



## Legislation Details (With Text)

**File #:** DCA17-0004a      **Version:** 1      **Name:**

**Type:** Ordinance

**File created:** 12/16/2016      **In control:** City Council

**On agenda:** 2/21/2017      **Final action:**

**Title:** Hold a public hearing and consider adoption of 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. The Planning and Zoning Commission recommends approval 6-1.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit 1 - Sections 34-35, 34-36, and 34-37.pdf, 2. Exhibit 2 - Draft Ordinance, 3. Exhibit 3 - Staff Presentation

Date	Ver.	Action By	Action	Result
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## AGENDA INFORMATION SHEET

**DEPARTMENT:** Department of Development Services

**ACM:** Jon Fortune

**DATE:** February 21, 2017

### SUBJECT

Hold a public hearing and consider adoption of 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. The Planning and Zoning Commission recommends approval 6-1.

### BACKGROUND

The Planning Division receives several development applications for properties that are located in the City's Extra-territorial Jurisdiction (ETJ). During the development review process, the question of whether the subject property should be annexed is always raised. On October 18, 2016 the Planning Division presented to the City Council, a proposal to establish periphery annexation criteria in the Denton Development Code (DDC), to determine whether or not a property should be annexed. The City Council directed staff to proceed with preparing an ordinance.

## **CONSIDERATIONS**

1. In some cases proposed developments in the ETJ are not consistent with the character of the area where they are proposed and can impact adjacent properties in terms of land use and intensity.
2. Because the City's Certificate of Convenience and Necessity (CCN) service areas extend outside the city limits, the City is required to provide water and sewer services to these proposed developments even though the extension of those services is not supported by taxes. This impacts infrastructure and public services such as water and sewer and other services that these proposed developments are required to have.
3. Denton Plan 2030 states that "the City's Annexation Plan, guided by the recommendation in the 1999 Denton Plan to adopt an aggressive annexation policy should be reconsidered. Additional annexations are not necessary to accommodate the growth of the city by 2030 and additional annexation may affect the city's ability to provide infrastructure and public services." The developable acreage within the city limits, along with the currently planned annexation areas, is considerably more than what will be needed to meet Denton's projected growth. However, while additional annexations are not needed to meet Denton's projected growth, annexations may be needed in order to manage growth and strengthen the city's oversight regarding land use pattern and character of development along the city's periphery. In addition, annexations are needed in order to provide infrastructure and public services in these areas of the ETJ.
4. Prior to the adoption of the DDC in 2002, the City had annexation guidelines and criteria provided in Chapter 34 and Chapter 35 of the Denton Code of Ordinances. These chapters were intended to be combined into the DDC. However, specific sections addressing annexation were omitted in the DDC. Specifically Section 34.35 - Annexation Policy, Section 34.36 - Annexation Procedures, and Section 34.37 - Annexation Fees as reflected in Exhibit 1. Furthermore, Section 35.1.6 of the DDC repealed all regulations governing the use and development of land that were inconsistent with the new adopted DDC.
5. Because there was no language in the ordinance adopting the creation of the DDC that repealed Sections 34-35, 34-36, and 34-37, it is uncertain as to whether these sections were repealed explicitly. To provide a greater level of certainty, staff is proposing to draft an ordinance that will include language that expressly repeals Sections 34-35, 34-36, and 34-37.
6. To ensure that there are specific annexation criteria and procedures to address proposed developments along the city's periphery, an amendment to the DDC adding a section under Subchapter 35.3 for annexation criteria and procedures is being proposed. Staff evaluation of the annexation and associated procedures have also been developed. The following section is proposed to be added to the DDC:

### Section 35.3.13 Periphery Development Annexation Criteria.

- A. City staff will assess on a case-by-case basis the annexation of areas in the extraterritorial 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 public hearing notification procedures will be in accordance with state law.

E. Continued Use.

The use of land following annexation shall be governed by state law and Section 35.11.2 of the Denton Development Code, as amended.

## **OPTIONS**

1. Approve as submitted.
2. Approve subject to conditions.
3. Deny.
4. Postpone consideration.
5. Table item.

## **RECOMMENDATION**

The Planning and Zoning Commission recommends approval 6-1.

The staff recommends approval to repeal Sections 34-35, 34-36, and 34-37 of the Denton Code of Ordinances and to amend Subchapter 35.3 of the Denton Development Code.

## **PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

October 18, 2016 - City Council Work Session

February 8, 2017 - Planning and Zoning Commission Public Hearing

## **STRATEGIC PLAN RELATIONSHIP**

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

**Related Key Focus Area:** Economic Development

**Related Goal:** 3.1 Develop targeted policies and incentives to achieve desired economic growth

## **EXHIBITS**

1. Sections 34-35, 34-36, and 34-37
2. Draft Ordinance
3. Staff Presentation

Respectfully submitted:  
Munal Mauladad  
Director of Development Services

Prepared by:  
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Long Range Planning Administrator