

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE BILL 1043

Short Title: ETJ Restriction. (Public)

Sponsors: Representatives LaRoque and Moffitt (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Finance.

May 23, 2012

A BILL TO BE ENTITLED
AN ACT TO RESTRICT THE EXERCISE OF EXTRATERRITORIAL JURISDICTION BY
MUNICIPALITIES IN CERTAIN INSTANCES, AS RECOMMENDED BY THE
HOUSE SELECT COMMITTEE ON EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-360 reads as rewritten:

"§ 160A-360. Territorial jurisdiction.

(a) All of the powers granted by this Article may be exercised by any city within its corporate limits. In addition, any city may exercise these powers within a defined area extending not more than one mile beyond its limits. With the approval of the board or boards of county commissioners with jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits. The boundaries of the city's extraterritorial jurisdiction shall be the same for all powers conferred in this Article. No city may exercise extraterritorially any power conferred by this Article that it is not exercising within its corporate limits. In determining the population of a city for the purposes of this Article, the city council and the board of county commissioners may use the most recent annual estimate of population as certified by the Secretary of the North Carolina Department of Administration.

(a1) Any municipality planning to exercise extraterritorial jurisdiction under this Article shall notify the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the county tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a public hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in G.S. 160A-364, and the right of all residents of the area to apply to the board of county commissioners to serve as a representative on the planning board and the board of adjustment, as provided in G.S. 160A-362. The notice shall be mailed at least four weeks prior to the public hearing. The person or persons mailing the notices shall certify to the city council that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud.

(b) Any council wishing to exercise extraterritorial jurisdiction under this Article shall adopt, and may amend from time to time, an ordinance specifying the areas to be included based upon existing or projected urban development and areas of critical concern to the city, as



1 evidenced by officially adopted plans for its development. Boundaries shall be defined, to the
2 extent feasible, in terms of geographical features identifiable on the ground. A council may, in
3 its discretion, exclude from its extraterritorial jurisdiction areas lying in another county, areas
4 separated from the city by barriers to urban growth, or areas whose projected development will
5 have minimal impact on the city. The boundaries specified in the ordinance shall at all times be
6 drawn on a map, set forth in a written description, or shown by a combination of these
7 techniques. This delineation shall be maintained in the manner provided in G.S. 160A-22 for
8 the delineation of the corporate limits, and shall be recorded in the office of the register of
9 deeds of each county in which any portion of the area lies.

10 (c) Where the extraterritorial jurisdiction of two or more cities overlaps, the
11 jurisdictional boundary between them shall be a line connecting the midway points of the
12 overlapping area unless the city councils agree to another boundary line within the overlapping
13 area based upon existing or projected patterns of development.

14 (d) If a city fails to adopt an ordinance specifying the boundaries of its extraterritorial
15 jurisdiction, the county of which it is a part shall be authorized to exercise the powers granted
16 by this Article in any area beyond the city's corporate limits. The county may also, on request
17 of the city council, exercise any or all these powers in any or all areas lying within the city's
18 corporate limits or within the city's specified area of extraterritorial jurisdiction.

19 (d1) No city may hereafter extend its extraterritorial powers under this Article into any
20 area for which the county at that time has adopted and is enforcing a zoning ordinance.

21 (e) No city may hereafter extend its extraterritorial powers under this Article into any
22 area for which the county at that time has adopted and is enforcing ~~a zoning ordinance and~~
23 subdivision regulations and within which it is enforcing the State Building Code.
24 ~~However,~~ Subject to the provisions of this section, the city may do so where the county is not
25 exercising ~~all three~~ both of these powers, or when the city and the county have agreed upon the
26 area within which each will exercise the powers conferred by this Article.

27 (f) When a city annexes, or a new city is incorporated in, or a city extends its
28 jurisdiction to include, an area that is currently being regulated by the county, the county
29 regulations and powers of enforcement shall remain in effect until (i) the city has adopted such
30 regulations, or (ii) a period of 60 days has elapsed following the annexation, extension or
31 incorporation, whichever is sooner. During this period the city may hold hearings and take any
32 other measures that may be required in order to adopt its regulations for the area.

33 (f1) When a city relinquishes jurisdiction over an area that it is regulating under this
34 Article to a county, the city regulations and powers of enforcement shall remain in effect until
35 (i) the county has adopted this regulation or (ii) a period of 60 days has elapsed following the
36 action by which the city relinquished jurisdiction, whichever is sooner. During this period the
37 county may hold hearings and take other measures that may be required in order to adopt its
38 regulations for the area.

39 (g) When a local government is granted powers by this section subject to the request,
40 approval, or agreement of another local government, the request, approval, or agreement shall
41 be evidenced by a formally adopted resolution of that government's legislative body. Any such
42 request, approval, or agreement can be rescinded upon two years' written notice to the other
43 legislative bodies concerned by repealing the resolution. The resolution may be modified at any
44 time by mutual agreement of the legislative bodies concerned.

45 (h) Nothing in this section shall repeal, modify, or amend any local act which defines
46 the boundaries of a city's extraterritorial jurisdiction by metes and bounds or courses and
47 distances.

48 (i) Whenever a city or county, pursuant to this section, acquires jurisdiction over a
49 territory that theretofore has been subject to the jurisdiction of another local government, any
50 person who has acquired vested rights under a permit, certificate, or other evidence of
51 compliance issued by the local government surrendering jurisdiction may exercise those rights

1 as if no change of jurisdiction had occurred. The city or county acquiring jurisdiction may take
2 any action regarding such a permit, certificate, or other evidence of compliance that could have
3 been taken by the local government surrendering jurisdiction pursuant to its ordinances and
4 regulations. Except as provided in this subsection, any building, structure, or other land use in a
5 territory over which a city or county has acquired jurisdiction is subject to the ordinances and
6 regulations of the city or county.

7 (j) Repealed by Session Laws 1973, c. 669, s. 1.

8 (k) As used in this subsection, "bona fide farm purposes" is as described in
9 G.S. 153A-340. As used in this subsection, "property" means a single tract of property or an
10 identifiable portion of a single tract. Property that is located in the geographic area of a
11 municipality's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt
12 from exercise of the municipality's extraterritorial jurisdiction under this Article. Property that
13 is located in the geographic area of a municipality's extraterritorial jurisdiction and that ceases
14 to be used for bona fide farm purposes shall become subject to exercise of the municipality's
15 extraterritorial jurisdiction under this Article.

16 (l) A municipality may provide in its zoning ordinance that an accessory building of a
17 "bona fide farm" as defined by G.S. 153A-340(b) has the same exemption from the building
18 code as it would have under county zoning as provided by Part 3 of Article 18 of Chapter 153A
19 of the General Statutes.

20 This subsection applies only to the City of Raleigh and the Towns of Apex, Cary,
21 Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest,
22 Wendell, and Zebulon."

23 **SECTION 2.** This act becomes effective July 1, 2012.