

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 243

Short Title: Annexation Notice. (Public)

Sponsors: Representatives Brown, Dollar (Primary Sponsors); Avila, Blackwood, Boylan, Cleveland, Faison, Folwell, Hilton, Langdon, McElraft, McGee, Moore, Pate, Starnes, and Walend.

Referred to: Rules, Calendar, and Operations of the House.

February 19, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO REQUIRE THAT ALL PROPERTY OWNERS MUST BE NOTIFIED
3 OF PROPOSED INVOLUNTARY ANNEXATIONS BY CERTIFIED MAIL,
4 THAT MUNICIPALITIES THAT OPERATE A CABLE PUBLIC ACCESS
5 CHANNEL MUST AIR A NOTICE OF PROPOSED INVOLUNTARY
6 ANNEXATIONS, AND TO REQUIRE THAT PROPOSED INVOLUNTARY
7 ANNEXATIONS MEET BOTH THE DENSITY AND DEVELOPMENT
8 STANDARDS.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 160A-37(b) reads as rewritten:

11 "(b) Notice of Public Hearing. – The notice of public hearing shall:

- 12 (1) Fix the date, hour and place of the public informational meeting and
13 the date, hour, and place of the public hearing.
14 (2) Describe clearly the boundaries of the area under consideration, and
15 include a legible map of the area.
16 (3) State that the report required in G.S. 160A-35 will be available at the
17 office of the municipal clerk at least 30 days prior to the date of the
18 public informational meeting.
19 (4) Include an explanation of an owner's rights pursuant to subsection (f1)
20 and (f2) of this section.

21 Such notice shall be given by publication once a week for at least two successive
22 weeks prior to the date of the informational meeting in a newspaper having general
23 circulation in the municipality and, in addition thereto, if the area to be annexed lies in a
24 county containing less than fifty percent (50%) of the land area of the municipality, in a
25 newspaper having general circulation in the area of proposed annexation. The period
26 from the date of the first publication to the date of the last publication, both dates
27 inclusive, shall be not less than eight days including Sundays, and the date of the last

1 publication shall be not more than seven days preceding the date of public informational
2 meeting. If there be no such newspaper, the municipality shall post the notice in at least
3 five public places within the municipality and at least five public places in the area to be
4 annexed for 30 days prior to the date of public informational meeting. In addition, if the
5 municipality programs a governmental access cable television channel, it shall air a
6 notice daily for each of the 30 days prior to the public informational meeting. In
7 addition, notice shall be mailed at least four weeks prior to date of the informational
8 meeting, by ~~first class~~ certified mail, postage prepaid to the owners as shown by the tax
9 records of the county of all freehold interests in real property located within the area to
10 be annexed. The person or persons mailing such notices shall certify to the governing
11 board that fact, and such certificate shall become a part of the record of the annexation
12 proceeding and shall be deemed conclusive in the absence of fraud. If the notice is
13 returned to the city by the postal service by the tenth day before the informational
14 meeting, a copy of the notice shall be sent by certified mail, return receipt requested, at
15 least seven days before the informational meeting. Failure to comply with the mailing
16 requirement of this subsection shall not invalidate the annexation unless it is shown that
17 the requirements were not substantially complied with.

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

25 **SECTION 2.** G.S. 160A-49(b) reads as rewritten:

26 "(b) Notice of Public Hearing. – The notice of public hearing shall:

- 27 (1) Fix the date, hour and place of the public informational meeting and
28 the date, hour, and place of the public hearing.
- 29 (2) Describe clearly the boundaries of the area under consideration, and
30 include a legible map of the area.
- 31 (3) State that the report required in G.S. 160A-47 will be available at the
32 office of the municipal clerk at least 30 days prior to the date of the
33 public informational meeting.
- 34 (4) Include a notice of a property owner's rights to request water and
35 sewer service in accordance with G.S. 160A-47.
- 36 (5) Include an explanation of a property owner's rights pursuant to
37 subsections (f1) and (f2) of this section.

