

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1021 By: Bingman of the Senate
3 and
4 McCullough of the House
5
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7 (cities and towns - excluding tracts of annexed
8 territory from municipal taxes -
9 effective date)
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12 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
13 entire bill and insert

14 "An Act relating to cities and towns; amending 11
15 O.S. 2001, Sections 21-103 and 21-104, as last
16 amended by Sections 2 and 4, Chapter 1, O.S.L. 2005,
17 and 21-109 (11 O.S. Supp. 2006, Sections 21-103 and
18 21-104), which relate to annexation of territory;
19 providing requirements for certain annexations;
20 excluding certain tracts of land from municipal ad
21 valorem taxation; and declaring an emergency.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKALHOMA:

23 SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-103, as
24 last amended by Section 2, Chapter 1, O.S.L. 2005 (11 O.S. Supp.
2006, Section 21-103), is amended to read as follows:

1 Section 21-103. A. Before the governing body of a city may
2 annex any territory adjacent or contiguous to the city, it must
3 obtain the written consent of the owners of at least a majority of
4 the acres to be annexed to the municipality and provide for notice
5 and a public hearing on the proposed annexation of the territory in
6 the manner provided in subsection B of this section; except that no
7 such consent is needed where:

8 1. The territory to be annexed is subdivided into tracts or
9 parcels of less than five (5) acres and contains more than one
10 residence; or

11 2. Three sides of the territory to be annexed are adjacent or
12 contiguous to the property already within the municipal limits if:

13 a. the adjacent property on each side constitutes an area
14 in width greater than three hundred (300) feet at its
15 narrowest point excluding a roadway or right-of-way
16 that is adjacent or contiguous to the territory,
17 except that no city with a population of five thousand
18 (5,000) or less and located within a county with a
19 population of two hundred thousand (200,000) or less,
20 according to the last Federal Decennial Census, shall
21 annex territory without consent pursuant to this
22 subparagraph, and written consent shall be
23 specifically required in order to annex any tract of
24 land used primarily for agricultural or ranching

1 purposes, including recreational agricultural
2 purposes; provided, however, that no such consent
3 shall be required in order to annex tracts of land
4 already developed for residential purposes or which
5 are proposed, pursuant to an existing zoning ordinance
6 of the municipality as of the time of the proposed
7 annexation, to be used for residential purposes,

8 b. the municipal governing body makes findings that the
9 annexation furthers municipal purposes relating to
10 airports, spaceports and military installations and
11 such findings are included in the public hearing
12 provided for in subsection D of this section, or

13 c. prior to the effective date of this act, the
14 municipality has directed that notice be published in
15 accordance with subsection B of this section.

16 B. The governing body shall provide the notice and public
17 hearing required in subsection A of this section in the following
18 manner:

19 1. The governing body of the municipality shall direct that
20 notice of the proposed annexation of the territory be published in a
21 legally qualified newspaper of general circulation in the territory
22 and shall describe the boundaries of the territory proposed to be
23 annexed by reference to a map, geographical locations, legal or
24 physical description or other reasonable designation. The notice

1 shall state the date, time, and place the governing body shall
2 conduct a public hearing on the question of annexing the territory.
3 The notice shall be published in a legal newspaper of general
4 circulation in the territory sought to be annexed within fourteen
5 (14) days following the date the governing body directed the notice
6 to be published;

7 2. A copy of the notice of annexation shall be mailed by first-
8 class mail to all owners of property to be annexed as shown by the
9 current year's ownership rolls in the office of the county treasurer
10 and to all owners of property abutting any public right-of-way that
11 forms the boundary of the territory proposed to be annexed; provided
12 that the notice of annexation shall be mailed by certified mail to
13 every person who owns a parcel of land of five (5) acres or more
14 used for agricultural purposes; and

15 3. The public hearing of such annexation shall be held no
16 earlier than fourteen (14) days nor more than thirty (30) days
17 following the publication and mailing of the notice.

18 C. Unless otherwise provided by law, a roadway or road right-
19 of-way that is adjacent or contiguous to the territory to be annexed
20 shall be considered a part and parcel to the territory to be
21 annexed.

