

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE DRS35223-LBx-226A (03/07)

Short Title: Annexation Law Omnibus.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE LAWS RELATING TO MUNICIPAL ANNEXATION AND THE EXERCISE OF EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION IN ORDER TO CONFORM THE PRINCIPLES AND POLICIES OF THE 1959 REPORT OF THE MUNICIPAL ANNEXATION STUDY COMMISSION TO THE PRESENT CIRCUMSTANCES OF URBANIZATION AND URBAN DEVELOPMENT IN NORTH CAROLINA; TO CODIFY THE HOLDING OF THE DECISION IN NOLAN V. VILLAGE OF MARVIN, TO MORE CLOSELY ALIGN THE PURPOSES AND OPERATION OF THE LAWS RELATING TO MUNICIPAL ANNEXATION AND EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION; AND TO REQUIRE THAT ALL EXISTING MUNICIPAL CORPORATIONS IN NORTH CAROLINA OFFER A MEANINGFUL LEVEL OF URBAN SERVICES TO THEIR CITIZENS IN ORDER TO RETAIN THEIR CHARTERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 2 of Article 4A of Chapter 160A of the General Statutes is repealed.

**SECTION 2.** G.S. 160A-46 reads as rewritten:

"§ 160A-46. Authority to annex.

(a) The governing board of any municipality ~~having a population of 5,000 or more persons according to the last federal decennial census~~ meeting the criteria of either subsection (a1) or (a2) of this section may extend the corporate limits of such municipality under the procedure set forth in this ~~Part~~. Part to include any area that meets the criteria set forth in G.S. 160A-48 or in G.S. 160A-48.1, as may be applicable.

(a1) A municipality having a population of 5,000 or more persons according to the most recent federal decennial census, provided that at the time of adoption under G.S. 160A-49(c) of the report on the plan for extending services under G.S. 160A-47 such municipality is providing the following services:

(1) Police protection;

(2) Fire protection;

(3) Planning and zoning services; and

(4) At least four of the following additional services: (i) solid waste collection, including residential recycling; (ii) solid waste disposal; (iii) street construction and right-of-way acquisition; (iv) street maintenance; (v) parks and recreation services; (vi) water treatment; (vii) water distribution; (viii)



\* D R S 3 5 2 2 3 - L B X - 2 2 6 A \*

1 wastewater and collection; (ix) wastewater treatment and disposal; and (x)  
2 public transportation services.

3 These services shall be provided directly by the municipality or, (i) in the case of the services  
4 identified in subdivision (4) of this subsection, by contract with a private service provider, and  
5 (ii) in the case of planning and zoning services, by a joint city-county planning agency. In  
6 determining whether the municipality is providing the required number of services set forth in  
7 subdivision (4) of this subsection, the municipality may not count any service that is already  
8 provided in the area proposed for annexation by the county which includes such area or by a  
9 joint agency or independent authority whose operating jurisdiction includes such area. The  
10 municipality may count for such purpose any service that is already being provided by the  
11 municipality in the area proposed for annexation, whether as a discretionary service of the  
12 municipality or under interlocal agreement with any other local government.

13 (a2) A municipality having a population of fewer than 5,000 persons according to the  
14 most recent federal decennial census, provided that at the time of adoption under  
15 G.S. 160A-49(c) of the report on the plan for extending services under G.S. 160A-47 such  
16 municipality is providing the following services:

17 (1) Planning and zoning services;

18 (2) At least two of the following services: (i) police protection; (ii) fire  
19 protection; and (iii) solid waste collection, including residential recycling;  
20 and

21 (3) At least two of the following additional services: (i) solid waste disposal; (ii)  
22 street construction and right-of-way acquisition; (iii) street maintenance; (iv)  
23 parks and recreation services; (v) water treatment; (vi) water distribution;  
24 (vii) wastewater and collection; (viii) wastewater treatment and disposal; and  
25 (ix) public transportation services.

26 These services shall be provided directly by the municipality or, (i) in the case of the services  
27 identified in subdivision (4) of this subsection, by contract with a private service provide; and  
28 (ii) in the case of planning and zoning services, by a joint city-county planning agency. In the  
29 case of fire protection services, the municipality may provide such service by contract with a  
30 rural fire department. In the case of planning and zoning services, the municipality may provide  
31 such service by contract with a regional council of governments of which the municipality is a  
32 full participating member. In the case of street maintenance, street lighting, street construction,  
33 and street right-of-way acquisition, the municipality may provide such service by contracting  
34 with the North Carolina Department of Transportation, provided the municipality reimburses  
35 the Department for the full cost of such contractual services and further provided the  
36 municipality has accepted responsibility for maintenance of all residential and commercial  
37 subdivision streets within its jurisdiction. In determining whether the municipality is providing  
38 the required number of services set forth in items (2) and (3) above, the municipality may not  
39 count any service that is already provided in the area proposed for annexation by the county  
40 which includes such area or by a joint agency or independent authority whose operating  
41 jurisdiction includes such area. The municipality may count for such purpose any service that is  
42 already being provided by the municipality in the area proposed for annexation, whether as a  
43 discretionary service of the municipality or under interlocal agreement with any other local  
44 government."

45 **SECTION 3.(a)** G.S. 160A-360(a) reads as rewritten:

46 "(a) All of the powers granted by this Article may be exercised by any city within its  
47 corporate limits. In addition, any city that meets the criteria set forth in either G.S. 160A-46(a1)  
48 or G.S. 160A-46(a2) may exercise these powers within a defined area extending not more than  
49 one mile beyond its limits. With the approval of the board or boards of county commissioners  
50 with jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may  
51 exercise these powers over an area extending not more than two miles beyond its limits and a

1 city of 25,000 or more population may exercise these powers over an area extending not more  
2 than three miles beyond its limits. The boundaries of the city's extraterritorial jurisdiction shall  
3 be the same for all powers conferred in this Article. No city may exercise extraterritorially any  
4 power conferred by this Article that it is not exercising within its corporate limits. In  
5 determining the population of a city for the purposes of this Article, the city council and the  
6 board of county commissioners ~~may use the most recent annual estimate of population as~~  
7 ~~certified by the Secretary of the North Carolina Department of Administration.~~ shall use the  
8 most recent decennial federal census."

9 **SECTION 3.(b)** G.S. 160A-360(g) reads as rewritten:

10 "(g) When a local government is granted powers by this section subject to the request,  
11 approval, or agreement of another local government, the request, approval, or agreement shall  
12 be evidenced by a formally adopted resolution of that government's legislative body. Any such  
13 request, approval, or agreement can be rescinded upon two years' written notice to the other  
14 legislative bodies concerned by repealing the ~~resolution.~~ resolution, except if the municipality  
15 has not yet given the notice required by subsection (a1) of this section, the rescission resolution  
16 of the county is effective upon its adoption. The resolution may be modified at any time by  
17 mutual agreement of the legislative bodies concerned."