38 Such notice shall be given by publication once a week for at least two successive
39 weeks prior to the date of the informational meeting in a newspaper having general
40 circulation in the municipality and, in addition thereto, if the area to be annexed lies in a
41 county containing less than fifty percent (50%) of the land area of the municipality, in a
42 newspaper having general circulation in the area of proposed annexation. The period
43 from the date of the first publication to the date of the last publication, both dates
44 inclusive, shall be not less than eight days including Sundays, and the date of the last

1 publication shall be not more than seven days preceding the date of public informational
 2 meeting. If there be no such newspaper, the municipality shall post the notice in at least
 3 five public places within the municipality and at least five public places in the area to be
 4 annexed for 30 days prior to the date of public informational meeting. In addition, if the
 5 municipality programs a governmental access cable television channel, it shall air a
 6 notice daily for each of the 30 days prior to the public informational meeting. In
 7 addition, notice shall be mailed at least four weeks prior to date of the informational
 8 meeting by ~~first-class-certified~~ mail, postage prepaid to the owners as shown by the tax
 9 records of the county of all freehold interests in real property located within the area to
 10 be annexed. The person or persons mailing such notices shall certify to the governing
 11 board that fact, and such certificate shall become a part of the record of the annexation
 12 proceeding and shall be deemed conclusive in the absence of fraud. If the notice is
 13 returned to the city by the postal service by the tenth day before the informational
 14 meeting, a copy of the notice shall be sent by certified mail, return receipt requested, at
 15 least seven days before the informational meeting. Failure to comply with the mailing
 16 requirements of this subsection shall not invalidate the annexation unless it is shown
 17 that the requirements were not substantially complied with. If the governing board by
 18 resolution finds that the tax records are not adequate to identify the owners of some or
 19 all of the parcels of real property within the area it may in lieu of the mail procedure as
 20 to those parcels where the owners could not be so identified, post the notice at least 30
 21 days prior to the date of public informational meeting on all buildings on such parcels,
 22 and in at least five other places within the area to be annexed. In any case where notices
 23 are placed on property, the person placing the notices shall certify that fact to the
 24 governing board."

25 **SECTION 3.** G.S. 160A-48(c) reads as rewritten:

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

- 31 (1) Has a total resident population equal to at least two and three-tenths
 32 persons for each acre of land included within its ~~boundaries; or~~
 33 boundaries, and:
- 34 ~~(2)~~ a. Has a total resident population equal to at least one person for
 35 each acre of land included within its boundaries, and is
 36 subdivided into lots and tracts such that at least sixty percent
 37 (60%) of the total acreage consists of lots and tracts three acres
 38 or less in size and such that at least sixty-five percent (65%) of
 39 the total number of lots and tracts are one acre or less in size; ~~or~~
 40 and
- 41 ~~(3)~~ b. Is so developed that at least sixty percent (60%) of the total
 42 number of lots and tracts in the area at the time of annexation
 43 are used for residential, commercial, industrial, institutional or
 44 governmental purposes, and is subdivided into lots and tracts

1 such that at least sixty percent (60%) of the total acreage, not
2 counting the acreage used at the time of annexation for
3 commercial, industrial, governmental or institutional purposes,
4 consists of lots and tracts three acres or less in size. For
5 purposes of this section, a lot or tract shall not be considered in
6 use for a commercial, industrial, institutional, or governmental
7 purpose if the lot or tract is used only temporarily, occasionally,
8 or on an incidental or insubstantial basis in relation to the size
9 and character of the lot or tract. For purposes of this section,
10 acreage in use for commercial, industrial, institutional, or
11 governmental purposes shall include acreage actually occupied
12 by buildings or other man-made structures together with all
13 areas that are reasonably necessary and appurtenant to such
14 facilities for purposes of parking, storage, ingress and egress,
15 utilities, buffering, and other ancillary services and facilities; or

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

19 a. Municipality has provided in a contract with that district that
20 the area is developed for urban purposes; and

21 b. Contract provides for the municipality to operate the sewer
22 system of that county water and sewer district;

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

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

30 **SECTION 4.** This act applies with respect to all annexation ordinances
31 adopted on or after July 1, 2007.