

Part 4. Annexation of Noncontiguous Areas.

§ 160A-58. Definitions.

The words and phrases defined in this section have the meanings indicated when used in this Part unless the context clearly requires another meaning:

- (1) "City" means any city, town, or village without regard to population, except cities not qualified to receive gasoline tax allocations under G.S. 136-41.2.
- (2) "Primary corporate limits" means the corporate limits of a city as defined in its charter, enlarged or diminished by subsequent annexations or exclusions of contiguous territory pursuant to Parts 1, 2, and 3 of this Article or local acts of the General Assembly.
- (3) "Satellite corporate limits" means the corporate limits of a noncontiguous area annexed pursuant to this Part or a local act authorizing or effecting noncontiguous annexations. (1973, c. 1173, s. 2.)

§ 160A-58.1. Petition for annexation; standards.

(a) Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, a city may annex an area not contiguous to its primary corporate limits when the area meets the standards set out in subsection (b) of this section. The petition need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Elizabeth City, Gastonia, Greenville, Hickory, Kannapolis, Locust, Marion, Mount Airy, Mount Holly, New Bern, Newton, Oxford, Randleman, Rockingham, Sanford, Salisbury, Southport, Statesville, and Washington and the Towns of Angier, Ayden, Bladenboro, Calabash, Catawba, Columbia, Creswell, Dallas, Fuquay-Varina, Garner, Godwin, Holly Ridge, Holly Springs, Kenly, Knightdale, Landis, Leland, Louisburg, Maggie Valley, Maiden, Mayodan, Midland, Mocksville, Morrisville, Pembroke, Pine Level, Ranlo, Rolesville, Rutherfordton, Shallotte, Spencer, Surf City, Swansboro, Taylorsville, Troy, Wallace, Warsaw, Waynesville, Wendell, Windsor, and Zebulon.

(b1) Repealed by Session Laws 2004-203, ss. 13(a) and 13(d), effective August 17, 2004.

(b2) A city may annex a noncontiguous area that does not meet the standard set out in subdivision (b)(2) of this section if the city has entered into an annexation agreement pursuant to Part 6 of this Article with the city to which a point on the proposed satellite corporate limits is closer and the agreement states that the other city will not annex the area but does not say that the annexing city will not annex the area. The annexing city shall comply with all other requirements of this section.

(c) The petition shall contain the names, addresses, and signatures of all owners of real property within the proposed satellite corporate limits (except owners not required to sign by subsection (a)), shall describe the area proposed for annexation by metes and bounds, and shall have attached thereto a map showing the area proposed for annexation with relation to the primary corporate limits of the annexing city. When there is any substantial question as to whether the area may be closer to another city than to the annexing city, the map shall also show the area proposed for annexation with relation to the primary corporate limits of the other city. The city council may prescribe the form of the petition.

(d) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1 shall be binding on the landowner and any such vested rights shall be terminated. (1973, c. 1173, s. 2; 1989 (Reg. Sess., 1990), c. 996, s. 4; 1997-2, s. 1; 2001-37, s. 1; 2001-72, s. 1; 2001-438, s. 1; 2002-121, s. 1; 2003-30, s. 1; 2004-203, ss. 13(a), (c); 2004-57, s. 1; 2004-99, s. 1; 2004-203, ss. 13(a)-(d); 2005-52, s. 1; 2005-71, s. 1; 2005-79, s. 1; 2005-173, s. 1; 2005-433, s. 9.)

§ 160A-58.2. Public hearing.

Upon receipt of a petition for annexation under this Part, the city council shall cause the city clerk to investigate the petition, and to certify the results of his investigation. If

the clerk certifies that upon investigation the petition appears to be valid, the council shall fix a date for a public hearing on the annexation. Notice of the hearing shall be published once at least 10 days before the date of hearing.

At the hearing, any person residing in or owning property in the area proposed for annexation and any resident of the annexing city may appear and be heard on the questions of the sufficiency of the petition and the desirability of the annexation. If the council then finds and determines that (i) the area described in the petition meets all of the standards set out in G.S. 160A-58.1(b), (ii) the petition bears the signatures of all of the owners of real property within the area proposed for annexation (except those not required to sign by G.S. 160A-58.1(a)), (iii) the petition is otherwise valid, and (iv) the public health, safety and welfare of the inhabitants of the city and of the area proposed for annexation will be best served by the annexation, the council may adopt an ordinance annexing the area described in the petition. The ordinance may be made effective immediately or on any specified date within six months from the date of passage. (1973, c. 1173, s. 2.)

§ 160A-58.2A. Assumption of debt.