18 **SECTION 4.** G.S. 120-163(c) reads as rewritten:

19 "(c) The petition must include a proposed name for the city, a map of the city, a list of  
20 proposed services to be provided by the proposed municipality, the names of three persons to  
21 serve as interim governing board, a proposed charter, a statement of the estimated population,  
22 assessed valuation, degree of development, population density, and recommendations as to the  
23 form of government and manner of election. The petition must contain a statement that the  
24 proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five  
25 cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within its  
26 corporate limits. ~~The petition must contain a statement that the proposed municipality will offer~~  
27 ~~four of the following services no later than the first day of the third fiscal year following the~~  
28 ~~effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste~~  
29 ~~collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or~~  
30 ~~right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing~~  
31 ~~police protection, the proposed municipality must propose either to provide police service or to~~  
32 ~~have services provided by contract with a county or another municipality that proposes that the~~  
33 ~~other government be compensated for providing supplemental protection.~~ The petition must  
34 contain a statement that the proposed municipality will, not later than the first day of the third  
35 fiscal year following the effective date of the incorporation, offer sufficient municipal services  
36 that the municipality would be eligible to meet the requirements for city-initiated annexations  
37 set forth in G.S. 160A-46(a2). Such statement shall be accompanied by a report showing the  
38 plan for offering such services. The proposed municipality may not contain any noncontiguous  
39 areas."

40 **SECTION 5.** G.S. 160A-47 reads as rewritten:

41 "**§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

42 A municipality exercising authority under this Part shall make plans for the extension of  
43 services to the area proposed to be annexed and shall, prior to the public ~~hearing~~ informational  
44 meeting provided for in G.S. 160A-49, prepare a report setting forth such plans to provide  
45 services to such area. The report shall include:

- 46 (1) A map or maps of the municipality and adjacent territory to show the  
47 following information:  
48 a. The present and proposed boundaries of the municipality.  
49 b. The present major trunk water mains and sewer interceptors and  
50 outfalls, and the proposed extensions of such mains and outfalls as

- 1 required in subdivision (3) of this section. The water and sewer map  
2 must bear the seal of a registered professional engineer.
- 3 c. The general land use pattern in the area to be annexed.
- 4 (2) A statement showing that the area to be annexed meets the requirements of  
5 G.S. 160A-48.
- 6 (3) A statement setting forth the plans of the municipality for extending to the  
7 area to be annexed each major municipal service performed within the  
8 municipality at the time of annexation. Specifically, such plans shall:
- 9 a. Provide for extending ~~police protection, fire protection, solid waste~~  
10 ~~collection and street maintenance services to the area to be annexed~~  
11 each of the services offered by the municipality that is enumerated in  
12 the list of services set forth in either G.S. 160A-46(a1) or  
13 G.S. 160A-46(a2) to the area to be annexed, other than water  
14 distribution and wastewater collection services governed by  
15 G.S. 160A-47(3)b. and (3)c., on the date of annexation on  
16 substantially the same basis and in the same manner as such services  
17 are provided within the rest of the municipality prior to annexation.  
18 ~~A contract with a rural fire department to provide fire protection shall~~  
19 ~~be an acceptable method of providing fire protection.~~ If a water  
20 distribution system is not available in the area to be annexed, the  
21 plans must call for reasonably effective fire protection services until  
22 such time as waterlines are made available in such area under  
23 existing municipal policies for the extension of waterlines. ~~A contract~~  
24 ~~with a private firm to provide solid waste collection services shall be~~  
25 ~~an acceptable method of providing solid waste collection services.~~
- 26 b. Provide for extension of major trunk water mains and sewer outfall  
27 lines into the area to be annexed so that when such lines are  
28 constructed, property owners in the area to be annexed will be able to  
29 secure public water and sewer service, according to the policies in  
30 effect in such municipality for extending water and sewer lines to  
31 individual lots or subdivisions. If requested by the owner of an  
32 occupied dwelling unit or an operating commercial or industrial  
33 property in writing on a form provided by the municipality, which  
34 form acknowledges that such extension or extensions will be made  
35 according to the current financial policies of the municipality for  
36 making such extensions, and if such form is received by the city  
37 clerk no later than ~~five~~ 30 days after the public hearing, provide for  
38 extension of water and sewer lines to the property or to a point on a  
39 public street or road right-of-way adjacent to the property according  
40 to the financial policies in effect in such municipality for extending  
41 water and sewer lines. If any such requests are timely made, the  
42 municipality shall at the time of adoption of the annexation ordinance  
43 amend its report and plan for services to reflect and accommodate  
44 such requests, if an amendment is necessary. In areas where the  
45 municipality is required to extend sewer service according to its  
46 policies, but the installation of sewer is not economically feasible due  
47 to the unique topography of the area, the municipality shall provide  
48 septic system maintenance and repair service until such time as sewer  
49 service is provided to properties similarly situated.
- 50 c. If extension of major trunk water mains, sewer outfall lines, sewer  
51 lines and water lines is necessary, set forth a proposed timetable for

1 construction of such mains, outfalls and lines as soon as possible  
2 following the effective date of annexation. In any event, the plans  
3 shall call for construction to be completed within two years of the  
4 effective date of annexation.

5 d. Set forth the method under which the municipality plans to finance  
6 extension of services into the area to be annexed. In calculating the  
7 cost of extending water and sewer services to the area to be annexed,  
8 the municipality shall base its estimates upon the assumption that all  
9 eligible property owners will request the extension of water and  
10 sewer lines to their individual lots under sub-subdivision b. of this  
11 subdivision.

12 (4) A statement of the impact of the annexation on any rural fire department  
13 providing service in the area to be annexed and a statement of the impact of  
14 the annexation on fire protection and fire insurance rates in the area to be  
15 annexed, if the area where service is provided is in an insurance district  
16 designated under G.S. 153A-233, a rural fire protection district under Article  
17 3A of Chapter 69 of the General Statutes, or a fire service district under  
18 Article 16 of Chapter 153A of the General Statutes. The rural fire  
19 department shall make available to the city not later than 30 days following a  
20 written request from the city all information in its possession or control,  
21 including but not limited to operational, financial and budgetary information,  
22 necessary for preparation of a statement of impact. The rural fire department  
23 forfeits its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to  
24 make a good faith response within 45 days following receipt of the written  
25 request for information from the city, provided that the city's written request  
26 so states by specific reference to this section.