22 D. Before any territory is annexed to a municipality, without
23 the written consent of the owners of at least a majority of the
24 acres to be annexed to the municipality in accordance with

1 subsection A of this section, the governing body of the municipality
2 shall direct that notice of the proposed annexation of the territory
3 be published in a legally qualified newspaper of general circulation
4 in the territory and shall hold a public hearing on the proposed
5 annexation. Prior to the publication of notice, the municipality
6 shall prepare a plan to extend municipal services including, but not
7 limited to, water, sewer, fire protection, law enforcement and the
8 cost of such services appropriate to the proposed annexed territory.
9 The plan shall provide that the municipality complete the
10 implementation of the plan in accordance with any existing capital
11 improvement plan applicable to the portion of the municipality
12 adjacent to the territory proposed to be annexed. If no such
13 capital improvement plan has been adopted, the municipality shall
14 complete the service plan within one hundred twenty (120) months
15 from the date of annexation unless a different time is determined by
16 consensus between property owners and the municipality at the
17 hearing. The time for completion of the service plan shall be set
18 forth in the ordinance annexing the territory. If municipality
19 services are not substantially complete within the prescribed time,
20 then the territory shall be detached by the governing body as
21 provided in Section 21-110 of this title. For purposes of this
22 subsection, services may be provided by any method or means
23 available to the municipality to extend municipal services to any

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1 other area of the city. Such notice, hearing and plan shall be
2 subject to the following provisions:

3 1. The notice shall describe the boundaries of the territory
4 proposed to be annexed by reference to a map, geographical
5 locations, legal or physical description or other reasonable
6 designation and shall state that the proposed service plan is
7 available for inspection at a specified location. The notice shall
8 state the date, time, and place when the governing body shall
9 conduct a public hearing on the question of annexing the territory.
10 The notice shall be published in a legal newspaper of general
11 circulation in the territory sought to be annexed within fourteen
12 (14) days following the date the governing body directed the notice
13 to be published. A copy of the notice of annexation shall be mailed
14 by first-class mail to all owners of property to be annexed as shown
15 by the current year's ownership rolls in the office of the county
16 treasurer and to the Department of Transportation for purposes of
17 clarifying any road maintenance responsibilities; provided that the
18 notice of annexation shall be mailed by certified mail to every
19 person who owns parcel of land of five (5) acres or more used for
20 agricultural purposes and to the board of county commissioners of
21 the respective county where the proposed annexation is located. If
22 the territory to be annexed encroaches upon any adjacent county, a
23 copy of the notice of annexation shall be mailed by first-class mail

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1 to the board of county commissioners of the adjacent county and of
2 the county where the proposed annexation is located;

3 2. The public hearing of such annexation shall be held no
4 earlier than fourteen (14) days nor more than thirty (30) days
5 following the publication and mailing of the notice; and

6 3. The proposed service plan shall be available for inspection
7 and be explained to the property owners of the territory to be
8 annexed at the public hearing. The plan may be amended through
9 negotiation at the hearing. The final service plan shall be
10 incorporated into and made part of the ordinance annexing the
11 territory.

12 E. As used in this section:

13 1. "Airport" means any facility owned by any legal entity or by
14 a county, a municipality or a public trust having at least one
15 county or municipality as its beneficiary which is used primarily
16 for the purpose of providing air transportation of persons or goods
17 or both by aircraft powered through the use of propellers,
18 turboprops, jets or similar propulsion systems;

19 2. "Military installation" means those facilities constituting
20 the active or formerly active bases owned by the Department of
21 Defense or other applicable entity of the United States government
22 or by any entity of local government after transfer of title to such
23 installation; and

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1 3. "Spaceport" means any area as defined pursuant to Section
2 5202 of Title 74 of the Oklahoma Statutes.

3 F. Except for ordinances enacted pursuant to Section 43-101.1
4 of this title, parcels of land five (5) acres or more used for
5 agricultural purposes annexed into the municipal limits on or after
6 July 1, 2003, shall be exempt from ordinances restricting land use
7 and building construction to the extent such land use or
8 construction is related to agricultural purposes. Where there is no
9 residence within fifty (50) feet of the boundaries of such a parcel
10 of land, the property shall not be subject to ordinances regulating
11 conduct that would not be an offense under state law; provided, that
12 any such property that discharges into the municipal water,
13 wastewater, or sewer system shall be subject to any ordinances or
14 regulations related to compliance with environmental standards for
15 that system.

16 G. Parcels of land situated within an area that is or may be
17 subject to any form of land use or other regulatory control as a
18 result of proximity to an airport, spaceport or military
19 installation shall not be exempt from municipal ordinances or other
20 laws regulating property for the purpose of operations necessary for
21 the use of an airport, spaceport or military installation and such
22 parcels of land shall be subject to all ordinances enacted pursuant
23 to Section 43-101.1 of this title.

