

ORDINANCE NO. 2\_\_-\_\_\_\_\_

AN ORDINANCE REPEALING AND REORDAINING SECTION 701 (ANNEXATION OF LAND) OF PART 7 (POLICY DECISIONS BY CITY COUNCIL) OF ARTICLE 5 (ADMINISTRATION AND ENFORCEMENT) OF CHAPTER 7 (UNIFIED DEVELOPMENT CODE) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO ANNEXATION

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 701 (Annexation of Land) of Part 7 (Policy Decisions by City Council) of Article 5 (Administration and Enforcement) of Chapter 7 (Unified Development Code) of the Code of the City of Colorado Springs 2001, as amended, is repealed and reordained to read as follows:

**7.5.701: ANNEXATION OF LAND:**

A. Annexation:

1. Policy: The City Council hereby declares the policy of the City to be:

a. There is no obligation under general law to reserve water resources or capacity in the City's water system and wastewater system for undeveloped land presently within the City's boundaries.

b. Water belonging to the City is in no way allocated to a particular parcel of land until the land is developed and water applied to actual use upon that land.

2. Rights of the City:

a. The right of the City Council to restrict and regulate the use of City water within or outside the City limits shall not be abridged by anything contained in this section. Nothing in this section shall be construed to confer upon undeveloped land within the City limits, as such City limits exist at the time of adoption of this section or as such City limits may be hereafter altered by annexation or disconnection, any right to the reservation of existing water rights or quantities of water for the sole and exclusive use of such land.

b. This section shall not be construed to create any rights or cause of action in any person or land, whether or not eligible for annexation, to demand annexation to the City or any municipal service.

3. Conditions for Annexation:

a. Comply with State Laws: Annexation, consolidation, or disconnection of territory to or from the City shall be in accord with Article II of the Colorado Constitution and the Municipal Annexation Act of 1965, as they exist now or may be later amended.

b. To assist the City Council in its decision, each proposal for annexation shall be studied to determine:

(1) Whether the area proposed to be annexed is a logical extension of the City's boundary.

(2) Whether the development of the area proposed to be annexed will be beneficial to the City. Financial considerations, although important, are not the only criteria and shall not be the sole measure of benefit to the City.

(3) Unless an exception granted under section 12.1.111 of this Code will be in effect at the time of annexation, whether at the time of request there is projected available surplus capacity and resources across all Utilities' service lines for the foreseeable future to serve all present users and the projected new users from the area proposed to be annexed, taking into account section 12.4.305 of this Code, and that performance criteria, as defined for each service line in standards adopted by Utilities, will not be impaired.

(4) Whether the existing and projected utility facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present and projected users whether within or outside the corporate limits of the City.

(5) Whether utility services and facilities can be extended to serve the property proposed to be annexed at the time of annexation or sometime in the future.

(6) The estimated immediate and long-range costs to the City under development plans proposed by the annexor, which cost estimates shall include, but need not be limited to:

(i) The cost of extending City services. Examples of required improvements are bridges, arterial streets, major drainage improvements, parks and park improvements,

regional and urban trails systems, and the maintenance and operation of required improvements.

(ii) The nature and cost of City-financed capital improvements made necessary by the proposed annexation when developed. The City may also include the expense that would be incurred by other governmental entities, such as school districts.

(iii) The time schedule as proposed by the annexor over which such costs would be extended.

(7) The revenues expected to be generated by proposed development within the area proposed to be annexed. This may include *ad valorem* taxes from the land and improvements situated and to be situated on the land, sales, and use taxes from commercial development, increased revenue sharing or other grant funds resulting from increased population, and increased income taxes.

(8) Whether the Utilities' revenues expected to be generated by the development of the proposed annexation will offset the estimated immediate and long-range costs to Utilities for the acquisition of utility resources, extension of utilities services, development of utilities infrastructure, and operations and maintenance as required by Utilities Rules and Regulations.

(9) Other benefits to the City for which there is no readily acceptable method of computation except subjective judgment, such as increased employment opportunity, improved wastewater management, improved drainage control, improved public transportation, and increased diversification of the City's economic base.