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

35 **SECTION 6.** G.S. 160A-48 reads as rewritten:

36 **"§ 160A-48. Character of area to be annexed.**

37 (a) A municipal governing board may extend the municipal corporate limits to include  
38 any area

- 39 (1) Which meets the general standards of subsection (b), and  
40 (2) Every part of which meets the requirements of either subsection (c) or  
41 subsection (d).

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

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

- 50 (2) At least one eighth of the aggregate external boundaries of the area must  
51 coincide with the municipal boundary.

- 1 (3) No part of the area shall be included within the boundary of another  
2 incorporated municipality.
- 3 (4) Except with respect to that portion of the external boundary of the area that  
4 coincides with the existing municipal boundary, no part of the external  
5 boundary of the area shall, for a continuous length of more than 300 feet,  
6 border on (i) a public street, (ii) a street right-of-way, (iii) a utility easement,  
7 or (iv) a river, creek, or other flowing watercourse, when the opposite side or  
8 bank of such street, right-of-way, easement, or watercourse along such  
9 length constitutes another part of the external boundary of the area.
- 10 (5) If the area includes any residential lot that is shown on a subdivision plat  
11 approved and recorded as a final plat pursuant to any ordinance adopted  
12 pursuant to Article 18 of Chapter 153A of the General Statutes or under  
13 Article 19 of this Chapter, then the area must include all other residential lots  
14 shown on the same recorded final subdivision plat, except for lots already  
15 included in the corporate limits of the annexing municipality or another  
16 municipality, and except that if the subdivision is in more than one county  
17 the county line may be used as the boundary of the area.
- 18 (c) Part or all of the area to be annexed must be developed for urban purposes at the  
19 time of approval of the report provided for in G.S. 160A-47. Area of streets and street  
20 rights-of-way shall not be used to determine total acreage under this section. An area developed  
21 for urban purposes is defined as any area which meets any one of the following standards:
- 22 (1) Has a total resident population equal to at least two and three-tenths persons  
23 for each acre of land included within its boundaries; ~~or~~
- 24 (2) Has a total resident population equal to at least one person for each acre of  
25 land included within its boundaries, and is subdivided into lots and tracts  
26 such that at least sixty percent (60%) of the total acreage consists of lots and  
27 tracts three acres or less in size and such that at least sixty-five percent  
28 (65%) of the total number of lots and tracts are one acre or less in size; ~~or~~
- 29 (3) Is so developed that at least sixty percent (60%) of the total number of lots  
30 and tracts in the area at the time of annexation are used for residential,  
31 commercial, industrial, institutional or governmental purposes, and is  
32 subdivided into lots and tracts such that at least sixty percent (60%) of the  
33 total acreage, not counting the acreage used at the time of annexation for  
34 commercial, industrial, governmental or institutional purposes, consists of  
35 lots and tracts three acres or less in size. For purposes of this section, a lot or  
36 tract shall not be considered in use for a commercial, industrial, institutional,  
37 or governmental purpose if the lot or tract is used only temporarily,  
38 occasionally, or on an incidental or insubstantial basis in relation to the size  
39 and character of the lot or tract. For purposes of this section, acreage in use  
40 for commercial, industrial, institutional, or governmental purposes shall  
41 include acreage actually occupied by buildings or other man-made structures  
42 together with all areas that are reasonably necessary and appurtenant to such  
43 facilities for purposes of parking, storage, ingress and egress, utilities,  
44 buffering, and other ancillary services and facilities; ~~or~~
- 45 (4) Is the entire area of any county water and sewer district created under  
46 G.S. 162A-86(b1), but this subdivision only applies to annexation by a  
47 municipality if that:
- 48 a. Municipality has provided in a contract with that district that the area  
49 is developed for urban purposes; and
- 50 b. Contract provides for the municipality to operate the sewer system of  
51 that county water and sewer district;

- 1 provided that the special categorization provided by this subdivision only  
2 applies if the municipality is annexing in one proceeding the entire territory  
3 of the district not already within the corporate limits of a municipality; ~~or~~  
4 (5) Is so developed that, at the time of the approval of the annexation report, all  
5 tracts in the area to be annexed are used for commercial, industrial,  
6 governmental, or institutional ~~purposes; purposes; or~~  
7 (6) Has been completely surrounded by the primary corporate limits of the  
8 municipality for a period of at least 10 years.

9 (d) In addition to areas developed for urban purposes, a governing board of a  
10 municipality with a population of 5,000 or more according to the most recent decennial federal  
11 census may include in the area to be annexed any area which does not meet the requirements of  
12 subsection (c) if such area either:

- 13 (1) Lies between the municipal boundary and an area developed for urban  
14 purposes so that the area developed for urban purposes is either not adjacent  
15 to the municipal boundary or cannot be served by the municipality without  
16 extending services and/or water and/or sewer lines through such sparsely  
17 developed area; or  
18 (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to any  
19 combination of the municipal boundary and the boundary of an area or areas  
20 developed for urban purposes as defined in subsection (c).

21 The purpose of this subsection is to permit municipal governing boards to extend corporate  
22 limits to include all nearby areas developed for urban purposes and where necessary to include  
23 areas which at the time of annexation are not yet developed for urban purposes but which  
24 constitute necessary land connections between the municipality and areas developed for urban  
25 purposes or between two or more areas developed for urban purposes. For purposes of this  
26 subsection, "necessary land connection" means an area that does not exceed ~~twenty-five percent~~  
27 ~~(25%)~~ twenty percent (20%) of the total area to be annexed.

