# MECHANICS OF ANNEXATION

## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOREWORD</td>
<td></td>
<td>ii</td>
</tr>
<tr>
<td>APPPLICABILITY OF THIS PUBLICATION</td>
<td></td>
<td>iii</td>
</tr>
<tr>
<td>Chapter 1</td>
<td>Voluntary Contiguous Annexation</td>
<td>1-1</td>
</tr>
<tr>
<td></td>
<td>Section 1A Petioned Annexation of Contiguous Distressed Areas</td>
<td>1-21</td>
</tr>
<tr>
<td>Chapter 2</td>
<td>City-Initiated Annexation</td>
<td>2-1</td>
</tr>
<tr>
<td>Chapter 3</td>
<td>Voluntary Satellite Annexation</td>
<td>3-1</td>
</tr>
<tr>
<td>Chapter 4</td>
<td>Annexation of Property Owned by the Municipality</td>
<td>4-1</td>
</tr>
<tr>
<td></td>
<td>Section 4A Contiguous Property Owned by the Municipality</td>
<td>4-2</td>
</tr>
<tr>
<td></td>
<td>Section 4B Satellite Property Owned by the Municipality</td>
<td>4-15</td>
</tr>
<tr>
<td>Chapter 5</td>
<td>Annexation by Act of the General Assembly</td>
<td>5-1</td>
</tr>
<tr>
<td>Chapter 6</td>
<td>Pre Clearanece Requirements Under the Federal Voting Rights Act</td>
<td>6-1</td>
</tr>
<tr>
<td>Chapter 7</td>
<td>Filing and Recordation Requirements</td>
<td>7-1</td>
</tr>
<tr>
<td>Chapter 8</td>
<td>Taxation of Newly Annexed Property</td>
<td>8-1</td>
</tr>
<tr>
<td>Chapter 9</td>
<td>Annexation Agreements</td>
<td>9-1</td>
</tr>
</tbody>
</table>
FOREWORD

MECHANICS OF ANNEXATION represents an updated edition of earlier League publications, revised and supplemented to incorporate changes in the annexation laws made by the General Assembly through the 2012 Session (with the exception noted in Chapter 2). This report has been published to meet a need expressed by municipal officials to combine, in one source, the substance of the laws prescribing methods of annexation, together with suggested forms and procedures.

The report consists of nine chapters. Chapters 1 through 5 describe the available methods of annexation, with a set of suggested forms appearing at the end of each chapter. Chapter 6 outlines the “preclearance” reporting requirements of the Federal Voting Rights Act, which are applicable in 40 counties. We express our appreciation to former Charlotte City Attorney Dewitt McCarley for contributing this chapter. Chapter 7 describes procedural requirements for filing and recordation and Chapter 8 explains the taxation formulas for newly annexed areas. Chapter 9 discusses annexation agreements between municipalities.

The 1959 General Assembly declared as a matter of state policy that "sound urban development is essential to the continued economic development of North Carolina." Municipal officials charged with the responsibility of executing this policy will recognize the vital importance of overall planning for the orderly growth and development of municipalities in the state. Municipal officials will also recognize that annexation is an integral part of the overall planning process, a tool to be used in guiding and ensuring growth and development.

Every municipality should develop an annexation policy and program within the framework of its overall plan of development. A specific annexation should be undertaken only after complete and careful study of its feasibility in terms of the services to be rendered.

In light of controversy and misunderstanding concerning the city-initiated annexation authority, it is crucial that municipal officials encourage an ongoing public information effort to explain the value of municipalities and municipal services.

Please feel free to contact the League staff in the event questions arise concerning the use of this publication, or if additional information is needed.

Kimberly S. Hibbard
General Counsel
APPLICABILITY OF THIS PUBLICATION

This report has been revised and supplemented to incorporate the major changes in the annexation laws made by the General Assembly through the 2012 Session (with the exception noted in Chapter 2).

The application of these uniform annexation procedures to particular municipalities may have been altered by local modifications enacted by the General Assembly. Officials should be certain that no such local act imposes additional requirements or limitations before employing the procedures described in this publication.

*This publication is intended as a guideline only. It is not a substitute for consultation with the municipal attorney.* Note also that this publication does not attempt to summarize all of the cases interpreting the annexation statutes, although limited citations are provided on specific points. The municipality should work closely with the municipal attorney to determine whether there is case law which may be pertinent to any aspect of the proposed annexation. *Municipal officials should always refer to the full text of the statutes, as amended, throughout the annexation process.*
Chapter 1

VOLUNTARY CONTIGUOUS ANNEXATION

G.S. Chapter 160A, Article 4A, Part 1
(G.S. 160A-31 and G.S. 160A-31.1)

The governing body of a municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing body of a petition signed by the owners of all the real property located within such area. Such annexations based upon a 100% petition are subject to the following procedures and requirements:

Character of the Area to be Annexed

(1) Essentially, any area which is contiguous to the corporate limits may be annexed by this procedure.

(2) For purposes of these laws, an area is deemed "contiguous" if, at the time the petition is submitted, the area either abuts directly on the municipal boundary or is separated from the municipal boundary by the width of a street or street right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina. A connecting corridor consisting solely of a street or street right-of-way may not be used to establish contiguity. In describing the area to be annexed in the annexation ordinance, the governing body can include within the description, and thereby annex, any of the foregoing areas that separate the municipal boundary from the area petitioning for annexation. See G.S. 160A-31(f).

(3) Note that there are special procedures for the annexation of contiguous property owned by the municipality, detailed in Section 4A of this publication. There are also different procedures for the petitioned annexation of "distressed areas"—see p. 1-21.

(4) A municipality has no authority to petition itself for annexation of property in which it has no legal interest. A municipality has no legal interest in a state-maintained street, unless it owns the underlying property and not just an easement. See G.S. 160A-31(i).

Petition Required

(1) The petition received by the governing body must describe the area proposed for annexation and be signed by all owners of real property in the area, with no exceptions. The petition must also contain the address of each property owner. (See sample Petition, p. 1-5). Although the statutes do not require that the petition include a metes and bounds description or a map, because the municipality must ultimately furnish an accurate map or legal description of the property in order to comply with the requirements of G.S. 160A-22 and 160A-29, the municipality may wish to require the petitioners to provide such a surveyor's map and/or a metes and bounds description at their own expense.
(2) If the municipality has a zoning vested rights ordinance, that ordinance may require petitioners to include a signed statement declaring whether or not any zoning vested rights with respect to the properties subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the petitioners claim that vested rights have been established, the municipality may require them to provide proof of such rights. If the petitioners declare that no vested rights have been established, any vested rights previously acquired are terminated.

Certification of Petition

When a petition is received, the governing body must direct the clerk to investigate the sufficiency thereof. (See sample Resolution Directing Clerk to Investigate Petition, p. 1-7). Upon making an investigation, the clerk shall certify the results to the governing body. (See sample Certificate of Sufficiency, p. 1-8). In order to certify that all owners of real property in the area to be annexed have signed the petition, the clerk may require assistance from the municipal attorney in determining the legal ownership of the property.

Public Hearing and Notice

(1) Upon receipt of the clerk’s certificate, the governing body shall fix a date for a public hearing on the annexation. (See sample Resolution Fixing Date of Public Hearing, p. 1-9). Notice of the public hearing must be published once in a newspaper having general circulation in the municipality at least ten (10) days before the date of the hearing. If there is no such newspaper, the notice shall be posted in three or more public places within the area to be annexed and three or more public places within the municipality. (See sample Notice of Public Hearing, p. 1-10).

(2) At the public hearing, residents and property owners in the area proposed for annexation, as well as residents and property owners in the municipality, are given an opportunity to be heard. Note that property owners who have signed the petition have the right to withdraw from the petition at any time up until the municipal governing body enacts the annexation ordinance. Conover v. Newton, 297 N.C. 506 (1979). The petition must stand or fall as a unity and the withdrawal of a property owner will void the petition. Id.

Findings Made and Ordinance Adopted

(1) Following the public hearing, the governing body must determine whether the petition meets the requirements of the law.

(2) If the petition is valid in every respect, the governing body may pass an ordinance annexing the area described in the petition and may include those areas described under subsection (2) of "Character of the Area to Be Annexed" above.

(3) The ordinance may be made effective immediately, on the June 30 after passage of the ordinance, or on the June 30 of the following year after passage of the ordinance. (See sample Annexation Ordinance, p. 1-11).
Rural Fire Department Provisions

A municipality that is considering a petition to annex property in an area served by a rural fire department and located in an insurance district, a rural fire protection district, or a county fire protection service district should be aware of and prepared to comply with the provisions for assumption of debt set out below. (See Fire Protection Definitions, p. 1-13).

(1) Assumption of Debt. If the area to be annexed is served by a rural fire department and is in one of the defined districts, then upon the effective date of annexation the municipality must pay annually a proportionate share of any payments due on any debt (including principal and interest) relating to facilities or equipment of the rural fire department, if the debt was existing at the time of submission of the petition for annexation. The payments must be in the same proportion that the assessed valuation of the annexed portion of the district bears to the assessed valuation of the entire district on the date the annexation ordinance becomes effective.

The annual payments to the rural fire department are calculated as follows: The rural fire department certifies to the municipality annually the amount that will be expended for debt payments to be shared by the municipality. That amount is multiplied by a percentage determined by dividing the assessed valuation of the annexed area by the assessed valuation of the district. Valuations are to be fixed as of the effective date of the annexation ordinance.

Calculation formula:

\[
\text{Amount of annual payment on district debt for facilities and/or equipment} \times \frac{\text{Assessed valuation of area of district annexed}}{\text{Assessed valuation of district}} = \text{Municipality's annual debt payment}
\]

See sample Rural Fire Department Debt Information Form, p. 1-15.

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

(3) Deminimus Exception. The statute does not apply in any calendar year where the municipality's share of annual debt payments for all voluntary annexations during that year does not exceed one hundred dollars ($100).

(4) Information to be Provided by Rural Fire Department. The rural fire department is required to make available to the municipality, within thirty (30) days following the municipality's written request, information concerning any such outstanding debt. If the rural fire department fails to respond within forty-five (45) days following receipt of the written request, it forfeits its rights for reimbursement. The municipality must include in its written request reference to the section containing this requirement (G.S. 160A-31.1 for contiguous annexations; G.S.
160A-58.2A for satellite annexations) or no forfeiture will occur. (See sample Request for Debt Information, p. 1-14).

(5) **Contracting with Rural Fire Departments.** If the municipality wishes to contract with the rural fire department for provision of fire protection in the annexed area, it should take into consideration the assumption of debt requirement in determining the amount to be paid under the contract. Contracting with the rural fire department will not waive the obligation to pay a portion of the department's debt.

(6) **Fire Protection District Tax Refunds.** G.S. 69-25.15; G.S. 153A-304.1. If the newly annexed area is located in a rural fire protection district or a county fire protection service district and the municipality furnishes fire protection to its citizens, the municipality may be required to reimburse property owners for a prorated portion of the fire protection district taxes they have paid for the fiscal year in which the annexation occurs. See Chapter 8 of this publication.

**Judicial Review**

The statutes do not provide for judicial review of petitioned annexations. Although property owners in the annexed area and residents of the municipality have the right to be heard at the public hearing, they do not have the right to appeal. *See Joyner v. Town of Weaverville, 94 N.C. App. 588 (1989).*

**Procedures Following Adoption of Ordinance**

(1) **Notice of Adoption.** Although not required by law, it is recommended that notice of the adoption of the annexation ordinance be published. (See sample Notice of Adoption of Annexation Ordinance, p. 1-20).

(2) **Recordation.** The annexation must be properly recorded with the appropriate board of elections, the register of deeds and the Secretary of State, as well as in the municipal clerk's office. Population information must be reported to the Office of State Planning. See Chapter 7 of this publication.

(3) **Voting Rights Act.** Where applicable, the municipality must file with the U.S. Department of Justice for Voting Rights Act preclearance. See Chapter 6 of this publication.

**Applicability of Laws to the Annexed Area**

(1) **Generally.** From and after the effective date of the annexation, the annexed area, its citizens and property are subject to all debts, laws, ordinances and regulations of the annexing municipality, and are entitled to the same privileges and benefits as other parts of the municipality.

(2) **Taxation.** Areas annexed with an effective date other than June 30 are subject to proration of property taxes according to a statutory formula. The municipality may also have an obligation to reimburse property owners for fire protection district taxes. Chapter 8 of this publication provides details on these municipal taxation issues.
(3) **Zoning, G.S. 160A-360(f).** When a municipality annexes an area regulated by the county, the county zoning and planning regulations and powers of enforcement remain in effect until (a) the municipality has adopted regulations for the area or (b) a period of sixty (60) days has elapsed following the annexation, whichever is sooner. During this period the municipality may hold hearings and take any other measures that may be required in order to adopt its regulations for the area. As noted previously, the municipal zoning vested rights ordinance may provide that any zoning vested rights acquired prior to annexation are extinguished unless expressly declared on the annexation petition.
PETITION REQUESTING ANNEXATION

Date: ____________________

To the (name of governing body) of the (City/Town/Village) of ____________________:

1. We the undersigned owners of real property respectfully request that the area described in Paragraph 2 below be annexed to the (City/Town/Village) of ____________________.

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

*(Insert Description of Boundaries)*

**3. We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate below and attach proof.)

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Do you declare vested rights?**</th>
<th>(Indicate yes or no.)</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
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<td>3</td>
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* Municipality may wish to require metes and bounds description or map.

** This is one possible format for zoning vested rights declaration. This language may require modification to reflect the requirements of the municipal zoning vested rights ordinance, if any.
RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31

WHEREAS, a petition requesting annexation of an area described in said petition was received on (date) by the (name of governing body); and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the (City/Town/Village) Clerk before further annexation proceedings may take place; and

WHEREAS, the (name of governing body) of the (City/Town/Village) of ___________ deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the (name of governing body) of the (City/Town/Village) of ______________________ that:

The (City/Town/Village) Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the (name of governing body) the result of (his/her) investigation.

____________________________
Mayor

ATTEST:

____________________________
Clerk
CERTIFICATE OF SUFFICIENCY

To the (name of governing body) of the (City/Town/Village) of ________________, North Carolina:

I, ____________________, (City/Town/Village) Clerk, do hereby certify that I have investigated the attached petition and hereby make the following findings:

a. The petition contains an adequate property description of the area proposed for annexation. [If the municipality requires the description to be provided in a particular form, such as metes and bounds, the finding should be worded accordingly.]

b. The area described in the petition is contiguous to the (City/Town/Village) primary corporate limits, as defined by G.S. 160A-31.

c. The petition is signed by and includes addresses of all owners of real property lying in the area described therein.

d. [State other findings if municipality has additional requirements for the petition, such as vested rights declaration.]

