

## **CITY OF SPRING HILL**

### **ANNEXATION POLICY**

The City of Spring Hill adopted the *Spring Hill Comprehensive Plan* which set goals and objectives for the growth of the City to 2020. In order to insure quality development and to achieve these goals and objectives for orderly growth, the City will exercise its powers of annexation and deannexation in a manner which is consistent with the following policies.

- 1) Since land adjacent to the City is enhanced in value because of its proximity to the City and by the services, facilities and benefits provided by the City, such land will be considered for annexation when its proximity to the City, the rate of growth of the area and other factors indicate that annexation of the land would aid the whole community's growth and the harmonious development of the City's area of influence.
- 2) An area will be considered for annexation when it is deemed necessary to guard, for health reasons, the watershed of the Spring Hill City Lake and Hillsdale Lake and to guard against uncontrolled and substandard development.
- 3) The City recognizes the importance of controlling the development of land beyond its corporate limits and will, therefore, consider annexations to achieve the following objectives:
  - \* To insure that adequate land will be available for the continued growth and planned development of the City.
  - \* To maintain a logical planning and governmental service unit in accordance with provisions of a comprehensive planning program.
  - \* To insure that new development will not take place in a substandard manner and thereby become a detriment to the entire area.
  - \* To provide capital improvement planning and thus protect the City's financial position and its ability to finance and construct capital improvements necessary to the growth and economic welfare of the entire community.
- 4) No area will be considered for annexation or deannexation if such action would tend to hinder, delay or impede the present or future growth and development of the City.
- 5) All annexations undertaken by the City will be in conformance with the *Spring Hill Comprehensive Plan*.

- 6) Request for deannexation will not be considered favorably when based solely on the premise that City taxes should not be paid on vacant land.
- 7) All annexations, whether undertaken unilaterally, with county approval, or by petition or consent of the landowners, will be in compliance with the requirements of K.S.A. 12-519 et seq.
- 8) If a property owner(s) submits a petition for annexation to create a benefit district, the petition may contain a provision that the annexation is subject to the formation of a benefit district so that if the benefit district is not formed then the property will be deannexed.
- 9) When a property owner submits a petition for annexation they may include a provision that the annexation is subject to the approval of a specified zoning district so that if the requested rezoning does not occur then the property will be deannexed.
- 10) When a property has a zoning classification of either AG Agricultural or R-R Rural Residential and is annexed by the City of Spring Hill, it shall be automatically converted to the R-R zoning District. Any property that has a higher intensity zoning classification than R-R and is annexed by the City, shall retain the same zoning classification as it had before being annexed.

### **Annexation Procedure**

K.S.A. 12-519 et seq. specifies the procedures which must be followed in annexing property. Representatives of the community-at-large will be encouraged to attend public hearings in addition to those persons directly affected by a proposed annexation.

Three types of annexations may be undertaken by the City pursuant to K.S.A. 12-519 et seq.

- 1) unilateral annexation without landowner consent pursuant to K.S.A. 12-520(a)(1)-(6);
- 2) county approved annexations without landowner consent pursuant to K.S.A. 12-521;
- 3) landowner consent annexations pursuant to K.S.A. 12-520(a)(7) (for land adjoining the City) and K.S.A. 12-520(c) (for land not adjoining the City).

### **Unilateral Annexation By The City**

Unilateral annexation, i.e., annexation by City-only action and without consent of the landowner, is permitted if the land to be annexed meets any one or more of the six conditions specified by K.S.A.

12-520(a)(1)-(6). A resolution, notice, public hearing, and a service extension plan are required for all unilateral annexations except for land owned by or held in trust for the City or any City agency (K.S.A. 12-520a(f)).

The procedure for unilateral annexation includes:

- 1) The City will develop a plan for the extension of services to the area proposed to be annexed and, prior to the adoption of a resolution, prepare a report setting forth the plan. The plan will show the present and proposed boundaries; the present streets, water mains, sewers, and other city utility lines and their proposed extension; and the general land use pattern in the area to be annexed. The report must also include plans and a timetable for extending each municipal service for the area and the method for financing extension of the services (K.S.A. 12-520b).

