the parcels of real property within the area it may in lieu of the
45 mail procedure as to those parcels where the owners could not be so identified, post the notice
46 at least 30 days prior to the date of public informational meeting on all buildings on such
47 parcels, and in at least five other places within the area to be annexed. In any case where
48 notices are placed on property, the person placing the notice shall certify that fact to the
49 governing board.

50 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the
51 public informational meeting, the governing board shall approve the report provided for in

1 G.S. 160A-35, and shall make it available to the public at the office of the municipal clerk. In
2 addition, the municipality may prepare a summary of the full report for public distribution. In
3 addition, the city shall post in the office of the city clerk at least 30 days before the public
4 informational meeting a legible map of the area to be annexed and a list of the persons holding
5 freehold interests in property in the area to be annexed that it has identified.

6 (c1) Public Informational Meeting. – At the public informational meeting a
7 representative of the municipality shall first make an explanation of the report required in
8 G.S. 160A-35. Following such explanation, all persons resident or owning property in the
9 territory described in the notice of public hearing, and all residents of the municipality, shall be
10 given the opportunity to ask questions and receive answers regarding the proposed annexation.

11 (d) Public Hearing. – At the public hearing a representative of the municipality shall
12 first make an explanation of the report required in G.S. 160A-35. Following such explanation,
13 all persons resident or owning property in the territory described in the notice of public hearing,
14 and all residents of the municipality, shall be given an opportunity to be heard. A summary of
15 the annexation process with time lines and a summary of available statutory remedies for
16 contesting the annexation and the provision of services shall be distributed at the public
17 hearing, and information regarding including any forms for requesting water service or sewer
18 service to individual lots shall be distributed at the public informational meeting.

19 (e) Passage of the Annexation Ordinance. – ~~The~~ Subject to the provisions of
20 G.S. 160A-58.11, the municipal governing board shall take into consideration facts presented at
21 the public hearing and shall have authority to amend the report required by G.S. 160A-35 to
22 make changes in the plans for serving the area proposed to be annexed so long as such changes
23 meet the requirements of G.S. 160A-35. At any regular or special meeting held no sooner than
24 the tenth day following the public hearing and not later than 90 days following such public
25 hearing, the governing board shall have authority to adopt an ordinance extending the corporate
26 limits of the municipality to include all, or such part, of the area described in the notice of
27 public hearing which meets the requirements of G.S. 160A-36 and which the governing board
28 has concluded should be annexed. The ordinance shall:

- 29 (1) Contain specific findings showing that the area to be annexed meets the
30 requirements of G.S. 160A-36. The external boundaries of the area to be
31 annexed shall be described by metes and bounds. In showing the application
32 of G.S. 160A-36(c) and (d) to the area, the governing board may refer to
33 boundaries set forth on a map of the area and incorporate same by reference
34 as a part of the ordinance.
- 35 (2) A statement of the intent of the municipality to provide services to the area
36 being annexed as set forth in the report required by G.S. 160A-35.
- 37 (3) A specific finding that on the effective date of annexation the municipality
38 will have funds appropriated in sufficient amount to finance construction of
39 any water and sewer lines ~~found necessary~~ stated in the report required by
40 G.S. 160A-35 to extend the basic water and/or sewer system of the
41 municipality into the area to be annexed, or that on the effective date of
42 annexation the municipality will have authority to issue bonds in an amount
43 sufficient to finance such construction. If authority to issue such bonds must
44 be secured from the electorate of the municipality prior to the effective date
45 of annexation, then the effective date of annexation shall be no earlier than
46 the day following the statement of the successful result of the bond election.
- 47 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~
48 shall be fixed as the June 30 next following the adoption of the ordinance. ~~for~~
49 ~~any date not less than 40 days nor more than 400 days from the date of~~
50 ~~passage of the ordinance.~~

1 (f) Effect of Annexation Ordinance. – Except as provided in subsection (f1) of this
2 section, from and after the effective date of the annexation ordinance, the territory and its
3 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in
4 such municipality and shall be entitled to the same privileges and benefits as other parts of such
5 municipality. ~~Real and personal property in the newly annexed territory on the January 1~~
6 ~~immediately preceding the beginning of the fiscal year in which the annexation becomes~~
7 ~~effective is subject to municipal taxes as provided in G.S. 160A-58.10. If the effective date of~~
8 ~~annexation falls between June 1 and June 30, and the effective date of the privilege license tax~~
9 ~~ordinance of the annexing municipality is June 1, then businesses in the area to be annexed~~
10 ~~shall be liable for taxes imposed in such ordinance from and after the effective date of~~
11 ~~annexation.~~

12 (f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
13 annexation ordinance includes agricultural land, horticultural land, or forestland that meets
14 either of the conditions listed below on the effective date of annexation, then the annexation
15 becomes effective as to that property pursuant to subsection (f2) of this section:

16 (1) The land is being taxed at present-use value pursuant to G.S. 105-277.4.

17 (2) The land meets both of the following conditions:

- 18 a. On the date of the resolution of intent for annexation it was being
19 used for actual production and is eligible for present-use value
20 taxation under G.S. 105-277.4, but the land had not been in use for
21 actual production for the required time under G.S. 105-277.3.
22 b. The assessor for the county where the land subject to annexation is
23 located has certified to the city that the land meets the requirements
24 of this subdivision.

25 (f2) Effective Date of Annexation for Certain Property. – Annexation of property subject
26 to annexation under subsection (f1) of this section becomes effective as provided in this
27 subsection:

28 (1) Upon the effective date of the annexation ordinance, the property is
29 considered part of the city only (i) for the purpose of establishing city
30 boundaries for additional annexations pursuant to this Article and (ii) for the
31 exercise of city authority pursuant to Article 19 of this Chapter.

32 (2) For all other purposes, the annexation becomes effective as to each tract of
33 the property or part thereof on the last day of the month in which that tract or
34 part thereof becomes ineligible for classification pursuant to G.S. 105-277.4
35 or no longer meets the requirements of subdivision (f1)(2) of this section.
36 Until annexation of a tract or a part of a tract becomes effective pursuant to
37 this subdivision, the tract or part of a tract is not subject to taxation by the
38 city under Article 12 of Chapter 105 of the General Statutes nor is the tract
39 or part of a tract entitled to services provided by the city. Upon the effective
40 date of annexation, taxation of real and personal property is subject to the
41 provisions of G.S. 160A-58.10.

42 (g) Simultaneous Annexation Proceedings. – If a municipality is considering the
43 annexation of two or more areas which are all adjacent to the municipal boundary but are not
44 adjacent to one another, it may undertake simultaneous proceedings under authority of this Part
45 for the annexation of such areas.

46 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the
47 effective date of annexation, and not later than 15 months from the effective date of annexation,
48 any person owning property in the annexed territory shall believe that the municipality has not
49 followed through on its meaningful service plans adopted under the provisions of
50 G.S. 160A-35(3) and subsection (e) of this section, the person may apply for a writ of

1 mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be
2 granted by the judge of superior court

3 (1) If the municipality has not provided the meaningful services set forth in its
4 plan submitted under the provisions of G.S. 160A-35(3)a-G.S. 160A-35(3)a.
5 on substantially the same basis and in the same manner as such services
6 were provided within the rest of the municipality prior to the effective date
7 of annexation, and

8 (2) If at the time the writ is sought such meaningful services set forth in the plan
9 submitted under the provisions of G.S. 160A-35(3)a-G.S. 160A-35(3)a. are
10 still being provided on substantially the same basis and in the same manner
11 as on the date of annexation of the municipality.

12 ~~Relief may also be granted by the judge of superior court~~

13 ~~(1) If the plans submitted under the provisions of G.S. 160A-35(3)b. require the~~
14 ~~construction of major trunk water mains and sewer outfall lines and~~

15 ~~(2) If contracts for such construction have not yet been let.~~

16 If a writ is issued, costs in the action, including a reasonable attorney's fee for such
17 aggrieved person, shall be charged to the municipality.

