

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 524
Committee Substitute Favorable 6/29/09
Committee Substitute #2 Favorable 7/7/09
PROPOSED COMMITTEE SUBSTITUTE H524-PCS80491-ST-70**

Short Title: Annexation – Omnibus Changes.

(Public)

Sponsors:

Referred to:

March 11, 2009

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



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

39 The General Assembly of North Carolina enacts:

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

41 "**§ 160A-31. Annexation by petition.**

42 (a) The governing board of any municipality may annex by ordinance any area
43 contiguous to its boundaries upon presentation to the governing board of a petition signed by
44 the owners of all the real property located within such area. The petition shall be signed by each
45 owner of real property in the area and shall contain the address of each such owner. The
46 petition need not be signed by the owners of real property that is wholly exempt from property
47 taxation under the Constitution and laws of North Carolina.

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

49 DATE:

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

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

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

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

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

14 DATE:

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

17 1. We the undersigned owners of real property believe that the area described in paragraph
18 2 below meets the requirements of G.S. 160A-31(b1) and respectfully request that the area
19 described in paragraph 2 below be annexed to the (City or Town) of _____

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

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

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

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

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

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

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

25 (i) Using the procedures under this section, the governing board of any municipality
26 may annex by ordinance any distressed area contiguous to its boundaries upon presentation to
27 the governing board of a petition signed by at least one adult resident of at least seventy-five
28 percent (75%) of the resident households located within such area. For purposes of this
29 subsection, a "distressed area" is defined as an area in which at least fifty-one percent (51%) of
30 the households in the area petitioning to be annexed have incomes that are two hundred percent
31 (200%) or less than the most recently published United States Census Bureau poverty
32 thresholds. The municipality may require reasonable proof that the petitioner in fact resides at
33 the address indicated.

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

36 DATE:

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

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

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

44 (k) For purposes of determining whether the percentage of households in the area
45 petitioning for annexation meets the poverty thresholds under subsections (b1) and (i) of this
46 section, the petitioners shall submit to the municipal governing board any reasonable evidence
47 that demonstrates the area in fact meets the income requirements of that subsection. The
48 evidence presented may include data from the most recent federal decennial census, other
49 official census documents, signed affidavits by at least one adult resident of the household
50 attesting to the household size and income level, or any other documentation verifying the
51 incomes for a majority of the households within the petitioning area. Petitioners may select to

1 submit name, address, and social security number to the clerk, who shall in turn submit the
2 information to the Department of Revenue. Such information shall be kept confidential and is
3 not a public record. The Department shall provide the municipality with a summary report of
4 income for households in the petitioning area. Information for the report shall be gleaned from
5 income tax returns, but the report submitted to the municipality shall not identify individuals or
6 households."

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

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

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

11 **"§ 160A-34. Authority to annex.**

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

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

27 **"§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

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

- 32 (1) A map or maps of the municipality and adjacent territory to show the
33 following information:
34 a. The present and proposed boundaries of the municipality.
35 b. The proposed extensions of water ~~mains and mains~~, sewer ~~outfalls~~
36 outfall lines, sewer lines, and waterlines to serve the annexed area, if
37 such utilities are operated by the municipality. The water and sewer
38 map must bear the seal of a registered professional engineer or a
39 licensed surveyor.
- 40 (2) A statement showing that the area to be annexed meets the requirements of
41 G.S. 160A-36.
- 42 (3) A statement setting forth the plans of the municipality for extending to the
43 area to be annexed each ~~major municipal~~meaningful service performed
44 within the municipality at the time of annexation. Specifically, such plans
45 shall:
46 a. Provide for extending police protection, fire protection, solid waste
47 collection and street maintenance services to the area to be annexed
48 on the date of annexation on substantially the same basis and in the
49 same manner as such services are provided within the rest of the
50 municipality prior to annexation. A contract with a rural fire
51 department to provide fire protection shall be an acceptable method

1 of providing fire protection. If a water distribution system is not
2 available in the area to be annexed, the plans must call for reasonably
3 effective fire protection services until such time as waterlines are
4 made available in such area under existing municipal policies for the
5 extension of waterlines. A contract with a private firm to provide
6 solid waste collection services shall be an acceptable method of
7 providing solid waste collection services.

8 b. Provide for extension of water ~~mains~~ mains, sewer ~~outfall lines~~, and
9 sewer ~~lines~~ lines, and ~~waterlines~~ into the area to be annexed so that
10 property owners in the area to be annexed will be able to secure
11 public water and sewer services according to the policies in effect in
12 such municipality ~~for extending water and sewer lines to individual~~
13 ~~lots or subdivisions~~ prior to annexation. If the municipality must, at
14 its own expense, extend water and/or sewer mains into the area to be
15 annexed before property owners in the area can, according to
16 municipal policies, make such connection to such lines, then the
17 plans must call for contracts to be let and construction to begin on
18 such lines within one year following the effective date of annexation.
19 In areas where the installation of sewer is not ~~economically~~ fiscally
20 feasible or would be environmentally damaging due to the unique
21 topography or environmental qualities of the area, the municipality
22 may agree to provide septic system maintenance and repair service
23 until such time as sewer service is provided to properties similarly
24 situated. In any event, the plans shall call for construction to be
25 completed within three years of the effective date of annexation.

