

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 524
PROPOSED COMMITTEE SUBSTITUTE H524-PCS80478-STx-56

Short Title: Annexation - Omnibus Changes.

(Public)

Sponsors:

Referred to:

March 11, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY SIGNATORIES ON VOLUNTARY ANNEXATION REQUESTS;
3 TO REQUIRE VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE
4 PERCENT OF PROPERTY OWNERS IN DISTRESSED AREAS; TO PERMIT
5 VOLUNTARY ANNEXATION ON REQUEST OF SEVENTY-FIVE PERCENT OF
6 RESIDENT HOUSEHOLDS IN DISTRESSED AREAS; TO PROHIBIT THE USE OF
7 STREETS OR STREET RIGHT-OF-WAYS TO ESTABLISH CONTIGUITY FOR
8 PURPOSES OF VOLUNTARY AND INVOLUNTARY ANNEXATION; TO INCREASE
9 FROM 5,000 TO 10,000 THE MUNICIPAL POPULATION THRESHOLD FOR
10 DETERMINING THE PROCEDURE FOR INVOLUNTARY ANNEXATION; TO
11 REQUIRE THE PROVISION OF AT LEAST TWO MEANINGFUL SERVICES WITHIN
12 EXISTING CORPORATE BOUNDARIES PRIOR TO INITIATING AN
13 INVOLUNTARY ANNEXATION; TO REQUIRE THE EXTENSION OF WATER AND
14 SEWER LINES WITHIN THREE YEARS OF THE ANNEXATION TO ALL
15 PROPERTIES WITHIN THE ANNEXED AREA; TO REQUIRE FINANCIAL IMPACT
16 STATEMENTS SUBMITTED WITH A PROPOSED ANNEXATION TO BE BASED
17 UPON A FIVE-YEAR PERIOD; TO ALLOW INVOLUNTARY ANNEXATION OF
18 AREAS COMPLETELY SURROUNDED BY THE MUNICIPAL CORPORATE
19 LIMITS; TO PROHIBIT INVOLUNTARY ANNEXATION OF AREAS BEING
20 SERVED BY A WATER AND SEWER SYSTEM OPERATED BY A MUNICIPALITY
21 OTHER THAN THE ANNEXING MUNICIPALITY; TO INCREASE THE URBAN
22 DENSITY STANDARDS FOR INVOLUNTARY ANNEXATION BY
23 MUNICIPALITIES BY REQUIRING AT LEAST SIXTY-FIVE PERCENT OF THE
24 LOTS TO BE IN USE AND THE RESIDENTIAL LOTS TO BE AT LEAST TWO AND
25 ONE-HALF ACRES IN SIZE; BY ADDING AN URBAN DENSITY TEST OF
26 RESIDENTIAL POPULATION EQUAL TO AT LEAST TWO AND THREE-TENTHS
27 PERSONS PER ACRE FOR INVOLUNTARY ANNEXATION BY SMALL
28 MUNICIPALITIES; TO REQUIRE ALL OF A SUBDIVISION TO BE ANNEXED IF
29 THE ANNEXATION IS INVOLUNTARY; TO AMEND THE PROCEDURE FOR
30 ANNEXATION TO CLARIFY THE TIME LINE AND PROVIDE ADDITIONAL
31 INFORMATION TO THE PROPERTY OWNERS AT THE PUBLIC HEARING AND
32 PUBLIC INFORMATIONAL MEETING; TO REQUIRE THE NOTICE OF PUBLIC
33 HEARING TO BE SENT TO PROPERTY OWNERS BY CERTIFIED MAIL; TO



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1 REQUIRE THE EFFECTIVE DATE OF VOLUNTARY CONTIGUOUS AND
2 INVOLUNTARY ANNEXATION TO BE THE JUNE 30 NEXT FOLLOWING THE
3 ADOPTION OF THE ANNEXATION; TO REQUIRE MUNICIPALITIES TO REPORT
4 TO THE LOCAL GOVERNMENT COMMISSION ON THE PROVISION OF
5 MEANINGFUL SERVICES FOLLOWING THE ADOPTION OF AN ANNEXATION
6 ORDINANCE; TO EXTEND THE TIME PERIOD A PROPERTY OWNER MAY
7 APPEAL TO THE COURTS FOLLOWING AN INVOLUNTARY ANNEXATION
8 ORDINANCE FROM SIXTY DAYS TO NINETY DAYS; TO REQUIRE OVERSIGHT
9 OF INVOLUNTARY ANNEXATIONS BY THE LOCAL GOVERNMENT
10 COMMISSION BY REQUIRING A FISCAL FEASIBILITY ASSESSMENT; TO
11 REQUIRE THE LOCAL GOVERNMENT COMMISSION TO PROHIBIT FURTHER
12 ANNEXATION IF THE ANNEXING MUNICIPALITY DOES NOT PROVIDE
13 SERVICES IN ACCORDANCE WITH AN INVOLUNTARY ANNEXATION WITHIN
14 THREE YEARS; TO REQUIRE THE LOCAL GOVERNMENT COMMISSION TO
15 ABATE PROPERTY TAXES FOR PROPERTY OWNERS WITHOUT THE REQUIRED
16 SERVICES WITHIN THREE YEARS OF AN INVOLUNTARY ANNEXATION; TO
17 REQUIRE THE LOCAL GOVERNMENT COMMISSION TO REPORT ANNUALLY
18 TO THE GENERAL ASSEMBLY ON INVOLUNTARY ANNEXATIONS; TO
19 AUTHORIZE MUNICIPALITIES TO CONTRACT WITH PROPERTY OWNERS FOR
20 THE EXTENSION OF WATER SERVICE AND SEWER SERVICE AND NONAPPEAL
21 OF AN INVOLUNTARY ANNEXATION, WHICH MAY RUN WITH THE LAND; TO
22 PERMIT THE PAYMENT OF ASSESSMENTS FOR THE INSTALLATION OF
23 WATER OR SEWER SERVICE FOLLOWING AN INVOLUNTARY ANNEXATION
24 OVER A TWENTY-YEAR PERIOD; TO ALLOW THE PAYMENT OF TAP FEES
25 OVER A FIVE-YEAR PERIOD; TO GIVE PRIORITY TO A MUNICIPALITY
26 ANNEXING A DISTRESSED AREA WHEN THAT MUNICIPALITY APPLIES FOR
27 COMMUNITY DEVELOPMENT BLOCK GRANTS AND LOANS OR GRANTS FROM
28 THE WASTEWATER RESERVE OR DRINKING WATER RESERVE.