18 ~~(i) No resolution of intent may be adopted under subsection (a) of this section unless~~
19 ~~the city council (or a planning agency created or designated under either G.S. 160A-361 or the~~
20 ~~charter) has, by resolution adopted at least one year prior to adoption of the resolution of intent,~~
21 ~~identified the area as being under consideration for annexation and included a statement in the~~
22 ~~resolution notifying persons subject to the annexation of their rights under subsections (f1) and~~
23 ~~(f2) of this section; provided, adoption of such resolution of consideration shall not confer prior~~
24 ~~jurisdiction over the area as to any other city. The area described under the resolution of intent~~
25 ~~may comprise a smaller area than that identified by the resolution of consideration. The~~
26 ~~resolution of consideration may have a metes and bounds description or a map, shall remain~~
27 ~~effective for two years after adoption, and shall be filed with the city clerk. A new resolution of~~
28 ~~consideration adopted before expiration of the two year period for a previously adopted~~
29 ~~resolution covering the same area shall relate back to the date of the previous resolution.~~

30 ~~(j) Subsection (i) of this section shall not apply to the annexation of any area if the~~
31 ~~resolution of intent describing the area and the ordinance annexing the area both provide that~~
32 ~~the effective date of the annexation shall be at least one year from the date of passage of the~~
33 ~~annexation ordinance.~~

34 ~~(k) The city shall report to the Local Government Commission as to whether police~~
35 ~~protection, fire protection, solid waste or street maintenance services were provided in~~
36 ~~accordance with G.S. 160A-35(3)a. within 60 days after the effective date of the annexation.~~
37 ~~Such report shall be filed no more than 30 days following the expiration of the 60-day period.~~ If
38 a city fails to deliver police protection, fire protection, solid waste or street maintenance
39 services as provided for in G.S. 160A-35(3)a. within 60 days after the effective date of the
40 annexation, the owner of the property may petition the Local Government Commission for
41 abatement of taxes to be paid to the city for taxes that have been levied as of the end of the
42 60-day period, if the petition is filed not more than ~~90 days~~ 120 days after the expiration of the
43 60-day period. If the Local Government Commission finds that services were not extended by
44 the end of the 60-day period, it shall enter an order directing the city not to levy any further ad
45 valorem taxes on the property until the fiscal year commencing after extension of the municipal
46 services.

47 ~~(l) The city shall report to the Local Government Commission as to whether the~~
48 ~~extension of water and sewer lines was completed within the three-year time period specified in~~
49 ~~G.S. 160A-35(3). If the extension is not complete at the end of three years after the effective~~
50 ~~date of the annexation ordinance, the owner of the property may petition the Local Government~~
51 ~~Commission for abatement of taxes to be paid to the city which have not been levied as of the~~

1 expiration date of the three-year period, if such petition is filed not more than 120 days after the
2 expiration of the three-year period. If the Local Government Commission finds that the
3 extension to the property was not complete by the end of the three-year period, it shall enter an
4 order directing the city not to levy any further ad valorem taxes on the property until the fiscal
5 year commencing after completion of the extension. In addition, if the Local Government
6 Commission found that the extension to the property was not completed by the end of the
7 three-year period, and if it finds that for any fiscal year during the period beginning with the
8 first day of the fiscal year in which the annexation ordinance became effective and ending the
9 last day of the fiscal year in which the three-year period expired, the city made an appropriation
10 for construction, operation, or maintenance of a water or sewer system (other than payments the
11 city made as a customer of the system) from the fund or funds for which ad valorem taxes are
12 levied, then the Local Government Commission shall order the city to release or refund an
13 amount of the petitioner's property taxes for that year in question in proportion to the
14 percentage of appropriations in the fund made for water and sewer services. By way of
15 illustration, if a net amount of one hundred thousand dollars (\$100,000) was appropriated for
16 water or sewer construction, operation, or maintenance from a fund which had total
17 expenditures of ten million dollars (\$10,000,000) and the petitioner's tax levy was one thousand
18 dollars (\$1,000), the amount of release or refund shall be ten dollars (\$10.00)."

19 **SECTION 6.** G.S. 160A-38 reads as rewritten:

20 **"§ 160A-38. Appeal.**

21 (a) Within ~~60 days~~ 90 days following the passage of an annexation ordinance under
22 authority of this Part, any person owning property in the annexed territory who shall believe
23 that ~~he the person~~ will suffer material injury by reason of the failure of the municipal governing
24 board to comply with the procedure set forth in this Part or to meet the requirements set forth in
25 G.S. 160A-36 as they apply to ~~his that person's~~ property may file a petition in the superior court
26 of the county in which the municipality is located seeking review of the action of the governing
27 board.

28 (b) Such petition shall explicitly state what exceptions are taken to the action of the
29 governing board and what relief the petitioner seeks. Within 10 days after the petition is filed
30 with the court, the person seeking review shall serve copies of the petition by registered mail,
31 return receipt requested, upon the municipality.

32 (c) Within 15 days after receipt of the copy of the petition for review, or within such
33 additional time as the court may allow, the municipality shall transmit to the reviewing court

34 (1) A transcript of the portions of the municipal journal or minute book in which
35 the procedure for annexation has been set forth and

36 (2) A copy of the report setting forth the plans for extending services to the
37 annexed area as required in G.S. 160A-35.

38 (d) If two or more petitions for review are submitted to the court, the court may
39 consolidate all such petitions for review at a single hearing, and the municipality shall be
40 required to submit only one set of minutes and one report as required in subsection (c).

41 (e) At any time before or during the review proceeding, any petitioner or petitioners
42 may apply to the reviewing court for an order staying the operation of the annexation ordinance
43 pending the outcome of the review. The court may grant or deny the stay in its discretion upon
44 such terms as it deems proper, and it may permit annexation of any part of the area described in
45 the ordinance concerning which no question for review has been raised.

46 (f) The court shall fix the date for review of annexation proceedings under this Chapter,
47 which review date shall preferably be within 30 days following the last day for receiving
48 petitions to the end that review shall be expeditious and without unnecessary delays. The
49 review shall be conducted by the court without a jury. The court may hear oral arguments and
50 receive written briefs, and may take evidence intended to show either any of the following:

51 (1) That the statutory procedure was not ~~followed~~ or followed.

- 1 (2) That the provisions of G.S. 160A-35 were not ~~met, or met.~~
2 (3) That the provisions of G.S. 160A-36 have not been met.
3 (4) That the municipality has proven that the municipality is providing
4 meaningful service to the property owners.
- 5 (g) The court may affirm the action of the governing board without change, or it may
6 (1) Remand the ordinance to the municipal governing board for further
7 proceedings if procedural irregularities are found to have materially
8 prejudiced the substantive rights of any of the petitioners.
9 (2) Remand the ordinance to the municipal governing board for amendment of
10 the boundaries to conform to the provisions of G.S. 160A-36 if it finds that
11 the provisions of G.S. 160A-36 have not been met; provided, that the court
12 cannot remand the ordinance to the municipal governing board with
13 directions to add area to the municipality which was not included in the
14 notice of public hearing and not provided for in plans for service.
15 (3) Remand the report to the municipal governing board for amendment of the
16 plans for providing services to the end that the provisions of G.S. 160A-35
17 are satisfied.
18 (4) Declare the ordinance null and void, if the court finds that the ordinance
19 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of
20 this subsection.

21 If any municipality shall fail to take action in accordance with the court's instructions upon
22 remand within 90 days following entry of the order embodying the court's instructions, the
23 annexation proceeding shall be deemed null and void.

24 (h) Any party to the review proceedings, including the municipality, may appeal to the
25 Court of Appeals from the final judgment of the superior court under rules of procedure
26 applicable in other civil cases. The superior court may, with the agreement of the municipality,
27 permit annexation to be effective with respect to any part of the area concerning which no
28 appeal is being made and which can be incorporated into the city without regard to any part of
29 the area concerning which an appeal is being made.

30 (i) If part or all of the area annexed under the terms of an annexation ordinance is the
31 subject of an appeal to the superior court, Court of Appeals or Supreme Court on the effective
32 date of the ordinance, then the ordinance shall be deemed amended to make the effective date
33 with respect to such area the last day of the next full calendar month following the date of the
34 final judgment of the superior court, Court of Appeals or Supreme Court, whichever is
35 appropriate, or the date the municipal governing board completes action to make the ordinance
36 conform to the court's instructions in the event of remand. Upon the effective date of
37 annexation, taxation of real and personal property is subject to the provisions of
38 G.S. 160A-58.10. The municipal governing board may, however, adopt a resolution prior to the
39 date the annexation would become effective under this subsection, setting the effective date for
40 the 30th day of June next following the date of the final judgment. For the purposes of this
41 subsection, a denial of a petition for a rehearing or for discretionary review shall be treated as a
42 final ~~judgement.~~ judgment.

43 (j) The provisions of subsection (i) of this section shall apply to any judicial review
44 authorized in whole or in part by G.S. 160A-37.1(i) or G.S. 160A-37.3(g).

45 (k) In any proceeding related to an annexation ordinance appeal under this section, a
46 city shall not state a claim for lost property tax revenue caused by the appeal. Nothing in this
47 Article shall be construed to mean that as a result of an appeal a municipality may assert a
48 claim for property tax revenue lost during the pendency of the appeal.

49 (l) Any settlement agreed to by all parties in an appeal under this section may be
50 presented to the superior court in the county in which the municipality is located. If the superior

1 court, in its discretion, approves the settlement, it shall be binding on all parties without the
2 need for approval by the General Assembly."

3 **SECTION 7.(a)** Part 3 of Article 4A of Chapter 160A of the General Statutes reads
4 as rewritten:

5 "Part 3. Annexation by Cities of ~~5,000~~10,000 or More."