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

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

35 **SECTION 7.** G.S. 160A-49 reads as rewritten:

36 **"§ 160A-49. Procedure for annexation.**

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

50 (a1) Resolution of Intent. – At least six months after adoption of the resolution of  
51 consideration, the municipal governing board may adopt a resolution stating the intent of the

1 ~~municipality to proceed with stating the intent of the municipality to consider annexation.~~  
2 ~~annexation of some or all of the area described in the resolution of consideration. Such~~  
3 ~~resolution of intent shall describe the boundaries of the area under consideration, intended for~~  
4 ~~annexation, fix a date for a public informational meeting, and fix a date for a public hearing on~~  
5 ~~the question of annexation. The date for the public informational meeting shall be not less than~~  
6 ~~45 days and not more than 55 days following passage of the resolution. The date for the public~~  
7 ~~hearing to shall be not less than 60 days and not more than 90 days following passage of the~~  
8 ~~resolution. resolution of intent.~~

9 (b) Notice of Public ~~Hearing.~~ ~~Meetings.~~ – The notice of public ~~hearing meetings~~ shall:

- 10 (1) Fix the date, hour and place of the public informational meeting and the  
11 date, hour, and place of the public hearing.
- 12 (2) Describe clearly the boundaries of the area under consideration, and include  
13 a legible map of the area.
- 14 (3) State that the report required in G.S. 160A-47 will be available at the office  
15 of the municipal clerk at least 30 days prior to the date of the public  
16 informational meeting.
- 17 (4) Include a notice of a property owner's rights to request water and sewer  
18 service in accordance with G.S. ~~160A-47.~~ 160A-47(3)(b) and a form for  
19 making the request. The form shall state that a request for extending water  
20 and sewer lines to an individual lot does not waive the right to contest the  
21 annexation, but the request shall be binding if the annexation becomes  
22 effective. The form shall state the municipality's policy for financial  
23 participation in the cost of the extension and the statutory time line for  
24 completion. The form shall further state the policy, with estimated time line,  
25 for extension of water and sewer lines to properties that do not request an  
26 individual extension as provided in G.S. 160A-47(3)(b).
- 27 (5) Include an explanation of a property owner's rights pursuant to subsections  
28 (f1) and (f2) of this section.
- 29 (6) Include a summary of the annexation process and time lines and a summary  
30 of available statutory remedies for contesting the annexation and the  
31 provision of services.

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



1 days before the informational meeting. Failure to comply with the mailing requirements of this  
2 subsection shall not invalidate the annexation unless it is shown that the requirements were not  
3 substantially complied with. If the governing board by resolution finds that the tax records are  
4 not adequate to identify the owners of some or all of the parcels of real property within the area  
5 it may in lieu of the mail procedure as to those parcels where the owners could not be so  
6 identified, post the notice at least 30 days prior to the date of public informational meeting on  
7 all buildings on such parcels, and in at least five other places within the area to be annexed. In  
8 any case where notices are placed on property, the person placing the notices shall certify that  
9 fact to the governing board.

10 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the  
11 public informational meeting, the governing board shall approve the report provided for in  
12 G.S. 160A-47, and shall make it available to the public at the office of the municipal clerk. At  
13 the same time the governing board approves the report required by G.S. 160A-47, it shall  
14 forward a copy of the report to the clerk to the board of commissioners of each county in which  
15 the area proposed for annexation lies. In addition, the municipality may prepare a summary of  
16 the full report for public distribution. In addition, the city shall post in the office of the city  
17 clerk, at least 30 days before the public informational meeting, a legible map of the area to be  
18 annexed and a list of persons holding freehold interests in property in the area to be annexed  
19 that it has identified.

20 (c1) Public Informational Meeting. – At the public informational meeting a  
21 representative of the municipality shall first make an explanation of the report required in  
22 G.S. 160A-47. Following such explanation, all persons resident or owning property in the  
23 territory described in the notice of public ~~hearing,~~ meetings, and all residents of the  
24 municipality, shall be given the opportunity to ask questions and receive answers regarding the  
25 proposed annexation. A summary of the annexation process and time lines, a summary of  
26 available statutory remedies for contesting the annexation and the provision of services, and the  
27 form for requesting the extension of water and sewer lines to individual lots shall be distributed  
28 at the public informational meeting. At least five days before the date set for the public  
29 informational meeting, the board of commissioners of each county in which an area proposed  
30 for annexation lies may submit comments or objections with respect to the city's proposed plan  
31 of services and schedule for providing services to the area proposed for annexation. Such  
32 comments or objections may include objections that the city is not eligible to exercise the  
33 power of annexation under G.S. 160A-46. To be timely, any such submission by the board of  
34 commissioners must be presented at the public informational meeting.

35 (d) Public Hearing. – At the public hearing a representative of the municipality shall  
36 first make an explanation of the report required in G.S. 160A-47. Following such explanation,  
37 all persons resident or owning property in the territory described in the notice of public ~~hearing,~~  
38 meetings, and all residents of the municipality, shall be given an opportunity to be heard.

39 (e) Passage of the Annexation Ordinance. – Before adopting the ordinance of  
40 annexation, the city must address in writing any comments or objections submitted by the  
41 board of commissioners that were timely made under subsection (c1) of this section and may  
42 amend the plan of services, as provided in subsection (e) of this section, to accommodate those  
43 comments or objections. The municipal governing board shall take into consideration facts  
44 presented at the public hearing and shall have authority to amend the report required by  
45 G.S. 160A-47 to make changes in the plans for serving the area proposed to be annexed so long  
46 as such changes meet the requirements of G.S. 160A-47, provided that if the annexation report  
47 is amended to show additional subsections of G.S. 160A-48(c) or (d) under which the  
48 annexation qualifies that were not listed in the original report, the city must hold an additional  
49 public hearing on the annexation not less than 30 nor more than 90 days after the date the report  
50 is amended, and notice of such new hearing shall be given at the first public hearing. At any  
51 regular or special meeting held no sooner than the tenth day following the public hearing and

1 not later than 90 days following such public hearing, the governing board shall have authority  
2 to adopt an ordinance extending the corporate limits of the municipality to include all, or such  
3 part, of the area described in the notice of ~~public hearing meetings~~ which meets the  
4 requirements of G.S. 160A-48 and which the governing board has concluded should be  
5 annexed. The ordinance shall:

- 6 (1) Contain specific findings showing that the area to be annexed meets the  
7 requirements of G.S. 160A-48. The external boundaries of the area to be  
8 annexed shall be described by metes and bounds. In showing the application  
9 of G.S. 160A-48(c) and (d) to the area, the governing board may refer to  
10 boundaries set forth on a map of the area and incorporate same by reference  
11 as a part of the ordinance.
- 12 (2) A statement of the intent of the municipality to provide services to the area  
13 being annexed as set forth in the report required by G.S. 160A-47.
- 14 (3) A specific finding that on the effective date of annexation the municipality  
15 will have funds appropriated in sufficient amount to finance construction of  
16 any major trunk water mains and sewer outfalls and such water and sewer  
17 lines as required in G.S. 160A-47(3)b found necessary in the report required  
18 by G.S. 160A-47 to extend the basic water and/or sewer system of the  
19 municipality into the area to be annexed, or that on the effective date of  
20 annexation the municipality will have authority to issue bonds in an amount  
21 sufficient to finance such construction. If authority to issue such bonds must  
22 be secured from the electorate of the municipality prior to the effective date  
23 of annexation, then the effective date of annexation shall be no earlier than  
24 the day following the statement of the successful result of the bond election.
- 25 (4) Fix the effective date for annexation. The effective date of annexation may  
26 only be on the 30<sup>th</sup> day of June, and may be fixed in the annexation  
27 ordinance as for any date any June 30 which is not less than 70 90 days nor  
28 more than 400 455 days from the date of passage of the ordinance.