26 c. Set forth the method under which the municipality plans to finance
27 extension of each meaningful service ~~services~~ into the area to be
28 annexed. In calculating the cost of extending water or sewer services
29 to the area to be annexed, the municipality shall include the cost of
30 extending water and sewer lines to individual lots of property owners
31 and may estimate the number of eligible property owners that will
32 request to tap into the extended water and sewer lines.

33 (4) A statement of the impact of the annexation on any rural fire department
34 providing service in the area to be annexed and a statement of the impact of
35 the annexation on fire protection and fire insurance rates in the area to be
36 annexed, if the area where service is provided is in an insurance district
37 designated under G.S. 153A-233, a rural fire protection district under Article
38 3A of Chapter 69 of the General Statutes, or a fire service district under
39 Article 16 of Chapter 153A of the General Statutes. The rural fire
40 department shall make available to the city not later than 30 days following a
41 written request from the city all information in its possession or control,
42 including but not limited to operational, financial and budgetary information,
43 necessary for preparation of a statement of impact. The rural fire department
44 forfeits its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to
45 make a good faith response within 45 days following receipt of the written
46 request for information from the city, provided that the city's written request
47 so states by specific reference to this section.

48 (5) A statement showing how the proposed annexation will affect the city's
49 finances and services, including city revenue change estimates. Estimates
50 must include projections for at least a five-year period beyond the first year
51 that expenditures are to be made for the provision of city services to the

1 annexed area with accounting by revenue source and category of
2 expenditure. This statement shall be delivered to the clerk of the board of
3 county commissioners at least 30 days before the date of the public
4 informational meeting on any annexation under this Part."

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

6 **"§ 160A-36. Character of area to be annexed.**

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

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

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

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

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

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

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

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

- 1 (1a) An area with a total resident population equal to at least two and three-tenths
2 persons for each acre of land included within its boundaries.
- 3 (2) An area so developed that, at the time of the approval of the annexation
4 report, all tracts in the area to be annexed are used for commercial,
5 industrial, governmental, or institutional purposes.
- 6 (3) The entire area of any county water and sewer district created under
7 G.S. 162A-86(b1), but this subsection only applies to annexation by a
8 municipality if that:
- 9 a. Municipality has provided in a contract with that district that the area
10 is developed for urban purposes; and
- 11 b. Contract provides for the municipality to operate the sewer system of
12 that county water and sewer district;
- 13 provided that the special categorization provided by this subsection only
14 applies if the municipality is annexing in one proceeding the entire territory
15 of the district not already within the corporate limits of a municipality.
- 16 (d) In fixing new municipal boundaries, a municipal governing board shall use recorded
17 property lines and streets as boundaries. Some or all of the boundaries of a county water and
18 sewer district may also be used when the entire district not already within the corporate limits
19 of a municipality is being annexed.
- 20 (e) The area of an abolished water and sewer district shall be considered to be a water
21 and sewer district for the purpose of this section even after its abolition under
22 G.S. 162A-87.2(b).
- 23 (f) If the area includes any residential lot that is shown on a subdivision plat approved
24 and recorded as a final plat pursuant to an ordinance adopted under Article 18 of Chapter 153A
25 of the General Statutes or under Article 19 of this Chapter, the area must include all other
26 residential lots shown on the same recorded final subdivision plat, except for lots already
27 included in the corporate limits of the annexing municipality or another municipality. If the
28 subdivision is in more than one county, the annexation area need not include lots across the
29 county line. For purposes of this section, if the subdivision was approved as a phased
30 development, each phase may be considered a separate subdivision."

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

32 **"§ 160A-37. Procedure for annexation.**

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

47 (a1) Resolution of Intent. – At least one year after adoption of the resolution of
48 consideration, the municipal governing body may adopt a resolution stating the intent of the
49 municipality to ~~consider annexation.~~ proceed with annexation of some or all of the area
50 described in a resolution of consideration. Such resolution of intent shall describe the
51 boundaries of the area ~~under consideration,~~ intended for annexation, fix a date for the public

1 informational meeting, and fix a date for a public hearing on the question of annexation. The
2 date for the public informational meeting shall be not less than 45 days and not more than 55
3 days following passage of the resolution. The date for the public hearing to be not less than 60
4 days and not more than 90 days following passage of the ~~resolution~~ resolution of intent.

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

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

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

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

1 notices are placed on property, the person placing the notice shall certify that fact to the
2 governing board.