6 **SECTION 7.(b)** G.S. 160A-46 reads as rewritten:

7 "**§ 160A-46. Authority to annex.**

8 The governing board of any municipality having a population of ~~5,000~~10,000 or more
9 persons according to the last federal decennial census may extend the corporate limits of such
10 municipality under the procedure set forth in this Part. This Part does not apply to any
11 municipality unless it provides, at the time of adoption of the resolution of intent, at least two
12 meaningful services within its existing corporate boundaries. To qualify under this section, the
13 meaningful service must be provided directly by the municipality, provided by a joint agency
14 or authority of which the municipality is a full participating member, or provided by contract
15 between the municipality and a third party. In the case of police protection provided by contract
16 between the municipality and the sheriff's department, to qualify under this section the contract
17 must establish a higher level of service than is otherwise provided in the area, such as a
18 designated deputy or increased patrols."

19 **SECTION 8.** G.S. 160A-47 reads as rewritten:

20 "**§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

21 A municipality exercising authority under this Part shall make plans for the extension of
22 meaningful services to the area proposed to be annexed and shall, prior to the public hearing
23 provided for in G.S. 160A-49, prepare a report setting forth such plans to provide services to
24 such area. The report shall include:

- 25 (1) A map or maps of the municipality and adjacent territory to show the
26 following information:
- 27 a. The present and proposed boundaries of the municipality.
 - 28 b. The present major trunk water mains and sewer interceptors and
29 outfalls, and the proposed extensions of such mains and outfalls and
30 water and sewer lines as required in subdivision (3) of this section.
31 The water and sewer map must bear the seal of a registered
32 professional engineer.
 - 33 c. The general land use pattern in the area to be annexed.
- 34 (2) A statement showing that the area to be annexed meets the requirements of
35 G.S. 160A-48.
- 36 (3) A statement setting forth the plans of the municipality for extending to the
37 area to be annexed each ~~major municipal~~meaningful service performed
38 within the municipality at the time of annexation. Specifically, such plans
39 shall:
- 40 a. Provide for extending police protection, fire protection, solid waste
41 collection and street maintenance services to the area to be annexed
42 on the date of annexation on substantially the same basis and in the
43 same manner as such services are provided within the rest of the
44 municipality prior to annexation. A contract with a rural fire
45 department to provide fire protection shall be an acceptable method
46 of providing fire protection. If a water distribution system is not
47 available in the area to be annexed, the plans must call for reasonably
48 effective fire protection services until such time as waterlines are
49 made available in such area under existing municipal policies for the
50 extension of waterlines. A contract with a private firm to provide

- 1 solid waste collection services shall be an acceptable method of
2 providing solid waste collection services.
- 3 b. Provide for extension of major trunk water ~~mains and mains~~, sewer
4 outfall lines, waterlines, and sewer lines into the area to be ~~annexed~~
5 ~~so that when such lines are constructed, property owners in the area~~
6 ~~to be annexed will be able to secure public water and sewer service,~~
7 ~~according to the policies in effect in such municipality for extending~~
8 ~~water and sewer lines to individual lots or subdivisions. annexed.~~ If
9 requested by the owner of an occupied dwelling unit or an operating
10 commercial or industrial property in writing on a form provided by
11 the municipality, which form acknowledges that such extension or
12 extensions will be made according to the current financial policies of
13 the municipality for making such extensions, and if such form is
14 received by the city clerk no later than five days after the public
15 hearing, provide for extension of water and sewer lines to the
16 property or to a point on a public street or road right-of-way adjacent
17 to the property according to the financial policies in effect in such
18 municipality for extending water and sewer lines. If any such
19 requests are timely made, the municipality shall at the time of
20 adoption of the annexation ordinance amend its report and plan for
21 services to reflect and accommodate such requests, if an amendment
22 is necessary. In areas where the municipality is required to extend
23 sewer service according to its policies, but the installation of sewer is
24 not ~~economically~~ fiscally feasible or would be environmentally
25 damaging due to the unique topography or environmental qualities of
26 the area, the municipality shall provide septic system maintenance
27 and repair service until such time as sewer service is provided to
28 properties similarly situated.
- 29 c. ~~If extension of major trunk water mains, sewer outfall lines, sewer~~
30 ~~lines and water lines is necessary, set~~ Set forth a proposed timetable
31 for construction of such mains, outfalls and lines as soon as possible
32 following the effective date of annexation. In any event, the plans
33 shall call for construction to be completed within ~~two~~ three years of
34 the effective date of annexation.
- 35 d. Set forth the method under which the municipality plans to finance
36 extension of ~~services~~ each meaningful service into the area to be
37 annexed. In calculating the cost of extending water or sewer services
38 to the area to be annexed, the municipality shall include the cost of
39 extending water and sewer lines to individual lots of property owners
40 and may estimate the number of eligible property owners that will
41 request to tap into the extended water and sewer lines.
- 42 (4) A statement of the impact of the annexation on any rural fire department
43 providing service in the area to be annexed and a statement of the impact of
44 the annexation on fire protection and fire insurance rates in the area to be
45 annexed, if the area where service is provided is in an insurance district
46 designated under G.S. 153A-233, a rural fire protection district under Article
47 3A of Chapter 69 of the General Statutes, or a fire service district under
48 Article 16 of Chapter 153A of the General Statutes. The rural fire
49 department shall make available to the city not later than 30 days following a
50 written request from the city all information in its possession or control,
51 including but not limited to operational, financial and budgetary information,

necessary for preparation of a statement of impact. The rural fire department forfeits its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to make a good faith response within 45 days following receipt of the written request for information from the city, provided that the city's written request so states by specific reference to this section.

- (5) A statement showing how the proposed annexation will affect the city's finances and services, including city revenue change estimates. Estimates must include projections for at least a five-year period beyond the first year that expenditures are to be made for the provision of city services to the annexed area, with accounting by revenue source and category of expenditure. This statement shall be delivered to the clerk of the board of county commissioners at least 30 days before the date of the public informational meeting on any annexation under this Part."

SECTION 9. G.S. 160A-48 reads as rewritten:

"§ 160A-48. Character of area to be annexed.

(a) A municipal governing board may extend the municipal corporate limits to include any ~~area~~area that complies with the following:

- (1) Which meets the general standards of ~~subsection (b), and~~subsection (b) of this section.
- (2) Every part of which meets the requirements of ~~either any of the following:~~
 - a. ~~subsection (c)~~Subsection (c) of this section.
 - b. ~~or subsection (d)~~Subsection (d) of this section.
 - c. Is completely surrounded by the municipality's primary corporate limits.

(b) The total area to be annexed must meet all of the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun, except if the entire territory of a county water and sewer district created under G.S. 162A-86(b1) is being annexed, the annexation shall also include any noncontiguous pieces of the district as long as the part of the district with the greatest land area is adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least ~~one-eighth~~one-fifth of the aggregate external boundaries of the area must coincide with the municipal boundary. A connecting corridor consisting solely of a public street or street right-of-way may not be used to establish contiguity to an outlying, noncontiguous area.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.
- (4) No part of the area may be served by a water and sewer system operated by a municipality other than the annexing municipality, unless in accordance with an annexation agreement in effect under Part 6 of this Article, or the system is operated pursuant to an interlocal agreement under Article 20 of this Chapter to which the annexing municipality is a party, or the system is operated by an authority or joint agency of which the annexing municipality is a full participating member.

(c) Part or all of the area to be annexed must be developed for urban purposes at the time of approval of the report provided for in G.S. 160A-47. Area of streets and street rights-of-way shall not be used to determine total acreage under this section. An area developed for urban purposes is defined as any area which meets any one of the following standards:

- (1) Has a total resident population equal to at least two and three-tenths persons for each acre of land included within its ~~boundaries; or~~boundaries.

- 1 (2) Has a total resident population equal to at least ~~one person~~ two and one-half
2 persons for each acre of land included within its boundaries, and is
3 subdivided into lots and tracts such that at least sixty percent (60%) of the
4 total acreage consists of lots and tracts three acres or less in size and such
5 that at least sixty-five percent (65%) of the total number of lots and tracts are
6 one acre or less in ~~size; or~~ size.
- 7 (3) Is so developed that at least ~~sixty percent (60%)~~ sixty-five percent (65%) of
8 the total number of lots and tracts in the area at the time of annexation are
9 used for residential, commercial, industrial, institutional or governmental
10 purposes, and is subdivided into lots and tracts such that at least sixty
11 percent (60%) of the total acreage, not counting the acreage used at the time
12 of annexation for commercial, industrial, governmental or institutional
13 purposes, consists of lots and tracts ~~three~~ two and one-half acres or less in
14 size. For purposes of this section, a lot or tract shall not be considered in use
15 for a commercial, industrial, institutional, or governmental purpose if the lot
16 or tract is used only temporarily, occasionally, or on an incidental or
17 insubstantial basis in relation to the size and character of the lot or tract. For
18 purposes of this section, acreage in use for commercial, industrial,
19 institutional, or governmental purposes shall include acreage actually
20 occupied by buildings or other man-made structures together with all areas
21 that are reasonably necessary and appurtenant to such facilities for purposes
22 of parking, storage, ingress and egress, utilities, buffering, and other
23 ancillary services and ~~facilities; or~~ facilities.
- 24 (4) Is the entire area of any county water and sewer district created under
25 G.S. 162A-86(b1), but this subdivision only applies to annexation by a
26 municipality if that:
- 27 a. Municipality has provided in a contract with that district that the area
28 is developed for urban purposes; and
- 29 b. Contract provides for the municipality to operate the sewer system of
30 that county water and sewer district;
- 31 provided that the special categorization provided by this subdivision only
32 applies if the municipality is annexing in one proceeding the entire territory
33 of the district not already within the corporate limits of a municipality; or
- 34 (5) Is so developed that, at the time of the approval of the annexation report, all
35 tracts in the area to be annexed are used for commercial, industrial,
36 governmental, or institutional purposes.
- 37 (d) In addition to areas developed for urban purposes, a governing board may include in
38 the area to be annexed any area which does not meet the requirements of subsection (c) if such
39 area either:
- 40 (1) Lies between the municipal boundary and an area developed for urban
41 purposes so that the area developed for urban purposes is either not adjacent
42 to the municipal boundary or cannot be served by the municipality without
43 extending services and/or water and/or sewer lines through such sparsely
44 developed area; or
- 45 (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to any
46 combination of the municipal boundary and the boundary of an area or areas
47 developed for urban purposes as defined in subsection (c).