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

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

- 48 (1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or  
49 (2) Land that:  
50 a. Was on the date of the resolution of intent for annexation being used  
51 for actual production and is eligible for present-use value taxation

1 under G.S. 105-277.4, but the land has not been in use for actual  
2 production for the required time under G.S. 105-277.3; and  
3 b. The assessor for the county where the land subject to annexation is  
4 located has certified to the city that the land meets the requirements  
5 of this subdivision

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

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

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

13 (2) For all other purposes, the annexation becomes effective as to each tract of  
14 such property or part thereof on the last day of the month in which that tract  
15 or part thereof becomes ineligible for classification pursuant to  
16 G.S. 105-277.4 or no longer meets the requirements of subdivision (f1)(2) of  
17 this section. Until annexation of a tract or a part of a tract becomes effective  
18 pursuant to this subdivision, the tract or part of a tract is not subject to  
19 taxation by the city under Article 12 of Chapter 105 of the General Statutes  
20 nor is the tract or part of a tract entitled to services provided by the city.  
21 Upon the effective date of the annexation, taxation of real and personal  
22 property is subject to the provisions of G.S. 160A-58.10.

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

27 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the  
28 effective date of annexation, and not later than 15 months from the effective date of annexation,  
29 any person owning property in the annexed territory shall believe that the municipality has not  
30 followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and  
31 160A-49(e), for any required service other than water and sewer services such person may  
32 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General  
33 Statutes. Relief may be granted by the judge of superior court

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

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

42 If, not earlier than 24 months from the effective date of the annexation, and not later than  
43 27 months from the effective date of the annexation, any person owning property in the  
44 annexed area can show that the plans submitted under the provisions of G.S. 160A-47(3)c  
45 require the construction of major trunk water mains and sewer outfall lines and if construction  
46 has not been completed within two years of the effective date of the annexation, relief may also  
47 be granted by the superior court by an order to the municipality to complete such lines and  
48 outfalls within a certain time. Similar relief may be granted by the superior court to any owner  
49 of property who made a timely request for a water or sewer line, or both, pursuant to  
50 G.S. 160A-47(3)b and such lines have not been completed within two years from the effective  
51 date of annexation in accordance with applicable city policies and through no fault of the

1 owner, if such owner petitions for such relief not earlier than 24 months following the effective  
2 date of annexation and not later than 27 months following the effective date of annexation.

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

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

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

21 (k) If a valid request for extension of a water or sewer line has been made under  
22 G.S. 160A-47(3)b, and the extension is not complete at the end of two years after the effective  
23 date of the annexation ordinance, the owner of the property may petition the Local Government  
24 Commission for abatement of taxes to be paid to the city which have not been levied as of the  
25 expiration date of the two-year period, if such petition is filed not more than 60 days after the  
26 expiration of the two-year period. If the Local Government Commission finds that the  
27 extension to the property was not complete by the end of the two-year period, it shall enter an  
28 order directing the city not to levy any further ad valorem taxes on the property until the fiscal  
29 year commencing after completion of the extension. In addition, if the Local Government  
30 Commission found that the extension to the property was not completed by the end of the  
31 two-year period, and if it finds that for any fiscal year during the period beginning with the first  
32 day of the fiscal year in which the annexation ordinance became effective and ending the last  
33 day of the fiscal year in which the two-year period expired, the city made an appropriation for  
34 construction, operation or maintenance of a water or sewer system (other than payments the  
35 city made as a customer of the system) from the fund or funds for which ad valorem taxes are  
36 levied, then the Local Government Commission shall order the city to release or refund an  
37 amount of the petitioner's property taxes for that year in question in proportion to the  
38 percentage of appropriations in the fund made for water and sewer services. By way of  
39 illustration, if a net amount of one hundred thousand dollars (\$100,000) was appropriated for  
40 water or sewer construction, operation or maintenance from a fund which had total  
41 expenditures of ten million dollars (\$10,000,000) and the petitioner's tax levy was one thousand  
42 dollars (\$1,000), the amount of release or refund shall be ten dollars (\$10.00).

43 (l) If a city fails to deliver ~~police protection, fire protection, solid waste or street~~  
44 ~~maintenance~~ services as provided for in ~~G.S. 160A-47(3)a.~~ G.S. 160A-47(3)b. within 60 days  
45 after the effective date of the annexation, the owner of the property may petition the Local  
46 Government Commission for abatement of taxes to be paid to the city for taxes that have been  
47 levied as of the end of the 60-day period, if the petition is filed not more than 90 days after the  
48 expiration of the 60-day period. If the Local Government Commission finds that services were  
49 not extended by the end of the 60-day period, it shall enter an order directing the city not to  
50 levy any further ad valorem taxes on the property until the fiscal year commencing after  
51 extension of the municipal services.

1       (m) If a valid request was made for extension of a water or sewer line under subsection  
2 (k) of this section, the city shall report to the Local Government Commission as to whether the  
3 extension was completed within the two-year period. The city shall report to the Local  
4 Government Commission as to whether police protection, fire protection, solid waste or street  
5 maintenance services were provided within the 60-day period required by subsection (l) of this  
6 section. If the city has failed to take any action required by subsection (k) or (l) of this section,  
7 the Local Government Commission may order the city to take corrective action and shall have  
8 the same remedies as it has under G.S. 159-36 as it has when the city fails to pay its debt. Any  
9 municipality that has been ordered to take corrective action by the Local Government  
10 Commission may not exercise any further powers of annexation pursuant to this Part until such  
11 time as the Local Government Commission has determined that its orders have been complied  
12 with."