In witness whereof, I have hereunto set my hand and affixed the seal of the (City/Town/Village) of ________________, this _____ day of ________, 2____.

(SEAL)

__________________________
(City/Town/Village) Clerk
RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the (name of governing body) has by resolution directed the (City/Town/Village) Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the (City/Town/Village) Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the (name of governing body) of the (City/Town/Village) of ______________________, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at (place of hearing) at (time) on (date).

Section 2. The area proposed for annexation is described as follows:

(Insert Metes and Bounds Description)

*Section 3. Notice of the public hearing shall be published in (name of newspaper), a newspaper having general circulation in the (City/Town/Village) of ______________________, at least ten (10) days prior to the date of the public hearing.

________________________
Mayor

________________________
Clerk

* If there is no newspaper of general circulation in the municipality (as defined by G.S. 1-597), notice must be posted, rather than published, and Section 3 of the foregoing resolution may read as follows:

Section 3. Notice of the public hearing shall be posted at least ten (10) days prior to the hearing in at least three public places within the area described in Section 2 above and in at least three public places in the (City/Town/Village) of ______________________.
NOTICE OF PUBLIC HEARING ON
REQUEST FOR ANNEXATION

The public will take notice that the (name of governing body) of the
(City/Town/Village) of ________________ has called a public hearing at (time) on
(date), at (place of hearing) on the question of annexing the following described territory,
requested by petition filed pursuant to G.S. 160A-31:

(Insert Description)

__________________________
(City/Town/Village) Clerk
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
(CITY/TOWN/VILLAGE) OF____________, NORTH CAROLINA

WHEREAS, the (name of governing body) has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the (name of governing body) has by resolution directed the (City/Town/Village) Clerk to investigate the sufficiency of the petition; and

WHEREAS, the (City/Town/Village) Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at (place of hearing) at (time) on (date), after due notice by (publication/posting) on (date); and

WHEREAS, the (name of governing body) finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City/Town/Village) of____________, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the (City/Town/Village) of____________ as of (effective date):*

(Insert Metes and Bounds Description)

Section 2. Upon and after (effective date)*, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the (City/Town/Village) of____________ and shall be entitled to the same privileges and benefits as other parts of the (City/Town/Village) of____________. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the (City/Town/Village) of____________ shall cause to be recorded in the office of the Register of Deeds of____________ County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the (City/Town/Village/County) Board of Elections, as required by G.S. 163-288.1.

*The annexation may be made effective immediately, on the June 30 after adoption of the ordinance, or on the June 30 of the following year after adoption of the ordinance.
** Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the (City/Town/Village) of ________________.

Adopted this _____ day of __________, 2___.

________________________________________
Mayor

ATTEST:

________________________________________
Clerk

APPROVED AS TO FORM:

________________________________________
(City/Town/Village) Attorney

** Notice of adoption is optional.
FIRE PROTECTION DEFINITIONS

Rural Fire Department [G.S. 160A-1]

A bona fide fire department which, as determined by the Commissioner of Insurance, is classified as not less than class "9" in accordance with rating methods, schedules, classifications, underwriting rules, by-laws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 12B [now Article 36] or Article 13C [now Article 40] of G.S. Chapter 58 and which operates fire apparatus and equipment of the value of five thousand dollars ($5,000) or more. It does not include a municipal fire department.

Insurance District [G.S. 153A-233]

An area outside corporate limits with boundaries approved by the County Board of Commissioners for fire insurance grading purposes. An insurance district is not supported by either a referendum type fire tax [G.S. 69-25] or a special service district tax [G.S. 153A-301].

Rural Fire Protection District [G.S. 69-25.1]

An area outside corporate limits with boundaries designated by petition of 35% of the resident free-holders in which a fire tax not to exceed 15¢ per $100 valuation has been authorized by the resident qualified voters within the district. The district may include adjoining territory within corporate limits if approved by the municipal and county governing bodies.

County Fire Protection Service District [G.S. 153A-301]

An area outside corporate limits with boundaries approved by the County Board of Commissioners in which a fire tax is levied without referendum for fire protection services. Such district or districts may include territory within corporate limits if approved by resolution of the municipal governing body.
REQUEST FOR DEBT INFORMATION
CONCERNING A RURAL FIRE DEPARTMENT

TO: Chief (name), (name) Fire Department

FROM: (City/Town/Village) of __________________________

DATE: ______________________

SUBJECT: Request for Financial Information

The (City/Town/Village) of __________________________ (has annexed/is considering the annexation of) territory which is located within the fire service area of your department. North Carolina law requires the (City/Town/Village) to pay annually a proportionate share of any payments due on any debt (including principal and interest) relating to facilities or equipment of a rural fire department if: (1) the area where service is provided is in an insurance district designated under G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes; (2) the debt was existing at the time of submission of a voluntary petition for (contiguous/satellite) annexation; and (3) the amount of debt payments calculated for all voluntary (contiguous/satellite) annexations exceeds one hundred dollars ($100.00) in any calendar year. A petition was submitted that includes an area served by your department on (insert date of submission of petition).

In order to determine the (City's/Town's/Village's) proportionate share of your department's debt the appropriate employees of the (City/Town/Village) of __________________________ will require access to certain information concerning your debt. You are hereby requested to make this information available to the (City/Town/Village) not later than thirty (30) days following receipt of this letter. Pursuant to [(choose one) G. S. 160A-31.1 (voluntary contiguous annexation) or G.S. 160A-58.2A (voluntary satellite annexation)], failure to respond within forty-five (45) days following receipt of this letter will result in the forfeiture of your department's rights to receive any payment on this debt.

An official of the (City/Town/Village) will be in contact with you shortly to make the necessary arrangements. If it would be more convenient for you to do so, please feel free to contact (name of designated official), (title or position), at (telephone number and/or location). Your assistance is greatly appreciated.

______________________________
(Mayor)(Manager)
RURAL FIRE DEPARTMENT DEBT INFORMATION  
FOR VOLUNTARY ANNEXATIONS  

Petitioned Contiguous Annexations - G.S. 160A-31.1  
Petitioned Satellite Annexations - G.S. 160A-58.2A

<table>
<thead>
<tr>
<th>Name of Rural Fire Department:</th>
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<tr>
<th>1. Area(s) included in the annexation ordinance for which this information is requested</th>
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<td>4.</td>
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<tr>
<th>2. Date upon which the petition for annexation was submitted to the municipality (clerk to stamp date of receipt on the petition)</th>
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<th>3. Date upon which the annexation ordinance became effective</th>
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<tr>
<th>4. Tax value of the entire district as of the date upon which the annexation ordinance became effective $</th>
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<tr>
<th>5. Tax Value of the area(s) included in the annexation ordinance (Item 1) as of the date upon which the annexation ordinance became effective $</th>
</tr>
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</table>
6. Percent (%) which the tax value of the area(s) included in the annexation ordinance bears to the tax value of the entire district as of the date upon which the annexation ordinance became effective (Item 5 divided by Item 4) ____________ %

7. Existing annual debt payment on apparatus and equipment as of the date upon which the petition for annexation was submitted to the municipality (Add annual payments for each piece of apparatus or equipment from worksheet below) $ __________

**APPARATUS AND EQUIPMENT**

**VEHICLE NUMBER ONE**

Manufacturer

Type (Pumper-Tanker-Brush-Other)

Year purchased

Financing is provided by ____________________________

The amount of the annual payment on Vehicle Number One is $ __________

The year in which the debt on Vehicle Number One will be paid in full is ____________________________
**VEHICLE NUMBER TWO**

<table>
<thead>
<tr>
<th>Manufacturer</th>
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<table>
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<th>Type (Pumper-Tanker-Brush-Other)</th>
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<table>
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<tr>
<th>Year purchased</th>
<th></th>
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<th>Financing is provided by</th>
<th></th>
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<table>
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<tr>
<th>The amount of the annual payment on Vehicle Number Two is</th>
<th>$</th>
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</table>

<table>
<thead>
<tr>
<th>The year in which the debt on Vehicle Number Two will be paid in full is</th>
<th></th>
</tr>
</thead>
</table>

**VEHICLE NUMBER THREE**

<table>
<thead>
<tr>
<th>Manufacturer</th>
<th></th>
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</table>

<table>
<thead>
<tr>
<th>Type (Pumper-Tanker-Brush-Other)</th>
<th></th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>Year purchased</th>
<th></th>
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</table>

<table>
<thead>
<tr>
<th>Financing is provided by</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>The amount of the annual payment on Vehicle Number Three is</th>
<th>$</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>The year in which the debt on Vehicle Number Three will be paid in full is</th>
<th></th>
</tr>
</thead>
</table>
8. Existing annual debt payment on facilities (land and station(s)] as of the date upon which the petition for annexation was submitted to the municipality (Add payments for each facility from worksheet below)

$  

FACILITIES

FACILITY NUMBER ONE

Year construction was completed

Initial cost (land and structure) $  

The facility is financed by


The amount of the annual payment on Facility Number One is $  

The year in which the debt on Facility Number One will be paid in full is

FACILITY NUMBER TWO

Year construction was completed

Initial cost (land and structure) $  

The facility is financed by


Mechanics of Annexation Supplement 3 - August 2012
The amount of the annual payment on Facility Number Two is $__________

The year in which the debt on Facility Number Two will be paid in full is

COMPUTATION

Step 1. Insert the amount shown in Item 6 (percentage factor). %

Step 2. Total the amounts, if any, shown in Items 7 and 8. $__________

Step 3. Multiply the results from Step 1 (percentage factor) by the results from Step 2 (amount of annual debt). $__________

The result of Step 3 is the amount of the annual debt service which the municipality is required to pay annually to the rural fire department.
NOTICE OF ADOPTION OF ANNEXATION ORDINANCE*

The public will take notice that the (name of governing body) of the (City/Town/Village) of _______ adopted an ordinance pursuant to Chapter 160A, Article 4A, Part 1 of the General Statutes of North Carolina, annexing as of (date), the territory described below. Said ordinance was adopted on (date).

The annexed territory is more particularly described as follows:

(Insert Metes and Bounds Description)

________________________________________
(City/Town/Village) Clerk

* Optional
Section 1A

PETITIONED ANNEXATION OF CONTIGUOUS DISTRESSED AREAS

G.S. Chapter 160A, Article 4A, Part 1
G.S. 160A-31

The 2011 General Assembly made significant changes to the statutes governing the voluntary municipal annexation process to address the annexation of “distressed areas.” The amendments were enacted as Section 10 of HB 845 - Annexation Reform Act of 2011 (SL 2011-396) and are codified in G.S. 160A-31. They were effective July 1, 2011 and apply to petitions for annexation presented on or after that date.

Under this new process, petitions of less than 100% are valid for annexations of qualified areas. The amendments provide for two new types of voluntary contiguous annexations. For one of these types, the city retains discretion on whether to annex, but for the other the city is required to annex under specified circumstances. To avoid confusion, we refer to the two types as follows:

- Type 1 – Petition by Household Residents - discretionary process (city retains discretion on whether to annex area)
- Type 2 – Petition by Property Owners - mandatory process (city is required to annex under specified circumstances)

The new types are applicable only to certain high poverty areas, defined as areas in which at least 51% of the households have incomes that are 200% or less than the most recently published U.S. Census Bureau poverty thresholds. Census information related to poverty thresholds may be found at http://www.census.gov/hhes/www/poverty/.
Subsection 1A-1

DISTRESSED AREA TYPE 1 PETITION (by residents)
OUTLINE OF PROCESS

1. Petition for voluntary annexation received by city. The petition should indicate that the request is for annexation under G.S. 160A-31(j). This signals that the petitioners are requesting a Type 1 distressed area annexation.

2. Governing body directs the clerk to investigate the sufficiency of the petition. The clerk cannot certify the sufficiency until receipt of evidence that the requisite percentage of households meet the poverty thresholds.

3. Petitioners must submit “reasonable evidence” to demonstrate that the area meets the income requirements of a distressed area.
   a. If the petitioners choose to submit their names, addresses and social security numbers, the clerk must pass that information along to the Department of Revenue and await a report. Using income tax returns, the Department will determine the income levels for households in the petitioning area and will send the city a summary report that does not identify individuals or households. Once the report is received, the clerk proceeds to investigate the sufficiency of the petition.
   b. If the evidence is in the form of documentation from the census, signed affidavits from an adult resident of the household (attesting to the household size and income level), or other documentation to verify incomes, the clerk proceeds to investigate the sufficiency of the petition.

4. Clerk investigates the sufficiency of the petition. In doing so, the clerk should determine whether:
   a. At least 51% of the households in the petitioning area have incomes that are 200% or less than the most recent U.S. Census poverty thresholds.
   b. The petition is signed by at least one adult resident of at least two-thirds of the resident households in the petitioning area. [City may require “reasonable proof” that the petitioner resides at the address indicated.]
   c. The petitioning area is contiguous to the city. There is no minimum contiguity threshold with this Type. See G.S. 160A-31(f) for the definition of “contiguous.”

5. If all is in order, clerk certifies to governing body that petition is sufficient.

6. Governing body sets date for public hearing. In setting the date, city may wish to allow a sufficient time period so that the water and sewer request process can be completed before the hearing date. This will give the city a better idea of any
infrastructure costs that would be associated with the annexation. [Please see discussion under Services/Water and Sewer Extensions, starting on p. 1-27, for more detailed information on the requirements.]

7. Although not spelled out in the statutes, here is one approach to incorporating the water and sewer “opt-in” process into the voluntary annexation timeline. Send notice of the hearing and notice of the right to request no-cost water and sewer extensions, along with a form for opting in to water and sewer, to all property owners in the petitioning area. [Keep in mind that Type 1 petitions can be signed by residents, and property owners may be unaware of the annexation petition.] Notice is sent by first class mail within 5 business days of the governing body’s action to set the hearing date, addressed to all property owners as shown on county tax records. Specify a deadline for response on opting in that is 65 days after the notice is sent.

8. After the 65 day deadline, determine whether property owners of a majority of the parcels in the petitioning area have responded that they want water and sewer extensions. If so, the opt-in threshold has been met and those that responded favorably receive the right to have lines and connections installed at no cost to them, a right that runs with the land.

9. If the opt-in threshold was met, within five days of the close of the 65-day period the city must notify the property owners who failed to respond, or who responded negatively, that water and sewer will be extended to the area. The city must offer a second, 30-day opportunity for those property owners to sign up. Property owners responding favorably to the second opportunity also receive water and sewer extensions at no cost.