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

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

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

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

- 33 (1) Contain specific findings showing that the area to be annexed meets the
34 requirements of G.S. 160A-36. The external boundaries of the area to be
35 annexed shall be described by metes and bounds. In showing the application
36 of G.S. 160A-36(c) and (d) to the area, the governing board may refer to
37 boundaries set forth on a map of the area and incorporate same by reference
38 as a part of the ordinance.
- 39 (2) A statement of the intent of the municipality to provide services to the area
40 being annexed as set forth in the report required by G.S. 160A-35.
- 41 (3) A specific finding that on the effective date of annexation the municipality
42 will have funds appropriated in sufficient amount to finance construction of
43 any water and sewer lines ~~found necessary~~ stated in the report required by
44 G.S. 160A-35 to extend the basic water and/or sewer system of the
45 municipality into the area to be annexed, or that on the effective date of
46 annexation the municipality will have authority to issue bonds in an amount
47 sufficient to finance such construction. If authority to issue such bonds must
48 be secured from the electorate of the municipality prior to the effective date
49 of annexation, then the effective date of annexation shall be no earlier than
50 the day following the statement of the successful result of the bond election.

1 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~
2 shall be fixed as the June 30 next following the adoption of the ordinance.~~for~~
3 ~~any date not less than 40 days nor more than 400 days from the date of~~
4 ~~passage of the ordinance.~~

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

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

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

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

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

26 b. The assessor for the county where the land subject to annexation is
27 located has certified to the city that the land meets the requirements
28 of this subdivision.

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

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

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

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

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

1 any person owning property in the annexed territory shall believe that the municipality has not
2 followed through on its meaningful service plans adopted under the provisions of
3 G.S. 160A-35(3) and subsection (e) of this section, the person may apply for a writ of
4 mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be
5 granted by the judge of superior court

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

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

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

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

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

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

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

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

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

50 ~~(l) The city shall report to the Local Government Commission as to whether the~~
51 ~~extension of water and sewer lines was completed within the three-year time period specified in~~

1 G.S. 160A-35(3). If the extension is not complete at the end of three years after the effective
2 date of the annexation ordinance, the owner of the property may petition the Local Government
3 Commission for abatement of taxes to be paid to the city which have not been levied as of the
4 expiration date of the three-year period, if such petition is filed not more than 120 days after the
5 expiration of the three-year period. If the Local Government Commission finds that the
6 extension to the property was not complete by the end of the three-year period, it shall enter an
7 order directing the city not to levy any further ad valorem taxes on the property until the fiscal
8 year commencing after completion of the extension. In addition, if the Local Government
9 Commission found that the extension to the property was not completed by the end of the
10 three-year period, and if it finds that for any fiscal year during the period beginning with the
11 first day of the fiscal year in which the annexation ordinance became effective and ending the
12 last day of the fiscal year in which the three-year period expired, the city made an appropriation
13 for construction, operation, or maintenance of a water or sewer system (other than payments the
14 city made as a customer of the system) from the fund or funds for which ad valorem taxes are
15 levied, then the Local Government Commission shall order the city to release or refund an
16 amount of the petitioner's property taxes for that year in question in proportion to the
17 percentage of appropriations in the fund made for water and sewer services. By way of
18 illustration, if a net amount of one hundred thousand dollars (\$100,000) was appropriated for
19 water or sewer construction, operation, or maintenance from a fund which had total
20 expenditures of ten million dollars (\$10,000,000) and the petitioner's tax levy was one thousand
21 dollars (\$1,000), the amount of release or refund shall be ten dollars (\$10.00)."

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

23 **"§ 160A-38. Appeal.**

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

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

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

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

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

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

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

49 (f) The court shall fix the date for review of annexation proceedings under this Chapter,
50 which review date shall preferably be within 30 days following the last day for receiving
51 petitions to the end that review shall be expeditious and without unnecessary delays. The

1 review shall be conducted by the court without a jury. The court may hear oral arguments and
2 receive written briefs, and may take evidence intended to show ~~either~~ any of the following:

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

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

- 9 (1) Remand the ordinance to the municipal governing board for further
10 proceedings if procedural irregularities are found to have materially
11 prejudiced the substantive rights of any of the petitioners.
- 12 (2) Remand the ordinance to the municipal governing board for amendment of
13 the boundaries to conform to the provisions of G.S. 160A-36 if it finds that
14 the provisions of G.S. 160A-36 have not been met; provided, that the court
15 cannot remand the ordinance to the municipal governing board with
16 directions to add area to the municipality which was not included in the
17 notice of public hearing and not provided for in plans for service.
- 18 (3) Remand the report to the municipal governing board for amendment of the
19 plans for providing services to the end that the provisions of G.S. 160A-35
20 are satisfied.
- 21 (4) Declare the ordinance null and void, if the court finds that the ordinance
22 cannot be corrected by remand as provided in subdivisions (1), (2), or (3) of
23 this subsection.

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

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

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

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

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

1 (l) Any settlement agreed to 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 7.(a)** Part 3 of Article 4A of Chapter 160A of the General Statutes reads
6 as rewritten:

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

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

9 **"§ 160A-46. Authority to annex.**

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

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

22 **"§ 160A-47. Prerequisites to annexation; ability to serve; report and plans.**

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

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

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

1 including but not limited to operational, financial and budgetary information,
2 necessary for preparation of a statement of impact. The rural fire department
3 forfeits its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to
4 make a good faith response within 45 days following receipt of the written
5 request for information from the city, provided that the city's written request
6 so states by specific reference to this section.