13       **SECTION 8.** G.S. 160A-50 reads as rewritten:

14       "**§ 160A-50. Appeal.**

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

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

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

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

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

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

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

40       (f) The court shall fix the date for review of annexation proceedings under this Part,  
41 which review date shall preferably be within 30 days following the last day for receiving  
42 petitions to the end that review shall be expeditious and without unnecessary delays. The  
43 review shall be conducted by the court without a jury. The court may hear oral arguments and  
44 receive written briefs, and may take evidence intended to show ~~either~~ one or more of the  
45 following:

46       (1) That the municipality is not eligible to exercise the power of annexation  
47 under the provisions of G.S. 160-46; or

48       ~~(1a)~~ (1a) That the statutory procedure was not followed, or

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

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

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

- 1 (1) Remand the ordinance to the municipal governing board for further  
2 proceedings if procedural irregularities are found to have materially  
3 prejudiced the substantive rights of any of the petitioners.
- 4 (2) Remand the ordinance to the municipal governing board for amendment of  
5 the boundaries to conform to the provisions of G.S. 160A-48 if it finds that  
6 the provisions of G.S. 160A-48 have not been met; provided, that the court  
7 cannot remand the ordinance to the municipal governing board with  
8 directions to add area to the municipality which was not included in the  
9 notice of public ~~hearing-meetings~~ and not provided for in plans for service.
- 10 (3) Remand the report to the municipal governing board for amendment of the  
11 plans for providing services to the end that the provisions of G.S. 160A-47  
12 are satisfied.
- 13 (4) Declare the ordinance null and void, if the court finds that the ordinance  
14 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of  
15 this subsection.

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

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

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

39 (j) If a petition for review is filed under subsection (a) of this section or an appeal is  
40 filed under G.S. 160A-49.1(g) or G.S. 160A-49.3(g), and a stay is granted, then the time  
41 periods of two years, 24 months or 27 months provided in G.S. 160A-47(3)c, 160A-49(h), or  
42 160A-49(j) are each extended by the lesser of the length of the stay or one year for that  
43 annexation.

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

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

50 (m) Any settlement reached by all parties in an appeal under this section may be  
51 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 8.1.** Part 3 of Article 4A of Chapter 160A of the General Statutes is  
4 amended by adding a new section to read:

5 **"§ 160A-50.1. Objections by county in which area to be annexed is located; affect; review.**

6 If the board of commissioners of the county where an area to be annexed lies has timely  
7 submitted comments or objections to the annexation report under G.S. 160A-49(c1) and does  
8 not believe its comments were adequately addressed by the city, then within 30 days following  
9 adoption of the ordinance of annexation the board of commissioners may notify the city clerk  
10 in writing that the board of commissioners does not consider that its comments or objections  
11 were resolved in the plan or in any amended plan, spelling out in its letter the deficiencies in  
12 the city's response. Upon the city's receipt of such a notice, the effective date of the annexation  
13 is automatically stayed, as it would be under G.S. 160A-50(e). The city then may initiate its  
14 own petition for review in the superior court, similar to that provided in G.S. 160A-50 for  
15 private persons. The issues for review in such petition are (i) whether the city is eligible to  
16 exercise the power to annex under G.S. 160A-46, (ii) whether the city's plan of services and  
17 schedule for providing services complies with G.S. 160A-47, and (iii) any specific objections  
18 identified in the board of commissioner's notification under this section. Such a suit may be  
19 consolidated with any other proceeding initiated by individual objectors under G.S. 160A-50."

20 **SECTION 9.** G.S. 160A-54 reads as rewritten:

21 **"§ 160A-54. Population and land estimates.**

22 In determining population and degree of land subdivision for purposes of meeting the  
23 requirements of G.S. 160A-48, the municipality shall use methods calculated to provide  
24 reasonably accurate results. In determining whether the standards set forth in G.S. 160A-48  
25 have been met on appeal to the superior court under G.S. 160A-50, the reviewing court shall  
26 accept the estimates of the municipality unless the actual population, total area, or degree of  
27 land subdivision falls below the standards in G.S. 160A-48:

- 28 (1) As to population, if the estimate is based on the number of dwelling units in  
29 the area multiplied by the average family size in such area, or in the  
30 township or townships of which such area is a part, as determined by the last  
31 preceding federal decennial census; or if it is based on a new enumeration  
32 carried out under reasonable rules and regulations by the annexing  
33 municipality; provided, that the court shall not accept such estimates if the  
34 petitioners demonstrate that such estimates are in error in the amount of ~~ten~~  
35 ~~percent (10%)~~ five percent (5%) or more.
- 36 (2) As to total area if the estimate is based on an actual survey, or on county tax  
37 maps or records, or on aerial photographs, or on some other reasonably  
38 reliable map used for official purposes by a governmental agency, unless the  
39 petitioners on appeal demonstrate that such estimates are in error in the  
40 amount of ~~five percent (5%)~~ three percent (3%) or more.
- 41 (3) As to degree of land subdivision, if the estimates are based on an actual  
42 survey, or on county tax maps or records, or on aerial photographs, or on  
43 some other reasonably reliable source, unless the petitioners on appeal show  
44 that such estimates are in error in the amount of ~~five percent (5%)~~ three  
45 percent (3%) or more."

46 **SECTION 10.** G.S. 160A-232 reads as rewritten:

47 **"§ 160A-232. Payment of assessments in cash or by installments.**

48 (a) The owners of assessed property shall have the option, within 30 days after the  
49 publication of the notice that the assessment roll has been confirmed, of paying the assessment  
50 either in cash or in not more than 10 annual installments, as may have been determined by the

1 council in the resolution directing the project giving rise to the assessment to be undertaken.  
2 With respect to payment by installment, the council may provide

- 3 (1) That the first installment with interest shall become due and payable on the  
4 date when property taxes are due and payable, and one subsequent  
5 installment and interest shall be due and payable on the same date in each  
6 successive year until the assessment is paid in full, or  
7 (2) That the first installment with interest shall become due and payable 60 days  
8 after the date that the assessment roll is confirmed, and one subsequent  
9 installment and interest shall be due and payable on the same day of the  
10 month in each successive year until the assessment is paid in full.

11 (b) If property is assessed for water or sewer systems pursuant to an annexation under  
12 Part 3 of Article 4A of this Chapter, the owners of assessed property shall have the option,  
13 within 30 days after the publication of the notice that the assessment roll has been confirmed,  
14 of paying the assessment either in cash or in not more than 20 annual installments, as may have  
15 been determined by the council in the resolution directing the project giving rise to the  
16 assessment to be undertaken. With respect to payment by installment, the council may provide

- 17 (1) That the first installment with interest shall become due and payable on the  
18 date when property taxes are due and payable, and one subsequent  
19 installment and interest shall be due and payable on the same date in each  
20 successive year until the assessment is paid in full, or  
21 (2) That the first installment with interest shall become due and payable 60 days  
22 after the date that the assessment roll is confirmed, and one subsequent  
23 installment and interest shall be due and payable on the same day of the  
24 month in each successive year until the assessment is paid in full.

