

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**HOUSE BILL 294**

Short Title: Parkwood Annexation Referenda.

(Local)

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Sponsors: Representatives Mosley; Rayfield and Capps.

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Referred to: Local & Regional Government I, if favorable, Finance.

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February 24, 1997

**A BILL TO BE ENTITLED**

**AN ACT TO PROVIDE FOR REFERENDA ON ANNEXATION IN PARKWOOD IN  
DURHAM COUNTY IF REQUESTED BY RESIDENTS OF THE AREA TO BE  
ANNEXED.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-49(e) reads as rewritten:

"(e) Passage of the Annexation Ordinance. – The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-47 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-47, provided that if the annexation report is amended to show additional subsections of G.S. 160A-48(c) or (d) under which the annexation qualifies that were not listed in the original report, the city must hold an additional public hearing on the annexation not less than 30 nor more than 90 days after the date the report is amended, and notice of such new hearing shall be given at the first public hearing. At any regular or special meeting held no sooner than the tenth day following the public hearing and not later than 90 days following such public hearing, the governing board shall have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of G.S. 160A-48 and which the governing board has concluded should be

1 ~~annexed~~-annexed, provided if no later than adjournment of the public hearing, a petition,  
2 signed by twenty-five percent (25%) of the registered voters who are freeholders in the  
3 area proposed to be annexed, is received by the city, opposing the annexation, then the  
4 annexation ordinance shall become effective only if approved by the voters of the area to  
5 be annexed in a referendum conducted under subsection (e1) of this section, except that  
6 this proviso has no effect if the annexation ordinance is adopted by a favorable vote of  
7 three-fourths of all the members of the city council.

8 The ordinance shall:

- 9 (1) Contain specific findings showing that the area to be annexed meets the  
10 requirements of G.S. 160A-48. The external boundaries of the area to  
11 be annexed shall be described by metes and bounds. In showing the  
12 application of G.S. 160A-48(c) and (d) to the area, the governing board  
13 may refer to boundaries set forth on a map of the area and incorporate  
14 same by reference as a part of the ordinance.
- 15 (2) A statement of the intent of the municipality to provide services to the  
16 area being annexed as set forth in the report required by G.S. 160A-47.
- 17 (3) A specific finding that on the effective date of annexation the  
18 municipality will have funds appropriated in sufficient amount to  
19 finance construction of any major trunk water mains and sewer outfalls  
20 and such water and sewer lines as required in G.S. 160A-47(3)(b) found  
21 necessary in the report required by G.S. 160A-47 to extend the basic  
22 water and/or sewer system of the municipality into the area to be  
23 annexed, or that on the effective date of annexation the municipality  
24 will have authority to issue bonds in an amount sufficient to finance  
25 such construction. If authority to issue such bonds must be secured  
26 from the electorate of the municipality prior to the effective date of  
27 annexation, then the effective date of annexation shall be no earlier than  
28 the day following the statement of the successful result of the bond  
29 election.
- 30 (4) Fix the effective date for annexation. The effective date of annexation  
31 may be fixed for any date not less than 40 days nor more than 400 days  
32 from the date of passage of the ordinance."

33 Section 2. G.S. 160A-49 is amended by adding a new subsection to read:

34 "(e1) If a referendum is required under subsection (e) of this section, the city council  
35 shall order the board of elections which conducts elections for that city to call an election  
36 to determine whether or not the proposed territory shall be annexed to the city or town.  
37 Within 90 days after receiving such order from the governing body, the county board of  
38 elections shall proceed to hold an election on the question.

39 Such election shall be called by a resolution or resolutions of said county board of  
40 elections which shall:

- 41 (1) Describe the territory proposed to be annexed to the said city or town as  
42 set out in the order of the said local governing body;

1           (2) Provide that the matter of annexation of such territory shall be submitted  
2 to the vote of the qualified voters of the territory proposed to be  
3 annexed; and

4           (3) Provide for registration of voters in the territory proposed to be annexed  
5 for said election in accordance with G.S. 163-288.2.

6        Said resolution shall be published in one or more newspapers of the said county once  
7 a week for 30 days prior to the closing of the registration books. All costs of holding  
8 such election shall be paid by the city or town. Except as herein provided, the election  
9 shall be held under the same statutes, rules, and regulations as are applicable to elections  
10 in the municipality whose corporate limits are being enlarged.