10. Publish notice of public hearing once in a newspaper of general circulation in the city, at least 10 days before the public hearing.

11. Public hearing held. Citizens of the petitioning area and citizens of the city are given the opportunity to be heard.

12. If governing body finds that the petition is sufficient, it has the discretion to decide whether to adopt an ordinance annexing the area. If it does, the effective date can be no later than 24 months after adoption of the ordinance.

13. Please see discussion under Services/Water and Sewer Extensions, starting on page 1-27, for more detailed information on the requirements for provision of services to the annexed area.
Subsection 1A-2

DISTRESSED AREA TYPE 2 PETITION

OUTLINE OF PROCESS

1. Petition for voluntary annexation received by city. The petition should indicate that the request is for annexation under G.S. 160A-31(b1). This signals that the petitioners are requesting a Type 2 distressed area annexation.

2. Governing body directs the clerk to investigate the sufficiency of the petition. The clerk cannot certify the sufficiency until receipt of evidence that the requisite percentage of households meet the poverty thresholds.

3. Petitioners must submit “reasonable evidence” to demonstrate that the area meets the income requirements of a distressed area.
   a. If the petitioners choose to submit their names, addresses and social security numbers, the clerk must pass that information along to the Department of Revenue and await a report. Using income tax returns, the Department will determine the income levels for households in the petitioning area and will send the city a summary report that does not identify individuals or households. Once the report is received, the clerk proceeds to investigate the sufficiency of the petition.
   b. If the evidence is in the form of documentation from the census, signed affidavits from an adult resident of the household (attesting to the household size and income level), or other documentation to verify incomes, the clerk proceeds to investigate the sufficiency of the petition.

4. Clerk investigates the sufficiency of the petition. In doing so, the clerk should determine whether:
   a. At least 51% of the households in the petitioning area have incomes that are 200% or less than the most recent U.S. Census poverty thresholds.
   b. The petition is signed by the owners of at least 75% of the parcels in the petitioning area.
   c. The population of the petitioning area is no more than 10% of the city’s population.
   d. At least one-eighth (12.5%) of the aggregate external boundaries of the petitioning area are contiguous to the city.

5. If all is in order, clerk certifies to governing body that petition is sufficient.

6. The clerk may also wish to inform the governing body as to whether any other Type 2 distressed area annexations have been approved within the last 36 months.
A city is not required to approve more than one Type 2 annexation petition within a 36-month period.

7. Governing body sets date for public hearing. In setting the date, city may wish to allow a sufficient time period so that the water and sewer request process can be completed before the hearing date. This will give the city a good start on the estimate of infrastructure costs that would be associated with the annexation. [Please see discussion under Services/Water and Sewer Extensions, starting on p. 1-27, for more detailed information on the requirements.]

8. Although not spelled out in the statutes, here is one approach to incorporating the water and sewer “opt-in” process into the voluntary annexation timeline. Send notice of the hearing and notice of the right to request no-cost water and sewer extensions, along with a form for opting in to water and sewer, to all property owners in the petitioning area. [Keep in mind that Type 2 petitions may not include owners for all properties in the annexation area, since the threshold is 75% of the parcels. Some owners may be unaware of the annexation petition.] Notice is sent by first class mail within 5 business days of the governing body’s action to set the hearing date, addressed to all property owners as shown on county tax records. Specify a deadline for response on opting in that is 65 days after the notice is sent.

9. After the 65 day deadline, determine whether property owners of a majority of the parcels in the petitioning area have responded that they want water and sewer extensions. If so, the opt-in threshold has been met and those that responded favorably receive the right to have lines and connections installed at no cost to them, a right that runs with the land.

10. If the opt-in threshold was met, within five days of the close of the 65-day period the city must notify the property owners who failed to respond, or who responded negatively, that water and sewer will be extended to the area. The city must offer a second, 30-day opportunity for those property owners to sign up. Property owners responding favorably to the second opportunity also receive water and sewer extensions at no cost.

11. Publish notice of public hearing once in a newspaper of general circulation in the city, at least 10 days before the public hearing.

12. Public hearing held. Citizens of the petitioning area and citizens of the city are given the opportunity to be heard.

13. Governing body determines whether petition meets the requirements of the statute. If so, the city has 60 days to estimate the capital cost of extending water and sewer lines to all properties in the petitioning area and estimate the annual debt service payment that would be required if the cost were financed with a 20-year revenue bond.

a. If the estimated annual debt payment is less than 5% of the city’s annual water and sewer systems revenue for the most recent fiscal year, the city...
must adopt an annexation ordinance within 30 days and set an effective date within 24 months of the adoption.

b. If the estimated annual debt payment is greater than or equal to 5% of the city's annual water and sewer systems revenue for the most recent fiscal year, the city may adopt a resolution declining to annex the area. If a declining resolution is adopted, the cost estimates must be submitted immediately to the Local Government Commission for certification that the estimates are reasonable.

i. If the LGC finds that the estimates are not reasonable and that reasonable estimates show an annual debt service payment less than 5% of the annual water and sewer system revenue, the city must adopt an annexation ordinance within 30 days and set an effective date within 24 months of the adoption.

ii. If the LGC certifies the estimates, the city is not required to annex the area, and no Type 2 petition can be submitted for 36 months after certification. However, the city is required to make good faith efforts during the 36 months to secure CDBG block grants or other grant funds for extending water and sewer to the petitioning area. In the event that sufficient funding is secured to bring the debt service payment below 5%, the city must adopt an annexation ordinance within 30 days and set an effective date within 24 months of the adoption.

14. Please see discussion under Services/Water and Sewer Extensions, starting on page 1-27, for more detailed information on requirements for provision of services to the annexed area.
Services and Water/Sewer Extensions in Distressed Area Annexations

City’s Obligation to Provide Services. For distressed area annexations, services must be provided after the effective date of the annexation “in the same manner and according to the same schedules” as now apply to city-initiated annexations. This means that any municipal police, fire, or solid waste services are to be provided as of the effective date of the annexation.

For water and sewer services the procedure is a bit more complicated. Under the amended city-initiated statutes, the city’s obligation to provide water and sewer extensions to annexed areas is triggered if the owners of a majority of the properties in the area “opt-in” and request the extensions. In addition to the major infrastructure, individual water and sewer lines must be provided all the way to the structures on the requesting properties, and extensions are to be provided at no cost (other than user fees) to all properties that request it by the deadline (and at a reduced cost on a sliding scale to those requesting it at a later time). In order for lines to be installed to structures on the individual properties, the property owners must provide installment easements.

Timeline for Water/Sewer Notification. It is not clear how to apply the timeline contained in the city-initiated provisions to a voluntary distressed area annexation. At a minimum it would appear that the city must notify property owners in writing of the right to request water and sewer extensions installed at no cost to them. The city-initiated process allows 65 days for owners to opt-in. Although in a voluntary annexation we are unsure from which event to count these time periods, the preceding outline suggests that this be done prior to the public hearing.

Opt-In Results. If after 65 days the property owners of a majority of the parcels respond favorably, those that responded favorably receive the right to have lines and connections installed at no cost, a right that runs with the land. [Any owners of parcels that already receive the city's water or sewer, whether provided by the city or by a third party under contract with the city, are deemed to respond favorably to the opt-in.]

Second Opt-In Notification. The city must notify, within five days, those property owners who failed to respond, or who responded negatively, that water and sewer will be extended to the area and offer a second, 30-day opportunity for that property owner to sign up. Those property owners responding favorably to the second opportunity also receive water and sewer extensions at no cost.

Future Water/Sewer Requests. If the opt-in threshold is met, property owners who fail to respond favorably during the second sign-up period may request service in the future and the city may charge them for a percentage of the average cost of installation (based on the cost of residential installations from curb to residence, including connection and tap fees, in the area described in the annexation ordinance). The proportion that may be charged to latecomers is on a sliding scale for five years, after which the city may charge any properties requesting service in the annexation area according to the city's policy.
**Failure of Opt-In.** If the owners of a majority of the parcels do not request extension of water and sewer services, the city may proceed with the annexation and is not required to provide water and sewer services to any property owners in the annexation area. [If it nonetheless decides to provide the services, the act sets out a sliding scale of the amount that a requesting property owner can be charged for the connection during the first five years after the effective date; after that the city can charge according to its policy.]

**Limit on Charges.** The city may not require the payment of capacity charges, availability fees, or any other similar charge from property owners in the annexed area who do not choose to become customers of the water or sewer system.

**Deadline for Construction.** Any required water and sewer infrastructure must be in place within 3.5 years of the effective date of the annexation ordinance. If the city is unable to provide the services within that timeframe due to permitting delays through no fault of its own, the city may petition the Local Government Commission for a reasonable time extension.

**Applicability of Requirement.** The requirement to extend water and sewer applies to municipalities that already provide water or sewer service to customers within their existing boundaries. If the city does not provide water or sewer, but its existing residents are served by a public water or sewer system (or by a combination of a public water or sewer system and one or more nonprofit entities providing service by contract with the public system), the city could be exempt from financial responsibility for the extension of service to the annexed area.

Please note that the exemption applies only if the annexed area is served by the public water or sewer system and the city has no responsibility through an agreement with the public water or sewer system to pay for the extension of lines to the annexation area. “Public water or sewer system" in this context means a water or sewer authority, a metropolitan water or sewerage district, a county water or sewer district, a sanitary district, a county-owned water or sewer system; a municipally-owned water or sewer system; a water or sewer utility created by an act of the General Assembly; or a joint agency providing a water or sewer system by interlocal agreement.
Chapter 2

CITY-INITIATED ANNEXATION

G.S. Chapter 160A, Article 4A, Part 7
(G.S. 160A-58.50 through G.S. 160A-58.63)

The General Assembly made sweeping changes to the statutes governing the city-initiated annexation process in the 2011 and 2012 Sessions. The changes are primarily contained in HB 845 - Annexation Reform Act of 2011 (SL 2011-396) and HB 925 - Annexation Reform 2 (SL 2012-11). Other pertinent changes were made in HB 168 - Farms Exempt from City Annexation & ETJ (SL 2011-363).

In sum, the legislation requires a referendum of voters in the area to be annexed. A majority of the voters must approve in order for the annexation to proceed, with a waiting period of three years after an unsuccessful referendum before the city may initiate another annexation process for the area. If the referendum is successful, there are stringent new requirements for “no cost” extension of water and sewer lines upon request of a majority of properties in the area. In addition to the major infrastructure, individual water and sewer lines must be provided all the way to the structures on the requesting properties. “Bona fide farms” may not be annexed unless the property owner consents. There were also a number of procedural changes related to resolutions, notification, timing and contents of public meetings, and effective dates. A single process now applies to all cities, with no distinction based on population.

Because the changes erect significant new barriers to city-initiated annexation, the process may no longer be feasible for most municipalities. The provisions may also be the subject of additional legislation and court interpretation in the near future. For these reasons we have chosen not to undertake wholesale revision of this chapter of the manual at this time.

Please see the League’s annexation memos from August 2011 and August 2012 for more details on the changes. An updated timeline for the process is also attached on page 2-2.
Chapter 3

VOLUNTARY SATELLITE ANNEXATION

G.S. Chapter 160A, Article 4A, Part 4
(G.S. 160A-58 through G.S. 160A-58.8)

Upon petition signed by all owners of real property in the area, the governing body of a qualified municipality may annex by ordinance certain "satellite" areas whose boundaries do not at any point touch its primary corporate limits. The primary corporate limits consist of the boundaries of a municipality as defined in its charter and as enlarged by annexation of contiguous territory according to applicable laws or diminished by exclusion of contiguous territory by the General Assembly. Satellite annexations are governed by the following procedures and requirements:

Qualified Municipalities

Any municipality may undertake satellite annexations pursuant to these procedures, except those municipalities not qualified to receive gasoline tax (Powell Bill) allocations under G.S. 136-41.2.

Standards the Satellite Area Must Meet

Note that a number of municipalities have exceptions to one or more of these standards, granted by local acts of the General Assembly.

(1) The nearest point on the satellite area must not be more than three (3) miles from the primary limits of the annexing municipality.

(2) No point on the satellite area may be closer to the primary limits of another municipality than to the primary limits of the annexing municipality, unless the annexing municipality and the closer municipality have an annexation agreement meeting certain requirements. See G.S. 160A-58.1(b2).

(3) The area proposed for annexation must be so situated that the municipality will be able to provide the same services within the satellite area that it provides within the primary limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision, as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite limits plus the area within all other satellite corporate limits may not exceed ten percent (10%) of the total land area within the primary corporate limits of the annexing municipality.

Petition Required

(1) The petition received by the governing body for a satellite annexation must contain the names, addresses and signatures of all owners of real property within the proposed satellite area. However, owners of tax-exempt real property, railroad companies, public utilities, and electric or telephone membership corporations located within the proposed satellite corporate limits need not sign the petition.
A petition is not valid in any of these circumstances:

(a) The petition is unsigned;

(b) The petition is signed by the municipality for property that it does not own or have a legal interest in. A municipality has no legal interest in a state-maintained street unless it owns the underlying fee and not just an easement. [Note: If the proposed satellite area is owned by the annexing municipality, follow the special procedures detailed in Section 4B of this publication.]

(c) The petition is for the annexation of property for which a signature is not required, but the property owner objects to the annexation.

(3) The petition must describe the proposed area by metes and bounds and have attached a map showing the proposed satellite area in relation to the primary corporate limits. (See sample Petition, p. 3-5). When there is a substantial question as to whether the area may be closer to another municipality than to the annexing municipality, the map must also show the area proposed for annexation with relation to the primary corporate limits of the other municipality.

(4) If the municipality has a zoning vested rights ordinance, that ordinance may require petitioners to include a signed statement declaring whether or not zoning vested rights with respect to the properties subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the petitioners claim that vested rights have been established, the municipality may require them to provide proof of such rights. If the petitioners declare that no such vested rights have been established, any vested rights previously acquired are terminated.

Certification of Petition

When a petition is received, the governing body must direct the clerk to investigate the sufficiency thereof. (See sample Resolution Directing Clerk to Investigate Petition, p. 3-6). Upon making an investigation, the clerk shall certify the results to the governing body. (See sample Certificate of Sufficiency, p. 3-7). In order to certify that all owners of real property in the area to be annexed have signed the petition, the clerk may require assistance from the municipal attorney in determining the legal ownership of the property.

Public Hearing and Notice

(1) Upon receipt of the clerk’s certification that the petition appears to be valid, the governing body shall fix a date for a public hearing on the annexation. (See sample Resolution Fixing Date of Public Hearing, p. 3-9). Notice of the public hearing must be published once in a newspaper at least ten (10) days before the date of the hearing. (See sample Notice of Public Hearing, p. 3-10).

