

PROCEDURE MANUAL

Recording Municipal Charters, Charter Amendments, De-annexations, Dissolutions, Annexation Ordinances and Annexation Maps

**North Carolina Secretary of State
Land Records Management Program**

www.sosnc.gov

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Executive Summary

Copy of annexation ordinances, charters, charter amendments, municipal mergers, municipal name changes, disillusions or local annexation acts passed by the General Assembly that change municipal boundaries or the form of municipal government are to be filed with the Land Records Management Section of the Office of Secretary of State. *NC GS § 160A-29, NC GS § 160A-58.61, NC GS § 160A -111 and NC GS § 160A-496*

Note: the municipality is required to record a certified copy of the annexation ordinance, an accurate map of the area annexed, and the official results of the election, if conducted, with the Secretary of State.

The filing may be in a paper format and sent by US mail, UPS or FedEx.

To: N.C. Department of Secretary of State
Land Records Management
Annexation /Charter Filing
2 South Salisbury Street,
Old Revenue Building
PO Box 29626
Raleigh, NC 27626-0626

Or:

The filing may be made digitally in an email.
File format = Tif or Pdf

Email To: annexations@sosnc.gov

If the ordinance is several pages, a Tif or Pdf multi-page document format is preferred over a file per page format. If the map is included in the ordinance as a deed attachment map it may be included with the ordinance. If the map is a standalone document it should be sent as separate file, if there are multiple maps, a multi-page document format is preferred over a file per page format.

General Overview

Background

- The North Carolina enacted 4 statutes that authorized municipalities to undertake annexations. Before those statutes the General Assembly authorized annexations by local act of the legislature.
- The General Assembly has not relinquish the constitutional authority to do annexations

- The General Assembly did not give Cities the authority to de-annex property, to form a municipality or to dissolve a municipality. Only the General Assembly may undertake those actions.
- The General Assembly gave municipalities the authority to annex property into the city limits under session law 1947 chapter 725. The bill went into effect when it was ratified April 3, 1947.
- Section 6 of the session law required that whenever the limits of any municipal corporation are enlarged in accordance with the provision of this act, it shall be the duty of the mayor of the city or town to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State.

Construction Advice

- It is important to accurately define the annexation location, so that there will be no confusion as to what is in or out of the municipality in the future. The description of an annexation, either in words or by reference to an accurate map must have sufficient information to uniquely identify it from all other parcels. Only a judge can rule a description invalid.
- If your annexation description only uses bearings and distances taken from the GIS or other source, you may find that in the course of cadastral map maintenance, the annexation boundary will no longer be coincidental to the parcel boundary. However if you include some wording in the annexation description that affirms the intent of the annexation boundary to follow the title boundary of the parcel(s), then the annexation boundary can be updated along with the parcel boundaries.
Parcel Identification Numbers (PIN) may be used as a secondary description and if used, a reference table should be included associating the PINs with the parcel owner name and deed book and page information.

Local Ordinances

Pursuant to GS 160A- 29, and GS 160A-58.61, whenever a municipality enlarges its limits by means of an annexation ordinance, **the municipality is required to record a certified copy of the annexation ordinance, an accurate map of the area annexed, and the official results of the election, if conducted, with the Secretary of State** (as well as with the local register of deeds); the annexation is to be recorded within 30 days of the effective date of the ordinance. The municipality is to assign a unique identifying number to the ordinance and map; this number is usually a municipal ordinance number that the municipality assigns to ordinances that it passes. If possible the copy of the ordinance and map with the Register of Deeds recording information is preferred.

Local Acts by General Assembly or Action by the Municipal Board of Control

Pursuant to NCGS 160A -111 and NCGS 160A-496, all charter amendments or ordinances adopted pursuant to local acts passed by the North Carolina General Assembly or actions by the Municipal Board of Control shall be filed with the Secretary of State and the Legislative Library by the city clerk. This means Municipal Charters, Charter Amendments, De-annexations, Dissolutions, Annexations, and other actions that change the physical boundaries or the form of government of a municipality must be reported.

Legislative Library Filings

Municipalities are also required to file any charter amendments (including change of boundary or form of government) with the Legislative Library. At this time the Library only accepts hard copies.

Send to:

NC Legislative Library
Legislative Office Building
Attention: Cathy Martin
300 North Salisbury Street
Raleigh, NC 27603

Additional information may be found through the Legislative Library at:

<http://www.ncleg.net/library/Documents/Charters.pdf>

Local legislation can be searched online for sessions beginning in 1959
<http://www.ncleg.net/gascripts/EnactedLegislation/ELTOC.pl?sType=Law>

Session Laws of North Carolina – Links to Individual Volumes 1817 to 2000 may be found at:
<http://150.216.68.249/ncgovdocs/guides/sessionlawslist.htm>

Records Retention and Disposition Schedule – Municipal Standard-10: Legal Records – Item # 2

ANNEXATION RECORDS

Records concerning annexation of property into the city. Includes petitions, reports, correspondence, including email, maps, ordinances, and public hearings.

Retain in office permanently.

Retention Note: Annexation maps and ordinances must be filed with the County Register of Deeds office. G.S. §160A-29, G.S. §160A-58.61 and G.S. §160A-58.90.

<https://archives.ncdcr.gov/documents/municipal-schedule>

Access to Secretary of State Municipal Records

When an ordinance or map is received in paper format it is scanned to a digital image. Once in a digital format, ordinance and map will be indexed and filed in the Secretary of State's database. The Municipal data base can be accessed on the internet. The URL is https://www.sosnc.gov/online_services/search/by_title/land_records An acknowledge letter will be sent to a municipality by Fax or Email unless a US Mail acknowledgement is requested.

