

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VAN ALSTYNE, TEXAS ANNEXING THE HEREINAFTER DESCRIBED TERRITORY INTO THE CITY OF VAN ALSTYNE, GRAYSON COUNTY, TEXAS, AND EXTENDING THE LIMITS OF SAID CITY SO AS TO INCLUDE THE DESCRIBED PROPERTY WITHIN THE CITY LIMITS, AND GRANTING TO ALL INHABITANTS OF THE PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING THE INHABITANTS BY ALL OF THE ORDINANCES, RESOLUTIONS, ACTS AND REGULATIONS OF THE CITY; ADOPTING A SERVICE PLAN; FINDING AND DETERMINING THAT ALL REQUIREMENTS FOR ANNEXATION INCLUDING PUBLIC HEARINGS, NOTICES AND OPEN MEETINGS HAVE BEEN MET ACCORDING TO LAW; PROVIDING INSTRUCTIONS FOR FILING THIS ORDINANCE AND FOR CORRECTING THE OFFICIAL MAP; PROVIDING SEVERABILITY SAVINGS AND REPEALING CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Van Alstyne, Texas (“City”) desires to annex certain territory described herein (the “Property”); and

WHEREAS, all of the Property described herein is contiguous to and within the exclusive extraterritorial jurisdiction of the City; and

WHEREAS, the City is authorized, pursuant to Chapter 43 of the Texas Local Government Code to annex territory and extend the corporate limits of the City; and

WHEREAS, the City received a petition for voluntary annexation of the Property on April 2, 2021, from the owner of the Property, TRGS VA Real Estate LLC (“Petition”); and

WHEREAS, on June 8, 2021, the City Council of the City adopted Resolution No. 06-2021-01 granting the Petition and calling one public hearing, among other things; and

WHEREAS, all required notices, all public hearings, and all requirements for such annexation have been provided, held, and met in accordance with applicable laws; and

WHEREAS, in accordance with Chapter 43 of the Texas Local Government Code, a Service Plan for the area to be annexed was prepared and made available to the public and is attached hereto as Exhibit “B”; and

WHEREAS, the City Council of the city of Van Alstyne, Texas, finds and determines that annexation of the property hereinafter described is in the best interest of the citizens of the City of Van Alstyne and the owners and residents of the area.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VAN ALSTYNE, TEXAS:

SECTION 1: Findings. It is hereby officially determined that the findings and recitations contained above in the preamble of this ordinance are true and correct and are incorporated herein by reference.

SECTION 2: Annexation. That the following described territory:

That certain tract of land located in Grayson County, Texas, a part of the William Creager Survey, Abstract No. 201, Grayson County, Texas and also being all of that called 35.67 tract of land described in a Warranty Deed from Chul Moo Rhee to TRGS VA Real Estate LLC, as recorded in Volume 2021, Page 3000, Official Public Records of Grayson County, Texas;

be and the same is hereby annexed into the City of Van Alstyne, Grayson County, Texas, and that the boundary limits of the City of Van Alstyne, Texas, be and the same are hereby extended to include the above-described territory within the city limits of the City of Van Alstyne, and that same shall hereafter be included within the territorial limits of said City and said land and the inhabitants thereof shall be hereafter entitled to all rights and privileges of all other citizens of the City of Van Alstyne, Texas, and shall be bound by the ordinances, resolutions, acts and regulations of the City. Exhibit "A" is incorporated as if fully set forth in this Section 2.

SECTION 3: Official Map and Extraterritorial Jurisdiction Expansion. The official map and boundaries of the City, previously adopted, are amended to include the Property as part of the City of Van Alstyne and to expand the City's extraterritorial jurisdiction ("ETJ") to be one half (1/2) mile from the boundaries of the annexed Property as authorized by Texas Local Government Code, Section 42.021(a), or farther as population increases in the future. The City Clerk is directed and authorized to perform or cause to be performed all acts necessary to correct the official map of the City to add the annexed Property as required by applicable law.