29 The General Assembly of North Carolina enacts:

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

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

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

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

40 DATE:

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

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

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

47 (b1) Notwithstanding the provisions of subsections (a) and (b) of this section, if fifty-one
48 percent (51%) of the households in an area petitioning for annexation pursuant to this section
49 have incomes that are two hundred percent (200%) or less than the most recently published
50 United States Census Bureau poverty thresholds, the governing board of any municipality shall
51 annex by ordinance any area one-eighth of the aggregate external boundaries of which are

1 contiguous to its boundaries upon presentation to the governing board of a petition signed by
2 the owners of at least seventy-five percent (75%) of the parcels of real property in that area.

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

5 DATE:

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

8 1. We the undersigned owners of real property believe that the area described in paragraph
9 2 below meets the requirements of G.S. 160A-31(b1) and respectfully request that the area
10 described in paragraph 2 below be annexed to the (City or Town) of _____

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

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

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

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

42 (f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the
43 petition is submitted, such area either abuts directly on the municipal boundary or is separated
44 from the municipal boundary by the width of a street or street right-of-way, a creek or river, or
45 the right-of-way of a railroad or other public service corporation, lands owned by the
46 municipality or some other political subdivision, or lands owned by the State of North Carolina.
47 A connecting corridor consisting solely of a street or street right-of-way may not be used to
48 establish contiguity to an outlying, noncontiguous area. In describing the area to be annexed in
49 the annexation ordinance, the municipal governing board may include within the description
50 any territory described in this subsection which separates the municipal boundary from the area
51 petitioning for annexation.

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

(h) 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 right shall be terminated.

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

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

DATE:

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

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

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

(k) For purposes of determining whether the percentage of households in the area petitioning for annexation meets the poverty thresholds under subsections (b1) and (i), the clerk shall submit the names, addresses, and social security numbers of petitioners to the Department of Revenue. The municipality may require that the petitioners provide their social security numbers to the clerk for this purpose. Such information shall be kept confidential and is not a public record. The Department shall provide the municipality with a summary report of income for households in the petitioning area. Information for the report shall be gleaned from income tax returns, but the report submitted to the municipality shall not identify individuals or households."

SECTION 2.(a) Part 2 of Article 4A of Chapter 160A reads as rewritten:

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

SECTION 2.(b) G.S. 160A-34 reads as rewritten:

"§ 160A-34. Authority to annex.

The governing board of any municipality having a population of less than ~~5,000~~10,000 persons according to the last federal decennial census may extend the corporate limits of such municipality under the procedure set forth in this Part, except that this Part does not apply to any municipality in Craven County having a population of less than 500 persons according to the last federal decennial census unless that municipality provides at least six of the seven

1 categories of municipal services listed in G.S. 136-41.2(c). This Part does not apply to any
2 municipality unless it provides, at the time of adoption of the resolution of intent, at least two
3 meaningful services within its existing corporate boundaries. To qualify under this section, the
4 meaningful service must be provided directly by the municipality, provided by a joint agency
5 or authority of which the municipality is a full participating member, or provided by contract
6 between the municipality and a third party. In the case of police protection provided by contract
7 between the municipality and the sheriff's department, to qualify under this section the contract
8 must establish a higher level of service than is otherwise provided in the area, such as a
9 designated deputy or increased patrols."

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

11 **"§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

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

- 16 (1) A map or maps of the municipality and adjacent territory to show the
17 following information:
18 a. The present and proposed boundaries of the municipality.
19 b. The proposed extensions of water ~~mains and mains~~, sewer ~~outfalls~~
20 outfall lines, sewer lines, and water lines to serve the annexed area, if
21 such utilities are operated by the municipality. The water and sewer
22 map must bear the seal of a registered professional engineer or a
23 licensed surveyor.
- 24 (2) A statement showing that the area to be annexed meets the requirements of
25 G.S. 160A-36.
- 26 (3) A statement setting forth the plans of the municipality for extending to the
27 area to be annexed each ~~major municipal~~ meaningful service performed
28 within the municipality at the time of annexation. Specifically, such plans
29 shall:
30 a. Provide for extending police protection, fire protection, solid waste
31 collection and street maintenance services to the area to be annexed
32 on the date of annexation on substantially the same basis and in the
33 same manner as such services are provided within the rest of the
34 municipality prior to annexation. A contract with a rural fire
35 department to provide fire protection shall be an acceptable method
36 of providing fire protection. If a water distribution system is not
37 available in the area to be annexed, the plans must call for reasonably
38 effective fire protection services until such time as waterlines are
39 made available in such area under existing municipal policies for the
40 extension of waterlines. A contract with a private firm to provide
41 solid waste collection services shall be an acceptable method of
42 providing solid waste collection services.
- 43 b. Provide for extension of water ~~mains mains~~, sewer ~~outfall lines, and~~
44 lines, lines, and water lines into the area to be annexed so that
45 property owners in the area to be annexed will be able to secure
46 public water and sewer services according to the policies in effect in
47 such municipality ~~for extending water and sewer lines to individual~~
48 ~~lots or subdivisions, prior to annexation.~~ If the municipality must, at
49 its own expense, extend water and/or sewer mains into the area to be
50 annexed before property owners in the area can, according to
51 municipal policies, make such connection to such lines, then the

1 plans must call for contracts to be let and construction to begin on
2 such lines within one year following the effective date of annexation.
3 In areas where the installation of sewer is not ~~economically~~ fiscally
4 feasible or would be environmentally damaging due to the unique
5 topography or environmental qualities of the area, the municipality
6 may agree to provide septic system maintenance and repair service
7 until such time as sewer service is provided to properties similarly
8 situated. In any event, the plans shall call for construction to be
9 completed within three years of the effective date of annexation.