DEFINITIONS:

Charter: The entire body of local acts currently in force applicable to a particular city, including articles of incorporation issued to a city by an administrative agency of the State, and any amendments thereto adopted pursuant to 1917 Public Laws, Chapter 136, Subchapter 16, Part VIII, sections 1 and 2, or Article 5, Part 4, of this Chapter.

See NCGS § 160A-1. Application and meaning of terms

"Local act" means an act of the General Assembly applying to one or more specific cities by name, or to all cities within one or more specifically named counties. "Local act" is interchangeable with the terms "special act," "public-local act," and "private act," is used throughout this Chapter in preference to those terms, and shall mean a local act as defined in this subdivision without regard to the terminology employed in charters, local acts, or other portions of the General Statutes.

Late filings: An annexation ordinance is to be filed with the Secretary of State within 30 days of the effective date of the ordinance; however, failure to record the ordinance within the 30 days does not affect the validity of the annexation, and no penalties are prescribed for late filings. Municipalities are encouraged review the records listed on the Secretary of State web site and to file any ordinances or maps which are not listed. All records will be added to the database regardless regardless of the effective date of the ordinance or adoption of the session law.

Fees: There are no fees charged by the Secretary of State for recording annexation ordinances, session laws and/or maps.

Unique Number: The municipality is to assign a unique identifying number to the ordinance and map; this number is usually a municipal ordinance number that the municipality assigns to ordinances that it passes (e.g., Ord#5, 2003-15, 03-6-15). If the municipality does not assign a unique number to the ordinance and map, one based on the passage date of the ordinance will be assigned.

Accurate Map: There is no legislative definition for an Accurate Map, the preference is a survey plat defining the boundary (if one exists), said plat would be a

supplement to the ordinance boundary description. In the absence of a survey plat a snapshot from Geographic Information System may be filed as a location aid.

Map Size: According to the General Statutes, the Secretary of State may develop rules for the size of maps submitted by municipalities; however the Secretary of State has not developed map size rules. Generally, the Secretary of State will accept the same size maps that the local register of deeds will accept.

Map Material: Paper is the preferred map material for submittal, although Mylar will be accepted. Paper is the preferred map material due to hardcopy filing considerations such as weight, folding, space limitations, etc.

Session Law Annexations: Annexations that are enacted by the General Assembly through session laws shall be entered into the annexation database. The name or identifier given to the annexation will be the name of the municipality followed by SL followed by the session law number (e.g., Cary SL2001-457). The enacted date is the date defined by the session law.

De-annexation/Dissolution: If the General Assembly de-annexes an area or dissolves the charter of a municipality, the session law shall also be entered in the annexation/charter database.

Charter or Charter Amendment: If the General Assembly passes a session law enacting a charter or charter amendment for a municipality, the session law shall also be entered in the annexation/charter database.

General Statutes:

§ 160A-111. Filing certified true copies of charter amendments.

The city clerk shall file a certified true copy of any charter amendment adopted under this Part with the Secretary of State and the Legislative Library. (1985 (Reg. Sess., 1986), c. 935, s. 2; 1989, c. 191, s. 2.)

§ 160A-29. Map of annexed area, copy of ordinance and election results recorded in the office of register of deeds.

Whenever the limits of any municipal corporation are enlarged, in accordance with the provisions of this Article, it shall be the duty of the mayor of the city or town to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, and the official results of the election, if conducted, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State. The documents required to be filed with the Secretary of State under this section shall be filed not later than 30 days following the effective date of the annexation ordinance. All

documents shall have an identifying number affixed thereto and shall conform in size in accordance with rules prescribed by the Secretary. Failure to file within 30 days shall not affect the validity of the annexation. Any annexation shall be reported as part of the Boundary and Annexation Survey of the United States Bureau of the Census. (1947, c. 725, s. 6; 1973, c. 426, s. 74; 1987, c. 715, s. 6, c. 879, s. 3; 1989, c. 440, s. 7; 1991, c. 586, s. 1.)

"§ 160A-58.61. Annexation recorded.

Whenever the limits of a municipality are enlarged in accordance with the provisions of this Part, it shall be the duty of the mayor of the municipality to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State. The documents required to be filed with the Secretary of State under this section shall be filed not later than 30 days following the effective date of the annexation ordinance. All documents shall have an identifying number affixed thereto and shall conform in size in accordance with rules prescribed by the Secretary. Failure to file within 30 days shall not affect the validity of the annexation. Any annexation shall be reported as part of the Boundary and Annexation Survey of the United States Bureau of the Census. (1959, c. 1009, s. 7; 1973, c. 426, s. 74; 1987, c. 715, s. 8, c. 879, s. 3; 1989, c. 440, s. 9; 1991, c. 586, s. 3; 2011-396, s. 5)

§ 160A-496. Incorporation of local acts into charter.

(a) A city may from time to time require the city attorney to present to the council any local acts relating to the property, affairs, and government of the city and not part of the city's charter which the city attorney recommends be incorporated into the charter. In his recommendations, the city attorney may include suggestions for renumbering or rearranging the provisions of the charter and other local acts, for providing catchlines, and for any other modifications in arrangement or form that do not change the provisions themselves of the charter or local acts and that may be necessary to effect an orderly incorporation of local acts into the charter.

(b) After considering the recommendations of the attorney, the council may by ordinance direct the incorporation of any such local acts into the charter. The city clerk shall file a certified true copy of the ordinance with the Secretary of State and with the Legislative Library.

(c) For purposes of this section, "charter" means that local act of the General Assembly or action of the Municipal Board of Control incorporating a city or a later local act that includes provisions expressly denominated the city's "charter," plus any other local acts inserted therein pursuant to this section or a comparable provision of a local act. (1975, c. 156; 1985 (Reg. Sess., 1986), c. 935, s. 3; 1989, c. 191, s. 3.)