SECTION 4: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. Should any area of the Property referenced on Exhibit "A", attached hereto and incorporated herein for all purposes, for any reason be ineffective as to any part of an area annexed into the City, such ineffectiveness as to any such part or parts of any such area shall not affect the effectiveness of this Ordinance as to the remainder of such area. If there is included within the general description of territory annexed by this Ordinance referenced on Exhibit "A" any lands or areas which were, at the time of this Ordinance's adoption, part of and included within the limits of any other city, town or village, or were not within the City's jurisdiction to annex at the time of annexation, the same is hereby excluded and excepted from the territory annexed by this Ordinance as fully as if such excluded and excepted area were expressly described in this Ordinance. The City Council declares the intent to annex any portion of the land within its authority to annex.

SECTION 5: Repealing/Savings. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6: Public Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law.

SECTION 7: Filing Instructions. The City Clerk is hereby directed to file a certified copy of this Ordinance with the County Clerk of Grayson County, Texas, and with other appropriate officials and agencies as required by state and federal law.

SECTION 8: Effective Date: This ordinance shall be in full force and effect immediately upon its passage and approval by the City Council of the City of Van Alstyne, Texas.

PASSED AND APPROVED by the City Council of the City of Van Alstyne, Texas this 13th day of July, 2021.

CITY OF VAN ALSTYNE

By: _____
Jim Atchison, Mayor

ATTEST:

Jennifer Gould, City Clerk

State of Texas §
County of Grayson §

This instrument was acknowledged before me on the ____ day of July, 2021, by Jim Atchison, Mayor, of the City of Van Alstyne, Texas.

Notary Public, State of Texas

EXHIBIT "A"

Being a 35.67 acre tract of land situated in the Ashley McKinney Survey, Abstract No. 851 and the William Creager Survey, Abstract No. 201, City of Van Alstyne, Grayson County, Texas, being an of that called 72.36 acre tract of land conveyed to Chui Moo Rhee, as recorded in Volume 2136, Page 558, Deed Records, Grayson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a "PK" Nail with shiner (control monument) found in the approximate center of Ballard Road (an undedicated right-of-way) at the northwest corner of said Rhee tract, said "PK" Nail being the northwest corner of a tract of land conveyed to Vernon Edmonds and Ida Edmonds as recorded in Volume 1702, Page 528 of said Deed Records, Grayson County, Texas, said "PK" Nail being in the north line of said Ashley McKinney Survey and in the south line of the James McKinney Survey, Abstract No. 770, said "PK" Nail also being in the south line of the Van Alstyne Cemetery;

THENCE South 89 degrees 03 minutes 14 seconds East, with the north line of said Rhee tract, with the north line of said Ashley McKinney Survey and the south line of said James McKinney Survey, and with said Ballard Road, a distance of 2,625.21 feet to a 5/8-inch iron rod with cap stamped (RPLS 6578) (control monument) found for the northeast corner of said Rhee tract and the northwest corner of a tract of land conveyed to Brady Beavers and Rebekah Beavers as recorded in Instrument No. 2017-27989 of said Deed Records, Grayson County, Texas, said 5/8-inch iron rod being in the north line of said William Creager Survey;

THENCE South 01 degrees 23 minutes 56 seconds West, along the east line of said Rhee tract and the west line of said Beavers tract, passing at a distance of 416.06 feet a 1/2 iron rod found for the southwest corner of said Beavers tract and the northwest corner of a tract of land conveyed to Brady Beavers and Rebekah Beavers as recorded in Instrument No. 2017-27990 of said Deed Records, Grayson County, Texas, continuing a total distance of 1,242.20 feet to 1/2 inch iron rod (control monument) found for the most easterly southeast corner of said Rhee tract and the southwest corner of a tract of land conveyed to Carlos Palao and Cinthya Palaoas recorded in Instrument No. 2018-16270 of said Deed Records, Grayson County, Texas, said 1/2 iron rod also being in the north line of a tract of land conveyed to Van Alstyne Leasing Company as recorded in Volume 3079, Page 752 of said Deed Records, Grayson County, Texas;

