



1 **"§ 160A-58.22. Definitions.**

2 The words defined in this section shall have the meanings indicated when used in  
3 this Part:

4 (1) 'Agreement' means any written agreement authorized by this Part.

5 (2) 'Annexation' means any extension of a city's corporate limits as  
6 authorized by this Article, the charter of the city, or any local act  
7 applicable to the city, as such statutory authority exists now or is  
8 hereafter amended.

9 (3) 'Participating city' means any city which is a party to an agreement.

10 **"§ 160A-58.23. Annexation agreements authorized.**

11 Two or more cities may enter into agreements in order to designate one or more  
12 areas which are not subject to annexation by one or more of the participating cities. The  
13 agreements shall be of reasonable duration, not to exceed 20 years, and shall be  
14 approved by ordinance of the governing board and executed by the mayor of each city  
15 and spread upon its minutes.

16 **"§ 160A-58.24. Contents of agreements; procedure.**

17 (a) The agreement shall:

18 (1) State the duration of the agreement.

19 (2) Describe clearly the area or areas subject to the agreement. The  
20 boundaries of such area or areas may be established at such locations  
21 as the participating cities shall agree. Thereafter, any participating city  
22 may follow such boundaries in annexing any property, whether or not  
23 such boundaries follow roads or natural topographical features.

24 (3) Specify one or more participating cities which may not annex the area  
25 or areas described in the agreement.

26 (4) State the effective date of the agreement.

27 (5) Require each participating city which proposes any annexation to give  
28 written notice to the other participating city or cities of the annexation  
29 at least 60 days before the adoption of any annexation ordinance;  
30 provided, however, that the agreement may provide for a waiver of this  
31 time period by the notified city.

32 (6) Include any other necessary or proper matter.

33 (b) The written notice required by subdivision (a)(5) of this section shall describe  
34 the area to be annexed by a legible map, clearly and accurately showing the boundaries  
35 of the area to be annexed in relation to: the area or areas described pursuant to  
36 subdivision (a)(2) of this section, roads, streams and any other prominent geographical  
37 features. Such notice shall not be effective for more than 180 days.

38 (c) No agreement may be entered into under this Part unless each participating  
39 city has held a public hearing on the agreement prior to adopting the ordinance  
40 approving the agreement. The governing boards of the participating cities may hold a  
41 joint public hearing if desired. Notice of the public hearing or hearings shall be given as  
42 provided in G.S. 160A-31(c).

43 (d) Any agreement entered into under this Part may be modified or terminated by  
44 a subsequent agreement entered into by all the participating cities to that agreement.

1 The subsequent agreement shall be approved by ordinance after a public hearing or  
2 hearings as provided in subsection (c).

3 (e) No agreement entered into under this Part shall be binding beyond three miles  
4 of the primary corporate limits of a participating city which is permitted to annex the  
5 area under the agreement, unless approved by the board of county commissioners with  
6 jurisdiction over the area. Provided however, that an area where the agreement is not  
7 binding because of failure of the board of county commissioners to approve it, shall  
8 become subject to the agreement if subsequent annexation brings it within three miles.  
9 The approval of a board of county commissioners shall be evidenced by a resolution  
10 adopted after a public hearing as provided in subsection (c).

11 (f) A participating city may terminate an annexation agreement unilaterally or  
12 withdraw itself from the agreement, by repealing the ordinance by which it approved the  
13 agreement and providing five years' written notice to the other participating cities.  
14 Upon the expiration of the five-year period, an agreement originally involving only two  
15 cities shall terminate, and an agreement originally involving more than two cities shall  
16 terminate unless each of the other participating cities shall have adopted an ordinance  
17 reaffirming the agreement.

18 **"§ 160A-58.25. Effect of agreement.**

19 From and after the effective date of an agreement, no participating city may adopt an  
20 annexation ordinance as to all or any portion of an area in violation of the agreement.

21 **"§ 160A-58.26. Part grants no annexation authority.**

22 Nothing in this Part shall be construed to authorize the annexation of any area which  
23 is not otherwise subject to annexation under applicable law.

24 **"§ 160A-58.27. Relief.**

25 (a) Each provision of an agreement shall be binding upon the respective parties.  
26 Not later than 30 days following the passage of an annexation ordinance concerning  
27 territory subject to an agreement, a participating city which believes that another  
28 participating city has violated this Part or the agreement may file a petition in the  
29 superior court of the county where any of the territory proposed to be annexed is  
30 located, seeking review of the action of the city alleged to have violated this Part or the  
31 agreement.