(a) If the city has annexed under this Part any area which is served by a rural fire department and which is in:

- (1) An insurance district defined under G.S. 153A-233;
- (2) A rural fire protection district under Article 3A of Chapter 69 of the General Statutes; or
- (3) A fire service district under Article 16 of Chapter 153A of the General Statutes,

then beginning with the effective date of annexation the city shall pay annually a proportionate share of any payments due on any debt (including principal and interest) relating to facilities or equipment of the rural fire department, if the debt was existing at the time of submission of the petition for annexation to the city under this Part. The rural fire department shall make available to the city not later than 30 days following a written request from the city, information concerning such debt. The rural fire department forfeits its rights under this section 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.

(b) The annual payments from the city to the rural fire department on such shared debt service shall be calculated as follows:

- (1) The rural fire department shall certify to the city each year the amount that will be expended for debt service subject to be shared by the city as provided by subsection (a) of this section; and
- (2) The amount determined under subdivision (1) of this subsection shall be multiplied by the percentage determined by dividing the assessed valuation of the area of the district annexed by the assessed valuation of the entire district, each such valuation to be fixed as of the date the annexation ordinance becomes effective.

(c) This section does not apply in any year as to any annexed area(s) for which the payment calculated under this section as to all annexation ordinances adopted under this Part by a city during a particular calendar year does not exceed one hundred dollars (\$100.00).

(d) The city and rural fire department shall jointly present a payment schedule to the Local Government Commission for approval and no payment may be made until such schedule is approved. The Local Government Commission shall approve a payment schedule agreed upon between the city and the rural fire department in cases where the assessed valuation of the district may not readily be determined, if there is a reasonable basis for the agreement. (1989, c. 598, s. 3.)

§ 160A-58.3. Annexed area subject to city taxes and debts.

From and after the effective date of the annexation ordinance, the annexed area and its citizens and property are subject to all debts, laws, ordinances and regulations of the annexing city, and are entitled to the same privileges and benefits as other parts of the city. 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 privilege licenses of the annexing city are due on June 1, then businesses in the annexed area are liable for privilege license taxes at the full-year rate. (1973, c. 1173, s. 2; 1975, c. 576, s. 5; 1977, c. 517, s. 7.)

§ 160A-58.4. Extraterritorial powers.

Satellite corporate limits shall not be considered a part of the city's corporate limits for the purposes of extraterritorial land-use regulation pursuant to G.S. 160A-360, or abatement of public health nuisances pursuant to G.S. 160A-193. However, a city's power to regulate land use pursuant to Chapter 160A, Article 19, or to abate public health nuisances pursuant to G.S. 160A-193, shall be the same within satellite corporate limits as within its primary corporate limits. (1973, c. 1173, s. 2.)

§ 160A-58.5. Special rates for water, sewer and other enterprises.

For the purposes of G.S. 160A-314, provision of public enterprise services within satellite corporate limits shall be considered provision of service for special classes of service distinct from the classes of service provided within the primary corporate limits of the city, and the city may fix and enforce schedules of rents, rates, fees, charges and penalties in excess of those fixed and enforced within the primary corporate limits. A city providing enterprise services within satellite corporate limits shall annually review the cost thereof, and shall take such steps as may be necessary to insure that the current operating costs of such services, excluding debt service on bonds issued to finance services within satellite corporate limits, does not exceed revenues realized therefrom. (1973, c. 1173, s. 2.)

§ 160A-58.6. Transition from satellite to primary corporate limits.

An area annexed pursuant to this Part ceases to constitute satellite corporate limits and becomes a part of the primary corporate limits of a city when, through annexation of intervening territory, the two boundaries touch. (1973, c. 1173, s. 2.)

§ 160A-58.7 Annexation of municipal property.

The city council may initiate annexation of property not contiguous to the primary corporate limits and owned by the city by adopting a resolution stating its intent to annex the property, in lieu of filing a petition. The property must satisfy the requirements of G.S. 160A-58.1. The resolution shall contain an adequate description of the property and fix a date for a public hearing on the question of annexation. Notice of the public hearing shall be published once at least 10 days before the date of the hearing. At the hearing, any resident of the city may appear and be heard on the question of the desirability of the annexation. If the council finds that annexation is in the public interest, it may adopt an ordinance annexing the property. The ordinance may be made effective immediately or on any specified date within six months from the date of passage. (1987, c. 562, s. 2.)

§ 160A-58.8. Recording and Reporting.

Annexations made under this part shall be recorded and reported in the same manner as under G.S. 160A-29. (1987, c. 879, s. 4.)