10 c. Set forth the method under which the municipality plans to finance
11 extension of each meaningful service ~~services~~ into the area to be
12 annexed. In calculating the cost of extending water or sewer services
13 to the area to be annexed, the municipality shall include the cost of
14 extending water and sewer lines to individual lots of property owners
15 and may estimate the number of eligible property owners that will
16 request to tap into the extended water and sewer lines.

17 (4) A statement of the impact of the annexation on any rural fire department
18 providing service in the area to be annexed and a statement of the impact of
19 the annexation on fire protection and fire insurance rates in the area to be
20 annexed, if the area where service is provided is in an insurance district
21 designated under G.S. 153A-233, a rural fire protection district under Article
22 3A of Chapter 69 of the General Statutes, or a fire service district under
23 Article 16 of Chapter 153A of the General Statutes. The rural fire
24 department shall make available to the city not later than 30 days following a
25 written request from the city all information in its possession or control,
26 including but not limited to operational, financial and budgetary information,
27 necessary for preparation of a statement of impact. The rural fire department
28 forfeits its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to
29 make a good faith response within 45 days following receipt of the written
30 request for information from the city, provided that the city's written request
31 so states by specific reference to this section.

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

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

41 "**§ 160A-36. Character of area to be annexed.**

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

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

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

- 1 contiguous to the municipality's boundaries at the time the annexation
2 proceeding is begun.
- 3 (2) At least ~~one-eighth~~ one-fifth of the aggregate external boundaries of the area
4 must coincide with the municipal boundary. A connecting corridor
5 consisting solely of a public street or street right-of-way may not be used to
6 establish contiguity to an outlying, noncontiguous area.
- 7 (3) No part of the area shall be included within the boundary of another
8 incorporated municipality.
- 9 (4) No part of the area may be served by a water and sewer system operated by a
10 municipality other than the annexing municipality, unless in accordance with
11 an annexation agreement in effect under Part 6 of this Article, or the system
12 is operated pursuant to an interlocal agreement under Article 20 of this
13 Chapter to which the annexing municipality is a party, or the system is
14 operated by an authority or joint agency of which the annexing municipality
15 is a full participating member.

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

- 27 (1) Any area which is so developed that at least ~~sixty percent (60%)~~ sixty-five
28 percent (65%) of the total number of lots and tracts in the area at the time of
29 annexation are used for residential, commercial, industrial, institutional or
30 governmental purposes, and is subdivided into lots and tracts such that at
31 least sixty percent (60%) of the total acreage, not counting the acreage used
32 at the time of annexation for commercial, industrial, governmental or
33 institutional purposes, consists of lots and tracts ~~three-two and one-half~~ acres
34 or less in size.
- 35 (1a) An area with a total resident population equal to at least two and three-tenths
36 persons for each acre of land included within its boundaries.
- 37 (2) An area so developed that, at the time of the approval of the annexation
38 report, all tracts in the area to be annexed are used for commercial,
39 industrial, governmental, or institutional purposes.
- 40 (3) The entire area of any county water and sewer district created under
41 G.S. 162A-86(b1), but this subsection only applies to annexation by a
42 municipality if that:
- 43 a. Municipality has provided in a contract with that district that the area
44 is developed for urban purposes; and
- 45 b. Contract provides for the municipality to operate the sewer system of
46 that county water and sewer district;
- 47 provided that the special categorization provided by this subsection only
48 applies if the municipality is annexing in one proceeding the entire territory
49 of the district not already within the corporate limits of a municipality.

50 (d) In fixing new municipal boundaries, a municipal governing board shall use recorded
51 property lines and streets as boundaries. Some or all of the boundaries of a county water and

1 sewer district may also be used when the entire district not already within the corporate limits
2 of a municipality is being annexed.

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

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

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

15 "**§ 160A-37. Procedure for annexation.**

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

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

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

- 42 (1) Fix the date, hour and place of the public informational meeting and the
43 date, hour, and place of the public hearing.
- 44 (2) Describe clearly the boundaries of the area under consideration, and include
45 a legible map of the area.
- 46 (3) State that the report required in G.S. 160A-35 will be available at the office
47 of the municipal clerk at least 30 days prior to the date of the public
48 informational meeting.
- 49 (4) Include an explanation of an owner's rights pursuant to subsection (f1) and
50 (f2) of this section.

- 1 (5) Include a summary of the annexation process with time lines and a summary
2 of available statutory remedies for contesting the annexation and the failure
3 to provide services.
- 4 (6) Include information on how to request to become a customer of the water
5 service or sewer service, the cost of requesting that service along with the
6 option of paying that cost in accordance with G.S. 160A-232(c), and any
7 forms to request that service.
- 8 (7) Describe clearly the distinction between the public informational meeting
9 and the public hearing.

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

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

38 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the
39 public informational meeting, the governing board shall approve the report provided for in
40 G.S. 160A-35, and shall make it available to the public at the office of the municipal clerk. In
41 addition, the municipality may prepare a summary of the full report for public distribution. In
42 addition, the city shall post in the office of the city clerk at least 30 days before the public
43 informational meeting a legible map of the area to be annexed and a list of the persons holding
44 freehold interests in property in the area to be annexed that it has identified.