48 The purpose of this subsection is to permit municipal governing boards to extend corporate
49 limits to include all nearby areas developed for urban purposes and where necessary to include
50 areas which at the time of annexation are not yet developed for urban purposes but which
51 constitute necessary land connections between the municipality and areas developed for urban

1 purposes or between two or more areas developed for urban purposes. For purposes of this
2 subsection, "necessary land connection" means an area that does not exceed twenty-five percent
3 (25%) of the total area to be annexed.

4 (e) In fixing new municipal boundaries, a municipal governing board shall use recorded
5 property lines and streets as boundaries. Some or all of the boundaries of a county water and
6 sewer district may also be used when the entire district not already within the corporate limits
7 of a municipality is being annexed.

8 (f) The area of an abolished water and sewer district shall be considered to be a water
9 and sewer district for the purpose of this section even after its abolition under
10 G.S. 162A-87.2(b).

11 (g) If the area includes any residential lot that is shown on a subdivision plat approved
12 and recorded as a final plat pursuant to an ordinance adopted under Article 18 of Chapter 153A
13 of the General Statutes or under Article 19 of this Chapter, the area must include all other
14 residential lots shown on the same recorded final subdivision plat, except for lots already
15 included in the corporate limits of the annexing municipality or another municipality. If the
16 subdivision is in more than one county, the annexation area need not include lots across the
17 county line. For purposes of this section, if the subdivision was approved as a phased
18 development, each phase may be considered a separate subdivision."

19 **SECTION 10.** G.S. 160A-49 reads as rewritten:

20 **"§ 160A-49. Procedure for annexation.**

21 (a) ~~Notice of Intent.~~ Resolution of Consideration. – Any municipal governing board
22 desiring to annex territory under the provisions of this Part shall first pass a resolution
23 identifying the area as being under consideration for annexation. The resolution of
24 consideration may have a metes and bounds description or a map and shall remain effective for
25 two years after adoption and shall be filed with the city clerk. A new resolution of
26 consideration adopted before expiration of the two-year period for a previously adopted
27 resolution covering the same area shall relate back to the date of the previous resolution.
28 Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to
29 any other city. A notice of adoption of the resolution of consideration shall be published once a
30 week for two successive weeks, with each publication being on the same day of the week, in a
31 newspaper having general circulation in the municipality. The second publication shall be no
32 more than 30 days following adoption of the resolution. The notice shall contain a map or
33 description of the area under consideration and a summary of the annexation process and time
34 lines.

35 (a1) Resolution of Intent. – At least one year after adoption of the resolution of
36 consideration, the municipal governing body may adopt a resolution stating the intent of the
37 municipality to ~~consider annexation.~~ proceed with annexation of some or all of the area
38 described in the resolution of consideration. Such resolution of intent shall describe the
39 boundaries of the area ~~under consideration, intended for annexation,~~ fix a date for a public
40 informational meeting, and fix a date for a public hearing on the question of annexation. The
41 date for the public informational meeting shall be not less than 45 days and not more than 55
42 days following passage of the resolution. The date for the public hearing to be not less than 60
43 days and not more than 90 days following passage of the ~~resolution.~~ resolution of intent.

44 (b) Notice of Public Information Meeting and Public Hearing. – The notice of public
45 information meeting and public hearing ~~shall:~~ shall be a combined notice that includes at least
46 all of the following information:

- 47 (1) Fix the date, hour and place of the public informational meeting and the
48 date, hour, and place of the public hearing.
- 49 (2) Describe clearly the boundaries of the area under consideration, and include
50 a legible map of the area.

- 1 (3) State that the report required in G.S. 160A-47 will be available at the office
2 of the municipal clerk at least 30 days prior to the date of the public
3 informational meeting.
- 4 (4) Include a notice of a property owner's rights to request to become a customer
5 of the water and sewer service in accordance with G.S. 160A-47. the policies
6 in effect in the municipality for such services, the cost of requesting that
7 service along with the option of paying that cost in accordance with
8 G.S. 160A-232(c), and any forms to request that service.
- 9 (5) Include an explanation of a property owner's rights pursuant to subsections
10 (f1) and (f2) of this section.
- 11 (6) Include information on how to request to become a customer of the water
12 service or sewer service, the cost of requesting that service along with the
13 option of paying that cost in accordance with G.S. 160A-232(c), and any
14 forms to request that service.
- 15 (7) Describe clearly the distinction between the public informational meeting
16 and the public hearing.

17 Such notice shall be given by publication once a week for at least two successive weeks
18 prior to the date of the informational ~~meeting~~ meeting, with each publication being on the same
19 day of the week, in a newspaper having general circulation in the municipality and, in addition
20 thereto, if the area to be annexed lies in a county containing less than fifty percent (50%) of the
21 land area of the municipality, in a newspaper having general circulation in the area of proposed
22 annexation. ~~The period from the date of the first publication to the date of the last publication,~~
23 ~~both dates inclusive, shall be not less than eight days including Sundays, and the date of the last~~
24 ~~publication shall be not more than seven days preceding the date of public informational~~
25 ~~meeting.~~ If there be no such newspaper, the municipality shall post the notice in at least five
26 public places within the municipality and at least five public places in the area to be annexed
27 for 30 days prior to the date of public informational meeting. In addition, notice shall be mailed
28 at least four weeks prior to date of the informational meeting by ~~first class mail, postage~~
29 ~~prepaid~~ certified mail to the owners as shown by the tax records of the county of all freehold
30 interests in real property located within the area to be annexed. The person or persons mailing
31 such notices shall certify to the governing board that fact, and such certificate shall become a
32 part of the record of the annexation proceeding and shall be deemed conclusive in the absence
33 of fraud. If the notice is returned to the city by the postal service by the tenth day before the
34 informational meeting, a copy of the notice shall be sent by certified mail, return receipt
35 requested, at least seven days before the informational meeting. Failure to comply with the
36 mailing requirements of this subsection shall not invalidate the annexation unless it is shown
37 that the requirements were not substantially complied with. If the governing board by
38 resolution finds that the tax records are not adequate to identify the owners of some or all of the
39 parcels of real property within the area it may in lieu of the mail procedure as to those parcels
40 where the owners could not be so identified, post the notice at least 30 days prior to the date of
41 public informational meeting on all buildings on such parcels, and in at least five other places
42 within the area to be annexed. In any case where notices are placed on property, the person
43 placing the notices shall certify that fact to the governing board.

44 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the
45 public informational meeting, the governing board shall approve the report provided for in
46 G.S. 160A-47, and shall make it available to the public at the office of the municipal clerk. In
47 addition, the municipality may prepare a summary of the full report for public distribution. In
48 addition, the city shall post in the office of the city clerk, at least 30 days before the public
49 informational meeting, a legible map of the area to be annexed and a list of persons holding
50 freehold interests in property in the area to be annexed that it has identified.

1 (c1) Public Informational Meeting. – At the public informational meeting a
2 representative of the municipality shall first make an explanation of the report required in
3 G.S. 160A-47. Following such explanation, all persons resident or owning property in the
4 territory described in the notice of public hearing, and all residents of the municipality, shall be
5 given the opportunity to ask questions and receive answers regarding the proposed annexation.

6 (d) Public Hearing. – At the public hearing a representative of the municipality shall
7 first make an explanation of the report required in G.S. 160A-47. Following such explanation,
8 all persons resident or owning property in the territory described in the notice of public hearing,
9 and all residents of the municipality, shall be given an opportunity to be heard. A summary of
10 the annexation process and time lines, a summary of available statutory remedies for contesting
11 the annexation and the failure to provide services, and the form for requesting the extension of
12 water and sewer lines to individual lots shall be distributed at the public hearing.