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

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

16 **"§ 160A-48. Character of area to be annexed.**

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

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

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

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

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

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

50 The purpose of this subsection is to permit municipal governing boards to extend corporate
51 limits to include all nearby areas developed for urban purposes and where necessary to include

1 areas which at the time of annexation are not yet developed for urban purposes but which
2 constitute necessary land connections between the municipality and areas developed for urban
3 purposes or between two or more areas developed for urban purposes. For purposes of this
4 subsection, "necessary land connection" means an area that does not exceed twenty-five percent
5 (25%) of the total area to be annexed.

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

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

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

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

22 **"§ 160A-49. Procedure for annexation.**

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

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

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

49 (1) Fix the date, hour and place of the public informational meeting and the
50 date, hour, and place of the public hearing.

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

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

46 (c) Action Prior to Informational Meeting. – At least 30 days before the date of the
47 public informational meeting, the governing board shall approve the report provided for in
48 G.S. 160A-47, and shall make it available to the public at the office of the municipal clerk. In
49 addition, the municipality may prepare a summary of the full report for public distribution. In
50 addition, the city shall post in the office of the city clerk, at least 30 days before the public

1 informational meeting, a legible map of the area to be annexed and a list of persons holding
2 freehold interests in property in the area to be annexed that it has identified.

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

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

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

- 29 (1) Contain specific findings showing that the area to be annexed meets the
30 requirements of G.S. 160A-48. The external boundaries of the area to be
31 annexed shall be described by metes and bounds. In showing the application
32 of G.S. 160A-48(c) and (d) to the area, the governing board may refer to
33 boundaries set forth on a map of the area and incorporate same by reference
34 as a part of the ordinance.
- 35 (2) A statement of the intent of the municipality to provide services to the area
36 being annexed as set forth in the report required by G.S. 160A-47.
- 37 (3) A specific finding that on the effective date of annexation the municipality
38 will have funds appropriated in sufficient amount to finance construction of
39 any major trunk water ~~mains and~~ mains, sewer outfalls and ~~such~~ water and
40 sewer lines as ~~required in G.S. 160A-47(3)b found necessary~~ stated in the
41 report required by G.S. 160A-47 to extend the basic water and/or sewer
42 system of the municipality into the area to be annexed, or that on the
43 effective date of annexation the municipality will have authority to issue
44 bonds in an amount sufficient to finance such construction. If authority to
45 issue such bonds must be secured from the electorate of the municipality
46 prior to the effective date of annexation, then the effective date of
47 annexation shall be no earlier than the day following the statement of the
48 successful result of the bond election.
- 49 (4) Fix the effective date for annexation. The effective date of annexation ~~may~~
50 shall be fixed as the June 30 next following the adoption of the ordinance. ~~for~~

1 ~~any date not less than 70 days nor more than 400 days from the date of~~
2 ~~passage of the ordinance.~~

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

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

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

23 (2) Land that:

- 24 a. Was on the date of the resolution of intent for annexation being used
25 for actual production and is eligible for present-use value taxation
26 under G.S. 105-277.4, but the land has not been in use for actual
27 production for the required time under G.S. 105-277.3; and
28 b. The assessor for the county where the land subject to annexation is
29 located has certified to the city that the land meets the requirements
30 of this subdivision

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

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

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

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

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

1 (h) Remedies for Failure to Provide Services. – If, not earlier than one year from the
2 effective date of annexation, and not later than 15 months from the effective date of annexation,
3 any person owning property in the annexed territory shall believe that the municipality has not
4 followed through on its service plans adopted under the provisions of G.S. 160A-47(3) and
5 160A-49(e), for any required service other than water and sewer services such person may
6 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General
7 Statutes. Relief may be granted by the judge of superior court

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

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

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

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

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

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

48 (k) The city shall report to the Local Government Commission as to whether the
49 extension of water and sewer lines was completed within the three-year time period specified in
50 G.S. 160A-47(3)c. If a valid request for extension of a water or sewer line has been made under
51 G.S. 160A-47(3)b, and the extension is not complete at the end of two three years after the

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

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

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

36 "**§ 160A-50. Appeal.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (i) If part or all of the area annexed under the terms of an annexation ordinance is the
47 subject of an appeal to the superior court, Court of Appeals or Supreme Court on the effective
48 date of the ordinance, then the ordinance shall be deemed amended to make the effective date
49 with respect to such area the last day of the next full calendar month following the date of the
50 final judgment of the superior court or appellate division, whichever is appropriate, or the date
51 the municipal governing board completes action to make the ordinance conform to the court's

1 instructions in the event of remand. Upon the effective date of annexation, taxation of real and
2 personal property is subject to the provisions of G.S. 160A-58.10. The municipal governing
3 board may, however, adopt a resolution prior to the date the annexation would become
4 effective under this subsection, setting the effective date for the thirtieth day of June next
5 following the date of the final judgment. For the purposes of this subsection, a denial of a
6 petition for rehearing or for discretionary review shall be treated as a final ~~judgement~~ judgment.

