

1 **SENATE FLOOR VERSION**

2 March 31, 2011

3 ENGROSSED HOUSE

4 BILL NO. 1296

By: Derby, Roberts (Sean) and
Faught of the House

5 and

6 Sykes of the Senate

7
8
9 An Act relating to cities and towns; amending 11 O.S.
10 2001, Section 21-103, as last amended by Section 2,
Chapter 2, O.S.L. 2010 (11 O.S. Supp. 2010, Section
11 21-103), which relates to annexation procedures;
removing exceptions from consent requirement;
12 repealing 11 O.S. 2001, Section 21-104, as last
amended by Section 1, Chapter 188, O.S.L. 2010 (11
13 O.S. Supp. 2010, Section 21-104), which relates to
annexation procedures; and providing an effective
14 date.

15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-103, as
18 last amended by Section 2, Chapter 2, O.S.L. 2010 (11 O.S. Supp.
19 2010, Section 21-103), is amended to read as follows:

20 Section 21-103. A. Before the governing body of a city or town
21 may annex any territory adjacent or contiguous to the city or town,
22 it must obtain the written consent of the owners of at least a
23 majority of the acres to be annexed to the municipality and provide
24 for notice and a public hearing on the proposed annexation of the

1 territory in the manner provided in subsection B of this section,
2 ~~except that no such consent is needed where:~~

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

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

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

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

17 ~~c. prior to the November 1, 2004, the municipality has~~
18 ~~directed that notice be published in accordance with~~
19 ~~subsection B of this section.~~

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

23 1. The governing body of the municipality shall direct that
24 notice of the proposed annexation of the territory be published in a

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

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

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

23 | C. Unless otherwise provided by law, a roadway or road right-
24 | 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
24 services are not substantially complete within the prescribed time,

1 then the territory shall be detached by the governing body as
2 provided in Section 21-110 of this title. For purposes of this
3 subsection, services may be provided by any method or means
4 available to the municipality to extend municipal services to any
5 other area of the city or town. Such notice, hearing and plan shall
6 be subject to the following provisions:

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

1 the respective county where the proposed annexation is located. If
2 the territory to be annexed encroaches upon any adjacent county, a
3 copy of the notice of annexation shall be mailed by first-class mail
4 to the board of county commissioners of the adjacent county and of
5 the county where the proposed annexation is located;

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

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

15 E. The prevailing property owner in an annexation dispute shall
16 be entitled to court costs and reasonable attorney fees, including,
17 but not limited to, when a municipality withdraws, revokes or
18 otherwise reverses the ordinance at issue in response to litigation
19 before issuance of a final judgment.

20 F. As used in this section:

21 1. "Airport" means any facility owned by any legal entity or by
22 a county, a municipality or a public trust having at least one
23 county or municipality as its beneficiary which is used primarily
24 for the purpose of providing air transportation of persons or goods

1 or both by aircraft powered through the use of propellers,
2 turboprops, jets or similar propulsion systems;

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

8 3. "Spaceport" means any area as defined pursuant to Section
9 5202 of Title 74 of the Oklahoma Statutes.

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

1 H. 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 I. If territory is annexed pursuant to this section, the
10 annexing governing body shall provide notice by first-class mail
11 together with a map and plat of the annexed territory to the Sales
12 and Use Tax Division of the Oklahoma Tax Commission prior to the
13 effective date of such annexation. The Tax Commission shall notify
14 the known sales tax vendors within the boundaries of the annexed
15 territory as provided by Section 119 of Title 68 of the Oklahoma
16 Statutes.

17 SECTION 2. REPEALER 11 O.S. 2001, Section 21-104, as
18 last amended by Section 1, Chapter 188, O.S.L. 2010 (11 O.S. Supp.
19 2010, Section 21-104), is hereby repealed.

20 SECTION 3. This act shall become effective November 1, 2011.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-29-11 - DO
22 PASS.
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