13 (e) Passage of the Annexation Ordinance. – ~~The~~ Subject to the provisions of
14 G.S. 160A-58.11, the municipal governing board shall take into consideration facts presented at
15 the public hearing and shall have authority to amend the report required by G.S. 160A-47 to
16 make changes in the plans for serving the area proposed to be annexed so long as such changes
17 meet the requirements of G.S. 160A-47, provided that if the annexation report is amended to
18 show additional subsections of G.S. 160A-48(c) or (d) under which the annexation qualifies
19 that were not listed in the original report, the city must hold an additional public hearing on the
20 annexation not less than 30 nor more than 90 days after the date the report is amended, and
21 notice of such new hearing shall be given at the first public hearing. At any regular or special
22 meeting held no sooner than the tenth day following the public hearing and not later than 90
23 days following such public hearing, the governing board shall have authority to adopt an
24 ordinance extending the corporate limits of the municipality to include all, or such part, of the
25 area described in the notice of public hearing which meets the requirements of G.S. 160A-48
26 and which the governing board has concluded should be annexed. The ordinance shall:

- 27 (1) Contain specific findings showing that the area to be annexed meets the
28 requirements of G.S. 160A-48. The external boundaries of the area to be
29 annexed shall be described by metes and bounds. In showing the application
30 of G.S. 160A-48(c) and (d) to the area, the governing board may refer to
31 boundaries set forth on a map of the area and incorporate same by reference
32 as a part of the ordinance.
- 33 (2) A statement of the intent of the municipality to provide services to the area
34 being annexed as set forth in the report required by G.S. 160A-47.
- 35 (3) A specific finding that on the effective date of annexation the municipality
36 will have funds appropriated in sufficient amount to finance construction of
37 any major trunk water ~~mains and mains,~~ sewer outfalls and ~~such~~ water and
38 sewer lines as ~~required in G.S. 160A-47(3)b found necessary~~ stated in the
39 report required by G.S. 160A-47 to extend the basic water and/or sewer
40 system of the municipality into the area to be annexed, or that on the
41 effective date of annexation the municipality will have authority to issue
42 bonds in an amount sufficient to finance such construction. If authority to
43 issue such bonds must be secured from the electorate of the municipality
44 prior to the effective date of annexation, then the effective date of
45 annexation shall be no earlier than the day following the statement of the
46 successful result of the bond election.
- 47 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~
48 shall be fixed as the June 30 next following the adoption of the ordinance. ~~for~~
49 ~~any date not less than 70 days nor more than 400 days from the date of~~
50 ~~passage of the ordinance.~~

1 (f) Effect of Annexation Ordinance. – Except as provided in subsection (f1) of this
2 section, from and after the effective date of the annexation ordinance, the territory and its
3 citizens and property shall be subject to all debts, laws, ordinances and regulations in force in
4 such municipality and shall be entitled to the same privileges and benefits as other parts of such
5 municipality. ~~Real and personal property in the newly annexed territory on the January 1~~
6 ~~immediately preceding the beginning of the fiscal year in which the annexation becomes~~
7 ~~effective is subject to municipal taxes as provided in G.S. 160A-58.10. Provided that annexed~~
8 ~~property which is a part of a sanitary district, which has installed water and sewer lines, paid~~
9 ~~for by the residents of said district, shall not be subject to that part of the municipal taxes levied~~
10 ~~for debt service for the first five years after the effective date of annexation. If this proviso~~
11 ~~should be declared by a court of competent jurisdiction to be in violation of any provision of~~
12 ~~the federal or State Constitution, the same shall not affect the remaining provisions of this~~
13 ~~Part. If the effective date of annexation falls between June 1 and June 30, and the effective date~~
14 ~~of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in~~
15 ~~the area to be annexed shall be liable for taxes imposed in such ordinances from and after the~~
16 ~~effective date of annexation.~~

17 (f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
18 annexation ordinance includes agricultural land, horticultural land, or forestland that on the
19 effective date of annexation is:

- 20 (1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or
21 (2) Land that:
22 a. Was on the date of the resolution of intent for annexation being used
23 for actual production and is eligible for present-use value taxation
24 under G.S. 105-277.4, but the land has not been in use for actual
25 production for the required time under G.S. 105-277.3; and
26 b. The assessor for the county where the land subject to annexation is
27 located has certified to the city that the land meets the requirements
28 of this subdivision

29 the annexation becomes effective as to that property pursuant to subsection (f2) of this section.

30 (f2) Effective Date of Annexation for Certain Property. – Annexation of property subject
31 to annexation under subsection (f1) of this section shall become effective:

- 32 (1) Upon the effective date of the annexation ordinance, the property is
33 considered part of the city only (i) for the purpose of establishing city
34 boundaries for additional annexations pursuant to this Article and (ii) for the
35 exercise of city authority pursuant to Article 19 of this Chapter.
36 (2) For all other purposes, the annexation becomes effective as to each tract of
37 such property or part thereof on the last day of the month in which that tract
38 or part thereof becomes ineligible for classification pursuant to
39 G.S. 105-277.4 or no longer meets the requirements of subdivision (f1)(2) of
40 this section. Until annexation of a tract or a part of a tract becomes effective
41 pursuant to this subdivision, the tract or part of a tract is not subject to
42 taxation by the city under Article 12 of Chapter 105 of the General Statutes
43 nor is the tract or part of a tract entitled to services provided by the city.
44 Upon the effective date of annexation, taxation of real and personal property
45 is subject to the provisions of G.S. 160A-58.10.

46 (g) Simultaneous Annexation Proceedings. – If a municipality is considering the
47 annexation of two or more areas which are all adjacent to the municipal boundary but are not
48 adjacent to one another, it may undertake simultaneous proceedings under authority of this Part
49 for the annexation of such areas.

50 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the
51 effective date of annexation, and not later than 15 months from the effective date of annexation,

1 any person owning property in the annexed territory shall believe that the municipality has not
2 followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and
3 160A-49(e), for any required service other than water and sewer services such person may
4 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General
5 Statutes. Relief may be granted by the judge of superior court

6 (1) If the municipality has not provided the meaningful services set forth in its
7 plan submitted under the provisions of ~~G.S. 160A-47(3)a~~ G.S. 160A-47(3)a.
8 on substantially the same basis and in the same manner as such services
9 were provided within the rest of the municipality prior to the effective date
10 of annexation, and

11 (2) If at the time the writ is sought such meaningful services set forth in the plan
12 submitted under the provisions of ~~G.S. 160A-47(3)a~~ G.S. 160A-47(3)a. are
13 still being provided on substantially the same basis and in the same manner
14 as on the date of annexation of the municipality.

15 If, not earlier than 24 months from the effective date of the annexation, and not later than
16 27 months from the effective date of the annexation, any person owning property in the
17 annexed area can show that the plans submitted under the provisions of ~~G.S. 160A-47(3)e~~
18 G.S. 160A-47(3)c. require the construction of major trunk water mains and sewer outfall lines
19 and if construction has not been completed within two years of the effective date of the
20 annexation, relief may also be granted by the superior court by an order to the municipality to
21 complete such lines and outfalls within a certain time. ~~Similar relief may be granted by the~~
22 ~~superior court to any owner of property who made a timely request for a water or sewer line, or~~
23 ~~both, pursuant to G.S. 160A-47(3)b and such lines have not been completed within two years~~
24 ~~from the effective date of annexation in accordance with applicable city policies and through no~~
25 ~~fault of the owner, if such owner petitions for such relief not earlier than 24 months following~~
26 ~~the effective date of annexation and not later than 27 months following the effective date of~~
27 ~~annexation.~~

28 If a writ is issued, costs in the action, including a reasonable attorney's fee for such
29 aggrieved person, shall be charged to the municipality.

30 (i) ~~No resolution of intent may be adopted under subsection (a) of this section unless~~
31 ~~the city council (or planning agency created or designated under either G.S. 160A-361 or the~~
32 ~~charter) has, by resolution adopted at least one year prior to adoption of the resolution of intent,~~
33 ~~identified the area as being under consideration for annexation and included a statement in the~~
34 ~~resolution notifying persons subject to the annexation of their rights under subsections (f1) and~~
35 ~~(f2) of this section; provided, adoption of such resolution of consideration shall not confer prior~~
36 ~~jurisdiction over the area as to any other city. The area described under the resolution of intent~~
37 ~~may comprise a smaller area than that identified by the resolution of consideration. The~~
38 ~~resolution of consideration may have a metes and bounds description or a map and shall remain~~
39 ~~effective for two years after adoption, and shall be filed with the city clerk. A new resolution of~~
40 ~~consideration adopted before expiration of the two-year period for a previously adopted~~
41 ~~resolution covering the same area shall relate back to the date of the previous resolution.~~

42 (j) ~~Subsection (i) of this section shall not apply to the annexation of any area if the~~
43 ~~resolution of intent describing the area and the ordinance annexing the area both provide that~~
44 ~~the effective date of the annexation shall be at least one year from the date of passage of the~~
45 ~~annexation ordinance.~~

46 (k) The city shall report to the Local Government Commission as to whether the
47 extension of water and sewer lines was completed within the three-year time period specified in
48 G.S. 160A-47(3)c. If a valid request for extension of a water or sewer line has been made under
49 G.S. 160A-47(3)b, and the extension is not complete at the end of ~~two~~ three years after the
50 effective date of the annexation ordinance, the owner of the property may petition the Local
51 Government Commission for abatement of taxes to be paid to the city which have not been

