

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 36
HOUSE BILL 31

AN ACT TO PROVIDE FOR VOLUNTARY ANNEXATION BY THE CITY OF WILMINGTON OF AREAS, TERRITORIES, OR SUBDIVISIONS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES OF THE CITY OF WILMINGTON.

Whereas, Article 36 of Chapter 160 of the General Statutes of North Carolina contains no provision for the annexing of areas, territories or subdivisions not contiguous to the municipal boundaries of the City of Wilmington; and

Whereas, it would be in the interest of the public health, safety and welfare of the inhabitants of said city and would permit a more orderly growth of the municipal boundaries of said city to allow the annexation of noncontiguous areas, territories or subdivisions by petition of the property owners who desire that their property be annexed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. That the owner or owners of any area, territory or subdivision within the boundaries of New Hanover County but not within the boundaries or extraterritorial jurisdiction of any other municipality, whose property is not contiguous to the municipal boundaries of the City of Wilmington, may, by petition directed to the City Council of the City of Wilmington, request that the property described in the petition be annexed and made a part of the City of Wilmington as hereinafter set out; provided any property annexed as herein provided must be located at the closest point not more than three miles from the City of Wilmington municipal limits wherein is located and situated the City Hall.

Sec. 2. That said petition shall be directed to the City Council of the City of Wilmington and shall contain:

- (1) The names of the owners of the real property for which a request to annex is made.
- (2) A description of the area to be annexed by metes and bounds.
- (3) The signatures of all property owners of the area, territory or subdivision requesting annexation.

In the case of annexing a subdivision under this act, the petition must be signed by all owners of property within the subdivision, provided nothing herein shall be construed to authorize the annexation of a portion of a subdivision.

Upon receipt of the petition, the City Council of the City of Wilmington shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the results of his investigation.

Upon receipt of the certification and petition, the City Council shall fix dates for two public hearings on the question of annexation and shall cause notice of the public hearings to be published twice in a newspaper having general circulation in the municipality at least ten days prior to the date of the first public hearing, and published in like manner preceding the second public hearing. The second public hearing shall be held at least 20 days after the first public hearing. At such public hearings, all residents of New Hanover County opposing or favoring the annexation or alleging an error in the petition shall be given an opportunity to be heard. The City Council shall then determine whether the petition meets the requirements of this act.

Upon a further finding and determination by the City Council that:

(1) The public health, safety and welfare of the inhabitants of the City of Wilmington, as well as those of the area, territory or subdivision requesting such annexation, will best be served by such annexation, and

(2) The City of Wilmington will be able to provide the same services to the annexed area, territory or subdivision in the same manner in which other areas within the municipal boundaries of said city are served, the City Council of the City of Wilmington may adopt an ordinance annexing that area described in the petition; provided the ordinance annexing the area, territory or subdivision shall be passed at each meeting of the City Council where a public hearing is held as hereinbefore provided. From and after the effective date of said ordinance, which date shall not be less than 90 days from and after the final passage of said ordinance, the area, territory or subdivision and its citizens shall be subject to all debts, laws, ordinances and regulations in force in said City of Wilmington and shall be entitled to the same benefits and privileges of other parts of said city. The newly annexed area, territory or subdivision shall be subject to city taxes for the fiscal year following the effective date of annexation.

Sec. 3. The City Council of the City of Wilmington may make said annexation contingent on such conditions as it may desire in order to insure that the area, territory or subdivision proposed to be annexed will not receive preferential treatment.

Sec. 4. The City Council, in its discretion, may charge in any noncontiguous area, territory or subdivision annexed water or sewer rates in excess of those charged within the municipal limits wherein is located the City Hall, and from time to time the council shall review the expenses related to any noncontiguous area to determine that said expenses are not in excess of taxes and revenues derived therefrom.

Sec. 5. Any area, territory or subdivision annexed pursuant to this act shall cease to be noncontiguous for all intents and purposes when and in the event said area shall touch the municipal limits of the City of Wilmington pursuant to the extension of the boundaries of said city pursuant to Article 36, Chapter 160 of the General Statutes of North Carolina.

Sec. 6. Any area, territory or subdivision annexed pursuant to this act shall not be included in that area of the municipal boundaries used for determining any extraterritorial jurisdiction of the City of Wilmington and further shall not be considered within the municipal boundaries for the purposes of defining an area as contiguous to the city limits within the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina with reference to further annexation unless and until the area, territory or subdivision annexed pursuant hereto shall, by extension of the municipal boundaries pursuant to Article 36 of Chapter 160 of the General Statutes of North Carolina, touch and become a part of the municipal boundaries of the City of Wilmington wherein is located the City Hall. Any area, territory or subdivision annexed pursuant hereto may be included at only forty percent (40%) of the normal rate for the purposes of population density or character of any larger area, territory, or subdivision to be annexed at any time in the future pursuant to the provisions of Part 3 of Article 36 of Chapter 160 of the General Statutes of North Carolina.

Sec. 7. The total area of all noncontiguous portions of the city annexed pursuant to this act shall at no time exceed ten percent (10%) of the total area of the City of Wilmington wherein is located the City Hall.

Sec. 8. This act shall be supplemental and in addition to any other methods or procedure for annexation heretofore available or hereafter provided for the City of Wilmington.

Sec. 9. If any clause, sentence, paragraph, subsection, section or any part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the part thereof directly involved in said judgment.

Sec. 10. All laws and clauses of laws in conflict with this act are repealed.

Sec. 11. This act shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of February, 1973.