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

50 (d) Public Hearing. – At the public hearing a representative of the municipality shall
51 first make an explanation of the report required in G.S. 160A-35. Following such explanation,

1 all persons resident or owning property in the territory described in the notice of public hearing,
2 and all residents of the municipality, shall be given an opportunity to be heard. A summary of
3 the annexation process with time lines and a summary of available statutory remedies for
4 contesting the annexation and the provision of services shall be distributed at the public
5 hearing, and information regarding including any forms for requesting water service or sewer
6 service to individual lots shall be distributed at the public informational meeting.

7 (e) Passage of the Annexation Ordinance. – The municipal governing board shall take
8 into consideration facts presented at the public hearing and shall have authority to amend the
9 report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to
10 be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or
11 special meeting held no sooner than the tenth day following the public hearing and not later
12 than 90 days following such public hearing, the governing board shall have authority to adopt
13 an ordinance extending the corporate limits of the municipality to include all, or such part, of
14 the area described in the notice of public hearing which meets the requirements of
15 G.S. 160A-36 and which the governing board has concluded should be annexed. The ordinance
16 shall:

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

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

50 (f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
51 annexation ordinance includes agricultural land, horticultural land, or forestland that meets

1 either of the conditions listed below on the effective date of annexation, then the annexation
2 becomes effective as to that property pursuant to subsection (f2) of this section:

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

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

5 a. On the date of the resolution of intent for annexation it was being
6 used for actual production and is eligible for present-use value
7 taxation under G.S. 105-277.4, but the land had not been in use for
8 actual production for the required time under G.S. 105-277.3.

9 b. The assessor for the county where the land subject to annexation is
10 located has certified to the city that the land meets the requirements
11 of this subdivision.

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

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

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

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

33 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the
34 effective date of annexation, and not later than 15 months from the effective date of annexation,
35 any person owning property in the annexed territory shall believe that the municipality has not
36 followed through on its meaningful service plans adopted under the provisions of
37 G.S. 160A-35(3) and subsection (e) of this section, the person may apply for a writ of
38 mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be
39 granted by the judge of superior court

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

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

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

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

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

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

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

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

20 (k) The city shall report to the Local Government Commission as to whether police
21 protection, fire protection, solid waste, or street maintenance services were provided in
22 accordance with G.S. 160A-35(3)a. within 60 days after the effective date of the annexation.
23 Such report shall be filed no more than 30 days following the expiration of the 60-day period. If
24 a city fails to deliver police protection, fire protection, solid waste or street maintenance
25 services as provided for in G.S. 160A-35(3)a. within 60 days after the effective date of the
26 annexation, the owner of the property may petition the Local Government Commission for
27 abatement of taxes to be paid to the city for taxes that have been levied as of the end of the
28 60-day period, if the petition is filed not more than ~~90 days~~ 120 days after the expiration of the
29 60-day period. If the Local Government Commission finds that services were not extended by
30 the end of the 60-day period, it shall enter an order directing the city not to levy any further ad
31 valorem taxes on the property until the fiscal year commencing after extension of the municipal
32 services.

33 (l) The city shall report to the Local Government Commission as to whether the
34 extension of water and sewer lines was completed within the three-year time period specified in
35 G.S. 160A-35(3). If the extension is not complete at the end of three years after the effective
36 date of the annexation ordinance, the owner of the property may petition the Local Government
37 Commission for abatement of taxes to be paid to the city which have not been levied as of the
38 expiration date of the three-year period, if such petition is filed not more than 120 days after the
39 expiration of the three-year period. If the Local Government Commission finds that the
40 extension to the property was not complete by the end of the three-year period, it shall enter an
41 order directing the city not to levy any further ad valorem taxes on the property until the fiscal
42 year commencing after completion of the extension. In addition, if the Local Government
43 Commission found that the extension to the property was not completed by the end of the three-
44 year period, and if it finds that for any fiscal year during the period beginning with the first day
45 of the fiscal year in which the annexation ordinance became effective and ending the last day of
46 the fiscal year in which the three-year period expired, the city made an appropriation for
47 construction, operation, or maintenance of a water or sewer system (other than payments the
48 city made as a customer of the system) from the fund or funds for which ad valorem taxes are
49 levied, then the Local Government Commission shall order the city to release or refund an
50 amount of the petitioner's property taxes for that year in question in proportion to the
51 percentage of appropriations in the fund made for water and sewer services. By way of

1 illustration, if a net amount of one hundred thousand dollars (\$100,000) was appropriated for
2 water or sewer construction, operation, or maintenance from a fund which had total
3 expenditures of ten million dollars (\$10,000,000) and the petitioner's tax levy was one thousand
4 dollars (\$1,000), the amount of release or refund shall be ten dollars (\$10.00)."

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

6 **"§ 160A-38. Appeal.**

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

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

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

- 20 (1) A transcript of the portions of the municipal journal or minute book in which
21 the procedure for annexation has been set forth and
22 (2) A copy of the report setting forth the plans for extending services to the
23 annexed area as required in G.S. 160A-35.

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

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

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

- 37 (1) That the statutory procedure was not ~~followed~~ or followed.
38 (2) That the provisions of G.S. 160A-35 were not ~~met, or~~ met.
39 (3) That the provisions of G.S. 160A-36 have not been met.
40 (4) That the municipality has proven that the municipality is providing
41 meaningful service to the property owners.

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

- 43 (1) Remand the ordinance to the municipal governing board for further
44 proceedings if procedural irregularities are found to have materially
45 prejudiced the substantive rights of any of the petitioners.
46 (2) Remand the ordinance to the municipal governing board for amendment of
47 the boundaries to conform to the provisions of G.S. 160A-36 if it finds that
48 the provisions of G.S. 160A-36 have not been met; provided, that the court
49 cannot remand the ordinance to the municipal governing board with
50 directions to add area to the municipality which was not included in the
51 notice of public hearing and not provided for in plans for service.