1 levied as of the expiration date of the ~~two-year~~three-year period, if such petition is filed not
2 more than ~~60~~120 days after the expiration of the ~~two-year~~three-year period. If the Local
3 Government Commission finds that the extension to the property was not complete by the end
4 of the ~~two-year~~three-year period, it shall enter an order directing the city not to levy any further
5 ad valorem taxes on the property until the fiscal year commencing after completion of the
6 extension. In addition, if the Local Government Commission found that the extension to the
7 property was not completed by the end of the ~~two-year~~three-year period, and if it finds that for
8 any fiscal year during the period beginning with the first day of the fiscal year in which the
9 annexation ordinance became effective and ending the last day of the fiscal year in which the
10 ~~two-year~~three-year period expired, the city made an appropriation for construction, operation or
11 maintenance of a water or sewer system (other than payments the city made as a customer of
12 the system) from the fund or funds for which ad valorem taxes are levied, then the Local
13 Government Commission shall order the city to release or refund an amount of the petitioner's
14 property taxes for that year in question in proportion to the percentage of appropriations in the
15 fund made for water and sewer services. By way of illustration, if a net amount of one hundred
16 thousand dollars (\$100,000) was appropriated for water or sewer construction, operation or
17 maintenance from a fund which had total expenditures of ten million dollars (\$10,000,000) and
18 the petitioner's tax levy was one thousand dollars (\$1,000), the amount of release or refund
19 shall be ten dollars (\$10.00).

20 (l) The city shall report to the Local Government Commission as to whether police
21 protection, fire protection, solid waste, or street maintenance services were provided in
22 accordance with G.S. 160A-47(3)a. within 60 days after the effective date of the annexation.
23 Such report shall be filed no more than 30 days following the expiration of the 60-day period. If
24 a city fails to deliver police protection, fire protection, solid waste or street maintenance
25 services as provided for in G.S. 160A-47(3)a. within 60 days after the effective date of the
26 annexation, the owner of the property may petition the Local Government Commission for
27 abatement of taxes to be paid to the city for taxes that have been levied as of the end of the
28 60-day period, if the petition is filed not more than ~~90 days~~120 days after the expiration of the
29 60-day period. If the Local Government Commission finds that services were not extended by
30 the end of the 60-day period, it shall enter an order directing the city not to levy any further ad
31 valorem taxes on the property until the fiscal year commencing after extension of the municipal
32 services."

33 **SECTION 11.** G.S. 160A-50 reads as rewritten:

34 "**§ 160A-50. Appeal.**

35 (a) Within ~~60 days~~90 days following the passage of an annexation ordinance under
36 authority of this Part, any person owning property in the annexed territory who shall believe
37 that ~~he the person~~ will suffer material injury by reason of the failure of the municipal governing
38 board to comply with the procedure set forth in this Part or to meet the requirements set forth in
39 G.S. 160A-48 as they apply to ~~his that person's~~ property may file a petition in the superior court
40 of the county in which the municipality is located seeking review of the action of the governing
41 board.

42 (b) Such petition shall explicitly state what exceptions are taken to the action of the
43 governing board and what relief the petitioner seeks. Within 10 days after the petition is filed
44 with the court, the person seeking review shall serve copies of the petition by registered mail,
45 return receipt requested, upon the municipality.

46 (c) Within 15 days after receipt of the copy of the petition for review, or within such
47 additional time as the court may allow, the municipality shall transmit to the reviewing court

48 (1) A transcript of the portions of the municipal journal or minute book in which
49 the procedure for annexation has been set forth and

50 (2) A copy of the report setting forth the plans for extending services to the
51 annexed area as required in G.S. 160A-47.

1 (d) If two or more petitions for review are submitted to the court, the court may
2 consolidate all such petitions for review at a single hearing, and the municipality shall be
3 required to submit only one set of minutes and one report as required in subsection (c).

4 (e) At any time before or during the review proceeding, any petitioner or petitioners
5 may apply to the reviewing court for an order staying the operation of the annexation ordinance
6 pending the outcome of the review. The court may grant or deny the stay in its discretion upon
7 such terms as it deems proper, and it may permit annexation of any part of the area described in
8 the ordinance concerning which no question for review has been raised.

9 (f) The court shall fix the date for review of annexation proceedings under this Part,
10 which review date shall preferably be within 30 days following the last day for receiving
11 petitions to the end that review shall be expeditious and without unnecessary delays. The
12 review shall be conducted by the court without a jury. The court may hear oral arguments and
13 receive written briefs, and may take evidence intended to show ~~either~~ any of the following:

14 (1) That the statutory procedure was not ~~followed~~, or followed.

15 (2) That the provisions of G.S. 160A-47 were not ~~met~~, or met.

16 (3) That the provisions of G.S. 160A-48 have not been met.

17 (4) That the municipality has proven that the municipality is providing
18 meaningful service to property owners.

19 (g) The court may affirm the action of the governing board without change, or it may

20 (1) Remand the ordinance to the municipal governing board for further
21 proceedings if procedural irregularities are found to have materially
22 prejudiced the substantive rights of any of the petitioners.

23 (2) Remand the ordinance to the municipal governing board for amendment of
24 the boundaries to conform to the provisions of G.S. 160A-48 if it finds that
25 the provisions of G.S. 160A-48 have not been met; provided, that the court
26 cannot remand the ordinance to the municipal governing board with
27 directions to add area to the municipality which was not included in the
28 notice of public hearing and not provided for in plans for service.

29 (3) Remand the report to the municipal governing board for amendment of the
30 plans for providing services to the end that the provisions of G.S. 160A-47
31 are satisfied.

32 (4) Declare the ordinance null and void, if the court finds that the ordinance
33 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of
34 this subsection.

35 If any municipality shall fail to take action in accordance with the court's instructions upon
36 remand within 90 days following entry of the order embodying the court's instructions, the
37 annexation proceeding shall be deemed null and void.

38 (h) Any party to the review proceedings, including the municipality, may appeal to the
39 Court of Appeals from the final judgment of the superior court under rules of procedure
40 applicable in other civil cases. The superior court may, with the agreement of the municipality,
41 permit annexation to be effective with respect to any part of the area concerning which no
42 appeal is being made and which can be incorporated into the city without regard to any part of
43 the area concerning which an appeal is being made.

44 (i) If part or all of the area annexed under the terms of an annexation ordinance is the
45 subject of an appeal to the superior court, Court of Appeals or Supreme Court on the effective
46 date of the ordinance, then the ordinance shall be deemed amended to make the effective date
47 with respect to such area the last day of the next full calendar month following the date of the
48 final judgment of the superior court or appellate division, whichever is appropriate, or the date
49 the municipal governing board completes action to make the ordinance conform to the court's
50 instructions in the event of remand. Upon the effective date of annexation, taxation of real and
51 personal property is subject to the provisions of G.S. 160A-58.10. The municipal governing

1 board may, however, adopt a resolution prior to the date the annexation would become
2 effective under this subsection, setting the effective date for the thirtieth day of June next
3 following the date of the final judgment. For the purposes of this subsection, a denial of a
4 petition for rehearing or for discretionary review shall be treated as a final ~~judgement.~~ judgment.

5 (j) If a petition for review is filed under subsection (a) of this section or an appeal is
6 filed under G.S. 160A-49.1(g) or G.S. 160A-49.3(g), and a stay is granted, then the time
7 periods of two years, 24 months or 27 months provided in G.S. 160A-47(3)c, 160A-49(h), or
8 160A-49(j) are each extended by the lesser of the length of the stay or one year for that
9 annexation.

10 (k) The provisions of subsection (i) of this section shall apply to any judicial review
11 authorized in whole or in part by G.S. 160A-49.1(i) or G.S. 160A-49.3(g).

12 (l) In any proceeding related to an annexation ordinance appeal under this section, a
13 city shall not state a claim for lost property tax revenue caused by the appeal. Nothing in this
14 Article shall be construed to mean that as a result of an appeal a municipality may assert a
15 claim for property tax revenue lost during the pendency of the appeal.

16 (m) Any settlement reached by all parties in an appeal under this section may be
17 presented to the superior court in the county in which the municipality is located. If the superior
18 court, in its discretion, approves the settlement, it shall be binding on all parties without the
19 need for approval by the General Assembly."

20 **SECTION 12.(a)** G.S. 160A-41 is amended by adding a new subdivision to read:

21 "(3) "Meaningful service" shall mean any one of the following:

- 22 a. Police protection.
- 23 b. Fire protection.
- 24 c. Solid waste collection services.
- 25 d. Street maintenance.
- 26 e. Water service.
- 27 f. Sewer service."

28 **SECTION 12.(b)** G.S. 160A-53 is amended by adding a new subdivision to read:

29 "(3) "Meaningful service" shall mean any one of the following:

- 30 a. Police protection.
- 31 b. Fire protection.
- 32 c. Solid waste collection services.
- 33 d. Street maintenance.
- 34 e. Water service.
- 35 f. Sewer service."