11        At such election the question on the ballot shall be:

12                               **'[ ] FOR [ ] AGAINST**  
13                               **ANNEXATION.'**

14 If at the election a majority of the votes cast from the area proposed for annexation shall  
15 be 'For Annexation', the annexation ordinance shall become effective as provided by this  
16 Part."

17        Section 3. G.S. 160A-37(e) reads as rewritten:

18        "(e) Passage of the Annexation Ordinance. – The municipal governing board shall  
19 take into consideration facts presented at the public hearing and shall have authority to  
20 amend the report required by G.S. 160A-35 to make changes in the plans for serving the  
21 area proposed to be annexed so long as such changes meet the requirements of G.S.  
22 160A-35. At any regular or special meeting held no sooner than the tenth day following  
23 the public hearing and not later than 90 days following such public hearing, the  
24 governing board shall have authority to adopt an ordinance extending the corporate limits  
25 of the municipality to include all, or such part, of the area described in the notice of  
26 public hearing which meets the requirements of G.S. 160A-36 and which the governing  
27 board has concluded should be ~~annexed~~-annexed, provided if no later than adjournment  
28 of the public hearing, a petition, signed by twenty-five percent (25%) of the registered  
29 voters who are freeholders in the area proposed to be annexed, is received by the city,  
30 opposing the annexation, then the annexation ordinance shall become effective only if  
31 approved by the voters of the area to be annexed in a referendum conducted under  
32 subsection (e1) of this section, except that this proviso has no effect if the annexation  
33 ordinance is adopted by a favorable vote of three-fourths of all members of the city  
34 council. The ordinance shall:

35           (1) Contain specific findings showing that the area to be annexed meets the  
36 requirements of G.S. 160A-36. The external boundaries of the area to  
37 be annexed shall be described by metes and bounds. In showing the  
38 application of G.S. 160A-36(c) and (d) to the area, the governing board  
39 may refer to boundaries set forth on a map of the area and incorporate  
40 same by reference as a part of the ordinance.

41           (2) A statement of the intent of the municipality to provide services to the  
42 area being annexed as set forth in the report required by G.S. 160A-35.

1 (3) A specific finding that on the effective date of annexation the  
2 municipality will have funds appropriated in sufficient amount to  
3 finance construction of any water and sewer lines found necessary in the  
4 report required by G.S. 160A-35 to extend the basic water and/or sewer  
5 system of the municipality into the area to be annexed, or that on the  
6 effective date of annexation the municipality will have authority to issue  
7 bonds in an amount sufficient to finance such construction. If authority  
8 to issue such bonds must be secured from the electorate of the  
9 municipality prior to the effective date of annexation, then the effective  
10 date of annexation shall be no earlier than the day following the  
11 statement of the successful result of the bond election.

12 (4) Fix the effective date for annexation. The effective date of annexation  
13 may be fixed for any date not less than 40 days nor more than 400 days  
14 from the date of passage of the ordinance."

15 Section 4. G.S. 160A-37 is amended by adding a new subsection to read:

16 "(e1) If a referendum is required under subsection (e) of this section, the city council  
17 shall order the board of elections which conducts elections for that city to call an election  
18 to determine whether or not the proposed territory shall be annexed to the city or town.  
19 Within 90 days after receiving such order from the governing body, the county board of  
20 elections shall proceed to hold an election on the question.

21 Such election shall be called by a resolution or resolutions of said county board of  
22 elections which shall:

23 (1) Describe the territory proposed to be annexed to the said city or town as  
24 set out in the order of the said local governing body;

25 (2) Provide that the matter of annexation of such territory shall be submitted  
26 to the vote of the qualified voters of the territory proposed to be  
27 annexed; and

28 (3) Provide for registration of voters in the territory proposed to be annexed  
29 for said election in accordance with G.S. 163-288.2.

30 Said resolution shall be published in one or more newspapers of the said county once  
31 a week for 30 days prior to the closing of the registration books. All costs of holding  
32 such election shall be paid by the city or town. Except as herein provided, the election  
33 shall be held under the same statutes, rules, and regulations as are applicable to elections  
34 in the municipality whose corporate limits are being enlarged.