THENCE North 88 degrees 07 minutes 31 seconds East, with the south line of said Rhee tract and the north line of said Van Alstyne Leasing tract, a distance of 1,195.85 feet to a point for corner;

THENCE South 87 degrees 01 minutes 04 seconds West, a distance of 476.67 feet to a point for corner;

THENCE North 52 degrees 35 minutes 35 seconds East, a distance of 380.28 feet to a point for corner;

THENCE North 19 degrees 52 minutes 18 seconds East, a distance of 1001.06 feet to a point for corner;

THENCE North 89 degrees 03 minutes 14 seconds West, along the north line of said Rhee tract and the a distance of 1,575.00 feet to the **POINT of BEGINNING** and containing 35.67 acres of land (1,553,899 square feet), more or less.

EXHIBIT “B”

CITY OF VAN ALSTYNE, TEXAS MUNICIPAL SERVICE PLAN

A) SERVICE PLAN GENERALLY

- 1) This service plan has been prepared in accordance with the Texas Local Government Code (“LGC”), Sections 43.0672. Municipal facilities and services to the annexed area will be provided or made available on behalf of the City of Van Alstyne (“City”) in accordance with the following plan. The City of Van Alstyne shall provide the annexed tract the levels of service, infrastructure, and infrastructure maintenance that are comparable to the levels of service, infrastructure, and infrastructure maintenance available in other parts of the City of Van Alstyne with similar topography, land use, and population density.
- 2) For purposes of this service plan, to “provide” services includes having services provided by any method or means by which the City provides municipal services to any other areas of the City, and may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract or right, in whole or in part, and may include certain duties on the part of the private landowner with regard to such services.

B) EMERGENCY SERVICES

- 1) Police Protection
 - (a) Police protection from the City of Van Alstyne shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas within the City on the effective date of the annexation ordinance. Some of these services include:
 - i) Normal patrol and responses;
 - ii) Handling of complaints and incident reports;
 - iii) Special units, such as traffic enforcement and investigations; and
 - iv) Coordination with other public safety support agencies.
 - (b) As development commences in the annexed area, sufficient police protection, including personnel and equipment will be provided to furnish the area with the level of police services consistent with the characteristics of topography, land utilization and population density of similar areas within the City.
 - (c) Upon ultimate development, police protection will be provided at a level consistent with other similarly situated areas within the City limits.
- 2) Fire Protection
 - (a) The City of Van Alstyne will provide emergency and fire prevention services to the annexed area. These services include:
 - i) Fire suppression and rescue;
 - ii) Pre-hospital medical services including triage, treatment and transport by Advanced Life Support (ALS) fire engines, trucks and ambulances;
 - iii) Hazardous materials response and mitigation;
 - iv) Emergency prevention and public education efforts;
 - v) Technical rescue response; and
 - vi) Construction Plan Review and required inspections.

- (b) Fire protection from the City of Van Alstyne shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Van Alstyne on the effective date of the annexation ordinance.
 - (c) As development commences in the annexed area, sufficient, fire protection, including personnel and equipment will be provided to furnish the area with the level of services consistent with the characteristics of topography, land utilization and population density of similar areas within the City. It is anticipated that the current fire protection contract will be sufficient to provide coverage for the annexed area.
 - (d) Upon ultimate development, fire protection will be provided at a level consistent with similarly situated areas within the City limits.
- 3) Emergency Medical Services
- (a) The Van Alstyne Fire Department will provide emergency and safety services to the annexed area. These services include:
 - i) Emergency medical dispatch and pre-arrival First Aid instructions;
 - ii) Pre-hospital emergency Advanced Life Support (ALS) response and transport; and
 - iii) Medical rescue services.
 - (b) Emergency Medical Services (EMS) from the City of Van Alstyne shall be provided to the annexed area at a level consistent with current methods and procedures presently provided to similar areas of the City of Van Alstyne on the effective date of the annexation ordinance.
 - (c) As development commences in the annexed area, sufficient EMS, including personnel and equipment, will be provided to furnish the area with the level of services consistent with the characteristics of topography, land utilization and population density of the similar areas within the City.
 - (d) Upon ultimate development, EMS will be provided at a level consistent with similarly situated areas within the City limits.