36 **SECTION 12.(c)** G.S. 160A-33(5) reads as rewritten:

37 "(5) That areas annexed to municipalities in accordance with such uniform
38 legislative standards should receive the meaningful services provided by the
39 annexing municipality in accordance with G.S. 160A-35(3)."

40 **SECTION 12.(d)** G.S. 160A-45(5) reads as rewritten:

41 "(5) That areas annexed to municipalities in accordance with such uniform
42 legislative standards should receive the meaningful services provided by the
43 annexing municipality in accordance with G.S. 160A-47(3)."

44 **SECTION 13.(a)** Part 5 of Article 4A of Chapter 160A of the General Statutes
45 reads as rewritten:

46 "Part 5. Property Tax Liability of Newly Annexed ~~Territory-Territory; Oversight of Involuntary~~
47 Annexation."

48 **SECTION 13.(b)** Part 5 of Article 4A of Chapter 160A of the General Statutes is
49 amended by adding a new section to read:

50 "§ 160A-58.11. Referendum upon petition of registered voters before involuntary
51 annexation ordinance."

1 (a) After the adoption of the resolution of intent under Part 2 or Part 3 of this Article,
2 any registered voter of the annexing municipality or the proposed annexation area of an
3 involuntary annexation may request a referendum petition from the municipal governing board
4 containing the description and a legible map of the area to be annexed. The municipal
5 governing board shall provide the registered voter requesting the referendum petition forms
6 with referendum petition forms that meet all of the following criteria:

- 7 (1) Be dated on the date of issuance.
- 8 (2) Be addressed to the annexing municipal governing board.
- 9 (3) Contain a clear description of the boundaries of the proposed annexation
10 area.
- 11 (4) Have attached a legible map of the proposed annexation area, with a clear
12 showing of the boundary with the existing corporate limits.
- 13 (5) Contain the place and time that the report in G.S. 160A-35 or G.S. 160A-47,
14 as applicable, can be reviewed and copied.
- 15 (6) Contain a general statement of the request for a referendum on the proposed
16 involuntary annexation.
- 17 (7) Provide a place for signatures, which includes the printed name and address
18 of the registered voter.

19 (b) Upon receiving a request for a referendum petition, the municipal governing board
20 shall notify the board of elections of the request and provide the board of elections with a
21 legible map and clear written description of the proposed annexation area.

22 (c) To be effective, the referendum petition in subsection (a) of this section must be
23 returned to the municipal governing board before the tenth day following the public hearing
24 required by G.S. 160A-35 or G.S. 160A-47, as applicable. To be sufficient, a referendum
25 petition must bear the signatures of at least fifteen percent (15%) of the total of the registered
26 voters of the municipality and the proposed annexation area as shown by the registration. The
27 municipal governing board shall forward the referendum petition to the board of elections for
28 verification as provided in this section. Upon receipt by the municipal governing board, the
29 time frames in G.S. 160A-35(e) or G.S. 160A-47(e), as applicable, shall be tolled until the
30 referendum is verified and any election, if needed, is conducted.

31 (d) The signatures to the referendum petition need not all be appended to one paper.
32 Each signer shall add his or her signature and the signer's place of residence, giving the
33 residence address. One of the signers of each paper shall take an oath before an officer
34 competent to administer oaths that each signature to the paper appended is the genuine
35 signature of the person whose name it purports to be.

36 (e) The board of elections shall investigate the sufficiency of any petition and certify
37 the results of the investigation to the municipal governing board. The board of elections may
38 employ persons as it deems necessary to undertake such investigation. The municipal
39 governing board shall reimburse the board of elections for the reasonable cost of the
40 investigation. The board of elections may adopt rules concerning the validation of signatures
41 appearing on the referendum petition.

42 (f) The board of elections shall complete its investigation and issue its certification of
43 the results of the investigation within 15 days after the filing of any referendum petition.

44 (g) Upon a determination that a sufficient referendum petition has been submitted, the
45 municipal governing body may either abandon the proposed involuntary annexation by
46 resolution or adopt a resolution setting the date for the referendum to coincide with the next
47 general municipal election and so notify the board of elections. If the municipality's next
48 general election is to be held more than two years from the determination and the municipality
49 does not abandon the proposed involuntary annexation, the resolution setting the date for the
50 referendum shall make that date coincide with the next countywide general election.

1 (h) The board of elections shall cause legal notice of the election to be published. That
2 notice shall include the general statement of the referendum. The referendum shall be
3 conducted, returned, and the results declared as in other municipal elections in the municipality.
4 Registered voters of the municipality and the proposed annexation area shall be allowed to vote
5 on the referendum. The reasonable costs of the referendum shall be reimbursed to the board of
6 elections by the municipal governing board.

7 (i) The referendum of any number of proposed involuntary annexations may be
8 submitted at the same election. But as to each proposed involuntary annexation, a separate
9 petition shall be filed and there shall be an entirely separate ballot.

10 (j) The ballots used in a referendum shall submit the following proposition:

11 "[] FOR [] AGAINST

12 The annexation of (clear description of the proposed annexation area)."

13 (k) If a majority of such votes cast on the referendum are for annexation, the annexing
14 municipality shall proceed with the adoption of the annexation ordinance as provided in
15 G.S. 160A-35 or G.S. 160A-47, as applicable. If less than a majority of the votes cast on the
16 referendum are for annexation, the municipal governing body may not proceed with the
17 adoption of the annexation ordinance or begin a separate involuntary annexation process with
18 respect to that proposed annexation area for at least 60 months from the date of the referendum.
19 If the results are a tie, the municipal governing body may not proceed with the adoption of the
20 annexation ordinance or begin a separate involuntary annexation process with respect to that
21 proposed annexation area for at least 60 months from the date of the referendum."

22 **SECTION 13.(c)** Part 5 of Article 4A of Chapter 160A of the General Statutes is
23 amended by adding a new section to read:

24 **"§ 160A-58.12. Local Government Commission oversight of annexation.**

25 (a) The Local Government Commission shall provide oversight of annexation under
26 Part 2 and Part 3 of this Article. In carrying out that responsibility, the Local Government
27 Commission shall do all of the following:

28 (1) Assess the fiscal feasibility of all proposed annexations, by determining
29 whether the projected expenses to be incurred as a result of the annexation,
30 including the amount of proposed debt, are reasonable for the purposes for
31 which the expenses are to be incurred and by determining the extent to
32 which the probable net revenues resulting from the annexation and other
33 revenue sources proposed by the municipality will be sufficient to meet
34 these expenses and service any proposed debt.

35 (2) Prohibit further annexation by any municipality that has not provided
36 services in accordance with statutory requirements to any other area annexed
37 by that municipality with an effective date more than 12 months prior to the
38 proposed annexation until such time as the municipality demonstrates to the
39 Commission that such requirements have been met.

40 (3) Prohibit further annexation by the municipality and abate all ad valorem
41 property taxes levied on the newly annexed territory if the municipality has
42 not provided the meaningful services as stated in the annexation ordinance
43 within three years of the effective date of the annexation ordinance, until
44 such time as the municipality demonstrates to the Commission that such
45 requirements have been met.

46 (b) Following approval of the report required under G.S. 160A-35 or G.S. 160A-47, the
47 municipality shall submit it to the Commission for review. The Commission shall make an
48 administrative determination regarding the fiscal feasibility of the proposed annexation. The
49 Commission shall report findings regarding the fiscal feasibility of the proposed annexation
50 within 60 days of receipt of the report.

1 (c) In order to effectuate the purposes of this section, the Commission may delegate its
2 authority and responsibilities under this section to the staff of the State and Local Government
3 Finance Division of the Department of State Treasurer.

4 (d) The Commission may charge a reasonable fee to recover the cost for services
5 rendered in connection with the fiscal feasibility review required by subdivision (1) of
6 subsection (a) of this section.

7 (e) The Local Government Commission shall report to the regular session of the
8 General Assembly every two years, on or before the date of convening set in G.S. 120-11.1, the
9 following information:

10 (1) The number of involuntary annexations proposed each year.

11 (2) The number of involuntary annexations for which the assessment of the
12 fiscal feasibility showed that the involuntary annexation was not fiscally
13 feasible.

14 (3) The number and character of reports made to the Local Government
15 Commission under G.S. 160A-37(k).

16 (4) The number and character of reports made to the Local Government
17 Commission under G.S. 160A-49(k), and the number of abatements granted
18 under that statute.

19 (5) The number of reports made to the Local Government Commission under
20 G.S. 160A-49(l).

21 (6) The number of prohibitions on further annexation issued by the Local
22 Government Commission.

23 (7) The number of abatement of taxes under subdivision (3) of subsection (a) of
24 this section."

25 **SECTION 14.(a)** Part 6 of Article 4A of Chapter 160A of the General Statutes
26 reads as rewritten:

27 "~~Part 6. Annexation Agreements.~~Agreements Between Municipalities."

28 **SECTION 14.(b)** Article 4A of Chapter 160A of the General Statutes is amended
29 by adding a new Part to read:

30 "Part 7. Annexation Agreements With Property Owners.