7 (j) If a petition for review is filed under subsection (a) of this section or an appeal is
8 filed under G.S. 160A-49.1(g) or G.S. 160A-49.3(g), and a stay is granted, then the time
9 periods of two years, 24 months or 27 months provided in G.S. 160A-47(3)c, 160A-49(h), or
10 160A-49(j) are each extended by the lesser of the length of the stay or one year for that
11 annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 "Part 5. Property Tax Liability of Newly Annexed ~~Territory~~ Territory; Oversight of Involuntary
49 Annexation."

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

1 "§ 160A-58.11. Referendum upon petition of registered voters before involuntary
2 annexation ordinance.

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

9 (1) Be dated on the date of issuance.

10 (2) Be addressed to the annexing municipal governing board.

11 (3) Contain a clear description of the boundaries of the proposed annexation
12 area.

13 (4) Have attached a legible map of the proposed annexation area, with a clear
14 showing of the boundary with the existing corporate limits.

15 (5) Contain the place and time that the report in G.S. 160A-35 or G.S. 160A-47,
16 as applicable, can be reviewed and copied.

17 (6) Contain a general statement of the request for a referendum on the proposed
18 involuntary annexation.

19 (7) Provide a place for signatures, which includes the printed name and address
20 of the registered voter.

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

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

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

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

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

46 (g) Upon a determination that a sufficient referendum petition has been submitted, the
47 municipal governing body may either abandon the proposed involuntary annexation by
48 resolution or adopt a resolution setting the date for the referendum to coincide with the next
49 general municipal election and so notify the board of elections. If the municipality's next
50 general election is to be held more than two years from the determination and the municipality

1 does not abandon the proposed involuntary annexation, the resolution setting the date for the
2 referendum shall make that date coincide with the next countywide general election.

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

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

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

13 "[] FOR [] AGAINST

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

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

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

26 **"§ 160A-58.12. Local Government Commission oversight of annexation.**

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

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

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

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

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

1 Commission shall report findings regarding the fiscal feasibility of the proposed annexation
2 within 60 days of receipt of the report.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 "Part 7. Annexation Agreements With Property Owners.

33 **"§ 160A-58.35. Annexation agreements.**

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

37 (1) To petition the city for annexation of the property pursuant to Part 1 or Part
38 4 of Article 4A of this Chapter, upon the city's request.

39 (2) Not to join in any appeal if the city adopts an ordinance to annex the
40 property that is served by water or sewer under the contract pursuant to Part
41 2 or Part 3 of Article 4A of this Chapter.

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

47 (c) A contract under this section may be part of a development agreement under Part
48 3D of Article 19 of this Chapter or Part 3A of Article 18 of Chapter 153A of the General
49 Statutes."

50 **SECTION 14.5.** Article 4A of Chapter 160A of the General Statutes is amended by
51 adding a new Part to read:

"Part 8. City-County Utility Service Plans."§ 160A-58.31. Purpose.

It is the purpose of this Part to authorize municipalities and counties to develop binding plans concerning the provision of water and sewer services to enhance land-use planning and growth.

"§ 160A-58.32. Definitions.

The following terms when used in this Part shall have the following meanings, except where the context clearly indicates a different meaning:

(a) "Utility services" shall mean water and sewer services.

(b) "Future utility service area" shall mean an area subject to joint city and county utility services plan authority. Future utility service area is as follows:

(1) Under 10,000 municipal population, according to the last federal decennial census, within one mile of the primary corporate limits.

(2) 10,000-25,000 municipal population, according to the last federal decennial census, within two miles of the primary corporate limits.

(3) Greater than 25,000 municipal population, according to the last federal decennial census, within three miles of the primary corporate limits.

"§ 160A-58.33. Utility service plans authorized.

A city may enter into a utility services plan with a county for a period not to exceed 20 years which shall be approved by ordinance of each governing board.

"§ 160A-58.34. Procedure.

(a) A county must adopt a resolution declaring its intent to develop a utility services plan with one or more municipalities and provide written notice return receipt requested to those municipalities no later than January 1, 2010.

(b) In the event that an agreement concerning the utility services plan is not reached within 90 days following receipt of notification, the authority to enter into an agreement under this Part is terminated, unless the time period is extended by mutual agreement.

(c) During the initial 90-day period following receipt of notification, a municipality may not adopt an annexation ordinance under Part 1 or Part 4 of this Article, or a resolution of intent under Part 2 or Part 3 of this Article.

(d) Nothing in this section shall limit the authority of cities and counties to form interlocal agreements subject to Article 20 of this Chapter.

"§ 160A-58.35. Contents of utility services plan.

(a) The utility services plan shall contain at least all of the following:

(1) State the duration of the utility services plan.

(2) Describe the area subject to the utility services plan.

(3) Describe the territory within which each jurisdiction may provide utility services.

(4) State the effective date of the utility services plan.

(5) Require each participating city which proposes any annexation within the territory covered by the utility services plan to give written notice to all other parties to the utility services plan at least 60 days before the adoption of any annexation ordinance. Provided, however, that the utility services plan may provide for a waiver of this time period by the notified party. The written notice shall describe the area to be annexed by a legible map that clearly and accurately shows the boundaries of the area to be annexed in relation to the area covered by the utility services plan.

