

ORDINANCE NO. 2411

INTRODUCED BY: ALLEN-THOMAS, DAVIS, DOUGLAS, FORD, GRIMES, HURST,
HUSEMAN, MADERA, NOBLE

AN ORDINANCE AMENDING SECTIONS 21-3320 AND 21-3340 OF THE LAND DEVELOPMENT CODE RELATING TO STANDARDS FOR ANNEXATION AGREEMENTS

WHEREAS, the City Council of the City of Commerce City adopted the Land Development Code, effective March 1, 2009, by Ordinance 1720, which has been amended from time to time; WHEREAS, the ongoing application and interpretation of the Land Development Code has identified a need to amend the provisions relating to annexation agreements where minor additional regulation and clarification are needed; and

WHEREAS, the City Council desires to update the terminology, process, and authority of annexation agreements. This updated language will modernize this section and align it with established processes the City is performing.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. Findings. The recitals to this ordinance are incorporated as findings of the City Council. This ordinance is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Amendments.

- a) Section 21-3320 (Pre-Annexation Agreements) of the Land Development Code is hereby amended as set forth in Exhibit A to this ordinance, with the specific changes as depicted in Exhibit B to this ordinance.
- b) Section 21-3340 (Annexation Approval Criteria) of the Land Development Code is hereby amended as set forth in Exhibit A to this ordinance, with the specific changes as depicted in Exhibit B to this ordinance.

SECTION 3. Repealer. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency.

SECTION 4. Effective Date. This ordinance shall be effective as provided in the City Charter.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 15TH DAY OF AUGUST 2022.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 19TH DAY OF SEPTEMBER 2022.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk

EXHIBIT A TO ORDINANCE 2411

BEGIN

Sec. 21-3320. - Annexation Agreements.

- 1) *Annexation Agreement Required.* Except for unilateral annexations or annexations upon election, an annexation agreement shall be required before an annexation is approved. The annexation agreement shall identify the mutual understanding of the commitments and responsibilities of the city and the property owner(s) related to the subject property and annexation.
- 2) *Director to Coordinate Annexation Agreement Negotiations.* The director coordinates all annexation agreement negotiations. The director, in consultation with the Development Review Team, prepares the agreement in a form approved by the city attorney and presents such to the applicant. The applicant may either sign the agreement or present an alternative agreement to the director for consideration. The director may seek input from the Development Review Team and direction from city council in the negotiation of any annexation agreement.
- 3) *Timing and Finalization of Annexation Agreements.* An annexation agreement acceptable to the city and the property owner(s) shall be fully-executed by all property owner(s) and returned to the city at least ten days prior to the city council meeting at which the first reading of the annexation ordinance will be considered. No annexation ordinance shall proceed to first reading until an annexation agreement has been executed and received by the city in accordance with this section.
- 4) *Authority to Execute.* The city manager shall have the authority to execute all annexation agreements, subject to ratification by the city council in the annexation ordinance.
- 5) *Annexation Agreement to be Recorded.* Upon annexation, such agreement shall be recorded to provide notice to future purchasers of said property. All recording costs shall be borne by the applicant.

Sec. 21-3340. - Annexation Approval Criteria.

The annexation application may be approved if:

- 1) The annexation is in compliance with the Municipal Annexation Act of 1965, as amended, the Constitution of the State of Colorado, and this land development code;
- 2) The annexation is consistent with the comprehensive plan and all other adopted city plans and policies;
- 3) The best interests of the city would be served by annexation of such property;
- 4) The property is within the Municipal Service Area (MSA) of the Commerce City Growth Boundary as stated in the comprehensive plan. No property outside of the MSA or Growth Boundary shall be considered for annexation unless the city council finds that, consistent with the comprehensive plan, the best interests of the city would be served by annexation of such property and provided a land use plan for the area proposed to be annexed is submitted together with the annexation application;
- 5) The property is capable of being integrated into the city in compliance with all applicable provisions of this land development code;
- 6) At the time any development of the area proposed to be annexed is completed, there is a reasonable likelihood that capacity will exist to adequately serve residents or users of such area with all necessary utilities, municipal services and facilities;
- 7) The annexation boundaries are configured such that the annexation will not limit the city's ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed;

- 8) The proposed annexation is in compliance with all pertinent intergovernmental agreements to which the City is a party; and
- 9) Unless otherwise agreed to by the city, any preexisting vested property rights have been waived in writing as a condition of such annexation.