After the foregoing have been studied in such depth as the City Council shall require, the City Council in its discretion may annex or not annex the proposed area.

4. Requirements of Annexation:

a. The City shall require as a condition of annexation the transfer to the City of title to all water rights appurtenant to, including without limitation all groundwater underlying, the land proposed to be annexed. Should such groundwater or appurtenant water rights be separated from the land or otherwise be unavailable for transfer to the City, the City, at its discretion, may either refuse annexation or require payment commensurate with the value of such groundwater and/or appurtenant water rights as a condition

of annexation. The value of such water rights shall be determined by Utilities based on market conditions as presently exist. City Council may, in its discretion, waive the requirement to convey groundwater rights or pay the value of groundwater and/or appurtenant water rights by resolution.

b. The City shall require as a condition of annexation the transfer to the City of title to any additional water rights historically used on or for the benefit of the area to be served that Utilities determines are necessary to ensure it has sufficient water supplies to serve the property or payment of any fees in lieu thereof, as determined by City Council.

c. The City shall require as a condition of annexation that all rights of way or easements required by Utilities necessary to serve the proposed annexation, to serve beyond the annexation, and for system integrity, shall be granted to Utilities by the applicant or other property owner on forms approved by Utilities. Utilities, at the time of utility system development, shall determine such rights of way and easements.

d. If the proposed annexation to the City overlaps an existing service area of another utility under the jurisdiction of the Colorado Public Utilities Commission (PUC), if no exception has been granted under section 12.1.111 of this Code and if required by the City, the applicant shall petition the PUC to revise the service area such that the new service area will be contiguous to the new corporate boundary of the City and the applicant shall pay any and all fees or costs associated with revising the service area, including without limitation any required condition assessment, system improvements, and just compensation due to the existing service provider. If the proposed annexation overlaps the service territory of a special district, the applicant shall either have the property removed from the service territory of the special district or shall obtain permission from the special district for the property to receive utility services from Utilities and shall pay any and all fees and costs associated therewith. City Council may waive or modify the requirements in this subsection by resolution.

5. Annexation Process:

a. General: All annexations shall be reviewed by the City in accord with the Municipal Annexation Act of 1965, as amended, C.R.S. § 31-12-101 *et seq.* All applicable provisions of Chapter 7 of this Code apply unless specifically modified by the provisions of this section.

b. Zoning of Annexed Areas: The petitioners of an annexation may request that the initial zoning of the land to be annexed occur concurrently with the annexation ordinance in accord with the Municipal Annexation Act of 1965, as amended, C.R.S. §31-12-101 *et seq.* If there is no request for the establishment of an initial zone district by petitioners for annexation or if the annexation is in accord with C.R.S. §31-12-106, the initial zoning of the annexed land shall be accomplished within ninety (90) days of the effective

date of the annexation. The establishment of an initial zone district shall be accomplished after at least one public hearing by the Planning Commission and City Council jointly or singly to consider the action.

c. Decision by City Council.

(1) The City Council shall review the petition for annexation in accord with the subsection A3 above.

(2) The City Council in its discretion may approve or deny the petition for annexation.

(i) If the City Council decides to annex it may require a contemporary Annexation Agreement in the form required by the City specifying any required fees and the installation and the time of installation of certain public and utilities improvements, both on site and off site, that are required or not required under this Code. City Council may include other requirements it deems necessary.

(ii) If the City Council denies an application for annexation, utilities shall not be extended unless Council is assured that an Agreement to Annex in accord with Chapter 12 of this Code will be executed by fee owners of the real property contracting for the services prior to the utilities being extended, and that the remaining provisions of Chapter 12 of this Code regarding annexation subsequent to extension of utilities have been met.

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this \_\_\_\_ day of \_\_\_\_\_, 202\_.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Randy Helms, Council President

**Mayor's Action:**

- Approved on \_\_\_\_\_.
- Disapproved on \_\_\_\_\_, based on the following objections:

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Mayor

**Council Action After Disapproval:**

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_.
- Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
Randy Helms, Council President

ATTEST:

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Sarah B. Johnson, City Clerk