(6) Include any other necessary or proper matter.

(b) No utility services plan may be entered into under this Part unless each participant has held a public hearing prior to adopting the ordinance approving the utility services plan. The governing boards of the participants may hold a joint public hearing if desired. Notice of

1 the public hearing shall be published once in a newspaper having general circulation in the
2 county at least 10 days prior to the date of the public hearing.

3 (c) Any utility services plan entered into under this Part may be modified or terminated
4 by a subsequent agreement entered into by all participating parties to the utility services plan.
5 The subsequent agreement shall be approved by ordinance after a public hearing or hearings
6 pursuant to subsection (b) of this section.

7 (d) A participating party may terminate a utility services plan unilaterally or withdraw
8 itself from the utility services plan by repealing the ordinance by which it approved the plan
9 and providing five years' written notice to the other participants.

10 **"§ 160A-58.36. Limitation on annexation.**

11 (a) No municipality may annex in its future utility service area unless one of the
12 following applies:

13 (1) The county waives its authority to initiate a negotiation over the formation of
14 a utility services plan with one or more cities.

15 (2) The parties, having made a good-faith effort to negotiate a utility services
16 plan, fail to agree to a services plan in accordance with G.S. 160A-58.34.

17 (3) The utility services plan has been adopted by the parties and has not been
18 repealed by the annexing municipality or the county.

19 (b) If in the event the future utility service areas of multiple municipalities overlap, the
20 utility services plan must be agreed to by the affected county or counties and all the affected
21 municipalities.

22 **"§ 160A-58.37. Effect of utility services plan.**

23 From and after the effective date of the utility services plan, participants in the utility
24 services plan are limited to establishing utility services in the area covered by the utility
25 services plan only as described in that plan.

26 **"§ 160A-58.38. Relief.**

27 (a) Each provision of a utility services plan shall be binding upon the parties. Not later
28 than 30 days following an action to provide services in territory subject to the utility services
29 plan, or the expiration of the initial 90-day period following notification where it is alleged that
30 a party failed to make a good-faith effort to negotiate a utility services plan, a party which
31 believes that another party has violated this Part or the utility services plan may file a petition
32 in the superior court of the county where any of the territory is located seeking review of the
33 action alleged to have violated this Part or the utility plan.

34 (b) Within five days after the petition is filed with the court, the petitioning party shall
35 serve copies of the petition by certified mail, return receipt requested, upon the respondent
36 party.

37 (c) The review shall be conducted by the court without a jury.

38 (d) At anytime before or during the review proceeding, any party subject to the utility
39 services plan may apply to the reviewing court for an order staying the action to provide utility
40 services pending the outcome of the review. At any time before or during the review
41 proceeding, any party subject to the utility services plan negotiation may apply to the reviewing
42 court for an order staying the adoption of an annexation ordinance under Part 1 or Part 4 of this
43 Article, or a resolution of intent under Part 2 or Part 3 of this Article, if it is alleging that the
44 party failed to make a good-faith effort to negotiate a utility services plan during the initial 90-
45 day period following notification.

46 (e) Upon a finding that the action to provide utility services was inconsistent with the
47 utility services plan, the court may issue an order to require the party to stop the action and
48 direct the party to restore conditions to what they were prior to the action.

49 (f) Upon a finding that the party failed to make a good-faith effort to negotiate a utility
50 services plan during the initial 90-day period following notification, the court may order a new
51 90-day period to negotiate a utility services plan, during which annexation ordinances under

1 Part 1 or Part 4 of this Article, or resolutions of intent under Part 2 or Part 3 of this Article may
2 not be adopted. The court may also stay the operation of annexation ordinances under Part 1 or
3 Part 4 of this Article, or resolutions of intent under Part 2 or Part 3 of this Article that were
4 adopted following the expiration of the initial 90-day period following notification."

5 "Part 8. City-County Utility Service Plans.

6 **"§ 160A-58.31. Purpose.**

7 It is the purpose of this Part to authorize municipalities and counties to develop binding
8 plans concerning the provision of water and sewer services to enhance land use planning and
9 growth.

10 **"§ 160A-58.32. Definitions.**

11 The following terms where used in this Part shall have the following meanings, except
12 where the context clearly indicates a different meaning:

13 (a) "Utility services" shall mean water and sewer services.

14 (b) "Future utility service area" shall mean an area subject to joint city and county
15 utility services plan authority. Future utility service area is as follows:

16 (1) Under 10,000 municipal population, according to the last federal decennial
17 census, within one mile of the primary corporate limits.

18 (2) 10,000-25,000 municipal population, according to the last federal decennial
19 census, within two miles of the primary corporate limits.

20 (3) Greater than 25,000 municipal population, according to the last federal
21 decennial census, within three miles of the primary corporate limits

22 **"§ 160A-58.33. Utility service plans authorized.**

23 A city may enter into a utility services plan with a county, for a period not to exceed 20
24 years which shall be approved by ordinance of each governing board.