32 (b) Within five days after the petition is filed with the court, the petitioning city  
33 shall serve copies of the petition by certified mail, return receipt requested, upon the  
34 respondent city.

35 (c) Within 15 days after receipt of the copy of the petition for review, or within  
36 such additional time as the court may allow, the respondent city shall transmit to the  
37 reviewing court:

38 (1) A transcript of the portions of the ordinance or minute book in which  
39 the procedure for annexation has been set forth;

40 (2) A copy of resolutions, ordinances, and any other document received or  
41 approved by the respondent city's governing board as part of the  
42 annexation proceeding.

43 (d) The court shall fix the date for review of the petition so that review shall be  
44 expeditious and without unnecessary delays. The review shall be conducted by the

1 court without a jury. The court may hear oral arguments and receive written briefs, and  
2 may take evidence intended to show either:

3 (1) That the provisions of this Part were not met; or

4 (2) That the provisions of the agreement were not met.

5 (e) At any time before or during the review proceeding, any petitioner may apply  
6 to the reviewing court for an order staying the operation of the annexation ordinance  
7 pending the outcome of the review. The court may grant or deny the stay in its  
8 discretion upon such terms as it deems proper, and it may permit annexation of any part  
9 of the area described in the ordinance concerning which no question for review has been  
10 raised.

11 (f) Upon a finding that the respondent city has not violated this Part or the  
12 agreement, the court may affirm the action of the respondent city without change. Upon  
13 a finding that the respondent city has violated this Part or the agreement, the court may:

14 (1) Remand to the respondent city's governing board any ordinance  
15 adopted pursuant to Parts 2 or 3 of this Article, as the same exists now  
16 or is hereafter amended, for amendment of the boundaries, or for such  
17 other action as is necessary, to conform to the provisions of this Part  
18 and the agreement.

19 (2) Declare any annexation begun pursuant to any other applicable law to  
20 be void. If the respondent city shall fail to take action in accordance  
21 with the court's instructions upon remand under subdivision (d)(1) of  
22 this section within three months from receipt of such instructions, the  
23 annexation proceeding shall be void.

24 (g) Any participating city which is a party to the review proceedings may appeal  
25 from the final judgment of the superior court under rules of procedure applicable in  
26 other civil cases. The appealing party may apply to superior court for a stay in its final  
27 determination, or a stay of the annexation ordinance, whichever shall be appropriate,  
28 pending the outcome of the appeal to the appellate division; provided, that the superior  
29 court may, with the agreement of the parties, permit annexation to be effective with  
30 respect to any part of the area concerning which no appeal is being made and which can  
31 be incorporated into the respondent city without regard to any part of the area  
32 concerning which an appeal is being made.

33 (h) If part or all of the area annexed under the terms of a challenged annexation  
34 ordinance is the subject of an appeal to the superior court or appellate division on the  
35 effective date of the ordinance, then the ordinance shall be deemed amended to make  
36 the effective date with respect to such area the date of the final judgment of the superior  
37 court or appellate division, whichever is appropriate, or the date the respondent city's  
38 governing board completes action to make the ordinance conform to the court's  
39 instructions in the event of remand.

40 (i) A participating city which is prohibited from annexing into an area under a  
41 binding agreement may file a petition in the superior court where any of the territory  
42 proposed to be annexed is located, or a response in a proceeding initiated by another  
43 participating city, seeking permission to annex territory in the area notwithstanding the  
44 agreement. If the territory qualifies for annexation by the city seeking to annex it, the

1 court may enter an order allowing the annexation to proceed with respect to all or a  
2 portion of the territory upon a finding that there is an imminent threat to public health or  
3 safety that can be remedied only by the city seeking annexation. The procedural  
4 provisions of this section shall apply to proceedings under this subsection, so far as  
5 applicable.

6 **"§ 160A-58.28. Effect on prior local acts.**

7 This Part does not effect Chapter 953, Session Laws of 1983, Chapter 847, Session  
8 Laws of 1985 (1986 Reg. Sess.), or Chapters 204, 233, or 1009, Session Laws of 1987,  
9 authorizing annexation agreements, but any city which is authorized to enter into  
10 agreements by one of those acts may enter into future agreements either under such act  
11 or this Part."

12 Sec. 2. This act is effective upon ratification.