

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE STATE SENATE
Wednesday, April 1, 2009

ENGROSSED

House Bill No. 1473

As Amended

ENGROSSED HOUSE BILL NO. 1473 - By: Sanders of the House and Justice of the Senate.

An Act relating to cities and towns; amending 11 O.S. 2001, Section 21-103, as last amended by Section 2, Chapter 1, O.S.L. 2005 (11 O.S. Supp. 2008, Section 21-103), which relates to the annexation procedure for cities; providing additional exception for land exempt from certain ordinances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-103, as last amended by Section 2, Chapter 1, O.S.L. 2005 (11 O.S. Supp. 2008, Section 21-103), is amended to read as follows:

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

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

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

6 a. the adjacent property on each side constitutes an area
7 in width greater than three hundred (300) feet at its
8 narrowest point excluding a roadway or right-of-way
9 that is adjacent or contiguous to the territory,

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

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

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

21 1. The governing body of the municipality shall direct that
22 notice of the proposed annexation of the territory be published in a
23 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 C. Unless otherwise provided by law, a roadway or road right-
22 of-way that is adjacent or contiguous to the territory to be annexed

1 shall be considered a part and parcel to the territory to be
2 annexed.

3 D. Before any territory is annexed to a municipality, without
4 the written consent of the owners of at least a majority of the
5 acres to be annexed to the municipality in accordance with
6 subsection A of this section, the governing body of the municipality
7 shall direct that notice of the proposed annexation of the territory
8 be published in a legally qualified newspaper of general circulation
9 in the territory and shall hold a public hearing on the proposed
10 annexation. Prior to the publication of notice, the municipality
11 shall prepare a plan to extend municipal services including, but not
12 limited to, water, sewer, fire protection, law enforcement and the
13 cost of such services appropriate to the proposed annexed territory.
14 The plan shall provide that the municipality complete the
15 implementation of the plan in accordance with any existing capital
16 improvement plan applicable to the portion of the municipality
17 adjacent to the territory proposed to be annexed. If no such
18 capital improvement plan has been adopted, the municipality shall
19 complete the service plan within one hundred twenty (120) months
20 from the date of annexation unless a different time is determined by
21 consensus between property owners and the municipality at the
22 hearing. The time for completion of the service plan shall be set
23 forth in the ordinance annexing the territory. If municipality

1 services are not substantially complete within the prescribed time,
2 then the territory shall be detached by the governing body as
3 provided in Section 21-110 of this title. For purposes of this
4 subsection, services may be provided by any method or means
5 available to the municipality to extend municipal services to any
6 other area of the city. Such notice, hearing and plan shall be
7 subject to the following provisions:

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

1 person who owns parcel of land of five (5) acres or more used for
2 agricultural purposes and to the board of county commissioners of
3 the respective county where the proposed annexation is located. If
4 the territory to be annexed encroaches upon any adjacent county, a
5 copy of the notice of annexation shall be mailed by first-class mail
6 to the board of county commissioners of the adjacent county and of
7 the county where the proposed annexation is located;

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

11 3. The proposed service plan shall be available for inspection
12 and be explained to the property owners of the territory to be
13 annexed at the public hearing. The plan may be amended through
14 negotiation at the hearing. The final service plan shall be
15 incorporated into and made part of the ordinance annexing the
16 territory.

17 E. As used in this section:

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

1 2. "Military installation" means those facilities constituting
2 the active or formerly active bases owned by the Department of
3 Defense or other applicable entity of the United States government
4 or by any entity of local government after transfer of title to such
5 installation; and

6 3. "Spaceport" means any area as defined pursuant to Section
7 5202 of Title 74 of the Oklahoma Statutes.

8 F. Except for ordinances enacted pursuant to Section 43-101.1
9 of this title, parcels of land five (5) acres or more used for
10 agricultural purposes annexed into the municipal limits on or after
11 July 1, 2003 or parcels of land forty (40) acres or more used for
12 agricultural purposes prior to annexation and have continued in
13 uninterrupted agriculture use annexed into the municipal limits,
14 shall be exempt from ordinances restricting land use and building
15 construction to the extent such land use or construction is related
16 to agricultural purposes. Where there is no residence within fifty
17 (50) feet of the boundaries of such a parcel of land, the property
18 shall not be subject to ordinances regulating conduct that would not
19 be an offense under state law; provided, that any such property that
20 discharges into the municipal water, wastewater, or sewer system
21 shall be subject to any ordinances or regulations related to
22 compliance with environmental standards for that system.

1 G. Parcels of land situated within an area that is or may be
2 subject to any form of land use or other regulatory control as a
3 result of proximity to an airport, spaceport or military
4 installation shall not be exempt from municipal ordinances or other
5 laws regulating property for the purpose of operations necessary for
6 the use of an airport, spaceport or military installation and such
7 parcels of land shall be subject to all ordinances enacted pursuant
8 to Section 43-101.1 of this title.

9 SECTION 2. This act shall become effective November 1, 2009.

10 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-30-09
11 - DO PASS, As Amended.