31 **§ 160A-58.35. Annexation agreements.**

32 (a) A city may enter into contracts under which the city agrees to extend water service,
33 sewer service, or both, to specific property, and in return the owner or owners of the property
34 agrees to either or both of the following:

35 (1) To petition the city for annexation of the property pursuant to Part 1 or Part
36 4 of Article 4A of this Chapter, upon the city's request.

37 (2) Not to join in any appeal if the city adopts an ordinance to annex the
38 property that is served by water or sewer under the contract pursuant to Part
39 2 or Part 3 of Article 4A of this Chapter.

40 (b) If the contract specifies that it runs with the land and is recorded in the office of the
41 register of deeds of the county in which the property is located, the contract is enforceable
42 against the city and against the person or persons who signed it and their heirs, assigns, and
43 successors in interest. As long as the city continues to provide the contracted utility service to
44 the property, the city may enforce the contract through an action for specific performance.

45 (c) A contract under this section may be part of a development agreement under Part
46 3D of Article 19 of this Chapter or Part 3A of Article 18 of Chapter 153A of the General
47 Statutes."

48 **SECTION 15.** G.S. 160A-232 reads as rewritten:

49 **§ 160A-232. Payment of assessments in cash or by installments.**

50 (a) The owners of assessed property shall have the option, within 30 days after the
51 publication of the notice that the assessment roll has been confirmed, of paying the assessment

1 either in cash or in not more than 10 annual installments, as may have been determined by the
2 council in the resolution directing the project giving rise to the assessment to be undertaken.
3 With respect to payment by installment, the council may provide.

4 (1) That the first installment with interest shall become due and payable on the
5 date when property taxes are due and payable, and one subsequent
6 installment and interest shall be due and payable on the same date in each
7 successive year until the assessment is paid in full; or

8 (2) That the first installment with interest shall become due and payable 60 days
9 after the date that the assessment roll is confirmed, and one subsequent
10 installment and interest shall be due and payable on the same day of the
11 month in each successive year until the assessment is paid in full.

12 (b) If property is assessed for water or sewer systems as a result of an annexation under
13 Part 2 or Part 3 of Article 4A of this Chapter, the owners of assessed property shall pay the
14 assessment in 20 annual installments, but they shall have the option, within 30 days after the
15 publication of the notice that the assessment roll has been confirmed, of paying the assessment
16 in cash. No owner may be assessed a penalty for paying the amounts due early. With respect to
17 payment by installment, the council may provide any of the following:

18 (1) That the first installment with interest shall become due and payable on the
19 date when property taxes are due and payable, and one subsequent
20 installment and interest shall be due and payable on the same date in each
21 successive year until the assessment is paid in full.

22 (2) That the first installment with interest shall become due and payable 60 days
23 after the date that the assessment roll is confirmed, and one subsequent
24 installment and interest shall be due and payable on the same day of the
25 month in each successive year until the assessment is paid in full.

26 (c) The city shall also allow the payment of tap fees in annual installments for a period
27 of up to five years. The city may provide that such unpaid fee shall be a lien on the property
28 served."

29 **SECTION 16.** G.S. 143B-437.04 reads as rewritten:

30 **"§ 143B-437.04. Community development block grants.**

31 (a) The Department of Commerce shall adopt guidelines for the awarding of
32 Community Development Block Grants to ensure that:

33 (1) No local match is required for grants awarded for projects located in
34 counties that have one of the 25 highest rankings under G.S. 143B-437.08 or
35 counties that have a population of less than 50,000 and more than nineteen
36 percent (19%) of its population below the federal poverty level according to
37 the most recent federal decennial census.

38 (2) To the extent practicable, priority consideration for grants is given to
39 projects located in counties that have met the conditions of subdivision
40 (a)(1) of this section or in urban progress zones that have met the conditions
41 of subsection (b) of this section.

42 (3) Priority consideration is given to projects located in areas annexed by a
43 municipality under Article 4A of Chapter 160A of the General Statutes in
44 order to provide water or sewer services to low-income residents. For
45 purposes of this section, low-income residents are those with a family
46 income that is fifty percent (50%) or less of median family income.

47 (b) In order to qualify for the benefits of this section, after an area is designated an
48 urban progress zone under G.S. 143B-437.09, the governing body of the city in which the zone
49 is located must adopt a strategy to improve the zone and establish an urban progress zone
50 committee to oversee the strategy. The strategy and the committee must conform with
51 requirements established by the Secretary of Commerce."

1 **SECTION 17.** G.S. 159G-23 reads as rewritten:

2 "**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**
3 **Water Reserve.**

4 The criteria in this section apply to a loan or grant from the Wastewater Reserve or the
5 Drinking Water Reserve. The Division of Water Quality and the Division of Environmental
6 Health must each establish a system of assigning points to applications based on the following
7 criteria:

- 8 (1) Public necessity. – An applicant must explain how the project promotes
9 public health and protects the environment. A project that improves a system
10 that is not in compliance with permit requirements or is under orders from
11 the Department, enables a moratorium to be lifted, or replaces failing septic
12 tanks with a wastewater collection system has priority.
- 13 (2) Effect on impaired waters. – A project that improves designated impaired
14 waters of the State has priority.
- 15 (3) Efficiency. – A project that achieves efficiencies in meeting the State's water
16 infrastructure needs or reduces vulnerability to drought consistent with Part
17 2A of Article 21 of Chapter 143 of the General Statutes by one of the
18 following methods has priority:
- 19 a. The combination of two or more wastewater or public water systems
20 into a regional wastewater or public water system by merger,
21 consolidation, or another means.
- 22 b. Conservation or reuse of water, including bulk water reuse facilities
23 and waterlines to supply reuse water for irrigation and other
24 approved uses.
- 25 c. Construction of an interconnection between water systems intended
26 for use in drought or other water shortage emergency.
- 27 d. Repair or replacement of leaking waterlines.
- 28 e. Replacement of meters and installation of new metering systems.
- 29 (4) Comprehensive land-use plan. – A project that is located in a city or county
30 that has adopted or has taken significant steps to adopt a comprehensive
31 land-use plan under Article 18 of Chapter 153A of the General Statutes or
32 Article 19 of Chapter 160A of the General Statutes has priority over a
33 project located in a city or county that has not adopted a plan or has not
34 taken steps to do so. The existence of a plan has more priority than steps
35 taken to adopt a plan, such as adoption of a zoning ordinance. A plan that
36 exceeds the minimum State standards for protection of water resources has
37 more priority than one that does not. A project is considered to be located in
38 a city or county if it is located in whole or in part in that unit. A land-use
39 plan is not considered a comprehensive land-use plan unless it has
40 provisions that protect existing water uses and ensure compliance with water
41 quality standards and classifications in all waters of the State affected by the
42 plan.
- 43 (5) Flood hazard ordinance. – A project that is located in a city or county that
44 has adopted a flood hazard prevention ordinance under G.S. 143-215.54A
45 has priority over a project located in a city or county that has not adopted an
46 ordinance. A plan that exceeds the minimum standards under
47 G.S. 143-215.54A for a flood hazard prevention ordinance has more priority
48 than one that does not. A project is considered to be located in a city or
49 county if it is located in whole or in part in that unit. If no part of the service
50 area of a project is located within the 100-year floodplain, the project has the
51 same priority under this subdivision as if it were located in a city or county

- 1 that has adopted a flood hazard prevention ordinance. The most recent maps
2 prepared pursuant to the National Flood Insurance Program or approved by
3 the Department determine whether an area is within the 100-year floodplain.
- 4 (6) Sound management. – A project submitted by a local government unit that
5 has demonstrated a willingness and ability to meet its responsibilities
6 through sound fiscal policies and efficient operation and management has
7 priority.
- 8 (7) Capital improvement plan. – A project that implements the applicant's
9 capital improvement plan for the wastewater system or public water system
10 it manages has priority over a project that does not implement a capital
11 improvement plan. To receive priority, a capital improvement plan must set
12 out the applicant's expected water infrastructure needs for at least 10 years.
- 13 (8) Coastal habitat protection. – A project that implements a recommendation of
14 a Coastal Habitat Protection Plan adopted by the Environmental
15 Management Commission, the Coastal Resources Commission, and the
16 Marine Fisheries Commission pursuant to G.S. 143B-279.8 has priority over
17 other projects that affect counties subject to that Plan.
- 18 (9) Low-income residents. – A project that is located in an area annexed by a
19 municipality under Article 4A of Chapter 160A of the General Statutes in
20 order to provide water or sewer services to low-income residents has
21 priority. For purposes of this section, low-income residents are those with a
22 family income that is fifty percent (50%) or less of median family income."

23 **SECTION 18.** This act becomes effective October 1, 2009, and applies to
24 annexations for which a resolution of intent has been adopted under Part 2 or Part 3 of Article
25 4A of Chapter 160A of the General Statutes on or after that date and to annexation for which a
26 petition has been received under Part 1 or Part 4 of Article 4A of Chapter 160A of the General
27 Statutes on or after that date.