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1 SECTION 2. AMENDATORY 11 O.S. 2001, Section 21-104, as
2 last amended by Section 4, Chapter 1, O.S.L. 2005 (11 O.S. Supp.
3 2006, Section 21-104), is amended to read as follows:

4 Section 21-104. A. The town board of trustees by ordinance may
5 annex lots which are adjacent or contiguous to the town if the lots
6 have been platted and recorded in the office of the county clerk.
7 Provided however, if such town has a population of five thousand
8 (5,000) or less and located within a county with a population of two
9 hundred thousand (200,000) or less, according to the last Federal
10 Decennial Census, and is incorporated as a town pursuant to Section
11 3-101 of this title, such town shall also obtain the consent of the
12 owner or owners of the majority of the acres to be annexed to the
13 town and written consent shall be specifically required in order to
14 annex any tract of land used primarily for agricultural or ranching
15 purposes, including recreational agricultural purposes; provided,
16 however, that no such consent shall be required in order to annex
17 tracts of land already developed for residential purposes or which
18 are proposed, pursuant to an existing zoning ordinance of the
19 municipality as of the time of the proposed annexation, to be used
20 for residential purposes. The governing body shall provide notice
21 and a public hearing in the following manner:

22 1. The governing body of the municipality shall direct that
23 notice of the proposed annexation of the territory be published in a
24 legally qualified newspaper of general circulation in the territory

1 and shall describe the boundaries of the territory proposed to be
2 annexed by reference to a map, geographical locations, legal or
3 physical description or other reasonable designation. The notice
4 shall state the date, time, and place the governing body shall
5 conduct a public hearing on the question of annexing the territory.
6 The notice shall be published in a legal newspaper of general
7 circulation in the territory sought to be annexed within fourteen
8 (14) days following the date the governing body directed the notice
9 to be published;

10 2. A copy of the notice of annexation shall be mailed by first-
11 class mail to all owners of property to be annexed as shown by the
12 current year's ownership rolls in the office of the county treasurer
13 and to all owners of property abutting any public right-of-way that
14 forms the boundary of the territory proposed to be annexed; provided
15 that the notice of annexation shall be mailed by certified mail to
16 every person who owns a parcel of land of five (5) acres or more
17 used for agricultural purposes; and

18 3. The public hearing of such annexation shall be held no
19 earlier than fourteen (14) days nor more than thirty (30) days
20 following the publication and mailing of the notice.

21 B. When the town board of trustees desires to annex any
22 territory adjacent to the town which has not been platted and
23 recorded, the town board of trustees shall direct that notice of the
24 proposed annexation of the territory be published in a legal

1 newspaper of general circulation in the territory and shall hold a
2 public hearing on the proposed annexation. Unless otherwise
3 provided by law, a roadway or road right-of-way that is adjacent or
4 contiguous to the territory to be annexed shall be considered a part
5 and parcel to the territory to be annexed. Prior to the publication
6 of notice, the town board of trustees shall prepare a plan to extend
7 appropriate town services, including, but not limited to, water,
8 sewer, fire protection, law enforcement and the cost of such
9 services to the proposed annexed territory. The plan shall provide
10 that the town board of trustees shall complete the implementation of
11 the plan in accordance with any existing capital improvement plan
12 applicable to the portion of the town adjacent to the territory
13 proposed to be annexed. If no such capital improvement plan has
14 been adopted, the town shall complete the service plan within one
15 hundred twenty (120) months from the date of annexation unless a
16 different time is determined by consensus between property owners
17 and the town at the hearing. The time for completion of the service
18 plan shall be set forth in the ordinance annexing the territory. If
19 the town services are not substantially complete within the
20 prescribed time, then the territory shall be detached by the
21 governing body as provided in Section 21-110 of this title. For
22 purposes of this subsection, services may be provided by any method
23 or means available to the town that have been used to extend such

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1 services to any other area of the town. Such notice, hearing, and
2 plan shall be subject to the following provisions:

3 1. The notice shall describe the boundaries of the territory
4 proposed to be annexed by reference to a map, geographical location,
5 legal or physical description, or other reasonable designation and
6 shall state that the proposed service plan is available for
7 inspection at a specified location. The notice shall state the
8 date, time, and place the town board of trustees shall conduct a
9 public hearing on the question of annexing the territory. The
10 notice shall be published in a legal newspaper of general
11 circulation in the territory sought to be annexed within fourteen
12 (14) days following the date the town board of trustees directed the
13 notice to be published. A copy of the notice of annexation shall be
14 mailed by first-class mail to all owners of property to be annexed
15 as shown by the current year's ownership rolls in the office of the
16 county treasurer and to the Department of Transportation for
17 purposes of changing any road maintenance responsibility; provided
18 that the notice of annexation shall be mailed by certified mail to
19 every person who owns parcels of land of five (5) acres or more used
20 for agricultural purposes and to the board of county commissioners
21 of the respective county where the proposed annexation is located.
22 If the territory to be annexed encroaches upon any adjacent county,
23 a copy of the notice of annexation shall be mailed by first-class

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1 mail to the board of county commissioners of the adjacent county and
2 of the county where the proposed annexation is located;

3 2. The public hearing of such annexation shall be held no
4 earlier than fourteen (14) days nor later than thirty (30) days
5 following the publication and mailing of the notice; and

6 3. At the public hearing, the proposed service plan shall be
7 available for inspection and be explained to the property owners of
8 the territory to be annexed. The plan may be amended through
9 negotiation at the hearing. The final service plan shall be
10 incorporated into and made part of the ordinance annexing the
11 territory.

12 C. A town board of trustees shall not annex any territory which
13 has an assessed valuation greater than the assessed valuation of the
14 town without the written consent of the owner or owners of at least
15 a majority of the acres to be annexed to the town.

16 D. As used in subsection F of this section:

17 1. "Airport" means any facility owned by any legal entity or by
18 a county, a municipality or a public trust having at least one
19 county or municipality as its beneficiary which is used primarily
20 for the purpose of providing air transportation of persons or goods
21 or both by aircraft powered through the use of propellers,
22 turboprops, jets or similar propulsion systems;

23 2. "Military installation" means those facilities constituting
24 the active or formerly active bases owned by the Department of

1 Defense or other applicable entity of the United States government
2 or by any entity of local government after transfer of title to such
3 installation; and

4 3. "Spaceport" means any area as defined pursuant to Section
5 5202 of Title 74 of the Oklahoma Statutes.

6 E. Except for ordinances enacted pursuant to Section 43-101.1
7 of this title, parcels of land five (5) acres or more used for
8 agricultural purposes annexed into the municipal limits on or after
9 the effective date of this act shall be exempt from ordinances
10 restricting land use and building construction to the extent such
11 land use or construction is related to agricultural purposes. Where
12 there is no residence within fifty (50) feet of the boundaries of
13 such a parcel of land, the property shall not be subject to
14 ordinances regulating conduct that would not be an offense under
15 state law; provided that any such property that discharges into the
16 municipal water, wastewater, or sewer system shall be subject to any
17 ordinances or regulations related to compliance with environmental
18 standards for that system.

19 F. Parcels of land situated within an area that is or may be
20 subject to any form of land use or other regulatory control as a
21 result of proximity to an airport, spaceport or military
22 installation shall not be exempt from municipal ordinances or other
23 laws regulating property for the purpose of operations necessary for
24 the use of an airport, spaceport or military installation and such

1 parcels of land shall be subject to all ordinances enacted pursuant
2 to Section 43-101.1 of this title.

3 SECTION 3. AMENDATORY 11 O.S. 2001, Section 21-109, is
4 amended to read as follows:

5 Section 21-109. A. Tracts of land in excess of forty (40)
6 acres which are annexed to a municipality and used for industrial or
7 commercial purposes shall not be subject to ~~municipal taxes~~ ad
8 valorem taxes at the municipal rate. Tracts of annexed land in
9 excess of five (5) acres which are used by persons engaged in
10 farming or ranching, and all farm animals and livestock, and all
11 agricultural implements and machinery and household goods located on
12 the land, shall not be subject to municipal taxes unless the
13 municipality furnishes services to these tracts as are ordinarily
14 furnished to municipal residents. Tracts of land with an area of
15 width no greater than three hundred twenty-six (326) feet at the
16 widest point which are annexed to a municipality shall not be
17 subject to ad valorem taxes at the municipal rate or taxed at a
18 greater rate than land which is adjacent to, but outside the
19 municipal or town limits, unless such tracts are annexed pursuant to
20 paragraph 2 of subsection A of Section 21-103 of this title. No
21 land which is used for agricultural purposes may be taken within the
22 limits of a municipality or town and taxed at a greater rate than
23 land which is adjacent to but outside the town limits.

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