25 **"§ 160A-58.34. Procedure.**

26 (a) A county must adopt a resolution declaring its intent to develop a utility services
27 plan with one or more municipalities and provide written notice return receipt requested to
28 those municipalities no later than January 1, 2010.

29 (b) In the event that an agreement concerning the utility services plan is not reached
30 within 90 days following receipt of notification, the authority to enter into an agreement under
31 this Part is terminated, unless the time period is extended by mutual agreement.

32 (c) During the initial 90 day period following receipt of notification, a municipality
33 may not adopt an annexation ordinance under Part 1 or Part 4 of this Article, or a resolution of
34 intent under Part 2 or Part 3 of this Article.

35 (d) Nothing in this section shall limit the authority of cities and counties to form
36 interlocal agreements subject to Article 20 of this Chapter.

37 **"§ 160A-58.35. Contents of utility services plan.**

38 (a) The utility services plan shall contain at least all of the following:

39 (1) State the duration of the utility services plan.

40 (2) Describe the area subject to the utility services plan.

41 (3) Describe the territory within which each jurisdiction may provide utility
42 services.

43 (4) State the effective date of the utility services plan.

44 (5) Require each participating city which proposes any annexation within the
45 territory covered by the utility services plan to give written notice to all other
46 parties to the utility services plan at least 60 days before the adoption of any
47 annexation ordinance. Provided, however, that the utility services plan may
48 provide for a waiver of this time period by the notified party. The written
49 notice shall describe the area to be annexed by a legible map that clearly and
50 accurately shows the boundaries of the area to be annexed in relation to the
51 area covered by the utility services plan.

1 (6) Include any other necessary or proper matter.

2 (b) No utility services plan may be entered into under this Part unless each participant
3 has held a public hearing prior to adopting the ordinance approving the utility services plan.
4 The governing boards of the participants may hold a joint public hearing if desired. Notice of
5 the public hearing shall be published once in a newspaper having general circulation in the
6 county at least 10 days prior to the date of the public hearing.

7 (c) Any utility services plan entered into under this Part may be modified or terminated
8 by a subsequent agreement entered into by all participating parties to the utility services plan.
9 The subsequent agreement shall be approved by ordinance after a public hearing or hearings
10 pursuant to subsection (b) of this section.

11 (d) A participating party may terminate a utility services plan unilaterally or withdraw
12 itself from the utility services plan by repealing the ordinance by which it approved the plan
13 and providing five years written notice to the other participants.

14 **"§ 160A-58.36. Limitation on annexation.**

15 (a) No municipality may annex in its future utility service area unless one of the
16 following applies:

17 (1) The county waives its authority to initiate a negotiation over the formation of
18 a utility services plan with one or more cities.

19 (2) The parties, having made a good faith effort to negotiate a utility services
20 plan fail to agree to a services plan in accordance with G.S. 160A-58.34.

21 (3) The utility services plan has been adopted by the parties and has not been
22 repealed by the annexing municipality or the county.

23 (b) If in the event the future utility service areas of multiple municipalities overlap, the
24 utility services plan must be agreed to by the affected county or counties and all the affected
25 municipalities.

26 **"§ 160A-58.37. Effect of utility services plan.**

27 From and after the effective date of the utility services plan, participants in the utility
28 services plan are limited to establishing utility services in the area covered by the utility
29 services plan only as described in that plan.

30 **"§ 160A-58.38. Relief.**

31 (a) Each provision of a utility services plan shall be binding upon the parties. Not later
32 than 30 days following an action to provide services in territory subject to the utility services
33 plan, or the expiration of the initial 90 day period following notification where it is alleged that
34 a party failed to make a good faith effort to negotiate a utility services plan, a party which
35 believes that another party has violated this Part or the utility services plan may file a petition
36 in the superior court of the county where any of the territory is located seeking review of the
37 action alleged to have violated this Part or the utility plan.

38 (b) Within five days after the petition is filed with the court, the petitioning party shall
39 serve copies of the petition by certified mail, return receipt requested upon the respondent
40 party.

41 (c) The review shall be conducted by the court without a jury.

42 (d) At any time before or during the review proceeding, any party subject to the utility
43 services plan may apply to the reviewing court for an order staying the action to provide utility
44 services pending the outcome of the review. At any time before or during the review
45 proceeding, any party subject to the utility services plan negotiation may apply to the reviewing
46 court for an order staying the adoption of an annexation ordinance under Part 1 or Part 4 of this
47 Article, or a resolution of intent under Part 2 or Part 3 of this Article, if it is alleging that the
48 party failed to make a good faith effort to negotiate a utility services plan during the initial 90
49 day period following notification.

1 (e) Upon a finding that the action to provide utility services was inconsistent with the
2 utility services plan, the court may issue an order to require the party to stop the action, and
3 direct the party to restore conditions to what they were prior to the action.