C) SOLID WASTE

- 1) Solid Waste and Recycling Collection Services will be provided to the annexed area immediately upon the effective date of the annexation at a level consistent with current methods and procedures presently provided to similar areas within the City. Private solid waste collection service providers operating in the affected area immediately prior to annexation and currently providing customers with service may continue to provide their existing service for up to two (2) years.

D) WASTEWATER FACILITIES

- 1) As development commences in these areas, sanitary sewer mains as defined by the City's certificate of convenience and necessity ("CCN"), as issued by the Texas Commission on Environmental Quality (TCEQ) will be extended in accordance with the provisions of the City's codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with applicable City codes, ordinances, regulations and policies. Capacity and extensions shall be provided consistent with the characteristics of topography, land utilization and population density of the areas. If the annexed area is in the CCN of another provider, wastewater service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new wastewater provider, in time.
- 2) Sanitary sewer mains and lift stations installed or improved to City standards, and accepted by the City, within the annexed area which are located within dedicated easement, rights-of-way, or any other acceptable location approved by the City Manager or his designee, shall be maintained by the City on the effective date of this ordinance.

- 3) Operation and maintenance of wastewater facilities in the annexed area that are within the certificated service area of another wastewater utility will be the responsibility of that utility. Operation and maintenance of private wastewater facilities in the annexed area will be the responsibility of the owner.

E) WATER FACILITIES

- 1) Connections to existing City of Van Alstyne water distribution mains for water service as defined by the City's CCN, as issued by the Texas Commission on Environmental Quality (TCEQ) will be provided in accordance with existing City codes, ordinances, regulations and policies. Upon connection to existing distribution mains, water service will be provided at rates established by city ordinance. If the annexed area is in the CCN of another provider, water service shall be provided in accordance with the policies of the CCN holder. In some instances, the City might acquire the CCN rights and become the new water provider, in time.
- 2) As development commences in these areas, water distribution mains will be extended in accordance with City of Van Alstyne's codes, ordinances, regulations and policies. City participation in the costs of these extensions shall be in accordance with the City of Van Alstyne's codes, ordinances, regulations and policies. Water service extensions and capacity shall be provided consistent with the characteristics of topography, land utilization and population density of the area.
- 3) Operation and maintenance of existing water facilities in the annexed area that are within the service area of another water utility will be the responsibility of that utility. Operation and maintenance of private water facilities in the annexed area will be the responsibility of the owner.

F) ROAD AND STREETS

- 1) Emergency roadway/street maintenance shall be provided within the annexed area on the effective date of the applicable ordinance of acceptance. Routine maintenance will be provided within the annexed area and will be scheduled as part of the City's annual program and in accordance with the City's current codes, ordinances, regulations, policies and procedures defined therein and/or as established by the City Council. Private roads/streets and drives shall remain private and not be improved, reconstructed, maintained or serviced by the City.
- 2) Any construction or reconstruction will be considered within the annexed area on a City-wide basis and within the context of the City's Capital Improvement Plan and/or yearly fiscal budgetary allotments by the City Council. As development, improvement or construction of streets to City standards commences within this property, the policies of the City of Van Alstyne with regard to participation in the costs thereof, acceptance upon completion and maintenance after completion shall apply.
- 3) Roadway signage and associated posts will be replaced in priority of importance starting with regulatory signs, then warning signs, then informational signs and in conformance with fiscal allotments by the City Council. If a sign remains, it will be reviewed and placed on the City's inventory listed for routine re-placement. All existing signs will be reviewed for applicability and based upon an engineering study. New signs will be installed when necessary and based upon an engineering study.
- 4) Routine maintenance of road/street markings will be placed on a priority listing and scheduled within the yearly budgetary allotments by the City Council.
- 5) The City will coordinate any request for improved road and street lighting with the local electric provider. Any and all road and street lighting will be pursuant to the rules, regulations and fees of such electric utility and shall be maintained by the applicable utility company.