(2) At the public hearing, any person residing in or owning property in the area proposed for annexation, and any resident of the annexing municipality may appear and be heard on the question of the sufficiency of the petition and the desirability of the annexation. Note that any property owner who has signed the petition may withdraw from the petition at any time up until the governing body enacts the annexation ordinance. Conover v.
Newton, 297 N.C. 506 (1979). The petition must stand or fall as a unity and the withdrawal of a property owner will void the petition. *Id.*

**Findings Made and Ordinance Adopted**

1. The governing body must find that:
   
   a. The area described in the petition meets all the standards for satellite areas proposed for annexation;
   
   b. The petition bears all the required signatures of the owners of real property in the area;
   
   c. The petition is otherwise valid; and,
   
   d. The public health, safety, and welfare of the inhabitants of the municipality and of the area proposed for annexation will be best served by annexing the area described.

2. If the above findings are made, the governing body may adopt an ordinance annexing the area described in the petition. The ordinance may be made effective immediately or on any specified date within six (6) months of adoption of the ordinance. (See sample Annexation Ordinance, p. 3-11).

**Rural Fire Department Provisions**

If the property to be annexed is in an area served by a rural fire department that is in an insurance district, a rural fire protection district, or a county fire protection service district, the municipality must be prepared to comply with statutory provisions concerning the assumption of debt. The rural fire department provisions applicable to satellite annexations are identical to the provisions for voluntary contiguous annexations. Please refer to page 1-3 for a detailed explanation of these requirements. The forms for requesting debt information (p. 1-14) and calculating assumption of debt payments (p. 1-15) may also be used for satellite annexations.

**Judicial Review**

The statutes do not provide for judicial review of satellite annexations. Although residents and property owners in the annexed area and residents of the municipality have the right to be heard at the public hearing, they do not have the right to appeal. *See Joyner v. Town of Weaverville, 94 N.C. App. 588 (1989).*

**Procedures Following Adoption of Ordinance**

1. **Notice of Adoption.** Although not required by law, it is recommended that notice of the adoption of the annexation ordinance be published. (See sample Notice of Adoption of Annexation Ordinance, p. 3-13).

2. **Recordation.** The annexation must be properly recorded with the appropriate board of elections, the register of deeds and the Secretary of State, as well as in the municipal clerk's office. Population information must be reported to the Office of State Planning. See Chapter 7 of this publication.
(3) Voting Rights Act. Where applicable, the municipality must file with the U.S. Department of Justice for Voting Rights Act preclearance. See Chapter 6 of this publication.

**Applicability of Laws to Annexed Satellite Areas**

(1) Generally. From and after the effective date of the annexation, the annexed area, its citizens and property are subject to all debts, laws, ordinances and regulations of the annexing municipality, and are entitled to the same privileges and benefits as other parts of the municipality.

(2) Taxation. Areas annexed with an effective date other than June 30 are subject to proration of property taxes according to a statutory formula. The municipality may also have an obligation to reimburse property owners for fire protection district taxes. Chapter 8 of this publication provides details on these municipal taxation issues.

(3) Special Rates for Public Enterprise Services. G.S. 160A-58.5. The annexing municipality may charge the residents of the satellite area different rates for public enterprise services, as defined in G.S. 160A-314, than those charged residents of the primary corporate limits. A municipality providing such services to annexed satellite areas shall annually review the costs of providing these services to ensure that costs do not exceed revenues realized therefrom.

(4) Zoning. G.S. 160A-360(f). When a municipality annexes an area regulated by the county, the county zoning and planning regulations and powers of enforcement remain in effect until (a) the municipality has adopted regulations for the area or (b) a period of sixty (60) days has elapsed following the annexation, whichever is sooner. During this period the municipality may hold hearings and take any other measures that may be required in order to adopt its regulations for the area. As noted previously, the municipal zoning vested rights ordinance may provide that any zoning vested rights acquired prior to annexation are extinguished unless expressly declared on the annexation petition.

(5) Extraterritorial Powers. The satellite corporate boundaries may not be used in determining the limits of the annexing municipality's extraterritorial jurisdiction.

**Merger with Primary Limits**

An annexed non-contiguous area ceases to be a satellite area and becomes a part of the primary corporate limits when further annexations cause its boundaries and those of the primary corporate limits to touch. See G.S. 160A-58.6.
PETITION REQUESTING A NON-CONTIGUOUS ANNEXATION

Date: ________________________

To the (name of governing body) of the (City/Town/Village) of _______________________

1. We the undersigned owners of real property respectfully request that the area described in Paragraph 2 below be annexed to the (City/Town/Village) of _______________________.

2. The area to be annexed is non-contiguous to the (City/Town/Village) of _______________________. and the boundaries of such territory are as follows:

   (Insert Metes and Bounds Description of Boundaries)

3. A map is attached showing the area proposed for annexation in relation to the primary corporate limits of the (City/Town/Village).

   *[and in relation to the primary corporate limits of the (City/Town/Village) of _______________________.]

**4. We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate below and attach proof.)

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Do you declare vested rights?*</th>
<th>(Indicate yes or no.)</th>
<th>Signature</th>
</tr>
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</tbody>
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1. 

2. 

3. 

* Should be included when there is a substantial question as to whether the area may be closer to another municipality than to the annexing municipality.

** This is one possible format for a zoning vested rights declaration. This language may require modification to reflect the requirements of the municipal zoning vested rights ordinance, if any.
RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-58.1

WHEREAS, a petition requesting annexation of an area described in said petition was received on (date) by the (name of governing body); and

WHEREAS, G.S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the (City/Town/Village) Clerk before further annexation proceedings may take place; and

WHEREAS, the (name of governing body) of the (City/Town/Village) of _______________________ deems it advisable to proceed in response to this request for annexation:

NOW, THEREFORE, BE IT RESOLVED by the (name of governing body) of the (City/Town/Village) of _______________________ that:

The (City/Town/Village) Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the (name of governing body) the result of (his/her) investigation.

__________________________
Mayor

ATTEST:

__________________________
Clerk
CERTIFICATE OF SUFFICIENCY

To the (name of governing body) of the (City/Town/Village) of ____________________, North Carolina:

I, ____________________, (City/Town/Village) Clerk, do hereby certify that I have investigated the attached petition and hereby make the following findings:

I further find that the area meets the standards for a noncontiguous area as specified in G.S. 160A-58.1(b), in that:

1. The petition includes a metes and bounds description of the area proposed for annexation and has attached a map showing the proposed satellite area in relation to the primary corporate limits. [Note if the map also shows the area in relation to another municipality.]

2. The petition includes the names and addresses of all owners of real property lying in the area described therein.

3. The petition includes the signatures of all owners of real property lying in the area described therein, except those not required to sign by G.S. 160A-58.1(a).

4. The nearest point on the proposed satellite corporate limits is no more than three (3) miles from the primary corporate limits of the (City/Town/Village);

5. No point on the proposed satellite corporate limits is closer to the primary corporate limits of any municipality other than the (City/Town/Village) [or indicate that, although closer to another municipality, there is an annexation agreement in place that allows the annexation of the proposed satellite];

6. The satellite area is so situated that the (City/Town/Village) will be able to provide the same services as are provided within its primary corporate limits;

7. To the extent that the proposed satellite area contains any portion of a subdivision, the entire subdivision is included;

8. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits of the (City/Town/Village), does not exceed ten percent (10%) of the area within the primary corporate limits of the (City/Town/Village) [or indicate that the municipality has a modification to this requirement pursuant to an act of the General Assembly].

9. [State other findings if municipality has additional requirements for the petition, such as vested rights declaration.]
In witness whereof, I have hereunto set my hand and affixed the seal of the (City/Town/Village) of ____________, this ___ day of __________, 2___.

(SEAL)

________________________
(City/Town/Village) Clerk
RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-58.2

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, the (name of governing body) has by resolution directed the (City/Town/Village) Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the (City/Town/Village) Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED, by the (name of governing body) of the (City/Town/Village) of ____________, North Carolina that:

Section 1. A public hearing on the question of annexation of the non-contiguous area described herein will be held at (place of hearing) at (time) on (date).

Section 2. The area proposed for annexation is described as follows:

(Insert Metes and Bounds Description)

*Section 3. Notice of the public hearing shall be published once in (name of newspaper), a newspaper having general circulation in the (City/Town/Village) of ____________, at least ten (10) days prior to the date of the public hearing.

_________________________
Mayor

ATTEST:

_________________________
Clerk

* If there is no newspaper of general circulation in the municipality (as defined by G.S. 1-597), the closest comparable statute is G.S. 160A-31(c), requiring posting instead. Section 3 of the resolution may read:

Section 3. Notice of the public hearing shall be posted at least ten (10) days prior to the hearing in at least three (3) public places within the area described in Section 2 and in at least three (3) public places in the (City/Town/Village) of ____________.
NOTICE OF PUBLIC HEARING ON REQUEST 
FOR NON-CONTIGUOUS ANNEXATION

The public will take notice that the (name of governing body) of the (City/Town/Village) 
of __________________ has called a public hearing at (time) on (date) at (place of hearing) 
on the question of annexing the following described non-contiguous territory, requested by 
petition filed pursuant to G.S. 160A-58.1:

(Insert Metes and Bounds Description)

__________________________________________
(City/Town/Village) Clerk
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
(CITY/TOWN/VILLAGE) OF ____________________, NORTH CAROLINA

WHEREAS, the (name of governing body) has been petitioned under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the (name of governing body) has by resolution directed the (City/Town/Village) Clerk to investigate the sufficiency of the petition; and

WHEREAS, the (City/Town/Village) Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at (place of hearing) at (time) on (date), after due notice by (publication/posting) on (date); and

WHEREAS, the (name of governing body) finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the (City/Town/Village);

b. No point on the proposed satellite corporate limits is closer to another municipality than to the (City/Town/Village) [or indicate that, although closer to another municipality, there is an annexation agreement in place that allows the annexation of the proposed satellite];

c. The area described is so situated that the (City/Town/Village) will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;

d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;

e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the (City/Town/Village) [or indicate that the municipality has a modification to this requirement by virtue of an act of the General Assembly]; and

WHEREAS, the (name of governing body) further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the (name of governing body) further finds that the petition is otherwise valid, and that the public health, safety and welfare of the (City/Town/Village) and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City/Town/Village) of ____________________, North Carolina that:

Mechanics of Annexation
Supplement 3 – August 2012
Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described non-contiguous territory is hereby annexed and made part of the (City/Town/Village) of ________________, as of (effective date).*

(Insert Metes and Bounds Description)

Section 2. Upon and after (effective date)*, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the (City/Town/Village) of ________________, and shall be entitled to the same privileges and benefits as other parts of the (City/Town/Village) of _________________. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the (City/Town/Village) of ________________ shall cause to be recorded in the office of the Register of Deeds of ________________ County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the (City/Town/Village/County) Board of Elections, as required by G.S. 163-288.1.

** Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the (City/Town/Village) of _________________.

Adopted this _____ day of ___________, 2____.

____________________
Mayor

ATTEST: ____________________  APPROVED AS TO FORM: ____________________

____________________  (City/Town/Village) Attorney
Clerk

* The ordinance may be made effective immediately, or on any date within six months of adoption.

** Optional
NOTICE OF ADOPTION OF ANNEXATION ORDINANCE*

The public will take notice that the (name of governing body) of the (City/Town/Village) of __________ adopted an ordinance pursuant to Chapter 160A, Article 4A, Part 4 of the General Statutes of North Carolina, annexing as of (date), the non-contiguous territory described below. Said ordinance was adopted on (date).

The annexed territory is more particularly described as follows:

(Insert Metes and Bounds Description)

__________________________
(City/Town/Village) Clerk

* Optional
Chapter 4

ANNEXATION OF PROPERTY OWNED BY THE MUNICIPALITY

G.S. 160A-31(g) and G.S. 160A-58.7

In 1987, at the request of the League, the General Assembly enacted procedures for the annexation of property owned by the annexing municipality. Prior to that time, many municipalities either sought local acts of the General Assembly or used the procedures for petitioned annexations, which placed governing bodies in the awkward position of petitioning themselves for annexation.

The following procedures now represent the proper statutory method for the annexation of property owned by the annexing municipality. The statutory procedure substitutes for the petition the adoption of a simple resolution of intent to annex.

Following are the forms and procedures for the annexation of municipally-owned property. Section 4A addresses the annexation of contiguous property owned by the municipality and Section 4B addresses the annexation of non-contiguous satellite areas owned by the municipality.
Section 4A

CONTIGUOUS PROPERTY
OWNED BY THE MUNICIPALITY

G.S. 160A-31(g)

The governing body of a municipality may annex by ordinance any contiguous property owned by the municipality.

Character of the Area to be Annexed

(1) The area must be owned by the annexing municipality.

(2) The area must be contiguous to the corporate limits of the annexing municipality. An area is deemed "contiguous" for purposes of this law if, at the time the resolution is adopted, the area either abuts directly on the municipal boundary or is separated from the municipal boundary by the width of a street or street right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina. A connecting corridor consisting solely of a street or street right-of-way may not be used to establish contiguity. In describing the area to be annexed in the annexation ordinance, the governing body can include within the description, and thereby annex, any of the foregoing areas which separate the municipal boundary from the area to be annexed. See G.S. 160A-31(f).

Resolution Required

(1) The governing body initiates the annexation process by adopting a resolution stating the municipality's intent to annex the property. (See sample Resolution, p. 4-5)

(2) The resolution must contain "an adequate description" of the property, state that the property is contiguous to the municipal boundaries and fix a date for a public hearing on the question of annexation.

Public Hearing and Notice

(1) Notice of the public hearing must be published once in a newspaper having general circulation in the municipality at least ten (10) days before the date of the hearing. If there is no such newspaper, the notice shall be posted in three or more public places within the area to be annexed and three or more public places within the municipality. (See sample Notice, p. 4-6)

(2) At the public hearing, residents and property owners of the municipality shall be given an opportunity to be heard.

Findings Made and Ordinance Adopted

(1) After the public hearing, if the governing body finds that the proposed annexation meets the requirements of G.S. 160A-31, it may pass an ordinance annexing the territory described in the resolution. (See sample Annexation Ordinance, p. 4-7).
(2) The ordinance may be made effective immediately or on the June 30 after passage of the ordinance or the June 30 of the following year after passage of the ordinance.

Rural Fire Department Provisions

A municipality that is considering a petition to annex property in an area served by a rural fire department and located in an insurance district, a rural fire protection district, or a county fire protection service district should be aware of and prepared to comply with the provisions for assumption of debt set out below. (See Fire Protection Definitions, p. 4-8).