- 1 (3) Remand the report to the municipal governing board for amendment of the
2 plans for providing services to the end that the provisions of G.S. 160A-35
3 are satisfied.
- 4 (4) Declare the ordinance null and void, if the court finds that the ordinance
5 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of
6 this subsection.

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

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

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

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

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

35 (l) Any settlement agreed to by all parties in an appeal under this section may be
36 presented to the superior court in the county in which the municipality is located. If the superior
37 court, in its discretion, approves the settlement, it shall be binding on all parties without the
38 need for approval by the General Assembly."

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

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

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

43 **"§ 160A-46. Authority to annex.**

44 The governing board of any municipality having a population of ~~5,000-10,000~~ or more
45 persons according to the last federal decennial census may extend the corporate limits of such
46 municipality under the procedure set forth in this Part. This Part does not apply to any
47 municipality unless it provides, at the time of adoption of the resolution of intent, at least two
48 meaningful services within its existing corporate boundaries. To qualify under this section, the
49 meaningful service must be provided directly by the municipality, provided by a joint agency
50 or authority of which the municipality is a full participating member, or provided by contract
51 between the municipality and a third party. In the case of police protection provided by contract

1 between the municipality and the sheriff's department, to qualify under this section the contract
2 must establish a higher level of service than is otherwise provided in the area, such as a
3 designated deputy or increased patrols."

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

5 **"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

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

10 (1) A map or maps of the municipality and adjacent territory to show the
11 following information:

12 a. The present and proposed boundaries of the municipality.

13 b. The present major trunk water mains and sewer interceptors and
14 outfalls, and the proposed extensions of such mains and outfalls and
15 water and sewer lines as required in subdivision (3) of this section.
16 The water and sewer map must bear the seal of a registered
17 professional engineer.

18 c. The general land use pattern in the area to be annexed.

19 (2) A statement showing that the area to be annexed meets the requirements of
20 G.S. 160A-48.

21 (3) A statement setting forth the plans of the municipality for extending to the
22 area to be annexed each ~~major municipal~~meaningful service performed
23 within the municipality at the time of annexation. Specifically, such plans
24 shall:

25 a. Provide for extending police protection, fire protection, solid waste
26 collection and street maintenance services to the area to be annexed
27 on the date of annexation on substantially the same basis and in the
28 same manner as such services are provided within the rest of the
29 municipality prior to annexation. A contract with a rural fire
30 department to provide fire protection shall be an acceptable method
31 of providing fire protection. If a water distribution system is not
32 available in the area to be annexed, the plans must call for reasonably
33 effective fire protection services until such time as waterlines are
34 made available in such area under existing municipal policies for the
35 extension of waterlines. A contract with a private firm to provide
36 solid waste collection services shall be an acceptable method of
37 providing solid waste collection services.

38 b. Provide for extension of major trunk water ~~mains and~~mains, sewer
39 outfall lines, waterlines, and sewer lines into the area to be annexed
40 ~~so that when such lines are constructed, property owners in the area~~
41 ~~to be annexed will be able to secure public water and sewer service,~~
42 ~~according to the policies in effect in such municipality for extending~~
43 ~~water and sewer lines to individual lots or subdivisions.~~ annexed. ~~If~~
44 ~~requested by the owner of an occupied dwelling unit or an operating~~
45 ~~commercial or industrial property in writing on a form provided by~~
46 ~~the municipality, which form acknowledges that such extension or~~
47 ~~extensions will be made according to the current financial policies of~~
48 ~~the municipality for making such extensions, and if such form is~~
49 ~~received by the city clerk no later than five days after the public~~
50 ~~hearing, provide for extension of water and sewer lines to the~~
51 ~~property or to a point on a public street or road right of way adjacent~~

1 to the property according to the financial policies in effect in such
 2 municipality for extending water and sewer lines. If any such
 3 requests are timely made, the municipality shall at the time of
 4 adoption of the annexation ordinance amend its report and plan for
 5 services to reflect and accommodate such requests, if an amendment
 6 is necessary. In areas where the municipality is required to extend
 7 sewer service according to its policies, but the installation of sewer is
 8 not economically-fiscally feasible or would be environmentally
 9 damaging due to the unique topography or environmental qualities of
 10 the area, the municipality shall provide septic system maintenance
 11 and repair service until such time as sewer service is provided to
 12 properties similarly situated.

13 c. ~~If extension of major trunk water mains, sewer outfall lines, sewer~~
 14 ~~lines and water lines is necessary, set~~ Set forth a proposed timetable
 15 for construction of such mains, outfalls and lines as soon as possible
 16 following the effective date of annexation. In any event, the plans
 17 shall call for construction to be completed within ~~two~~ three years of
 18 the effective date of annexation.

19 d. Set forth the method under which the municipality plans to finance
 20 extension of ~~services~~ each meaningful service into the area to be
 21 annexed. In calculating the cost of extending water or sewer services
 22 to the area to be annexed, the municipality shall include the cost of
 23 extending water and sewer lines to individual lots of property owners
 24 and may estimate the number of eligible property owners that will
 25 request to tap into the extended water and sewer lines.

26 (4) A statement of the impact of the annexation on any rural fire department
 27 providing service in the area to be annexed and a statement of the impact of
 28 the annexation on fire protection and fire insurance rates in the area to be
 29 annexed, if the area where service is provided is in an insurance district
 30 designated under G.S. 153A-233, a rural fire protection district under Article
 31 3A of Chapter 69 of the General Statutes, or a fire service district under
 32 Article 16 of Chapter 153A of the General Statutes. The rural fire
 33 department shall make available to the city not later than 30 days following a
 34 written request from the city all information in its possession or control,
 35 including but not limited to operational, financial and budgetary information,
 36 necessary for preparation of a statement of impact. The rural fire department
 37 forfeits its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to
 38 make a good faith response within 45 days following receipt of the written
 39 request for information from the city, provided that the city's written request
 40 so states by specific reference to this section.

