# An Act

ENROLLED SENATE
BILL NO. 1864

By: Bingman of the Senate

and

McNiel and Fields of the House

An Act relating to cities and towns; amending 11 O.S. 2001, Section 21-104, as last amended by Section 2, Chapter 197, O.S.L. 2009 (11 O.S. Supp. 2009, Section 21-104), which relates to annexation procedure for towns; providing for court costs and attorney fees for certain persons in certain circumstances; providing additional exception for land exempt from certain ordinances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 21-104, as last amended by Section 2, Chapter 197, O.S.L. 2009 (11 O.S. Supp. 2009, Section 21-104), is amended to read as follows:

Section 21-104. A. The town board of trustees by ordinance may annex lots which are adjacent or contiguous to the town if the lots have been platted and recorded in the office of the county clerk. The governing body shall provide notice and a public hearing in the following manner:

1. The governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or

physical description or other reasonable designation. The notice shall state the date, time, and place the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published;

2. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to all owners of property abutting any public right-of-way that forms the boundary of the territory proposed to be annexed and to the Oklahoma Tax Commission; provided that the notice of annexation shall be mailed by certified mail to every person who owns a parcel of land of five (5) acres or more used for agricultural purposes; and

3. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice.

B. When the town board of trustees desires to annex any territory adjacent to the town which has not been platted and recorded, the town board of trustees shall direct that notice of the proposed annexation of the territory be published in a legal newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Unless otherwise provided by law, a roadway or road right-of-way that is adjacent or contiguous to the territory to be annexed shall be considered a part and parcel to the territory to be annexed. Prior to the publication of notice, the town board of trustees shall prepare a plan to extend appropriate town services, including, but not limited to, water, sewer, fire protection, law enforcement and the cost of such services to the proposed annexed territory. The plan shall provide that the town board of trustees shall complete the implementation of the plan in accordance with any existing capital improvement plan applicable to the portion of the town adjacent to the territory proposed to be annexed. If no such capital improvement plan has been adopted, the town shall complete the service plan within one hundred twenty (120) months from the date of annexation unless a different time is determined by consensus between property owners

and the town at the hearing. The time for completion of the service plan shall be set forth in the ordinance annexing the territory. If the town services are not substantially complete within the prescribed time, then the territory shall be detached by the governing body as provided in Section 21-110 of this title. For purposes of this subsection, services may be provided by any method or means available to the town that have been used to extend such services to any other area of the town. Such notice, hearing, and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical location, legal or physical description, or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place the town board of trustees shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the town board of trustees directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to the Department of Transportation for purposes of changing any road maintenance responsibility; provided that the notice of annexation shall be mailed by certified mail to every person who owns parcels of land of five (5) acres or more used for agricultural purposes and to the board of county commissioners of the respective county where the proposed annexation is located. If the territory to be annexed encroaches upon any adjacent county, a copy of the notice of annexation shall be mailed by first-class mail to the board of county commissioners of the adjacent county and of the county where the proposed annexation is located;

2. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor later than thirty (30) days following the publication and mailing of the notice; ~~and~~

3. At the public hearing, the proposed service plan shall be available for inspection and be explained to the property owners of the territory to be annexed. The plan may be amended through negotiation at the hearing. The final service plan shall be

incorporated into and made part of the ordinance annexing the territory; and

4. The prevailing property owner in an annexation dispute shall be entitled to court costs and reasonable attorney fees, including, but not limited to, when a municipality withdraws, revokes or otherwise reverses the ordinance at issue in response to litigation before issuance of a final judgment.

C. A town board of trustees shall not annex any territory which has an assessed valuation greater than the assessed valuation of the town without the written consent of the owner or owners of at least a majority of the acres to be annexed to the town.

D. As used in subsection F of this section:

1. "Airport" means any facility owned by any legal entity or by a county, a municipality or a public trust having at least one county or municipality as its beneficiary which is used primarily for the purpose of providing air transportation of persons or goods or both by aircraft powered through the use of propellers, turboprops, jets or similar propulsion systems;

2. "Military installation" means those facilities constituting the active or formerly active bases owned by the Department of Defense or other applicable entity of the United States government or by any entity of local government after transfer of title to such installation; and

3. "Spaceport" means any area as defined pursuant to Section 5202 of Title 74 of the Oklahoma Statutes.

E. Except for ordinances enacted pursuant to Section 43-101.1 of this title, parcels of land five (5) acres or more used for agricultural purposes annexed into the municipal limits on or after ~~the effective date of this act~~ July 1, 2004, or parcels of land forty (40) acres or more used for agricultural purposes prior to annexation and have continued in uninterrupted agriculture use, annexed into the municipal limits, shall be exempt from ordinances restricting land use and building construction to the extent such land use or construction is related to agricultural purposes. Where there is no residence within fifty (50) feet of the boundaries of

such a parcel of land, the property shall not be subject to ordinances regulating conduct that would not be an offense under state law; provided that any such property that discharges into the municipal water, wastewater, or sewer system shall be subject to any ordinances or regulations related to compliance with environmental standards for that system.

F. Parcels of land situated within an area that is or may be subject to any form of land use or other regulatory control as a result of proximity to an airport, spaceport or military installation shall not be exempt from municipal ordinances or other laws regulating property for the purpose of operations necessary for the use of an airport, spaceport or military installation and such parcels of land shall be subject to all ordinances enacted pursuant to Section 43-101.1 of this title.

G. If territory is annexed pursuant to this section, the annexing governing body shall provide notice by first-class mail together with a map and plat of the annexed territory to the Sales and Use Tax Division of the ~~Oklahoma~~ Tax Commission prior to the effective date of such annexation or as soon as practicable thereafter. The Tax Commission shall notify the known sales tax vendors within the boundaries of the annexed territory as provided in Section ~~3 of this act~~ 119 of Title 68 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2010.

Passed the Senate the 3rd day of March, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2010.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 27th

day of April, 2010,

at 2:20 o'clock P M.

By: [illegible]

Approved by the Governor of the State of Oklahoma the 28th day of

April, 2010, at 8:55 o'clock P M.

[illegible]

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

29th day of April, 2010,

at 2:30 o'clock P M.

By: Michelle Waddell