After five years from the date of annexation, the county commissioners are required to conduct a hearing to determine whether or not the City has provided the municipal services in the timetable set forth in the plans for extension of services (K.S.A. 12-531). This procedure emphasizes the importance of the City being able to follow through with its representations regarding the timetable.

- 2) The City Council approves a resolution stating that the City is considering the annexation of land (K.S.A. 12-520a(a)(1)). The resolution must include:
  - \* the date, hour and place of a public hearing to consider the annexation;
  - \* the description of the boundaries of the land proposed to be annexed;
  - \* the regular office hours of the City Clerk when the plan for the extension of services to the area proposed to be annexed is available for inspection; and
  - \* the date fixed for the public hearing will not less than 60 or more than 70 days following the date of the adoption of the resolution fixing the date of the hearing (K.S.A. 12-520a(b)).
- 3) The City sends by certified mail to each owner of land proposed to be annexed, within 10 days following the date of the adoption of the resolution, a copy of the resolution providing for the public hearing and a map clearly delineating the land proposed to be annexed (K.S.A. 12-520a(c)).
- 4) The City sends by certified mail not more than 10 days following the date of the adoption of the resolution, a copy of the resolution providing for the public hearing to (K.S.A. 12-520a(d)(1)-(7)):

- \* the board of commissioners;
  - \* any special assessment district or governmental unit providing municipal services to the area proposed to be annexed;
  - \* any utilities having facilities within the area proposed to be annexed; and
  - \* the governing body of School District 230.
- 5) The City submits a copy of the resolution to the Spring Hill Planning Commission within 10 days following the adoption of the resolution. The Spring Hill Planning Commission reviews the proposed annexation and make a finding of the compatibility or the incompatibility of the annexation with the Land Use Plan (K.S.A.12-530). The Planning Commission's findings will be included in the staff report to the City Council.
    - \* The Planning Commission's finding will be available for public inspection in the City Clerk's office.
  - 6) The City publishes in the official City newspaper not less than two weeks preceding the date fixed for the public hearing, the resolution and a map clearly delineating the land proposed to be annexed (K.S.A. 12-520a(c)).
  - 7) The Governing Body holds the public hearing on the date previously established. The public hearing will consist of the City presenting its proposal for annexation, including the plan for the extension or services to the area proposed to be annexed (K.S.A. 12-520a(e)).
    - \* After the presentation, all interested persons will be given an opportunity to be heard.
  - 8) If the Governing body is interested in proceeding, an annexation ordinance will be prepared. After the passage and publication of the annexation ordinance, the City Clerk files a certified copy of the ordinance with the county clerk, the county register of deeds and the county election commissioner (K.S.A. 12-522).
  - 9) The annexation ordinance will take effect on publication except that any annexation ordinance published 30 days before an election becomes effective on the day following the election (K.S.A. 12-523).
  - 10) Within 30 days following publication of the ordinance any owner of land annexed by the City can bring action in district court to challenge either the authority of the City to annex the property or the regularity of the proceedings (K.S.A. 12-520(g)).

### **Annexation By County Approval**

If the land which the City seeks to annex cannot be unilaterally annexed under any of the six conditions specified in K.S.A. 12-520, the City may petition the board of county commissioners for approval to annex that land.