(1) Assumption of Debt. If the area to be annexed is served by a rural fire department and is in one of the defined districts, then upon the effective date of annexation the municipality must pay annually a proportionate share of any payments due on any debt (including principal and interest) relating to facilities or equipment of the rural fire department, if the debt was existing at the time of adoption of the resolution of intent to annex. The payments must be in the same proportion that the assessed valuation of the annexed portion of the district bears to the assessed valuation of the entire district on the date the annexation ordinance becomes effective.

The annual payments to the rural fire department are calculated as follows: The rural fire department certifies to the municipality annually the amount that will be expended for debt payments to be shared by the municipality. That amount is multiplied by a percentage determined by dividing the assessed valuation of the annexed area by the assessed valuation of the district. Valuations are to be fixed as of the effective date of the annexation ordinance.

Calculation formula:

\[
\text{Amount of annual payment on district debt for facilities and/or equipment} \times \frac{\text{Assessed valuation of area of district annexed}}{\text{Assessed valuation of district}} = \text{Municipality's annual debt payment}
\]

See Rural Fire Department Debt Information Form, p. 4-10.

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

(3) Diminimus Exception. The statute does not apply in any calendar year where the municipality's share of annual debt payments for all voluntary annexations during that year does not exceed one hundred dollars ($100).

(4) Information to be Provided by Rural Fire Department. The rural fire department is required to make available to the municipality, within thirty (30) days following the municipality's written request, information concerning any such outstanding debt. If the rural fire department fails to respond within forty-five (45) days following receipt of the written request it forfeits its rights for reimbursement. The municipality must include in

Mechanics of Annexation
Supplement 3 -- August 2012
its written request reference to the section containing this requirement (G.S. 160A-31.1 for contiguous annexations; G.S. 160A-58.2A for satellite annexations) or no forfeiture will occur. (See sample Request for Debt Information, p. 4-9).

(5) Contracting with Rural Fire Departments. If the municipality wishes to contract with the rural fire department for provision of fire protection in the annexed area, it should take into consideration the assumption of debt requirement in determining the amount to be paid under the contract. Contracting with the rural fire department will not waive the obligation to pay a portion of the department's debt.

**Procedures Following Adoption of Ordinance**

(1) Recordation. The annexation must be properly recorded with the register of deeds and the Secretary of State, as well as in the municipal clerk's office. The statutes also require a filing with the appropriate board of elections; however, since it is likely that the annexed area will be uninhabited, it might be helpful to include a cover letter to the board of elections explaining that the area is owned by the municipality and has no residents. Information on population, or lack thereof, must be reported to the Office of State Planning. See Chapter 7 of this publication for details on filing and recordation requirements.

(2) Voting Rights Act. Where applicable, the municipality must file with the U.S. Department of Justice for Voting Rights Act preclearance. This requirement must be met even if the annexed land is uninhabited. See Chapter 6 of this publication.

**Applicability of Laws to the Annexed Area**

(1) Generally. From and after the effective date of annexation, the annexed area, its citizens and property are subject to all debts, laws, ordinances and regulations of the annexing municipality, and are entitled to the same privileges and benefits as other parts of the municipality.

(2) Zoning. G.S. 160A-360(f). When a municipality annexes an area regulated by the county, the county zoning and planning regulations and powers of enforcement shall remain in effect until (a) the municipality has adopted regulations for the area or (b) a period of sixty (60) days has elapsed following the annexation, whichever is sooner. During this period the municipality may hold hearings and take any other measures that may be required in order to adopt its regulations for the area.
RESOLUTION STATING THE INTENT OF THE (CITY/TOWN/VILLAGE) OF ________ TO ANNEX PROPERTY OWNED BY THE (CITY/TOWN/VILLAGE) OF ________ WHICH IS CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES

BE IT RESOLVED by the (name of governing body) of the (City/Town/Village) of ________ that:

Section 1. It is the intent of the (name of governing body), pursuant to G.S. 160A-31, to annex the property described in Section 2, which is owned by the (City/Town/Village) of ________.

Section 2. The legal description of the property is as follows:

(Insert Metes and Bounds Description)

Section 3. The property described in Section 2 is contiguous to the current municipal boundaries.

Section 4. A public hearing on the question of annexation of the property will be held at (place of hearing) at (time) on (date).

*Section 5. Notice of the public hearing shall be published once in (name of newspaper), a newspaper having general circulation in the (City/Town/Village) of ________, at least ten (10) days prior to the date of the public hearing.

Adopted this ________ day of ________, 2____.

__________________________
Mayor

__________________________
Clerk

* If there is no newspaper of general circulation in the municipality (as defined by G.S. 1-597), G.S. 160A-31(c) requires posting instead and Section 5 of the resolution may read as follows:

Section 5. Notice of the public hearing shall be posted at least ten (10) days prior to the hearing in at least three public places within the area described in Section 2 above and in at least three public places in the (City/Town/Village) of ________.
NOTICE OF PUBLIC HEARING

The public will take notice that the (name of governing body) of the (City/Town/Village) of ___________ has called a public hearing at (time) on (date), at (place of hearing) on the question of annexing the following described property owned by the (City/Town/Village) and contiguous to the current (City/Town/Village) boundaries:

(Insert Metes and Bounds Description)

______________________________
(City/Town/Village) Clerk
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
(CITY/TOWN/VILLAGE) OF ___________, NORTH CAROLINA

WHEREAS, the (name of governing body) has adopted a resolution under G.S. 160A-31 stating its intent to annex the area described below; and

WHEREAS, a public hearing on the question of this annexation was held at (place of hearing) at (time) on (date), after due notice; and

WHEREAS, the (name of governing body) finds that the proposed annexation meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City/Town/Village) of _____________, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described contiguous property owned by the (City/Town/Village) is hereby annexed and made part of the (City/Town/Village) of _____________ as of (effective date): *

(Insert Metes and Bounds Description)

Section 2. The Mayor of the (City/Town/Village) of _____________ shall cause to be recorded in the office of the Register of Deeds of _____________ County, and in the Office of Secretary of the State in Raleigh, North Carolina, an accurate map of the annexed property, along with a certified copy of this ordinance. Such a map shall also be delivered to the (City/Town/Village/County) Board of Elections, as required by G.S. 163-288.1.

Adopted this __________ day of ____________, 20___.

______________________________
Mayor

ATTEST:  APPROVED AS TO FORM:

______________________________  _______________________________
Clerk  (City/Town/Village) Attorney

* The annexation may be made effective immediately, or on the June 30 after the date of passage or the June 30 of the following year after the date of passage.
FIRE PROTECTION DEFINITIONS

Rural Fire Department [G.S. 160A-1]

A bona fide fire department which, as determined by the Commissioner of Insurance, is classified as not less than class "9" in accordance with rating methods, schedules, classifications, underwriting rules, by-laws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 12B [now Article 36] or Article 13C [now Article 40] of G.S. Chapter 58 and which operates fire apparatus and equipment of the value of five thousand dollars ($5,000) or more. It does not include a municipal fire department.

Insurance District [G.S. 153A-233]

An area outside corporate limits with boundaries approved by the County Board of Commissioners for fire insurance grading purposes. An insurance district is not supported by either a referendum type fire tax [G.S. 69-25] or a special service district tax [G.S. 153A-301].

Rural Fire Protection District [G.S. 69-25.1]

An area outside corporate limits with boundaries designated by petition of 35% of the resident free-holders in which a fire tax not to exceed 15¢ per $100 valuation has been authorized by the resident qualified voters within the district. The district may include adjoining territory within corporate limits if approved by the municipal and county governing bodies.

County Fire Protection Service District [G.S. 153A-301]

An area outside corporate limits with boundaries approved by the County Board of Commissioners in which a fire tax is levied without referendum for fire protection services. Such district or districts may include territory within corporate limits if approved by resolution of the municipal governing body.
REQUEST FOR DEBT INFORMATION
CONCERNING A RURAL FIRE DEPARTMENT

TO: Chief (name), (name) Fire Department

FROM: (City/Town/Village) of __________________________

DATE: __________________________

SUBJECT: Request for Financial Information

The (City/Town/Village) of __________________________ (has annexed/is considering annexation of) territory which is located within the fire service area of your department. North Carolina law requires the (City/Town/Village) to pay annually a proportionate share of any payments due on any debt (including principal and interest) relating to facilities or equipment of a rural fire department if: (1) the area where service is provided is in an insurance district designated under G.S. 153A-233, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes, or a fire service district under Article 16 of Chapter 153A of the General Statutes; (2) the debt was existing at the time of adoption of a resolution of intent to annex (contiguous/satellite) property owned by the municipality; and (3) the amount of debt payments calculated for all voluntary (contiguous/satellite) annexations exceeds one hundred dollars ($100.00) in any calendar year. A resolution of intent that includes an area served by your department was adopted on (insert date of resolution of intent).

In order to determine the (City's/Town's/Village's) proportionate share of your department's debt the appropriate employees of the (City/Town/Village) of __________________________ will require access to certain information concerning your debt. You are hereby requested to make this information available to the (City/Town/Village) not later than thirty (30) days following receipt of this letter. Pursuant to [(choose one) G.S. 160A-31.1 (voluntary contiguous annexation) or G.S. 160A-58.2A (voluntary satellite annexation)], failure to respond within forty-five (45) days following receipt of this letter will result in the forfeiture of your department's rights to receive any payment on this debt.

An official of the (City/Town/Village) will be in contact with you shortly to make the necessary arrangements. If it would be more convenient for you to do so, please feel free to contact [name of designated official], [title or position], at [telephone number and/or location]. Your assistance is greatly appreciated.

__________________________
(Mayor)(Manager)
# RURAL FIRE DEPARTMENT DEBT INFORMATION
## FOR VOLUNTARY ANNEXATIONS

Petitioned Contiguous Annexations - G.S. 160A-31.1  
Petitioned Satellite Annexations - G.S. 160A-58.2A  

<table>
<thead>
<tr>
<th>Name of Rural Fire Department:</th>
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<table>
<thead>
<tr>
<th>1. Area(s) included in the annexation ordinance for which this information is requested</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
</tr>
<tr>
<td>2.</td>
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<tr>
<td>3.</td>
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<tr>
<td>4.</td>
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</tbody>
</table>

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<tr>
<th>2. Date upon which the petition for annexation was submitted to the municipality (clerk to stamp date of receipt on the petition)</th>
</tr>
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<tbody>
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<table>
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<tr>
<th>3. Date upon which the annexation ordinance became effective</th>
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</table>

<table>
<thead>
<tr>
<th>4. Tax value of the entire district as of the date upon which the annexation ordinance became effective</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
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</tbody>
</table>

<table>
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<tr>
<th>5. Tax Value of the area(s) included in the annexation ordinance (Item 1) as of the date upon which the annexation ordinance became effective</th>
</tr>
</thead>
<tbody>
<tr>
<td>$</td>
</tr>
</tbody>
</table>
6. Percent (%) which the tax value of the area(s) included in the annexation ordinance bears to the tax value of the entire district as of the date upon which the annexation ordinance became effective (Item 5 divided by Item 4)


7. Existing annual debt payment on apparatus and equipment as of the date upon which the petition for annexation was submitted to the municipality (Add annual payments for each piece of apparatus or equipment from worksheet below)


APPARATUS AND EQUIPMENT

VEHICLE NUMBER ONE

Manufacturer

Type (Pumper-Tanker-Brush-Other)

Year purchased

Financing is provided by

The amount of the annual payment on Vehicle Number One is $ 

The year in which the debt on Vehicle Number One will be paid in full is
VEHICLE NUMBER TWO

Manufacturer

Type (Pumper-Tanker-Brush-Other)

Year purchased

Financing is provided by

The amount of the annual payment on Vehicle Number Two is $

The year in which the debt on Vehicle Number Two will be paid in full is

VEHICLE NUMBER THREE

Manufacturer

Type (Pumper-Tanker-Brush-Other)

Year purchased

Financing is provided by

The amount of the annual payment on Vehicle Number Three is $

The year in which the debt on Vehicle Number Three will be paid in full is
8. Existing annual debt payment on facilities [land and station(s)] as of the date upon which the petition for annexation was submitted to the municipality (Add payments for each facility from worksheet below)

$ _______________________________________________________________________

FACILITIES

FACILITY NUMBER ONE

Year construction was completed ________________________________

Initial cost (land and structure) $ ____________________________

The facility is financed by ______________________________________
                                             __________________________
                                             __________________________
                                             __________________________

The amount of the annual payment on Facility Number One is $ __________________________

The year in which the debt on Facility Number One will be paid in full is __________________________

FACILITY NUMBER TWO

Year construction was completed ________________________________

Initial cost (land and structure) $ ____________________________

The facility is financed by ______________________________________
                                             __________________________
                                             __________________________
                                             __________________________

Mechanics of Annexation
Supplement 3 – August 2012
The amount of the annual payment on Facility Number Two is $__________

The year in which the debt on Facility Number Two will be paid in full is ____________

COMPUTATION

Step 1. Insert the amount shown in Item 6 (percentage factor). ____________ %

Step 2. Total the amounts, if any, shown in Items 7 and 8. $__________

Step 3. Multiply the results from Step 1 (percentage factor) by the results from Step 2 (amount of annual debt). $__________

The result of Step 3 is the amount of the annual debt service which the municipality is required to pay annually to the rural fire department.
Section 4B

**SATellite Property**
**OWNED BY THE MUNICIPALITY**

G.S. 160A-58.7

The governing body of a qualified municipality may annex by ordinance areas owned by the municipality whose boundaries do not at any point touch its primary corporate limits. The primary corporate limits consist of the boundaries of a municipality as defined in its charter and as enlarged by annexation of contiguous territory or diminished by exclusion of contiguous territory according to applicable laws. Satellite annexations of property owned by the municipality are governed by the following procedures and requirements.

**Qualified Municipalities**

Any municipality may undertake satellite annexations pursuant to these procedures, except those municipalities not qualified to receive gasoline tax (Powell Bill) allocations under G.S. 136-41.2.

**Standards the Satellite Area Must Meet**

1. The area proposed for annexation must be owned by the annexing municipality.

2. The nearest point on the proposed satellite corporate limits must not be more than three (3) miles from the primary limits of the annexing municipality.

3. No point on the satellite area may be closer to the primary limits of another municipality that to the primary limits of the annexing municipality, unless the annexing municipality and the closer municipality have an annexation agreement meeting certain requirements. See G.S. 160A-58.1(b2).

4. The area proposed for annexation must be so situated that the annexing municipality will be able to provide the same services within the satellite area that it provides within its primary limits.