G) ENVIRONMENTAL HEALTH, INSPECTIONS AND CODE ENFORCEMENT SERVICES

- 1) Enforcement of the City's environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances and animal control ordinances, shall be provided within the annexed area within sixty (60) days of the effective date of the annexation ordinance. These ordinances and regulations will be enforced through the use of existing personnel.
- 2) Inspection services including the review of building plans, the issuance of permits and the inspection of all buildings, plumbing, mechanical and electrical work to ensure compliance with City codes and ordinances will be provided within sixty (60) days of the effective date of the annexation ordinance. Existing personnel will be used to provide these services.
- 3) The City's zoning, subdivision, sign and other ordinances shall be enforced in this area beginning upon the effective date of the annexation.
- 4) All inspection services furnished by the City of Van Alstyne, but not mentioned above, will be provided to the annexed area beginning within sixty (60) days of the effective date of the annexed ordinance.
- 5) As development and construction commence in the annexed area, sufficient resources will be provided to furnish this area with the same level of environmental health, inspection and code enforcement services as are furnished throughout similar areas within the City.

H) PLANNING AND ZONING SERVICES

- 1) The Planning and zoning jurisdiction of the City will extend to the annexed area upon the effective date of the annexation ordinance. City planning will thereafter encompass this property, and it shall be entitled to consideration for zoning in accordance with the City's Zoning Ordinance and Comprehensive Plan.

I) PARKS, PLAYGROUNDS, LIBRARIES, SWIMMING POOLS

- 1) Residents within the annexed area may utilize all existing park and recreation facilities owned by the City beginning on the effective date of this ordinance. Fees for such usage shall be in accordance with current fees established by ordinance.
- 2) As development commences in the annexed area, additional park and recreation facilities shall be constructed based on park policies defined in the Park Master Plan and as specified in the Park Dedication Ordinance. The general planned locations and classifications of parks will ultimately serve residents within the current City limits.

J) PUBLICLY OWNED FACILITIES

- 1) Any publicly owned facility, building, or service located within the annexed area, and not otherwise owned or maintained by another governmental entity, shall be maintained by the City of Van Alstyne on the effective date of the annexation ordinance.

K) OTHER SERVICES

- 1) Other services that may be provided by the City of Van Alstyne, such as municipal and general administration will be made available on the effective date of the annexation. The City of Van Alstyne shall provide levels of service, infrastructure, and infrastructure maintenance to the annexed area that are comparable to the levels of services, infrastructure, and infrastructure maintenance available in other parts of the City of Van Alstyne with similar topography, land use, and population density.

L) UNIFORM LEVEL OF SERVICES IS NOT REQUIRED

- 1) Nothing in this Service Plan shall require the City of Van Alstyne to provide a uniform level of full municipal services to each area of the City, including the annexed areas, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service. The City Council finds and determines that this Service Plan will not provide any fewer services, and it will not provide a lower level of services, than were in existence in the annexed area at the time immediately preceding the annexation process.
- 2) The City of Van Alstyne's codes, ordinances, regulations and policies that apply throughout the City may be reviewed at City Hall and at https://library.municode.com/tx/van_alstyne/codes/code_of_ordinances.

M) TERM

- 1) This Service Plan shall be valid for a term of ten (10) years. Renewal of the Service Plan shall be at the discretion of the City Council and must be approved by ordinance.

N) AMENDMENTS

- 1) This Service Plan may be amended if the City Council determines at a public hearing that changed conditions or subsequent occurrences make this Service Plan unworkable or obsolete. The City Council may amend the Service Plan to conform to the changed conditions, subsequent occurrences or any other legally sufficient circumstances exist pursuant to the LGC or other Texas or Federal laws that make this service plan unworkable, obsolete or unlawful.

The City and the owners of the land being annexed hereby agree and consent to this service plan. If any area is covered by a Chapter 212 ETJ development Agreement, such agreement shall control when in conflict with this Municipal Service Plan.