35 At such election the question on the ballot shall be:

36 **' [ ] FOR [ ] AGAINST**  
37 **ANNEXATION.'**

38 If at the election a majority of the votes cast from the area proposed for annexation shall  
39 be 'For Annexation', the annexation ordinance shall become effective as provided by this  
40 Part."

41 Section 5. This act applies only as to the following described territory in  
42 Durham County:

1 BEGINNING at a point located at the southeast corner of tract 6 of the  
2 Research Square Associates Property as shown in Plat Book 100, page 65 of the Durham  
3 County Registry and also being located on the existing City limits line also being on the  
4 West right-of-way line of the Durham and Southern Railroad; thence in a southerly  
5 direction along said City limits line an approximate distance of 3225 feet to a point, said  
6 point being the northeast corner of Tax Map 541A-1-5 and shown in Plat Book 29, page  
7 84; thence along the existing City limits line in the following courses and distances: N84-  
8 45-00W a distance of 277.00 feet to point located on the East right-of-way line of N.C.  
9 Highway 55; thence in a westerly direction across said N.C. Highway 55 an approximate  
10 distance of 150 feet to a point located on the West right-of-way line of said N.C.  
11 Highway 55; thence N86-23-16W a distance of 780.62 feet to a point; thence S28-08-06E  
12 a distance of 957.42 feet to a point, said point located on the new North right-of-way line  
13 of Sedwick Road; thence in a southeasterly direction across said Sedwick Road an  
14 approximate distance of 63 feet to a point located on the South right-of-way line of  
15 Sedwick Road; thence along said Sedwick Road and the existing City limits line the  
16 following courses and distances: S56-46-05W a distance of 40 feet to a point; thence  
17 S55-20-41W a distance of 79.03 feet to a point; thence S54-06-06W a distance of 88.14  
18 feet to a point; thence S53-13-18W a distance of 82.93 feet to a point; thence S51-33-  
19 04W a distance of 107.95 feet to a point; thence S49-21-17W a distance of 119.00 feet to  
20 a point, said point being the southwest corner of tract 2 as shown in Plat Book 99, page  
21 85; thence leaving the existing City limits line and continuing along said South right-of-  
22 way line of Sedwick Road in a southwesterly direction an approximate distance of 720  
23 feet to a point, said point being the northeast corner of lot 13 as shown in Plat Book 111,  
24 page 115, Frenchmans Creek Subdivision, and recorded in the Durham County Registry;  
25 thence S84-11-37E along the east property line of lots 13 thru 18 of the aforementioned  
26 map of Frenchmans Creek Subdivision a distance of 673.20 feet to a point, said point  
27 being the southeastern most corner of lot 18; thence N84-08-52W a distance of 918.80  
28 feet to a point, said point being the southwest corner of a 2.11 acre tract as shown in Plat  
29 Book 86, page 12 said point also located in the east property line of Buttonwood Acres,  
30 Section 2B, Map 1, in Plat Book 72, page 20; thence S00-18-00E along the East property  
31 line of lots "Park Area" and 731, 730, 729 and 728 of the aforementioned Plat Book 72,  
32 page 20 a distance of 409.71 feet to a point, said point being the southeast corner of lot  
33 728; thence N89-12-30W a distance of 178.54 feet to a point located in the center line of  
34 Revere Road; thence N89-21-00W a distance of 111.27 feet to a point; thence N88-56-  
35 00W a distance of 620.41 feet to a point, said point being the northeast corner of lot 706  
36 of Buttonwood Acres, Section 2B, Map 2 as shown in Plat book 74, page 44; thence S02-  
37 34-00W a distance of 138.19 feet to a point, said point being the southeast corner of lot  
38 706; thence S01-10-00E a distance of 427.22 feet to a point, said point being located on  
39 the east property line of lot 701; thence S01-38-00E a distance of 418.20 feet to a point,  
40 said point being located on the east property line of lot 696; thence S02-28-00E a  
41 distance of 92.14 feet to a point, said point being the southeast corner of lot 695 as shown  
42 in the aforementioned Plat book 74, page 44; thence N89-30-00W a distance of 1283.09  
43 feet to a point, said point being the southwest corner of lot 665 of Plat Book 74, page 44;