5. If the area proposed for annexation, or any portion thereof, is a subdivision, as defined in G.S. 160A-376, all of the subdivision must be included.

6. The area within the proposed satellite limits plus the area within all other satellite corporate limits may not exceed ten percent (10%) of the total land area within the primary corporate limits of the annexing municipality.

**Resolution Required**

1. The governing body initiates the annexation procedure by adopting a resolution stating the municipality's intent to annex the property. (See sample Resolution, p. 4-18).

2. The resolution must contain "an adequate description" of the property to be annexed and must fix a date for a public hearing on the question of annexation.
Public Hearing and Notice

(1) Notice of the public hearing must be published once at least ten (10) days before the date of the hearing. (See sample Notice, p. 4-19)

(2) At the public hearing, any resident of the city may appear and be heard on the question of the desirability of the annexation.

Findings Made and Ordinance Adopted

(1) If the governing body finds that the annexation is in the public interest, it may adopt an ordinance annexing the property.

(2) The ordinance should contain a specific finding that the property complies with each requirement of G.S. 160A-58.1(b). (See sample Annexation Ordinance, p. 4-20).

(3) The ordinance may be made effective immediately or on any specified date within six (6) months of adoption of the ordinance.

Rural Fire Department Provisions

If the area to be annexed is served by a rural fire department that is in an insurance district, a rural fire protection district or a county fire protection service district (see Fire Protection Definitions, p. 4-8), the municipality must comply with provisions requiring the assumption of a proportionate share of the fire department's debt. The rural fire department provisions applicable to annexations of satellite property owned by the municipality are identical to the provisions for contiguous annexations of this type. Please refer to page 4-3 for a detailed explanation of these requirements. The forms for requesting debt information (p. 4-9) and calculating assumption of debt payments (p. 4-10) may also be used for satellite annexations of municipal property.

Procedures Following Adoption of Ordinance

(1) Recordation. The annexation must be properly recorded with the register of deeds and the Secretary of State, as well as in the municipal clerk's office. The statutes also require a filing with the appropriate board of elections; however, since it is likely that the annexed area will be uninhabited, it might be helpful to include a cover letter to the board of elections explaining that the area is owned by the municipality and has no residents. Information on population, or lack thereof, must be reported to the Office of State Planning. See Chapter 7 of this publication for details on filing and recordation requirements.

(2) Voting Rights Act. Where applicable, the municipality must file with the U.S. Department of Justice for Voting Rights Act preclearance. This requirement must be met even if the annexed area is uninhabited. See Chapter 6 of this publication.

Applicability of Laws to the Annexed Area

(1) Generally. From and after the effective date of annexation, the annexed area, its citizens and property are subject to all debts, laws, ordinances and regulations of the annexing municipality, and are entitled to the same privileges and benefits as other parts of the municipality.
(2) **Zoning.** G.S. 160A-360(f). When a municipality annexes an area regulated by the county, the county zoning and planning regulations and powers of enforcement shall remain in effect until (a) the municipality has adopted regulations for the area or (b) a period of sixty (60) days has elapsed following the annexation, whichever is sooner. During this period the municipality may hold hearings and take any other measures that may be required in order to adopt its regulations for the area.

(3) **Extraterritorial Powers.** The satellite corporate boundaries may not be used in determining the limits of the annexing municipality's extraterritorial jurisdiction.

**Merger with Primary Limits**

An annexed non-contiguous area ceases to be a satellite area and becomes a part of the primary corporate limits when further annexations cause its boundaries and those of the primary corporate limits to touch.
RESOLUTION STATING THE INTENT OF THE (CITY/TOWN/VILLAGE)
OF TO ANNEX PROPERTY OWNED BY THE (CITY/TOWN/VILLAGE) WHICH IS NOT CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES.

BE IT RESOLVED by the (Governing Body) of the (City/Town/Village) of ___________ that:

Section 1. It is the intent of the (Governing Body), pursuant to G.S. 160A-58.7, to annex the property described in Section 2, which is owned by the (City/Town/Village) of ___________.

Section 2. The legal description of the property is as follows:

(Insert Metes and Bound Description)

Section 3. The property described in Section 2 is not contiguous to the current municipal boundaries, but will meet the requirements of G.S. 160A-58.1(b).

Section 4. A public hearing on the question of annexation will be held at (place of hearing) at (time) on (date).

*Section 5. Notice of the public hearing shall be published once in the (name of newspaper), a newspaper having general circulation in the (City/Town/Village) of ___________, at least ten (10) days prior to the date of the public hearing.

Adopted this __________ day of __________, 2____.

__________________________________________
Mayor

__________________________________________
Clerk

* If there is no newspaper of general circulation in the municipality (as defined by G.S. 1-597), the closest comparable statute is G.S. 160A-31(c), which requires posting instead. Section 5 of the resolution may read:

Section 5. Notice of the public hearing shall be posted at least ten (10) days prior to the hearing in at least three (3) public places within the area described in Section 2 and in at least three (3) public places in the (City/Town/Village) of ____________.
NOTICE OF PUBLIC HEARING

The public will take notice that (name of governing body) of the (City/Town/Village) of ___________ has called a public hearing at (time) on (date) at (place of hearing), on the question of annexing the following described non-contiguous property owned by the (City/Town/Village):

(Insert Metes and Bounds Description)

________________________________________
(City/Town/Village) Clerk
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
(CITY/TOWN/VILLAGE) OF ____________, NORTH CAROLINA

WHEREAS, the (name of governing body) has adopted a resolution under G.S. 160A-58.7, stating its intent to annex the area described below; and

WHEREAS, a public hearing on the question of this annexation was held at (place of hearing) at (time) on (date), after due notice; and

WHEREAS, the (name of governing body) further finds that the area meets the requirements of G.S. 160A-58.1(b), as follows:

a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the primary corporate limits of the (City/Town/Village);

b. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of the (City/Town/Village) [or indicate that, although closer to another municipality, there is an annexation agreement in place that allows the annexation of the proposed satellite];

c. The area is so situated that the (City/Town/Village) will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;

d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;

e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the (City/Town/Village) [or indicate that the municipality has a modification to this requirement by virtue of an act of the General Assembly]; and

WHEREAS, the (name of the governing body) further finds that the annexation of the area is in the public interest;

NOW, THEREFORE, BE IT ORDEAINE by the (name of governing body) of the
(City/Town/Village) of ____________, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-58.7, the following described noncontiguous property owned by the (City/Town/Village) is hereby annexed and made part of the (City/Town/Village) of ____________ as of (effective date):*

(Insert Metes and Bounds Description)

* Annexation may be made effective immediately, or on any date within six months of adoption.
Section 2. The Mayor shall cause to be recorded in the office of the Register of Deeds of County, and in the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, with a certified copy of this ordinance. Such a map shall also be delivered to the (City/Town/Village/County) Board of Elections, as required by G.S. 163-288.1.

Adopted this _______ day of _____________, 2_____.

__________________________
Mayor

ATTEST:

__________________________
Clerk

APPROVED AS TO FORM:

__________________________
(City/Town/Village) Attorney
Chapter 5

ANNEXATION BY ACT OF THE GENERAL ASSEMBLY

N.C. Constitution, Article VII, Section 1

The General Assembly may at any time enlarge the boundaries of a municipality by special act. This authority arises under Article VII, Section 1 of the North Carolina Constitution, which directs the General Assembly to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions."

Procedure

To proceed with annexation by local act, the municipality must contact members of the local legislative delegation to request the introduction of an annexation bill. It is helpful to provide legislators with as much information as possible about the area to be annexed and the reasons for seeking legislative annexation. The legislative staff or the League can assist in the drafting of the bill.

Requirements

There are no specific statutory provisions regulating legislative annexations, other than those dealing with solid waste collection firms (see below). However, a legislative annexation is subject to any requirements written into the local act itself. These may include requirements for the provision of services to the area, proration of property taxes and other matters. Be aware too that although the General Assembly's authority to annex is broad, legislative annexations remain subject to constitutional constraints such as equal protection. See Abbott v. Town of Highlands, 52 N.C. App. 69, disc. rev. denied, 303 N.C. 710 (1981).

Solid Waste Provisions
G.S. 160A-324

There are important statutory provisions concerning the effect of legislative annexations upon the financial bases of private solid waste collection firms. Under certain conditions, the municipality may be required to contract with or pay economic loss to private solid waste collection firms in the annexed area. Municipalities requesting legislative annexation of areas where private solid waste collection firms are operating must be careful to comply with the provisions set out below.

(1) Private Solid Waste Collection Firm(s) Affected. Before a municipality is required to contract with or buy out a private solid waste collection firm the following conditions must be met:

(a) The firm must be providing solid waste collection services in the area to be annexed on the ninetieth (90th) day preceding the date of introduction in the House of Representatives or the Senate of the bill which became the local act making the annexation; and

(b) The firm must still be providing services on the date the local act becomes law; and
(c) By reason of the annexation the firm’s franchise with a county or arrangements with third parties for solid waste collection will be terminated; and

(d) The firm makes a written request that it wishes to contract, delivered to the municipal clerk at least ten (10) days before the effective date of the annexation provided in the local act. The request must contain a certification signed by an officer or owner of the firm that the firm serves at least fifty (50) customers within the county at that time.

(2) **Obligation of municipality.** If all of the above conditions are met then the municipality must do one of the following:

(a) Contract with the solid waste collection firm(s) for a period of two (2) years after the effective date of the annexation to allow the firm(s) to provide collection services to the municipality in the area to be annexed, with payment as calculated in subsection (7) below; or

(b) In lieu of a contract, pay to the private solid waste collection firm(s) a sum equal to the economic loss as calculated in subsection (8) below; or

(c) Make other arrangements satisfactory to the parties.

(3) **Solid waste firms’ notice of service.** Firms are required to file notice of the provision of solid waste collection service with the clerk of all municipalities located in the firm’s collection area or within five (5) miles thereof. This information should be kept on file for future reference so that solid waste companies operating in an annexation area can be readily identified.

(4) **Municipality’s notice to solid waste firms.** The municipality must make a good faith effort to provide at least thirty (30) days before the effective date of the annexation a copy of the act to each firm providing solid waste collection services in the area to be annexed. The notice must be sent by certified mail, return receipt requested, to the address provided by the firm in its notice of the provision of services. In order to comply with this requirement, the legislative act should provide for an effective date of annexation that is more than thirty (30) days after ratification. (See sample Notice, p. 5-5)

(5) **Information to be provided by solid waste firm.** A firm that has given notice that it desires to contract, and any firm that the municipality believes is eligible to give such notice, must make available to the municipality not later than thirty (30) days following a written request of the municipality all information in its possession or control, including but not limited to operational, financial and budgetary information, necessary for the municipality to determine if the firm qualifies for the benefits of this section and to determine the nature and scope of any potential contract or economic loss payment. If the firm fails to respond within thirty (30) days following receipt of the written request, it forfeits its right to a contract or payment of economic loss under G.S. 160A-324. The municipality must include in its written request reference to the section containing this requirement [G.S. 160A-324(h)] or no forfeiture will occur. It is recommended that the request be sent by certified mail, return receipt requested. (See sample Request for Financial Information, p. 5-6).

(6) **Contract provisions.** The municipality may require that the contract to be entered into with a private solid waste collection firm contain:
(a) A requirement that the firm post a performance bond and maintain public liability insurance coverage;

(b) A requirement that the firm agree to serve customers in the annexed area that were not served by that firm on the effective date of annexation;

(c) A provision that divides the annexed area into service areas if there were more than one firm being contracted within the area, such that the entire area is served by the firms, or by the municipality as to customers not served by the firms;

(d) A provision that the municipality may serve customers not served by the firm on the effective date of annexation;

(e) A provision that the contract can be cancelled in writing, delivered by certified mail to the firm in question with thirty (30) days to cure for substantial violations of the contract, but no contract may be cancelled on these grounds unless the Local Government Commission finds that substantial violations have occurred, except that the municipality may suspend the contract for up to thirty (30) days if it finds substantial violation of health laws;

(f) Performance standards, not exceeding municipal standards existing at the time of notice to the firm of the annexation, with provision that the contract may be cancelled for substantial violations of those standards, but no contract may be cancelled on those grounds unless the Local Government Commission finds that substantial violations have occurred;

(g) A provision for monetary damages if there are violations of the contract or of performance standards.

(7) Payment under contract. If the municipality elects to contract with a solid waste collection firm and the services to be provided to the municipality by reason of the annexation are substantially the same as rendered under the franchise with the county or arrangements with the parties, the amount paid by the municipality shall be at least ninety percent (90%) of the amount paid or required under the existing franchise or arrangements. If such services are required to be adjusted to conform to municipal standards or as a result of changes in the number of customers, and as a result there are changes in disposal costs (including mileage and landfill charges), requirements for storage capacity (dumpsters and/or residential carts), and/or frequency of collection, the amount paid by the municipality for the service shall be increased or decreased to reflect the value of such adjusted services as if computed under the existing franchise or arrangements. In the event agreement cannot be reached between the municipality and the firm, the matters are to be determined by the Local Government Commission.

(8) Payment of economic loss. If the municipality elects to pay economic loss, it must pay to the solid waste collection firm fifteen (15) times its average gross monthly revenue for the three (3) months prior to the introduction of the bill, collected or due the firm for residential, commercial and industrial collection service in the area annexed or to be annexed. Revenue is included in the calculation only if policies of the city will provide solid waste collection to those customers such that arrangements between the firm and the customers will be terminated. One-third of the economic loss payment is to be made within thirty (30) days of termination and the balance paid in twelve (12) equal monthly
installments during the next succeeding twelve (12) months. The firm forfeits any
remaining economic loss if it terminates service to customers in the annexation area prior
to the effective date of the annexation.

(9) **Appeal by solid waste collection firms.** The firm may, if it contends no contract has been
offered, appeal to the Local Government Commission within sixty (60) days following
the effective date of the annexation act for an order directing the municipality to offer a
contract. If the LGC finds that the municipality has not made an offer in compliance with
the statute, it shall order the municipality to pay to the private firm a civil penalty of the
amount of payments it finds that the municipality would have had to make under the
contract, during the noncompliance period until the contract offer is made. Either the
firm or the municipality may obtain judicial review in accordance with Chapter 150B of
the General Statutes (Administrative Procedure Act).

**Procedures Following Ratification of Local Act**

(1) **Voting Rights Act.** Where applicable, the municipality must file with the U.S.
Department of Justice for Voting Rights Act preclearance. G.S. 120-30.9F makes the
municipal attorney responsible for this submission within thirty (30) days of the
ratification of the local act. See Chapter 6 of this publication.