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

28 **SECTION 11.(a)** G.S. 160A-364 reads as rewritten:

29 **"§ 160A-364. Procedure for adopting, amending, or repealing ordinances under Article.**

30 (a) Before adopting, amending, or repealing any ordinance authorized by this Article,  
31 the city council shall hold a public hearing on it. A notice of the public hearing shall be given  
32 once a week for two successive ~~calendar weeks~~ weeks, with each publication being on the same  
33 day of the week, in a newspaper having general circulation in the area. The notice shall be  
34 published the first time not less than 10 days nor more than 25 days before the date fixed for  
35 the hearing. In computing such period, the day of publication is not to be included but the day  
36 of the hearing shall be included.

37 (b) If the adoption or modification of the ordinance would result in changes to the  
38 zoning map or would change or affect the permitted uses of land located five miles or less from  
39 the perimeter boundary of a military base, the governing body of the local government shall  
40 provide written notice of the proposed changes by certified mail, return receipt requested, to the  
41 commander of the military base not less than 10 days nor more than 25 days before the date  
42 fixed for the public hearing. If the military provides comments or analysis regarding the  
43 compatibility of the proposed ordinance or amendment with military operations at the base, the  
44 governing body of the local government shall take the comments and analysis into  
45 consideration before making a final determination on the ordinance."

46 **SECTION 11.(b)** This section is effective with respect to notices published on or  
47 after October 1, 2009.

48 **SECTION 12.** Article 4A of Chapter 160A of the General Statutes is amended by  
49 adding a new Part to read:

50 "Part 7. Annexation Contracts.

51 **"§ 160A-58.31. Recordation of certain annexation contracts.**



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

- 4           (1) To petition the city for annexation of the property pursuant to either Part 1 or  
5 Part 4 of this Article, upon the city's request,  
6           (2) Not to join in any appeal if the city adopts an ordinance to annex an area that  
7 includes the property that is served by water or sewer under the contract  
8 pursuant to Part 2 of this Article.

9       If the contract specifies that it runs with the land and is recorded in the office of the register  
10 of deeds of the county in which the property is located, the contract is enforceable against the  
11 city and against the person or persons who signed it and their heirs, assigns, and successors in  
12 interest. As long as the city continues to provide the contracted utility service to the property,  
13 the city may enforce the contract through an action for specific performance."

14       **SECTION 13.** On or before January 1, 2015, the Local Government Commission  
15 shall report to the General Assembly on the identities of all municipalities that were, as of July  
16 1, 2014, disqualified from using the powers granted in G.S. 160A-46 because of their inability  
17 to offer the required number or level of urban municipal services set forth in those statutes. The  
18 charter of each municipality identified in the report shall thereafter lapse, and such municipality  
19 shall cease to exist on December 31, 2015, unless its charter is sooner renewed by the General  
20 Assembly. The Local Government Commission shall provide for the disposition of assets,  
21 liabilities, and properties of any such terminated municipality.

22       **SECTION 14.** G.S. 160A-58.10 reads as rewritten:

23           "Part 5. Property Tax Liability of Newly Annexed Territory.

24       "**§ 160A-58.10. Tax of newly annexed territory.**

25       (a) ~~Applicability of Section. – Real and personal property in territory annexed pursuant~~  
26 ~~to this Article is subject to municipal taxes as provided in this section. This section applies to~~  
27 municipal taxation in territory:

- 28           (1) Annexed pursuant to Part 1 or Part 4 of this Article with an effective date  
29 other than a date in the month of June.  
30           (2) Annexed subject to present value appraisal for which an annexation becomes  
31 effective pursuant to G.S. 160A-49(f2) on a date other than a date in the  
32 month of June.  
33           (3) For which the effective date of annexation is deemed amended by a final  
34 judgment or remand pursuant to G.S. 160A-50(1), and the date is other than  
35 a date in the month of June.  
36           (4) Pursuant to an act of the General Assembly with an effective date other than  
37 a date in the month of June.

38       (b) **Prorated Taxes.** – Real and personal property in the newly annexed territory on the  
39 January 1 immediately preceding the beginning of the fiscal year in which the annexation  
40 becomes effective is subject to prorated municipal taxes levied for that fiscal year as provided  
41 in this subsection. The amount of municipal taxes that would have been due on the property  
42 had it been within the municipality for the full fiscal year shall be multiplied by the following  
43 fraction: the denominator shall be 12 and the numerator shall be the number of full calendar  
44 months remaining in the fiscal year, following the day on which the annexation becomes  
45 effective. The product of the multiplication is the amount of prorated taxes due. The lien for  
46 prorated taxes levied on a parcel of real property shall attach to the parcel taxed on the listing  
47 date, as provided in G.S. 105-285, immediately preceding the fiscal year in which the  
48 annexation becomes effective. The lien for prorated taxes levied on personal property shall  
49 attach on the same date to all real property of the taxpayer in the taxing unit, including the  
50 newly annexed territory. If the annexation becomes effective after June 30 and before  
51 September 2, the prorated taxes shall be due and payable on the first day of September of the

1 fiscal year for which the taxes are levied. If the annexation becomes effective after September 1  
2 and before the following July 1, the prorated taxes shall be due and payable on the first day of  
3 September of the next succeeding fiscal year. The prorated taxes are subject to collection and  
4 foreclosure in the same manner as other taxes levied for the fiscal year in which the prorated  
5 taxes become due.

6 (c) Taxes in Subsequent Fiscal Years. – In fiscal years subsequent to the fiscal year in  
7 which an annexation becomes effective, real and personal property in the newly annexed  
8 territory is subject to municipal taxes on the same basis as is the preexisting territory of the  
9 municipality.

10 (d) Transfer of Tax Records. – For purposes of levying prorated taxes the municipality  
11 shall obtain from the county a record of property in the area being annexed that was listed for  
12 taxation on the January 1 immediately preceding the fiscal year for which the prorated taxes are  
13 levied. In addition, if the effective date of annexation falls between January 1 and June 30, the  
14 municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following  
15 the date of annexation, obtain from the county a record of property in the area being annexed  
16 that was listed for taxation as of said January 1.

17 (e) Privilege License Taxes. – If the effective date of annexation falls between June 1  
18 and June 30, and the effective date of the privilege license tax ordinance of the annexing  
19 municipality is June 1, then businesses in the area to be annexed shall be liable for taxes  
20 imposed in such ordinance from and after the effective date of annexation."

21 **SECTION 15.(a)** G.S. 160A-58.27(f)(1) reads as rewritten:

22 "(f) Upon a finding that the respondent city has not violated this Part or the agreement,  
23 the court may affirm the action of the respondent city without change. Upon a finding that the  
24 respondent city has violated this Part or the agreement, the court may:

- 25 (1) Remand to the respondent city's governing board any ordinance adopted  
26 pursuant to ~~Parts 2 or~~ Part 3 of this Article, as the same exists now or is  
27 hereafter amended, for amendment of the boundaries, or for such other  
28 action as is necessary, to conform to the provisions of this Part and the  
29 agreement.