1 thence N89-30-00W an approximate distance of 1180 feet to a point, said point being  
2 located on the West right-of-way line of Grandale Drive; thence in a northerly direction  
3 along the West right-of-way line of Grandale Drive an approximate distance of 4070 feet  
4 to a point, said point being the northeast corner of the B.G. Mars property as shown in  
5 Deed Book 331, page 257; thence S89-33-31W a distance of 1389.57 feet to a point, said  
6 point being the southwest corner of lot 15 of Settlers Mill Subdivision as shown in Plat  
7 Book 126, page 111; thence N05-21-50E a distance of 489.02 feet to a point; thence S85-  
8 44-59E a distance of 700.93 feet to a point said point being located on the west right-of-  
9 way line of Grandale Drive; thence along said west right-of-way line of Grandale Drive  
10 the following course and distance: N38 43-25W a distance of 34.17 feet to a point; thence  
11 along a curve to the right said curve having a radius of 1667.08 feet an arc distance of  
12 283.53 feet to a point; thence N 28-23-30W a distance of 582.66 feet to a point said point  
13 also being the southeast corner of lot 1 as shown in Plat book 125, page 108; thence S46-  
14 40-19W a distance of 210.23 feet to a point; thence S28-24-42W a distance of 434.31 feet  
15 to a point; thence S36-17-05W a distance of 204.65 feet to a point; thence S07-10-04W a  
16 distance of 262.15 feet to a point; thence S30-15-40W a distance of 273.15 feet to a  
17 point; thence N86-10-26W a distance of 261.48 feet to a point, said point being the  
18 southwest corner of tract 1 (one) as shown in Plat Book 122, page 15; thence N03-20-00E  
19 a distance of 1337.42 feet to a point; thence N05-41-41E a distance of 705.42 feet to a  
20 point said point being located on the new right-of-way line of Grandale Road and also  
21 being the northwest corner of Grandale Forest Subdivision, Phase 1A, as shown in Plat  
22 Book 125, page 108; thence continuing in a northerly direction along the West right-of-  
23 way line of Grandale Road an approximate distance of 840 feet to a point, said point  
24 being the southeast corner of tract 3; thence N83-57-26W across said Herndon Road a  
25 distance of 60 feet to a point located at the southeast corner of tract 3, Block B, as shown  
26 in Plat Book 71, page 24 In the Durham County Registry; thence N83-57-26W along the  
27 south property line of said tract 3 a distance of 929.37 feet to a point located on the East  
28 right-of-way line of Herndon Road and also being the southwest corner of tract 3; thence  
29 N83-57-26W across said Herndon Road a distance of 60 feet to a point located at the  
30 southeast corner of tract 3, Block A as shown in Plat Book 71, page 24; thence N16-35-  
31 24E along the West right-of-way of said Herndon Road a distance of 360.68 feet to a  
32 point; thence along a curve to the left said curve having a radius of 692.77 feet an arc  
33 distance of 79.95 feet to a point; thence S83-57-26E a distance of 60 feet to a point said  
34 point being located on the east right-of-way line of Herndon Road and also being the  
35 northwest corner of tract 2 as shown in Plat book 71, page 24; thence S83-57-26E along  
36 said north property line of tract 2 a distance of 273.26 feet to a point; thence N10-59-57E  
37 a distance of 198.04 feet to a point; thence N89-36-44W a distance of 299.98 feet to a  
38 point said point being located on the east right-of-way line of Herndon Road; thence in a  
39 westerly direction across said Herndon Road an approximate distance of 60 feet to a point  
40 located on the western right-of-way line of Herndon Road; thence along said west right-  
41 of-way line along a curve to the left said curve having a radius of 692.77 feet an  
42 approximate distance of 35 feet to a point; thence N06-51-32W a distance of 1033.77 feet  
43 to a point said point being located at the point of intersection of the West right-of-way

