

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1330

By: Montgomery

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 2011, Section 21-103, as last amended by Section 1, Chapter 124, O.S.L. 2015 (11 O.S. Supp. 2019, Section 21-103), which relates to annexation; prohibiting annexation of territory or property upon which certain permanent structures have been built; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 21-103, as last amended by Section 1, Chapter 124, O.S.L. 2015 (11 O.S. Supp. 2019, Section 21-103), is amended to read as follows:

Section 21-103. A. Before the governing body of a city or town may annex any territory adjacent or contiguous to the city or town, 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. The annexation of land by a connecting strip serving no municipal purpose other than to establish statutory contiguity or

1 adjacentness, or to capture territory within the area to be annexed,
2 constitutes an impermissible exercise of state-delegated authority
3 by a municipality and shall be prohibited. Municipalities with a
4 population of twelve thousand (12,000) or less may only annex up to
5 eight (8) square miles in one area at any one time provided the
6 municipality obtains the written consent of the owners of at least
7 sixty-five percent (65%) of the acres to be annexed and twenty-five
8 percent (25%) of the population to be annexed.

9 B. The governing body shall provide the notice and public
10 hearing required in subsection A of this section in the following
11 manner:

12 1. The governing body of the municipality shall direct that
13 notice of the proposed annexation of the territory be published in a
14 legally qualified newspaper of general circulation in the territory
15 and shall describe the boundaries of the territory proposed to be
16 annexed by reference to a map, geographical locations, legal or
17 physical description or other reasonable designation. The notice
18 shall state the date, time, and place the governing body shall
19 conduct a public hearing on the question of annexing the territory.
20 The notice shall be published in a legal newspaper of general
21 circulation in the territory sought to be annexed within fourteen
22 (14) days following the date the governing body directed the notice
23 to be published;
24

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

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

13 C. Unless otherwise provided by law, a roadway or road right-
14 of-way that is adjacent or contiguous to the territory to be annexed
15 shall be considered a part and parcel to the territory to be
16 annexed.

17 D. Before any territory is annexed to a municipality, without
18 the written consent of the owners of at least a majority of the
19 acres to be annexed to the municipality in accordance with
20 subsection A of this section, the governing body of the municipality
21 shall direct that notice of the proposed annexation of the territory
22 be published in a legally qualified newspaper of general circulation
23 in the territory and shall hold a public hearing on the proposed
24 annexation. Prior to the publication of notice, the municipality

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

21 1. The notice shall describe the boundaries of the territory
22 proposed to be annexed by reference to a map, geographical
23 locations, legal or physical description or other reasonable
24 designation and shall state that the proposed service plan is

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

20 2. 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; and

23 3. The proposed service plan shall be available for inspection
24 and be explained to the property owners of the territory to be
25

1 annexed at the public hearing. The plan may be amended through
2 negotiation at the hearing. The final service plan shall be
3 incorporated into and made part of the ordinance annexing the
4 territory.

5 E. In any situation where the territory to be annexed by any
6 city or town includes land owned by a state beneficiary public trust
7 or that was previously owned and conveyed by a state beneficiary
8 public trust, annexation shall not be carried out under the
9 provisions of subsection D of this section, but instead shall
10 require the written consent of all of ~~said~~ the trust and transferees
11 of ~~said~~ the trust.

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

17 G. 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 H. 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.

23 I. Parcels of land situated within an area that is or may be
24 subject to any form of land use or other regulatory control as a

1 result of proximity to an airport, spaceport or military
2 installation shall not be exempt from municipal ordinances or other
3 laws regulating property for the purpose of operations necessary for
4 the use of an airport, spaceport or military installation and such
5 parcels of land shall be subject to all ordinances enacted pursuant
6 to Section 43-101.1 of this title.

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

15 K. A municipality shall not annex any territory or property
16 upon which a permanent structure used for the indoor, seasonal sale
17 of goods has been constructed, if the structure:

18 1. Is over six thousand (6,000) square feet in size;

19 2. Has been in continuous use for at least fifteen (15) years;

20 and

21 3. Was authorized under the laws of the state to be for the
22 indoor seasonal sale of retail goods on the date of the annexation.
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SECTION 2. This act shall become effective November 1, 2020.

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