[END OF EXHIBIT A TO ORDINANCE 2411]

EXHIBIT B TO ORDINANCE 2411

(Underlined text indicates new material; strikethrough text indicates deletions.)

BEGIN

Sec. 21-3320. - **Pre-Annexation Agreements.**

- 1) ~~Pre-Annexation Agreement Required.~~ Except for unilateral annexations or annexations upon election, an pre-annexation agreement shall be required before an annexation is approved. The pre-annexation agreement shall identify the mutual understanding of the commitments and responsibilities of the city and the property owner(s) related to the subject property and annexation.
- 2) ~~Director to Coordinate Pre-Annexation Agreement Negotiations.~~ The director coordinates all ~~pre-annexation agreement negotiations. The director, in consultation with the Development Review Team, prepares the agreement in a form approved by the city attorney and presents such to the applicant. The applicant may either sign the agreement or present an alternative agreement to the director for consideration. The director may seek input from the Development Review Team and direction from city council in the negotiation of any annexation agreement.~~
- 3) Timing and Finalization of Pre-Annexation Agreements. An annexation agreement acceptable to the city and the property owner(s) shall be fully-executed by all property owner(s) and returned to the city at least ten days prior to the city council meeting at which the first reading of the annexation ordinance will be considered. No annexation ordinance shall proceed to first reading until an annexation agreement has been executed and received by the city in accordance with this section. If the applicant accepts the agreement as drafted by the city, the applicant shall submit the pre-annexation agreement to the director, signed and acknowledged by all property owners, at least seven days prior to the city council meeting at which the first reading of the annexation ordinance will be considered. If the applicant presents an alternative agreement to the city for consideration, the applicant shall submit the revised pre-annexation agreement to the director, signed and acknowledged by all property owners, at least 14 days prior to the city council meeting at which the first reading of the annexation ordinance will be considered. If the applicant's alternative agreement differs substantially from the city prepared agreement, the city may delay scheduling the annexation for city council consideration in order to review the alternative agreement. Except as otherwise provided in this section, no annexation ordinance shall proceed to first reading until a pre-annexation agreement has been signed by the property owner(s) and approved by the city.
- 3)4) Authority to Execute. The city manager shall have the authority to execute all annexation agreements, subject to ratification by the city council in the annexation ordinance.
- 4)5) Pre-Annexation Agreement to be Recorded. Upon annexation, such agreement shall be recorded to provide notice to future purchasers of said property. All recording costs shall be borne by the applicant.

Sec. 21-3340. - **Annexation Approval Criteria.**

The annexation application may be approved if:

- 1) The annexation is in compliance with ~~applicable state laws~~ the Municipal Annexation Act of 1965, as amended, the Constitution of the State of Colorado, and this land development code;
- 2) The annexation is consistent with the comprehensive plan and all other adopted city plans and policies;
- 2)3) ~~and~~ The best interests of the city would be served by annexation of such property;
- 3)4) The property is within the Municipal Service Area (MSA) of the Commerce City Growth Boundary as stated in the comprehensive plan. No property outside of the MSA or Growth

Boundary shall be considered for annexation unless the city council finds that, consistent with the comprehensive plan, the best interests of the city would be served by annexation of such property and provided a land use plan for the area proposed to be annexed is submitted together with the annexation application;

4)5) _____ The property is capable of being integrated into the city in compliance with all applicable provisions of this land development code;

5)6) _____ At the time any development of the area proposed to be annexed is completed, there is a reasonable likelihood that capacity will exist to adequately serve residents or users of such area with all necessary utilities, municipal services and facilities; ~~and~~

7) _____ The annexation boundaries are configured such that the annexation will not limit the city's ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed;-

8) The proposed annexation is in compliance with all pertinent intergovernmental agreements to which the City is a party; and

6)9) Unless otherwise agreed to by the city, any preexisting vested property rights have been waived in writing as a condition of such annexation.

[END OF EXHIBIT B TO ORDINANCE 2411]