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

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

50 "**§ 160A-48. Character of area to be annexed.**

- 1 (a) A municipal governing board may extend the municipal corporate limits to include
2 any ~~area~~area that complies with the following:
- 3 (1) Which meets the general standards of ~~subsection (b), and~~subsection (b) of
4 this section.
 - 5 (2) Every part of which meets the requirements of ~~either any of the following~~:
6 a. ~~subsection (c)~~Subsection (c) of this section.
7 b. ~~or subsection (d)~~Subsection (d) of this section.
8 c. Is completely surrounded by the municipality's primary corporate
9 limits.
- 10 (b) The total area to be annexed must meet all of the following standards:
- 11 (1) It must be adjacent or contiguous to the municipality's boundaries at the time
12 the annexation proceeding is begun, except if the entire territory of a county
13 water and sewer district created under G.S. 162A-86(b1) is being annexed,
14 the annexation shall also include any noncontiguous pieces of the district as
15 long as the part of the district with the greatest land area is adjacent or
16 contiguous to the municipality's boundaries at the time the annexation
17 proceeding is begun.
 - 18 (2) At least ~~one-eighth~~one-fifth of the aggregate external boundaries of the area
19 must coincide with the municipal boundary. A connecting corridor
20 consisting solely of a public street or street right-of-way may not be used to
21 establish contiguity to an outlying, noncontiguous area.
 - 22 (3) No part of the area shall be included within the boundary of another
23 incorporated municipality.
 - 24 (4) No part of the area may be served by a water and sewer system operated by a
25 municipality other than the annexing municipality, unless in accordance with
26 an annexation agreement in effect under Part 6 of this Article, or the system
27 is operated pursuant to an interlocal agreement under Article 20 of this
28 Chapter to which the annexing municipality is a party, or the system is
29 operated by an authority or joint agency of which the annexing municipality
30 is a full participating member.
- 31 (c) Part or all of the area to be annexed must be developed for urban purposes at the
32 time of approval of the report provided for in G.S. 160A-47. Area of streets and street
33 rights-of-way shall not be used to determine total acreage under this section. An area developed
34 for urban purposes is defined as any area which meets any one of the following standards:
- 35 (1) Has a total resident population equal to at least two and three-tenths persons
36 for each acre of land included within its ~~boundaries; or~~boundaries.
 - 37 (2) Has a total resident population equal to at least ~~one person~~two and one-half
38 persons for each acre of land included within its boundaries, and is
39 subdivided into lots and tracts such that at least sixty percent (60%) of the
40 total acreage consists of lots and tracts three acres or less in size and such
41 that at least sixty-five percent (65%) of the total number of lots and tracts are
42 one acre or less in ~~size; or~~size.
 - 43 (3) Is so developed that at least ~~sixty percent (60%)~~sixty-five percent (65%) of
44 the total number of lots and tracts in the area at the time of annexation are
45 used for residential, commercial, industrial, institutional or governmental
46 purposes, and is subdivided into lots and tracts such that at least sixty
47 percent (60%) of the total acreage, not counting the acreage used at the time
48 of annexation for commercial, industrial, governmental or institutional
49 purposes, consists of lots and tracts ~~three-two and one-half~~three-two and one-half acres or less in
50 size. For purposes of this section, a lot or tract shall not be considered in use
51 for a commercial, industrial, institutional, or governmental purpose if the lot

1 or tract is used only temporarily, occasionally, or on an incidental or
2 insubstantial basis in relation to the size and character of the lot or tract. For
3 purposes of this section, acreage in use for commercial, industrial,
4 institutional, or governmental purposes shall include acreage actually
5 occupied by buildings or other man-made structures together with all areas
6 that are reasonably necessary and appurtenant to such facilities for purposes
7 of parking, storage, ingress and egress, utilities, buffering, and other
8 ancillary services and ~~facilities; or facilities.~~

9 (4) Is the entire area of any county water and sewer district created under
10 G.S. 162A-86(b1), but this subdivision only applies to annexation by a
11 municipality if that:

- 12 a. Municipality has provided in a contract with that district that the area
13 is developed for urban purposes; and
14 b. Contract provides for the municipality to operate the sewer system of
15 that county water and sewer district;

16 provided that the special categorization provided by this subdivision only
17 applies if the municipality is annexing in one proceeding the entire territory
18 of the district not already within the corporate limits of a municipality; or

19 (5) Is so developed that, at the time of the approval of the annexation report, all
20 tracts in the area to be annexed are used for commercial, industrial,
21 governmental, or institutional purposes.

22 (d) In addition to areas developed for urban purposes, a governing board may include in
23 the area to be annexed any area which does not meet the requirements of subsection (c) if such
24 area either:

25 (1) Lies between the municipal boundary and an area developed for urban
26 purposes so that the area developed for urban purposes is either not adjacent
27 to the municipal boundary or cannot be served by the municipality without
28 extending services and/or water and/or sewer lines through such sparsely
29 developed area; or

30 (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to any
31 combination of the municipal boundary and the boundary of an area or areas
32 developed for urban purposes as defined in subsection (c).

33 The purpose of this subsection is to permit municipal governing boards to extend corporate
34 limits to include all nearby areas developed for urban purposes and where necessary to include
35 areas which at the time of annexation are not yet developed for urban purposes but which
36 constitute necessary land connections between the municipality and areas developed for urban
37 purposes or between two or more areas developed for urban purposes. For purposes of this
38 subsection, "necessary land connection" means an area that does not exceed twenty-five percent
39 (25%) of the total area to be annexed.

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

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

47 (g) If the area includes any residential lot that is shown on a subdivision plat approved
48 and recorded as a final plat pursuant to an ordinance adopted under Article 18 of Chapter 153A
49 of the General Statutes or under Article 19 of this Chapter, the area must include all other
50 residential lots shown on the same recorded final subdivision plat, except for lots already
51 included in the corporate limits of the annexing municipality or another municipality. If the

1 subdivision is in more than one county, the annexation area need not include lots across the
2 county line. For purposes of this section, if the subdivision was approved as a phased
3 development, each phase may be considered a separate subdivision."

