

ORDINANCE NO. 2017-071

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, EXPRESSLY REPEALING SECTIONS 34-35, 34-36, AND 34-37 OF THE DENTON CODE OF ORDINANCES RELATED TO ANNEXATION AND AMENDING SUBCHAPTER 35.3 OF THE DENTON DEVELOPMENT CODE BY ADDING A PERIPHERY DEVELOPMENT ANNEXATION CRITERIA SECTION; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE, SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City desires to repeal sections 34-35, 34-36, and 34-37 of the Denton Code of Ordinances in order to create more efficient procedures for annexation in the City; and

WHEREAS, pursuant to Ordinance No. 2002-040, the City Council of the City of Denton, Texas adopted the Denton Development Code (the "DDC") which includes Subchapter 35.3, Procedures; and

WHEREAS, the City desires to amend Subchapter 35.3 to add Section 35.3.14, "Periphery Development Annexation Criteria" in order to define and clarify when a property in the City's Extra-territorial Jurisdiction (ETJ) should be considered for annexation; and

WHEREAS, the City desires to facilitate development in the periphery of the City that is consistent with the character of the area to reduce any negative impacts to adjacent properties in terms of land use and intensity and to provide infrastructure and public services in areas of the ETJ contiguous to the City; and

WHEREAS, the City's Certificate of Convenience and Necessity (CCN) service areas extend outside the city limits, and therefore, the City is required to provide water, sewer and electric services to these proposed developments even though the extension of those services is not supported by taxes; and

WHEREAS, after notice published, a public hearing was held before the Planning and Zoning Commission and City Council in accordance with local and state law and the City Council hereby finds that Sections 34-35, 34-36, and 34-37 of the Code of Ordinances must be repealed and that the amendment to Subchapter 35.3 of the DDC is consistent with the City's comprehensive plan, and federal, state, and local law and such action is in the best interests of the citizens of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. Sections 34-35, 34-36, and 34-37 of the Denton Code of Ordinances are hereby repealed.

SECTION 3. Subchapter 35.3, "Procedures," of the Denton Development Code (DDC), is hereby amended to add Section 35.3.14 "Periphery Development Annexation Criteria," in the form attached as Exhibit A, and incorporated by reference herein, and such amendment is hereby adopted as part of the Denton Development Code.

SECTION 4. Any person, firm, partnership or corporation violating any provision of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by fine in a sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense.

SECTION 5. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 6. That an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Denton Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 7. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record-Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

PASSED AND APPROVED this the 21 day of February, 2017.

  
CHRIS WATTS, MAYOR

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:  
AARON LEAL, INTERIM CITY ATTORNEY

BY: Aaron Leal

## **EXHIBIT A**

### **Section 35.3.14 Periphery Development Annexation Criteria**

- A. City staff will assess on a case-by-case basis the annexation of areas in the Extra-territorial Jurisdiction (ETJ) when significant developments are proposed, occurring, or likely to occur in the near future.
- B. The following are criteria for determining when an annexation should be considered:
  - 1. Developments that require the need to connect to City public services (water, sewer, electric and other services; or
  - 2. Developments within the City's Certificate of Convenience and Necessity boundary for water, wastewater, and electric service; or
  - 3. Developments where the land area is partially in the City's ETJ and partially within the City limits; or
  - 4. Developments or areas that might have a significant impact upon the City, including but not limited to service costs, increased traffic, drainage impact, utility needs or utilization, safety or health hazards; or
  - 5. Location and intensity of Gas Well Drilling and Production, or
  - 6. Property that is contiguous to the City Limits and is necessary to the annexation of another property qualifying under any of the criteria in B.1-B.5 above.
- C. When any or all of the above conditions exist, City staff shall review the proposed development for the purpose of considering annexation. The following shall be considered at a minimum:
  - 1. The ability of the city to provide infrastructure and public services equal to other comparable areas inside the city limits.
  - 2. The reliability, capacity, and future public cost, if any, of current and planned provisions for community facilities, including but not limited to roads, drainage, and utilities.
  - 3. The need and quality of land use and building controls.
  - 4. Conformance with the Land Use Element of the City's comprehensive plan.
  - 5. Impact on the City, both current and long range, including at a minimum:
    - a. Fiscal cost and benefits of Public Services;
    - b. Traffic;

- c. Infrastructure of roads, utilities and other community facilities;
  - d. Safety or health;
  - e. Building or development quality;
  - f. Aesthetic quality; and
  - g. Community character.
6. The property meets the minimum requirements for annexation in accordance with state law.

D. Procedure.

- 1. Following staff determination that annexation should be considered, the property owner will be notified of the City's intent to annex. The City will request that the property owner voluntarily petition the City for annexation and initial zoning.
  - 2. If an application from the property owner for annexation and initial zoning is not submitted within 10 calendar days of notification, the city will initiate an involuntary annexation proceeding in accordance with state law.
  - 3. After the involuntary annexation, the city will hold a public hearing for an initial zoning of the property under Section 35.3.4 of the Denton Development Code, as amended. The proposed zoning will be in conformance with the Land Use Element of the city's comprehensive plan and state law.
  - 4. All the procedures for annexations will be in accordance with state law.
- E. Continued Use. The use of land following annexation shall be governed by state law and Sec. 35.11.2 of the Denton Development Code, as amended.