(2) **Revision of Map or Description.** G.S. 160A-22 provides that the municipal boundaries
must at all times be drawn on a map or set out in a written description or shown by a
combination of these techniques. This delineation is permanently filed in the office of
the municipal clerk. Upon annexation by local act, the map or description of the
boundaries should be revised. G.S. 163-288.1 requires delivery of a map of the annexed
area to the appropriate board of elections.
NOTICE TO SOLID WASTE FIRMS PROVIDING SOLID WASTE COLLECTION SERVICES IN THE AREA TO BE ANNEXED

TO: (Name and Address)

FROM: (City/Town/Village) of ___________________________

DATE: ___________________________

SUBJECT: Notice of Act annexing an area in which you are providing solid waste collection services.

On (date) the North Carolina General Assembly ratified Chapter _____, an act to annex to the (City/Town/Village) of ___________________________ an area in which you are currently providing solid waste collection services. A copy of the act is enclosed pursuant to state law G.S. 160A-324. Note that the annexation will become effective on (date).*

Annexation of this area by the (City/Town/Village) of ___________________________ may result in the termination of any franchise that you may have with the County(s) of ___________________________ or arrangements that you may have with third parties for solid waste collection services within this area.

G.S. 160A-324 provides that you may make a written request to the (City/Town/Village) of ___________________________ that you wish to contract with it for the provision of services within this area. This written request must be delivered to the (City/Town/Village) Clerk at least ten (10) days before the effective date of the annexation as provided in the act and must include a certification that your firm serves at least fifty (50) customers within ________ County, signed by an owner or officer of your firm. Unless you have already made other arrangements with the (City/Town/Village) for provision of services within this area, if you fail to provide this written request you will forfeit substantial rights.

If you have any questions regarding this notice please contact (name of designated official), (title or position), at (phone number and/or location).

__________________________
(Mayor)(Manager)

* It is recommended that the legislative act provide for an effective date of annexation that is more than 30 days after the date of ratification to allow time to comply with this provision.

Note: To be sent by certified mail, return receipt requested.
REQUEST FOR FINANCIAL INFORMATION
CONCERNING A SOLID WASTE COLLECTION FIRM

TO:   (Name and Address)

FROM: (City/Town/Village) of ______________________

DATE: ______________________

SUBJECT: Request for Financial Information

You have indicated to the (City/Town/Village) of ______________________ that you desire to contract with the (City/Town/Village) for the provision of solid waste collection services in the area included in Chapter _____, an act passed by the North Carolina General Assembly on (date).

(or)

The (City/Town/Village) of ______________________ believes that you may be eligible pursuant to state law G.S. 160A-324 to give notice of your desire to contract with the (City/Town/Village) for the provision of solid waste collection services in the area included in Chapter _____, an annexation act passed by the North Carolina General Assembly on (date).

The appropriate employees of the (City/Town/Village) of ______________________ will require access to certain information concerning your business, including but not limited to operational, financial, and budgetary information, necessary for the (City/Town/Village) to determine if you qualify for the benefits of G.S. 160A-324 and to determine the nature and scope of any potential contract or economic loss payment. You are hereby requested to make this information available to the (City/Town/Village) not later than thirty (30) days following the receipt of this letter. Pursuant to G.S. 160A-324(h), failure to respond within thirty (30) days following receipt of this letter will result in the forfeiture of your rights to negotiate a contract or receive payment for economic loss under G.S. 160A-324.

An official of the (City/Town/Village) will be in contact with you shortly to make the necessary arrangements. If it would be more convenient for you to do so, please feel free to contact (name of designated official), (title or position), at (phone number and/or location). Your assistance is greatly appreciated.

__________________________
(Mayor)(Manager)

Note: It is recommended that request be sent by certified mail, return receipt requested.
Chapter 6

PRECLEARANCE REQUIREMENTS UNDER THE VOTING RIGHTS ACT


The Voting Rights Act of 1965, codified as 42 U.S.C. 1973c, is a federal law enacted to protect the voting rights of racial and language minority group members and to prevent dilution of the voting strength of minorities. Section 5 of the Voting Rights Act requires municipalities in forty counties (as designated in Section 4 of the Act) to submit any legislative enactments or administrative practices "affecting voting" to the United States Attorney General for preclearance. Practices affecting voting include annexation or de-annexation of territory.

In June of 2013, the United States Supreme Court declared Section 4 of the Voting Rights Act to be unconstitutional. *Shelby County v. Holder, 570 U.S. ___, 133 S. Ct. 2612 (2013).* Since Section 4 identifies the jurisdictions required to submit changes related to voting for preclearance under Section 5, without it Section 5 is unenforceable.

For municipalities in the 40 counties that are designated in Section 4 of the Act, please be aware that, unless Congress takes further action, preclearance submission is no longer required for changes affecting elections (including annexation) made on or after June 25, 2013.
Chapter 7

FILING AND RECORDATION REQUIREMENTS

G.S. 160A-22, -29, -58.8 and -58.61
G.S. 163-288.1 and -288.2

Requirements Upon Completion of Annexation

As soon as possible after an annexation by any of the statutory methods set out in this publication is completed, each of the following filings and recordations must be made:

(1) Board of Elections. A map showing the boundaries of newly annexed areas must be delivered to the county or municipal board of elections that conducts the elections for the municipality. The board of elections then must "activate" for municipal elections each voter eligible to vote in the municipality who is registered to vote in the county, to the extent that residence addresses shown on the county registration certificates can be identified as within the limits of the newly annexed area. Each voter whose registration is activated must be notified by mail. The costs of the map and the activation must be paid by the municipality.

In lieu of the above procedure, the county board of elections may use one of the following methods of activation as provided in G.S. 163-288.2:

(A) The county board of elections prepares a list of those registered voters residing in the newly annexed territory. The board must publish and post notice of the list's availability, then make it available for public inspection for a two-week period ending sixteen (16) days (excluding Saturdays and Sundays) before the day of the election. During this period, any qualified voter who resides in the annexed area may have his or her name added to the list.

(B) The board conducts a special registration of eligible persons desiring to vote in the newly annexed territory. The board must publish and post notice of the special registration, and the registration books must be open each day (except Sundays) during a two-week period ending sixteen (16) days (excluding Saturdays and Sundays) before the election.

Note: If the Voting Rights Act preclearance requirements are applicable, approval from the U.S. Department of Justice must be obtained before the annexation may be made effective for elections purposes. (See Chapter 6 of this publication).

(2) Register of Deeds. A map of the annexed territory and a certified copy of the annexation ordinance must be recorded in the office of the register of deeds in the county or counties in which the annexed territory lies.

(3) Secretary of State. A map of the annexed territory and a certified copy of the annexation ordinance must be filed in the office of the Secretary of State in Raleigh. Documents required to be filed with the Secretary of State shall be filed no later than thirty (30) days following the effective date of the annexation ordinance. However, failure to file within thirty (30) days does not affect the validity of the annexation. The address for submission is:

Mechanics of Annexation
Supplement 5 – August 2012

7-1
Office of the Secretary of State  
Land Records Management  
P.O. Box 29622  
Raleigh, N.C. 27626  
(919) 807-2207

(4) Municipal Clerk's Office. The current municipal boundaries, including satellite corporate limits, must at all times be drawn on a map, set out in a written legal description, or shown by a combination of the two. This delineation must be filed and retained permanently in the office of the municipal clerk. It is important to update the map and legal description after each annexation.

Notice for Tax Collection Purposes

Many municipalities have agreements with their counties for tax billing and collection services. If the county bills or collects the municipality’s taxes, it is important to notify the county tax office when property has been annexed into the municipality.

Notice to Certain Utilities  
G.S. 105-116 and -187.44

[Please note that effective July 1, 2014, the state franchise taxes referenced below will be eliminated and notification to utilities will no longer be needed.]

State law provides for municipalities to receive a share of the state utility franchise tax levied on electric power companies, based on the taxable gross receipts from service within the city limits. Similarly, a portion of the proceeds of the state piped natural gas excise tax, based on the amount of tax attributable to piped natural gas delivered to or received in the city. For this reason it is important to notify the companies providing electricity and natural gas services when an area has been added to the city limits. The municipality should provide the utility with a boundary description, map and/or property address listing sufficient to allow the utility to determine which portions of the annexed territory are included in its service area.

Notifications to Duke Energy may be sent as follows:

Duke Energy DT02V  
9700 David Taylor Drive  
Charlotte, NC 28262  
By email: taxteam@duke-energy.com

Annual Reports  
G.S. 143C-2-2

Population Information (Boundary and Annexation Survey). Municipalities must make an annual report to the Office of State Budget and Management providing information about all annexations that became effective during the fiscal year. The state uses this information in making its annual estimate of the municipality's population for purposes of per capita revenue distribution. Every tenth year, the estimate begins with the federal census figures. These figures are then adjusted in succeeding years for annexations and natural population growth.
The boundary and annexation survey requires a count of the number of occupied housing units, the number of permanent residents in occupied housing units and the number of occupants of group quarters. A "housing unit" is defined as a house, apartment or other group of rooms that constitute separate living quarters. Seasonal and vacant units should not be included in the count. "Group quarters" are living arrangements such as rooming houses, nursing homes, college dorms and military barracks.

An actual headcount by in-person or telephone contact is the preferred method for determining the number of permanent residents in the annexed area. However, if such a count is not feasible, the state will use a formula to estimate the number of residents. Each year, the municipality has the opportunity to update the information it provided as to previous annexations. This allows the municipality to account for new housing units which may have been built and occupied in annexed areas since the last survey.

An annexation should not be reported if a legal challenge to the annexation is still pending, as the effective date will be delayed until the first June 30 at least six months following the court's final judgment or the governing board's completion of action to conform its ordinance in the event of remand. See G.S. 160A-58.60(i).

The required information should be submitted on a form provided by the Office of State Budget and Management. Forms are usually mailed to each municipality in late June, with a July deadline for submission. It is important to make the submission in a timely manner so that the most current information is available to the state in making its population estimates for purposes of revenue distribution. Information that is submitted late may be rejected and the municipality will have to wait until the following year to be credited with any additional population. It is not necessary to submit a map or a copy of the annexation ordinance. Contact information:

Office of State Budget and Management
20320 Mail Service Center
Raleigh, NC 27699-0320
(919) 807-4700

Practical Suggestions

(1) Responsibility for Filings. Although the applicable statutes make the mayor responsible for ensuring that the above filings are made, as a practical matter it will usually be the municipal clerk who undertakes this duty. The annexation ordinance itself should contain language directing delivery of the map to the board of elections and recordation of the map and ordinance with the register of deeds and Secretary of State. This will serve as a useful reminder for the clerk or other responsible official.

(2) Coordination of Population Information. In an involuntary annexation procedure, it may make sense to obtain and compile the necessary information for the boundary and annexation survey in connection with preparation of the annexation services report. For those municipalities subject to Section 5 of the Voting Rights Act (see Chapter 6 of this publication), this can also be coordinated with the gathering of population information for preclearance submissions.
Chapter 8
TAXATION OF NEWLY ANNEXED PROPERTY

Municipal Property Taxes
G.S. 160A-58.10

(1) Prorating Taxes. Regardless of which method of statutory annexation is used, the tax liability of property in the annexed area for the fiscal year in which it is annexed is a prorata portion of the total taxes which would be due if it had been within the municipality for the full fiscal year. To compute the prorated tax liability, multiply the amount of taxes which would have been due for the full fiscal year by the following fraction:

Numerator: the number of full calendar months remaining in the fiscal year after the effective date of annexation

Denominator: 12

For example, if the effective date of annexation is September 1, and the total taxes on the property for the full fiscal year would have been $300, the prorated taxes would be computed as follows:

$300 \times \frac{9}{12} = 225 \text{ due}

(2) Date Prorated Property Taxes Due. If the annexation becomes effective after June 30 and before September 2, the prorated taxes are due and payable on the first day of September of the fiscal year for which the taxes are levied. If the annexation becomes effective after September 1 and before the following July 1, the prorated taxes are due and payable on the first day of September of the next succeeding fiscal year. The prorated taxes are subject to collection and foreclosure in the same manner as other taxes levied for the fiscal year in which prorated taxes become due.

For example, if the annexation becomes effective on August 1, 2004, prorated taxes for fiscal year 2004-05 would come due on September 1, 2004. The taxes could be paid without penalty until January 6, 2005. If the annexation becomes effective on November 30, 2004, prorated taxes for fiscal year 2004-05 would not come due until September 1, 2005. The taxes could be paid without penalty until January 6, 2006.

(3) Subsequent Years. In subsequent fiscal years, the annexed property is subject to taxation on the same basis as is the preexisting municipal territory.

(4) Obtaining Tax Information. For purposes of levying prorated taxes the municipality shall obtain from the county a record of property in the area being annexed that was listed for taxation on the January 1 immediately preceding the fiscal year for which the prorated taxes are levied. In addition, if the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the annexation, obtain from the county a record of property in the area being annexed that was listed for taxation as of January 1 preceding the annexation.
Refund of Fire Protection District Taxes
G.S. 69-25.15; G.S. 153A-304.1

(1) Prorated Refunds. When all or a portion of a rural fire protection district is annexed by a municipality providing fire protection to its citizens, the territory is simultaneously de-annexed from the fire protection district. This is also true of a county fire protection service district, unless the municipality has agreed to allow territory within its boundaries to be included in the district. Although the newly annexed residents become liable for municipal property taxes for the remainder of the fiscal year in which they are annexed, they do not lose their liability for fire district taxes for that fiscal year. To avoid double taxation of residents in these areas, the annexing municipality must refund a prorated portion of the fire district taxes paid by property owners in the area, unless the effective date of the annexation is in the month of June.

To compute the prorated fire protection payment, multiply the amount of fire protection district taxes levied for the full fiscal year by the following fraction:

\[
\text{Numerator: } \text{the number of full calendar months remaining in the fiscal year after the effective date of the annexation} \\
\text{Denominator: } 12 
\]

For example, if the effective date of the annexation is December 1, and the fire protection district tax levied is $100, the prorated fire protection refund owed would be computed as follows:

\[
$100 \times \frac{6}{12} = $50 \text{ owed} 
\]

This amount must be paid to the property owner within ninety (90) days of the effective date of the annexation.

(2) County Reimbursement. If the municipality has paid or has contracted to pay a rural fire department funds under G.S. 160A-58.57 (the 5-year contracting provisions), the county must reimburse the municipality the amount the municipality will pay the rural fire department on account of the annexation of the district territory for the full calendar months remaining in the fiscal year following the date of annexation. However, this amount reimbursed by the county may not exceed the total amount of prorated fire protection payments made by the municipality to property owners in the district due to the annexation. Note that the county's obligation to reimburse occurs only in an involuntary annexation, since the G.S. 160A-58.57 contracting requirements do not apply to voluntary annexations.