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

5 **"§ 160A-49. Procedure for annexation.**

6 (a) ~~Notice of Intent.~~ Resolution of Consideration. – Any municipal governing board
7 desiring to annex territory under the provisions of this Part shall first pass a resolution
8 identifying the area as being under consideration for annexation. The resolution of
9 consideration may have a metes and bounds description or a map and shall remain effective for
10 two years after adoption and shall be filed with the city clerk. A new resolution of
11 consideration adopted before expiration of the two-year period for a previously adopted
12 resolution covering the same area shall relate back to the date of the previous resolution.
13 Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to
14 any other city. A notice of adoption of the resolution of consideration shall be published once a
15 week for two successive weeks, with each publication being on the same day of the week, in a
16 newspaper having general circulation in the municipality. The second publication shall be no
17 more than 30 days following adoption of the resolution. The notice shall contain a map or
18 description of the area under consideration and a summary of the annexation process and time
19 lines.

20 (a1) Resolution of Intent. – At least one year after adoption of the resolution of
21 consideration, the municipal governing body may adopt a resolution stating the intent of the
22 municipality to ~~consider annexation.~~ proceed with annexation of some or all of the area
23 described in the resolution of consideration. Such resolution of intent shall describe the
24 boundaries of the area ~~under consideration,~~ intended for annexation, fix a date for a public
25 informational meeting, and fix a date for a public hearing on the question of annexation. The
26 date for the public informational meeting shall be not less than 45 days and not more than 55
27 days following passage of the resolution. The date for the public hearing to be not less than 60
28 days and not more than 90 days following passage of the ~~resolution.~~ resolution of intent.

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

- 32 (1) Fix the date, hour and place of the public informational meeting and the
33 date, hour, and place of the public hearing.
- 34 (2) Describe clearly the boundaries of the area under consideration, and include
35 a legible map of the area.
- 36 (3) State that the report required in G.S. 160A-47 will be available at the office
37 of the municipal clerk at least 30 days prior to the date of the public
38 informational meeting.
- 39 (4) Include a notice of a property owner's rights to request to become a customer
40 of the water and sewer service in accordance with ~~G.S. 160A-47.~~ the policies
41 in effect in the municipality for such services, the cost of requesting that
42 service along with the option of paying that cost in accordance with
43 G.S. 160A-232(c), and any forms to request that service.
- 44 (5) Include an explanation of a property owner's rights pursuant to subsections
45 (f1) and (f2) of this section.
- 46 (6) Include information on how to request to become a customer of the water
47 service or sewer service, the cost of requesting that service along with the
48 option of paying that cost in accordance with G.S. 160A-232(c), and any
49 forms to request that service.
- 50 (7) Describe clearly the distinction between the public informational meeting
51 and the public hearing.

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

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

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

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

47 (e) Passage of the Annexation Ordinance. – The municipal governing board shall take
48 into consideration facts presented at the public hearing and shall have authority to amend the
49 report required by G.S. 160A-47 to make changes in the plans for serving the area proposed to
50 be annexed so long as such changes meet the requirements of G.S. 160A-47, provided that if
51 the annexation report is amended to show additional subsections of G.S. 160A-48(c) or (d)

1 under which the annexation qualifies that were not listed in the original report, the city must
2 hold an additional public hearing on the annexation not less than 30 nor more than 90 days after
3 the date the report is amended, and notice of such new hearing shall be given at the first public
4 hearing. At any regular or special meeting held no sooner than the tenth day following the
5 public hearing and not later than 90 days following such public hearing, the governing board
6 shall have authority to adopt an ordinance extending the corporate limits of the municipality to
7 include all, or such part, of the area described in the notice of public hearing which meets the
8 requirements of G.S. 160A-48 and which the governing board has concluded should be
9 annexed. The ordinance shall:

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

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

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

4 (1) Land that is being taxed at present-use value pursuant to G.S. 105-277.4; or

5 (2) Land that:

6 a. Was on the date of the resolution of intent for annexation being used
7 for actual production and is eligible for present-use value taxation
8 under G.S. 105-277.4, but the land has not been in use for actual
9 production for the required time under G.S. 105-277.3; and

10 b. The assessor for the county where the land subject to annexation is
11 located has certified to the city that the land meets the requirements
12 of this subdivision

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

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

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

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

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

34 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the
35 effective date of annexation, and not later than 15 months from the effective date of annexation,
36 any person owning property in the annexed territory shall believe that the municipality has not
37 followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and
38 160A-49(e), for any required service other than water and sewer services such person may
39 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General
40 Statutes. Relief may be granted by the judge of superior court

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

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

50 If, not earlier than 24 months from the effective date of the annexation, and not later than
51 27 months from the effective date of the annexation, any person owning property in the

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

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

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

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

30 (k) The city shall report to the Local Government Commission as to whether the
31 extension of water and sewer lines was completed within the three-year time period specified in
32 G.S. 160A-47(3)c. ~~If a valid request for extension of a water or sewer line has been made under~~
33 ~~G.S. 160A-47(3)b, and the extension is not complete at the end of ~~two~~three years after the~~
34 ~~effective date of the annexation ordinance, the owner of the property may petition the Local~~
35 ~~Government Commission for abatement of taxes to be paid to the city which have not been~~
36 ~~levied as of the expiration date of the ~~two-year~~three-year period, if such petition is filed not~~
37 ~~more than 60~~120 days after the expiration of the ~~two-year~~three-year period. If the Local
38 Government Commission finds that the extension to the property was not complete by the end
39 of the ~~two-year~~three-year period, it shall enter an order directing the city not to levy any further
40 ad valorem taxes on the property until the fiscal year commencing after completion of the
41 extension. In addition, if the Local Government Commission found that the extension to the
42 property was not completed by the end of the ~~two-year~~three-year period, and if it finds that for
43 any fiscal year during the period beginning with the first day of the fiscal year in which the
44 annexation ordinance became effective and ending the last day of the fiscal year in which the
45 ~~two-year~~three-year period expired, the city made an appropriation for construction, operation or
46 maintenance of a water or sewer system (other than payments the city made as a customer of
47 the system) from the fund or funds for which ad valorem taxes are levied, then the Local
48 Government Commission shall order the city to release or refund an amount of the petitioner's
49 property taxes for that year in question in proportion to the percentage of appropriations in the
50 fund made for water and sewer services. By way of illustration, if a net amount of one hundred
51 thousand dollars (\$100,000) was appropriated for water or sewer construction, operation or