1 line of Herndon Road and the South right-of-way line of Massey Chapel Road; thence in  
2 a northeasterly direction across Barbee Road an approximate distance of 80 feet to a  
3 point, said point being located on the North right-of-way line of Barbee Road and also  
4 being located on the existing City limits line; thence along said right-of-way line and  
5 existing City limits line the following courses and distances: S89-05-28E a distance of  
6 93.60 feet to a point; thence S88-06-56E a distance of 85.30 feet to a point; thence S89-  
7 03-11E a distance of 130.90 feet to a point; thence S88-45-12E a distance of 96.62 feet to  
8 a point; thence N86-22-54E a distance of 96.52 feet to a point; thence N83-15-43E a  
9 distance of 96.50 feet to a point; thence N79-19-20E a distance of 96.82 feet to a point;  
10 thence N77-29-46E a distance of 96.54 feet to a point; thence N76-25-55E a distance of  
11 361.96 feet to a point; thence N77-51-31E a distance of 45.16 feet to a point said point  
12 being the southeast corner of tract I of the Raleigh Properties Annexation Map; thence  
13 N81-05E a distance of 205.62 feet to a point said point being the southeast corner of lot  
14 21 as being shown in Plat book 49 page 42 of the Durham County Registry and also  
15 being the point of intersection of the north right-of-way of Barbee Road and the west  
16 right-of-way line of Amherst Street; thence in a northeasterly direction across said  
17 Amherst Street an approximate distance of 60 feet to a point said point being the  
18 southwest corner of lot 21 of the aforementioned Plat book 49 page 42; thence N82-23-  
19 00E along the north right-of-way line of Barbee Road a distance of 299.52 feet to a point;  
20 thence along a curve to the left said curve having a radius of 884.86 feet an arc distance  
21 of an approximate distance of 384.45 feet to a point of reverse curve to the right said  
22 curve having a radius of 873.98 feet an arc distance of an approximate distance of 202.36  
23 feet to a point located at the southeast corner of lot 15 as shown in Plat book 49 page 60  
24 and also being the point of intersection of the north right-of-way line of Barbee Road and  
25 the west right-of-way line of Grenfell Drive; thence across said Grenfell Drive and  
26 approximate distance of 60 feet to a point being the southwest corner of lot 16 of the  
27 aforementioned Plat book; thence along a curve to the right said curve having a radius of  
28 873.98 feet an arc distance of 177.00 feet to a point; thence N76-40-00E a distance of  
29 266.2 feet to a point said point being the southeast corner of lot 19 as shown in Plat book  
30 49 page 60; thence N04-11-00E an approximate distance of 135 feet to a point said point  
31 being located in the existing City limits line; thence along the existing City limits line the  
32 following courses and distances: southeasterly an approximate distance of 1920 feet to a  
33 point; thence in a northerly direction a distance of 216 feet to a point said point being  
34 located on the South right-of-way line of N. C. Highway 54; thence in a southeasterly  
35 direction an approximate distance of 2060 feet to a point, said point being the northeast  
36 corner of tract 3, section 1, Parkwood Subdivision as shown in Plat Book 36, page 18;  
37 thence continuing along said existing City limits line in a southerly direction 200 feet to a  
38 point, said point being located 200 feet from the South right-of-way line of N.C.  
39 Highway 54; thence in an easterly direction along said parallel line a distance of 1370  
40 feet to a point located in the center line of Northeast Creek; thence in a southwesterly  
41 direction along said center line of Northeast Creek an approximate distance of 1300 feet  
42 to a point located on the north property line of tract 1 as shown in Plat Book 91, page  
43 154; thence leaving the existing City limits line N83-37-08W an approximate distance of

1 355 feet to a point, said point being the northwest corner of tract 1 as shown in Plat Book  
2 122, page 41; thence S03-47-18W a distance of 604.81 feet to a point, said point being  
3 the southwest corner of tract II as shown in Plat Book 122, page 141; thence S83-42-31E  
4 a distance of 2072.45 feet to a point, said point being located on the West right-of-way  
5 line of N.C. Highway 55; thence in a northeasterly direction along said West right-of-way  
6 line an approximate distance of 630 feet to a point, said point being located on the  
7 existing City limits line and also being the northeast corner of tract I as shown Plat Book  
8 91, page 154; thence continuing along said City limits line in a easterly direction a  
9 distance of 805.72 feet to a point, said point being the point and place of beginning.

10 The above description contains \_\_\_\_\_ acres. For further reference see Map  
11 of "Parkwood Annexation," prepared by Robert W. Young, L. No. 1755 dated February  
12 1994 and recorded in the office of the Register of Deeds of Durham County in Plat book  
13 \_\_\_\_\_, page \_\_\_\_\_.

14 Section 6. This act becomes effective October 20, 1994. Any annexation  
15 ordinance adopted on or after that date as to any of the territory described in Section 5 of  
16 this act is void, but the city may adopt a resolution of intent to annex some or all of that  
17 territory at any time after ratification of this act without adopting a resolution of  
18 consideration.