(3) Obtaining Tax Information. The municipal finance officer must obtain from the assessor or tax collector of the county in which the annexed territory is located a list of the owners of property on which fire district taxes were levied in the annexed area.
Privilege License Taxes  
G.S. 160A-31(c), -58.3, -58.55

The statutes do not provide a specific mechanism for prorating privilege license taxes as they do for property taxes. However, the general language in the statutes provides that the annexed area is subject to all ordinances and regulations in force in the city as of the effective date. The privilege license tax ordinance itself should be consulted to determine how businesses that begin operations in the city part way through the fiscal year are treated.

Practical Suggestions

To avoid prorating municipal property taxes and giving fire district tax refunds, any day in the month of June is an ideal effective date for the annexation. June 30 is often preferred since, in addition to avoiding tax confusion, the provision of municipal services can more closely coincide with the beginning of a new fiscal year.
Chapter 9
ANNEXATION AGREEMENTS

G.S. Chapter 160A, Article 4A, Part 6
(G.S. 160A-58.21 through 160A-58.28)

The governing bodies of two or more municipalities may enter into binding agreements designating those areas which will be "off-limits" to annexation by one or more of the participating municipalities. Such agreements are intended to avoid the race for prior jurisdiction and enhance orderly planning by the participating municipalities as well as by residents and property owners in areas adjacent to the municipalities.

Parties to Agreement

The parties to the agreement must be incorporated municipalities. (Note that these statutory procedures do not authorize municipalities to enter into binding annexation agreements with private parties.)

Contents of Agreement

See sample Annexation Agreement, p. 9-7.

(1) **Duration of the agreement.** May not exceed twenty (20) years.

(2) **Description of areas subject to the agreement.** The agreement must "clearly describe" the area or areas subject to the agreement.

(3) **Application to specific participants.** The agreement must specify which of the participating municipalities may not annex the described area or areas.

(4) **Effective date.**

(5) **Notice requirements.** The agreement must contain provisions requiring each participating municipality that proposes any annexation to give written notice to the other participating municipalities at least sixty (60) days before adoption of the annexation ordinance. [However, the agreement may provide for a waiver of this time period by the notified municipality.] The written notice shall describe the area to be annexed by a legible map, clearly and accurately showing the boundaries of the area to be annexed in relation to the areas described in the annexation agreement and in relation to roads, streams and other prominent geographical features. The notice expires after 180 days.

(6) **Other provisions.** The agreement shall include "any other necessary and proper matter."
Procedure for Adoption of Agreement

(1) Public Hearing

Each participating municipality must hold a public hearing prior to adopting an ordinance approving the agreement. If desired, the governing boards of the municipalities may hold a joint public hearing.

Notice of the public hearing shall be published once in a newspaper having general circulation in the municipality (or municipalities in the case of a joint hearing) at least ten (10) days prior to the date of the public hearing. If there is no such newspaper, the governing board(s) shall have notices posted in three (3) or more public places within the area covered by the agreement and three (3) or more public places within the municipality(ies). See sample Notice of Public Hearing, p. 9-5.

(2) County Approval

If the agreement would allow a participating municipality to annex any area three (3) miles or more beyond its primary corporate limits, the agreement will not be binding as to that area unless approved by the board of county commissioners. The approval of the board of commissioners must be in the form of a resolution adopted after a public hearing. Note, however, that an area where the agreement is not binding because of the county's failure to grant approval will become subject to the agreement if subsequent annexations bring it within three (3) miles.

(3) Ordinance

Each participating municipality must adopt the annexation agreement by ordinance. See sample Ordinance, p. 9-6.

(4) Execution of Agreement

The mechanics of executing the actual agreement could work in two ways. The mayors may sign the proposed agreement in anticipation of later adoption of the approving ordinance by each of the governing bodies. In the alternative, the unsigned proposed agreement may be presented to the governing bodies for adoption of the approving ordinances, for execution by the mayors immediately after adoption of the ordinances. The language of the ordinance should read as appropriate.

Effect of Agreement

From and after the effective date of a duly adopted annexation agreement, no participating municipality may adopt an annexation ordinance as to all or any portion of an area in violation of the agreement.

Modification or Termination of Agreement

An annexation agreement may be modified or terminated by subsequent agreement entered into by all the municipalities participating in the agreement. Such subsequent agreement must be approved by ordinance after a public hearing or hearings. Notice of the hearing(s) shall be given in the manner described under "Public Hearing" above.
A participating municipality may also terminate an agreement or unilaterally withdraw itself from the agreement by repealing the ordinance by which it approved the agreement. It must also provide five (5) years' notice to the other participating municipalities. Upon the expiration of the five-year period, an agreement involving only two municipalities shall terminate, and an agreement involving more than two municipalities shall terminate unless each of the other participating municipalities has adopted an ordinance reaffirming the agreement.

Remedies

(1) Petition to Enforce Agreement

A participating municipality that believes another participating municipality has violated the statutes or the agreement may file a petition for review in the Superior Court in the county where any of the territory proposed to be annexed is located, no later than thirty (30) days following adoption of an annexation ordinance concerning territory subject to the agreement. Within five (5) days after such a petition is filed, the petitioning municipality must serve copies thereof upon the respondent municipality by registered mail. The respondent municipality then has fifteen (15) days, or such additional time as the court may allow, to file with the court a transcript of the portions of the ordinance or minute book in which the procedure for annexation has been set forth and a copy of resolutions, ordinances and any other document received or approved by the respondent municipality's governing body as part of the annexation proceeding.

The statutes further prescribe that the court shall fix a date for review of the petition. The review is conducted by the court without a jury and its scope is limited to a determination of whether the statutory provisions of Chapter 160A, Article 4A, Part 6 or the provisions of the annexation agreement have been violated. If the court determines that there has been a violation of the statutory provisions or the annexation agreement, it may declare the annexation proceedings to be void. Alternatively, the court may remand the annexation ordinance to the respondent municipality for amendment of the boundaries or other appropriate action to conform to the statute and the agreement. If the municipality fails to act in accordance with the court's instructions within three (3) months, the annexation proceeding becomes void.

At any time before or during the review proceeding, any petitioner may apply to the reviewing court for an order staying the operation of the annexation ordinance pending outcome of the review. The court may grant or deny the stay upon such terms as it deems proper and may permit annexation of any part of the area not involved in the review.

Any party to the review proceedings may appeal. The appealing party may apply for a stay of the annexation ordinance or a stay of the final determination of the Superior Court; however, the Superior Court may, with the agreement of the parties, permit annexation of any part of the area not involved in the appeal.

In the event of review by the Superior Court or an appeal, the annexation ordinance is deemed amended to make the effective date of the annexation the date of the final judgment of the Superior Court or appellate division or the date the respondent municipality completes action to make the ordinance conform to the court's instructions in the event of a remand.
(2) Petition to Override Agreement

Any participating municipality which seeks to annex territory it is prohibited from annexing under a binding agreement may file a petition in the Superior Court where any of the territory proposed to be annexed is located, or a response in a proceeding initiated by another participating municipality, seeking permission to annex the territory notwithstanding the agreement. If it finds that the area qualifies for annexation and that there is an imminent threat to public health or safety that can be remedied only by the municipality seeking annexation, the court may enter an order allowing the annexation to proceed with respect to all or a portion of the territory.

Effect on Prior Local Acts

Any municipality authorized to enter into annexation agreements by local act ratified prior to May 29, 1989 may enter into future agreements either under the local act or under the general statutory authority granted by G.S. Chapter 160A, Article 4A, Part 6.
NOTICE OF PUBLIC HEARING ON PROPOSED ANNEXATION AGREEMENT

The public will take notice that the (name of governing body) of the (City/Town/Village) of __________________ [and the (name of governing body) of the (City/Town/Village) of __________________] will hold a [joint] public hearing at (place of hearing) at (time) on (date), concerning the proposed Annexation Agreement between the (City/Town/Village) of __________________ [and the (City/Town/Village) of __________________], pursuant to G.S. Chapter 160A, Article 4A, Part 6. The proposed Agreement on future annexation areas will be explained and all persons resident or owning property in said areas and all residents of the (City/Town/Village) of __________________ [and the (City/Town/Village) of __________________] will be given an opportunity to be heard.

The proposed Annexation Agreement is on file in the (City/Town/Village) of __________________ [and (City/Town/Village) of __________________] Clerk's office[s] and may be inspected during regular business hours. The proposed Agreement contains a clear description [and/or map] of the subject areas.*

Signed __________________ (City/Town/Village) Clerk

[Signed __________________ (City/Town/Village) Clerk]

* The statutes do not require that a map or metes and bounds description be contained in the notice of public hearing. A map or description can be included if desired.
AN ORDINANCE APPROVING ANNEXATION AGREEMENT

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in G.S. Chapter 160A, Article 4A, Part 6 have been met; and

WHEREAS, the (name of the governing body) has taken into consideration the statements presented at the public hearing held on (date) on the proposed Annexation Agreement; and

WHEREAS, the (name of the governing body) has concluded and hereby declares that it is appropriate and desirable for the (City/Town/Village) of ________________ to enter into the Agreement;

NOW, THEREFORE, BE IT ORDAINED by the (name of the governing body) of the (City/Town/Village) of ________________ that:

Section 1. The proposed Annexation Agreement between the (City/Town/Village) of ________________ and the (City/Town/Village) of ________________ [and the (City/Town/Village) of ________________] is hereby approved and ratified [and the Mayor of ________________ is directed to execute the Agreement with Mayors of the other participating municipality(ies) as soon as possible], to become effective as provided therein.

Section 2. The approved Agreement is attached to this ordinance and is incorporated herein, and this ordinance and the executed Agreement shall be spread upon the minutes of this meeting.

Section 3. This approving ordinance is effective upon adoption.*

Adopted this ____ day of ________________, 2___.

__________________________
Mayor

__________________________
Clerk

__________________________
Mayor

ATTEST:

__________________________
Clerk

* A different effective date may be provided; however, to avoid confusion, the effective date of the approving ordinance should be consistent with the effective date of the agreement.
ANNEXATION AGREEMENT

STATE OF NORTH CAROLINA
COUNTY OF ____________

WHEREAS, the (City/Town/Village) of ____________ and the (City/Town/Village) of ____________, (the "participating municipalities"), duly incorporated municipalities under the laws of the State of North Carolina, desire to eliminate uncertainty among residents and property owners in unincorporated areas adjacent to the participating municipalities and also to improve planning by public and private interests in such areas; and

WHEREAS, Chapter 160A, Article 4A, Part 6 of the North Carolina General Statutes authorize municipalities to enter into binding agreements concerning future annexation in order to enhance orderly planning by such municipalities as well as residents and property owners in areas adjacent to such municipalities;

NOW, THEREFORE, THE PARTICIPATING MUNICIPALITIES AGREE AS FOLLOWS:

1. This Agreement is executed pursuant to the authority of G.S. Chapter 160A, Article 4A, Part 6.

2. This Agreement shall terminate (not more than 20) years after its effective date.

3. A. The (City/Town/Village) of ____________ may not annex the following area(s): (metes and bounds description)/(the areas shown on the attached map labeled "__________," which is part of this Agreement).

   B. The (City/Town/Village) of ____________ may not annex the following area(s): (metes and bounds description)/(the areas shown on the attached map labeled "__________," which is part of this Agreement).

4. The effective date of this Agreement is (date), or the date of adoption of the approving ordinance by the last participating municipality to do so, whichever is later.

5. At least sixty (60) days before the adoption of any annexation ordinance, the participating municipality which is proposing any annexation in the area(s) subject to this Agreement shall give written notice to the other participating municipality(ies) of the proposed annexation. Such notice shall describe the area to be annexed by a legible map, clearly and accurately showing the boundaries of the area to be annexed in relation to this Agreement; roads, streams and any other prominent geographical features. Such notice shall not be effective for more than 180 days. (The Agreement may provide for a waiver of this time period by the notified municipality).
6. This Agreement will not be effective unless each participating municipality has held a public hearing on this Agreement, or the participating municipalities have held a joint public hearing, prior to adopting the ordinance approving this Agreement. Until such time as the required public hearings are held and the respective approving ordinances are adopted, this shall be considered a proposed agreement.

7. This Agreement may be modified or terminated by a subsequent agreement entered into by the participating municipalities. Any subsequent agreement shall be approved by ordinance after public hearings as provided in G.S. 160A-31(c).

8. This Agreement shall not be binding beyond three miles of the primary corporate limits of a participating municipality, unless approved by the board of county commissioners with jurisdiction over the area. Provided, however, that an area where this Agreement is not binding because of failure of the board of county commissioners to approve it, shall become subject to this Agreement if subsequent annexation brings it within three miles. The approval of a board of county commissioners shall be evidenced by a resolution adopted after a public hearing as provided in G.S. 160A-58.24(c) and (e) and 160A-31(c).

9. This Agreement may be terminated unilaterally by a participating municipality or a participating municipality may withdraw from this Agreement by repealing the ordinance which approved this Agreement and providing five years' written notice to the other participating municipality(ies). Upon the expiration of the five-year period, this Agreement shall terminate. (If the agreement involves more than two municipalities, the agreement shall terminate upon expiration of the five-year period, unless each of the participating municipalities shall have adopted an ordinance reaffirming the agreement.)

10. From and after the effective date of this Agreement, no participating municipality may adopt an annexation ordinance as to all or any portion of an area in violation of the Act or this Agreement.

11. Nothing in this Agreement shall be construed to authorize the annexation of any area which is not otherwise subject to annexation under applicable law.

12. Any participating municipality which shall believe that a violation of this Agreement has occurred shall have available to it all remedies and relief authorized by G.S. Chapter 160A, Article 4A, Part 6 in addition to such remedies or relief as are authorized by other applicable law.

13. [Add here "any other necessary or proper matters," as authorized by G.S. 160A-58.24(a)(6)].

14. This writing contains the entire agreement between the participating municipalities.

IN WITNESS WHEREOF, the mayors of the participating municipalities execute this Agreement, in duplicate, to become effective as provided in paragraph 4 above. This the ______ day of __________, 20__.
(CITY/TOWN/VILLAGE) OF ___________________

ATTEST: ________________________________

BY: ________________________________ Mayor

(City/Town/Village) Clerk

APPROVED AS TO FORM:

(City/Town/Village) Attorney

(CITY/TOWN/VILLAGE) OF ___________________

ATTEST: ________________________________

BY: ________________________________ Mayor

(City/Town/Village) Clerk

APPROVED AS TO FORM:

(City/Town/Village) Attorney