1 maintenance from a fund which had total expenditures of ten million dollars (\$10,000,000) and
2 the petitioner's tax levy was one thousand dollars (\$1,000), the amount of release or refund
3 shall be ten dollars (\$10.00).

4 (l) The city shall report to the Local Government Commission as to whether police
5 protection, fire protection, solid waste, or street maintenance services were provided in
6 accordance with G.S. 160A-47(3)a. within 60 days after the effective date of the annexation.
7 Such report shall be filed no more than 30 days following the expiration of the 60-day period. If
8 a city fails to deliver police protection, fire protection, solid waste or street maintenance
9 services as provided for in G.S. 160A-47(3)a. within 60 days after the effective date of the
10 annexation, the owner of the property may petition the Local Government Commission for
11 abatement of taxes to be paid to the city for taxes that have been levied as of the end of the
12 60-day period, if the petition is filed not more than ~~90 days~~ 120 days after the expiration of the
13 60-day period. If the Local Government Commission finds that services were not extended by
14 the end of the 60-day period, it shall enter an order directing the city not to levy any further ad
15 valorem taxes on the property until the fiscal year commencing after extension of the municipal
16 services."

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

18 **"§ 160A-50. Appeal.**

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

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

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

- 32 (1) A transcript of the portions of the municipal journal or minute book in which
33 the procedure for annexation has been set forth and
34 (2) A copy of the report setting forth the plans for extending services to the
35 annexed area as required in G.S. 160A-47.

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

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

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

- 49 (1) That the statutory procedure was not ~~followed~~, or followed.
50 (2) That the provisions of G.S. 160A-47 were not ~~met~~, or met.
51 (3) That the provisions of G.S. 160A-48 have not been met.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 7 a. Police protection.
- 8 b. Fire protection.
- 9 c. Solid waste collection services.
- 10 d. Street maintenance.
- 11 e. Water service.
- 12 f. Sewer service."

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

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

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

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

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

23 "**§ 160A-58.11. Local Government Commission oversight of annexation.**

24 (a) The Local Government Commission shall provide oversight of annexation under
25 Part 2 and Part 3 of this Article and under G.S. 160A-31(b1) by all municipalities, and upon
26 request by the municipality for annexation under G.S. 160A-31(i). In carrying out that
27 responsibility, the Local Government Commission shall do all of the following:

- 28 (1) Assess the fiscal feasibility of all proposed annexations, by determining
29 whether the projected expenses to be incurred as a result of the annexation,
30 including the amount of proposed debt, are reasonable for the purposes for
31 which the expenses are to be incurred and by determining the extent to
32 which the probable net revenues resulting from the annexation and other
33 revenue sources proposed by the municipality will be sufficient to meet
34 these expenses and service any proposed debt.
- 35 (2) Prohibit further annexation by any municipality that has not provided
36 services in accordance with statutory requirements to any other area annexed
37 by that municipality with an effective date more than 12 months prior to the
38 proposed annexation until such time as the municipality demonstrates to the
39 Commission that such requirements have been met.
- 40 (3) Prohibit further annexation by the municipality and abate all ad valorem
41 property taxes levied on the newly annexed territory if the municipality has
42 not provided the meaningful services as stated in the annexation ordinance
43 within three years of the effective date of the annexation ordinance, until
44 such time as the municipality demonstrates to the Commission that such
45 requirements have been met.

46 (b) Following approval of the report required under G.S. 160A-35 or G.S. 160A-47, the
47 municipality shall submit it to the Commission for review. The Commission shall report
48 findings regarding the fiscal feasibility of the proposed annexation within 60 days of receipt of
49 the report. If the Commission determines that the annexation is not fiscally feasible, the
50 Commission shall so notify the municipality, and the annexation in the form proposed may not
51 proceed.

1 (c) In order to effectuate the purposes of this section, the Commission may delegate its
2 authority and responsibilities under this section to the staff of the State and Local Government
3 Finance Division of the Department of State Treasurer. The Commission may not delegate the
4 responsibility to make the final determination that the annexation is not fiscally feasible to any
5 staff of the State and Local Government Finance Division of the Department of State Treasurer.

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

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

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

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

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

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

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

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

24 **SECTION 14.(a)** Part 6 of Article 4A of Chapter 160A reads as rewritten:

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

26 **SECTION 14.(b)** Article 4A of Chapter 160A is amended by adding a new Part to
27 read:

28 "Part 7. Annexation Agreements With Property Owners.

29 "**§ 160A-58.35. Annexation agreements.**

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

33 (1) To petition the city for annexation of the property pursuant to Part 1 or Part
34 4 of Article 4A of this Chapter, upon the city's request.

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

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

43 (c) A contract under this section may be part of a development agreement under Part
44 3D of Article 19 of this Chapter or Part 3A of Article 18 of Chapter 153A of the General
45 Statutes."

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

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.

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

29 **"§ 143B-437.04. Community development block grants.**

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

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

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

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

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

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

1 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**
2 **Water Reserve.**

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

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

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

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