30 ...."

31 **SECTION 15.(b)** G.S. 160A-294(a) reads as rewritten:

32 "(a) Whenever a city annexes any territory under ~~Parts 2 or~~ Part 3 of Article 4A of this  
33 Chapter, and because of the annexation the rural fire department must terminate the  
34 employment of any full-time employee, then the annexing city must take one of the three  
35 actions listed below with respect to any person who has been in such full-time employment for  
36 two years or more at the time of adoption of the resolution of intent:

- 37 (1) The annexing city may offer employment without loss of salary or seniority  
38 and place the person in a position as near as possible in type to the position  
39 that was held in the rural fire department; or  
40 (2) The annexing city may offer employment in some other department of the  
41 city at a comparable salary and seniority; or  
42 (3) The city may choose to pay to the person a sum equal to the person's salary  
43 for one year as the equivalent of severance pay. For the purpose of this  
44 subsection, the person's salary was his total salary with the rural fire  
45 department for the 12-month period ending on the last pay period before the  
46 resolution of consideration was adopted, plus any increased salary due to  
47 reasonable cost-of-living increases and bona fide promotions; provided that  
48 if no resolution of consideration was required to be adopted because of ~~either~~  
49 ~~G.S. 160A-37(j) or~~ G.S. 160A-49(j), or because the resolution of intent was  
50 adopted prior to July 1, 1984, the person's salary was his total salary with the  
51 rural fire department for the 12-month period ending on the last pay period

1 before the resolution of intent was adopted, plus any increased salary due to  
2 reasonable cost-of-living increases and bona fide promotions."

3 **SECTION 15.(c)** G.S. 162A-93(c) reads as rewritten:

4 "(c) Provision of public water and sewer services by a district under this Article to an  
5 area annexed by a city shall satisfy the city's obligation to provide for water and sewer services  
6 under ~~G.S. 160A-35~~ and G.S. 160A-47. The city may negotiate for purchase of the lines or  
7 systems owned and operated by the district."

8 **SECTION 15.(d)** G.S. 105-277.4(b) reads as rewritten:

9 "(b) Appraisal at Present-use Value. – Upon receipt of a properly executed application,  
10 the assessor must appraise the property at its present-use value as established in the schedule  
11 prepared pursuant to G.S. 105-317. In appraising the property at its present-use value, the  
12 assessor must appraise the improvements located on qualifying land according to the schedules  
13 and standards used in appraising other similar improvements in the county. If all or any part of  
14 a qualifying tract of land is located within the limits of an incorporated city or town, or is  
15 property annexed subject to ~~G.S. 160A-37(f1)~~ or G.S. 160A-49(f1), the assessor must furnish a  
16 copy of the property record showing both the present-use appraisal and the valuation upon  
17 which the property would have been taxed in the absence of this classification to the collector  
18 of the city or town. The assessor must also notify the tax collector of any changes in the  
19 appraisals or in the eligibility of the property for the benefit of this classification. Upon a  
20 request for a certification pursuant to ~~G.S. 160A-37(f1)~~ or G.S. 160A-49(f1), or any change in  
21 the certification, the assessor for the county where the land subject to the annexation is located  
22 must, within 30 days, determine if the land meets the requirements of ~~G.S. 160A-37(f1)(2)~~ or  
23 G.S. 160A-49(f1)(2) and report the results of its findings to the city."

24 **SECTION 15.(e)** G.S. 153A-304.1(d) reads as rewritten:

25 "(d) Whenever a city is required to make fire protection district tax payments by  
26 subsection (c) of this section, and the city has paid or has contracted to pay to a rural fire  
27 department funds under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1, the county shall pay to the city  
28 from funds of the county service district an amount equal to the amount paid by the city (or to  
29 be paid by the city) to a rural fire department under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1 on  
30 account of annexation of territory in the county service district for the number of months in that  
31 fiscal year used in calculating the numerator under subsection (c) of this section; provided that  
32 the required payments by the county to the city shall not exceed the total of fire protection  
33 district payments made to taxpayers in the district on account of that annexation."

34 **SECTION 15.(f)** G.S. 69-25.15(d) reads as rewritten:

35 "(d) Whenever a city is required to make fire protection district tax payments by  
36 subsection (c) of this section, and the city has paid or has contracted to pay to a rural fire  
37 department funds under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1, the county shall pay to the city  
38 from funds of the rural fire protection district an amount equal to the amount paid by the city  
39 (or to be paid by the city) to a rural fire department under ~~G.S. 160A-37.1~~ or G.S. 160A-49.1  
40 on account of annexation of territory in the rural fire protection district for the number of  
41 months in that fiscal year used in calculating the numerator under subsection (c) of this section;  
42 provided that the required payments by the county to the city shall not exceed the total of fire  
43 protection district payments made to taxpayers in the district on account of that annexation."

44 **SECTION 15.(g)** G.S. 160A-327(g) reads as rewritten:

45 "(g) This section shall not apply when a private company is displaced as the result of an  
46 annexation under Article 4A of Chapter 160A of the General Statutes or an annexation by an  
47 act of the General Assembly. The provisions of ~~G.S. 160A-37.3, 160-49.3, G.S. 160A-49.3~~ or  
48 G.S. 160A-324 shall apply."

49 **SECTION 15.(h)** Any reference in any local act listed below to Part 2 of Article  
50 4A of Chapter 160A of the General Statutes is deemed to be a reference to Part 3 of Article 4A  
51 of Chapter 160A of the General Statutes:

- 1           (1)    Section 3 of S.L. 2007-334  
2           (2)    Chapter 426 of the 1995 Session Laws  
3           (3)    Chapter 348 of the 1995 Session Laws.

4           **SECTION 15.(i)** Chapter 92 of the 1985 Session Laws is repealed.

5           **SECTION 16.** G.S. 160A-31 is amended by adding a new subsection to read:

6           "**(i)** A municipality may not annex territory by voluntary petition under this section if at  
7 the time of the petition the municipality would be ineligible to exercise the power of  
8 involuntary annexation under Part 3 of this Article because of failure to offer the required  
9 services as set forth in either G.S. 160A-46(a1) or G.S. 160A-46(a2), whichever would be  
10 applicable to the municipality."

11           **SECTION 17.** This act is effective when it becomes law but does not apply to any  
12 annexation for which a resolution of intent was adopted prior to the date this act becomes law.