4 (f) Upon a finding that the party failed to make a good faith effort to negotiate a utility
5 services plan during the initial 90 day period following notification, the court may order a new
6 90 day period to negotiate a utility services plan, during which annexation ordinances under
7 Part 1 or Part 4 of this Article, or resolutions of intent under Part 2 or Part 3 of this Article may
8 not be adopted. The court may also stay the operation of annexation ordinances under Part 1 or
9 Part 4 of this Article, or resolutions of intent under Part 2 or Part 3 of this Article that were
10 adopted following the expiration of the initial 90 day period following notification."

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

12 **"§ 160A-232. Payment of assessments in cash or by installments.**

13 (a) The owners of assessed property 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 either in cash or in not more than 10 annual installments, as may have been determined by the
16 council in the resolution directing the project giving rise to the assessment to be undertaken.
17 With respect to payment by installment, the council may provide.

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

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

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

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

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

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

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

44 **"§ 143B-437.04. Community development block grants.**

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

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

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

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

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

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

16 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking**
17 **Water Reserve.**

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

- 22 (1) Public necessity. – An applicant must explain how the project promotes
23 public health and protects the environment. A project that improves a system
24 that is not in compliance with permit requirements or is under orders from
25 the Department, enables a moratorium to be lifted, or replaces failing septic
26 tanks with a wastewater collection system has priority.
- 27 (2) Effect on impaired waters. – A project that improves designated impaired
28 waters of the State has priority.
- 29 (3) Efficiency. – A project that achieves efficiencies in meeting the State's water
30 infrastructure needs or reduces vulnerability to drought consistent with Part
31 2A of Article 21 of Chapter 143 of the General Statutes by one of the
32 following methods has priority:
- 33 a. The combination of two or more wastewater or public water systems
34 into a regional wastewater or public water system by merger,
35 consolidation, or another means.
- 36 b. Conservation or reuse of water, including bulk water reuse facilities
37 and waterlines to supply reuse water for irrigation and other
38 approved uses.
- 39 c. Construction of an interconnection between water systems intended
40 for use in drought or other water shortage emergency.
- 41 d. Repair or replacement of leaking waterlines.
- 42 e. Replacement of meters and installation of new metering systems.
- 43 (4) Comprehensive land-use plan. – A project that is located in a city or county
44 that has adopted or has taken significant steps to adopt a comprehensive
45 land-use plan under Article 18 of Chapter 153A of the General Statutes or
46 Article 19 of Chapter 160A of the General Statutes has priority over a
47 project located in a city or county that has not adopted a plan or has not
48 taken steps to do so. The existence of a plan has more priority than steps
49 taken to adopt a plan, such as adoption of a zoning ordinance. A plan that
50 exceeds the minimum State standards for protection of water resources has
51 more priority than one that does not. A project is considered to be located in

1 a city or county if it is located in whole or in part in that unit. A land-use
2 plan is not considered a comprehensive land-use plan unless it has
3 provisions that protect existing water uses and ensure compliance with water
4 quality standards and classifications in all waters of the State affected by the
5 plan.

6 (5) Flood hazard ordinance. – A project that is located in a city or county that
7 has adopted a flood hazard prevention ordinance under G.S. 143-215.54A
8 has priority over a project located in a city or county that has not adopted an
9 ordinance. A plan that exceeds the minimum standards under
10 G.S. 143-215.54A for a flood hazard prevention ordinance has more priority
11 than one that does not. A project is considered to be located in a city or
12 county if it is located in whole or in part in that unit. If no part of the service
13 area of a project is located within the 100-year floodplain, the project has the
14 same priority under this subdivision as if it were located in a city or county
15 that has adopted a flood hazard prevention ordinance. The most recent maps
16 prepared pursuant to the National Flood Insurance Program or approved by
17 the Department determine whether an area is within the 100-year floodplain.

18 (6) Sound management. – A project submitted by a local government unit that
19 has demonstrated a willingness and ability to meet its responsibilities
20 through sound fiscal policies and efficient operation and management has
21 priority.

22 (7) Capital improvement plan. – A project that implements the applicant's
23 capital improvement plan for the wastewater system or public water system
24 it manages has priority over a project that does not implement a capital
25 improvement plan. To receive priority, a capital improvement plan must set
26 out the applicant's expected water infrastructure needs for at least 10 years.

27 (8) Coastal habitat protection. – A project that implements a recommendation of
28 a Coastal Habitat Protection Plan adopted by the Environmental
29 Management Commission, the Coastal Resources Commission, and the
30 Marine Fisheries Commission pursuant to G.S. 143B-279.8 has priority over
31 other projects that affect counties subject to that Plan.

32 (9) Low-income residents. – A project that is located in an area annexed by a
33 municipality under Article 4A of Chapter 160A of the General Statutes in
34 order to provide water or sewer services to low-income residents has
35 priority. For purposes of this section, low-income residents are those with a
36 family income that is fifty percent (50%) or less of median family income."

37 **SECTION 18.** This act becomes effective October 1, 2009, and applies to
38 annexations for which a resolution of intent has been adopted under Part 2 or Part 3 of Article
39 4A of Chapter 160A of the General Statutes on or after that date and to annexation for which a
40 petition has been received under Part 1 or Part 4 of Article 4A of Chapter 160A of the General
41 Statutes on or after that date.