The procedure for annexation by county approval includes:

- 1) The City files a report with the board of county commissioners that includes a sketch of the area and a plan for the extension of municipal services, and the other information noted in the unilateral annexation procedure. This report must be filed with the board of county commissioners at the same time that the City files its petition for annexation (K.S.A. 12-521(a)).
- 2) The City submits a petition to the board of county commissioners of the county in which the land is sought to be annexed giving the legal description of the land to be annexed and requesting a public hearing on the advisability of the annexation (K.S.A. 12-521(a)).
- 3) The county commissioners will set a date for a public hearing. The notice of the hearing will be published in the official City newspaper and mailed to owners of land proposed to be annexed in the same manner as in an unilateral annexation. The hearing must be held between 60 to 70 days from the date of the presentation of the petition (K.S.A. 12-521(b)).
- 4) The City submits a copy of the petition to the Spring Hill Planning Commission within 20 days following the petition being presented to the county commission. The Spring Hill Planning Commission must review the proposed annexation and make a finding of the compatibility or the incompatibility of the annexation with the Land Use Plan (K.S.A.12-530). The Planning Commission's findings will be filed with the board of county commissioners at least 20 days prior to the date of the hearing.
  - \* The Planning Commission's finding will be available for public inspection in the City Clerk's office.
- 5) At the hearing the board of county commissioners hears evidence on the advisability of the annexation and determines if the annexation, if approved, will cause manifest injury to the affected property owners or manifest injury to the City if disapproved. In determining whether manifest injury would result from the annexation, the county commission considers the 14 criteria identified in K.S.A. 12-521(c).
- 6) If the county commission renders a judgment that the annexation should be allowed, it will issue an order to that affect and the City may annex the land by ordinance.
- 7) Any owner of land, or the City, aggrieved by the county commission may appeal the

decision to the district court as provided in K.S.A. 19-233.

- 8) The annexation ordinance will take effect on publication except that any annexation ordinance published 30 days before an election becomes effective on the day following the election (K.S.A. 12-523).
- 9) Within 30 days following publication of the ordinance any owner of land annexed by the City can bring action in district court to challenge either the authority of the City to annex the property or the regularity of the proceedings (K.S.A. 12-520(g)).

### **Annexation By Landowner Consent or Petition**

The general annexation law permits the annexation of either land adjoining the City or noncontiguous land by petition or consent of the landowner. The person(s) or the landowner submitting the petition for annexation will be responsible for all of the cost associated with publishing the annexation ordinance.

**Annexation of adjoining land.** The City is required to meet two conditions under K.S.A. 12-520(a)(7): the owner must file a written petition for annexation or consent to the annexation; and the land must adjoin the City.

- 1) No resolution, notice, public hearing, or plan for extension of services is required for the annexation of adjoining land when the landowner consents to or petitions for the annexation (K.S.A. 12-520a(f)). Once the petition or consent is filed with the City, the City only has to pass an ordinance to accomplish annexation of the land.
- 2) Any owner of annexed land may bring an action in district court to challenge the authority of the City to annex the land or the regularity of the proceedings.

**Annexation of nonadjoining land.** The City is required to meet all three of the conditions under K.S.A. 12-520c(a): the land is located within the same county as the City; the owner of the land petitions for or consents in writing to the annexation of such land; and the board of county commissioners determines that the annexation is advisable.

- 1) If the City Council deems it advisable to annex the noncontiguous land, may pass a resolution requesting the board of the county commissions to make a finding that the annexation will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within the county (K.S.A. 12-520c(c)).
- 2) The City submits a copy of the resolution to the Spring Hill Planning Commission within 10 days following the passage of the resolution. The Spring Hill Planning Commission must review the proposed annexation and make a finding of the compatibility or the

incompatibility of the annexation with the Land Use Plan (K.S.A.12-530). The Planning Commission's findings will be filed with the board of county commissioners at least 10 days prior to the date of the hearing.

\* The Planning Commission's finding will be available for public inspection in the City Clerk's office.

- 3) The City Clerk files a certified copy of the resolution with the board of county commissioners who must, within 30 days following receipt of the resolution, make finding and notify the City Council (K.S.A. 12-520c(c)).
- 4) If there is no adverse finding by the county commission, the City may pass an ordinance annexing the land (K.S.A. 12-520c(a)).
- 5) Any owner of annexed land may bring an action in district court to challenge the authority of the City to annex the land or the regularity of the proceedings (K.S.A. 12-520c(c)).