

## ORDINANCE NUMBER 192

### AN ORDINANCE ADOPTING THE ELSINORE TOWN ANNEXATION PROCEDURES AND POLICY PLAN.

WHEREAS, THE ELSINORE TOWN PLANNING COMMISSION AND TOWN COUNCIL IDENTIFIED A NEED TO COMPLETE A ANNEXATION POLICY PLAN IN COMPLIANCE WITH UTAH CODE SECTION 10-2-400 AND;

WHEREAS, IT IS NECESSARY TO ESTABLISH OFFICIAL TOWN-WIDE PLANNING GOALS AND POLICIES FOR FUTURE DEVELOPMENT IN ELSINORE TOWN TO PROMOTE ORDERLY GROWTH, PRESERVE PROPERTY VALUES, PROMOTE PUBLIC SAFETY AND PROVIDE FOR THE GENERAL WELFARE OF ELSINORE RESIDENTS; AND

WHEREAS, A COMPREHENSIVE ELSINORE TOWN ANNEXATION POLICY PLAN AND PROCEDURES HAS BEEN DEVELOPED UTILIZING THE ELSINORE PLANNING COMMISSION AND TOWN COUNCIL; AND

WHEREAS, A PUBLIC HEARING TO CONSIDER THE ELSINORE ANNEXATION POLICY PLAN WAS HELD ON NOVEMBER 17, 2011 AND DECEMBER 6, 2011; AND

WHEREAS, THE AMENDED ANNEXATION PROCEDURES AND POLICY PLAN ESTABLISHES GOALS AND POLICIES THAT WILL GUIDE GROWTH AND DEVELOPMENT WITHIN ELSINORE TOWN; AND

WHEREAS, THE ELSINORE ANNEXATION PROCEDURES AND POLICY PLAN HAS BEEN FULLY CONSIDERED BY THE ELSINORE TOWN COUNCIL AS IT RELATES TO THE HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF ELSINORE TOWN, THE ORDERLY DEVELOPMENT OF LAND WITHIN ELSINORE TOWN, THE EFFECT ON SURROUNDING NEIGHBORHOODS, AND COMPLIANCE THEREOF WITH ALL APPLICABLE ELSINORE TOWN ORDINANCES; AND

WHEREAS, THE ELSINORE TOWN COUNCIL HAS DETERMINED THAT ADOPTION OF THE AMENDED ELSINORE ANNEXATION PROCEDURES AND POLICY PLAN IS IN THE BEST INTEREST OF ELSINORE TOWN AND ITS CITIZENS;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE ELSINORE TOWN COUNCIL AS FOLLOWS:

SECTION 1 - ADOPTION OF THE ELSINORE ANNEXATION POLICY PLAN AND PROCEDURES. THE ELSINORE TOWN COUNCIL HEREBY ADOPTS THE ELSINORE ANNEXATION PROCEDURES AND POLICY PLAN. A COPY IS ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF, AS THE OFFICIAL ANNEXATION POLICY PLAN OF ELSINORE TOWN.

SECTION 2 - REPEALER: THIS ORDINANCE OR PARTS THEREOF CONFLICTING WITH THIS ORDINANCE ARE HEREBY REPEALED.

SECTION 3 - COMPLIANCE WITH ELSINORE TOWN ANNEXATION PROCEDURES AND POLICY PLAN. PRIOR TO MAKING ANY FINAL DECISIONS CONCERNING ANNEXATIONS ALL PERSONS AND ENTITIES INVOLVED THEREWITH SHALL COMPLY WITH THE TERMS, CONDITIONS AND GOALS SET FORTH IN THE ELSINORE TOWN ANNEXATION POLICY PLAN AND PROCEDURES.

THIS ORDINANCE SHALL TAKE EFFECT UPON ADOPTION AND POSTING.

PASSED AND ADOPTED THIS 6<sup>TH</sup> DAY OF DECEMBER, 2011

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MAYOR

\_\_\_\_\_  
TOWN CLERK

# Elsinore Town ANNEXATION POLICY PLAN

Adopted: December 6, 2011

## A. General Annexation Criteria of Elsinore Town

### PURPOSE.

The annexation requirements specified in this chapter are intended to protect the general interests and character of the community; assure orderly growth and development of the Elsinore Town community in terms of utilities and public services; preserve farmland, ensure environmental quality; protect view sheds and environmentally sensitive lands; preserve historic and cultural resources; create buffer areas; protect public health, safety, and welfare and ensure that annexations are approved consistent with the Elsinore Town General Plan and Utah State law.

In accordance with the provisions of this Annexation Plan, the Town of Elsinore Town hereby adopts the following criteria for consideration of possible future annexations contained herein.

It is the intent of this chapter to ensure that property annexed to the town will contribute to the community image for economic viability, and that the potential deficit of revenue against expense to the Town is not unreasonable. This chapter shall be considered Elsinore Town's annexation policy plan and declaration.

1. As part of its ongoing effort to plan and prepare for responsible growth, Elsinore Town has identified territory adjacent to its present town boundaries that could at some time in the future be a part of Elsinore Town. The area that is proposed for future annexation is not bordered by any other municipality. Areas to be annexed must fall within the areas designated for future annexation in the Annexation Policy Plan of Elsinore Town and shown on the attached expansion area map. Even though property proposed for annexation is located within the annexation expansion area, there is no guarantee that the annexation request will be approved by Elsinore Town. It is not anticipated that the annexation will cause any adverse consequences to the residents in the town or in the area annexed, except there may be a slight reduction in general services to the town residents in the present town limits as general services are expanded into the newly annexed territory.

It is anticipated that the residents in the territory to be annexed will experience an increase in their property tax because of the difference in the certified tax rates in the county and Elsinore Town. It is further anticipated that as newly annexed territory property taxes are received by the town, the town will increase the total level of services within the total community. Additionally, persons in the newly annexed territory should experience reductions in their fire insurance rates and property insurance rates.

As areas become more densely populated, demand for services increases. As areas begin to develop, continual planning by Elsinore Town will allow development to occur in an economical manner, since the homes, streets and other amenities will be developed in accord with Elsinore Town specifications. The plan and time frame for the extension of municipal services will be determined by the interest of the property owners to subdivide and develop their ground.

If practical and feasible, boundaries of an area proposed for annexation shall be drawn:

(A) Along the boundaries of existing special districts for sewer, water, fire, and other services, along the boundaries of school districts whose boundaries follow town boundaries or school districts adjacent to school districts whose boundaries follow town boundaries, and along the boundaries of other taxing entities;

(B) To eliminate islands and peninsulas of territory that are not receiving municipal type services;

(C) To facilitate the consolidation of overlapping functions of local government;

(D) To promote the efficient delivery of services; and

(E) To encourage the equitable distribution of community resources and obligations.

2. The character of the community is mixed residential, commercial and agricultural.

3. Areas to be annexed must be contiguous to the corporate limits of Elsinore Town at the time of submission of an annexation request.

4. Areas to be annexed shall not be located within the corporate limits of another incorporated city or be part of a previously filed annexation petition that has not been either denied, accepted or approved.

5. The town does not favor the annexation of areas for which it does not have the capability to provide municipal services.

6. It is not Elsinore Town's intent to annex territory for the sole purpose of acquiring revenue.

7. The annexation petition must comply with the requirements of the Elsinore Town Annexation Policy Plan.

**B. GENERAL REQUIREMENTS.**

The following specific requirements are hereby established for annexation to Elsinore Town:

(A) Property under consideration of annexation must be considered a logical extension of the Town boundaries.

(B) Annexation of property to the Town must be consistent with the intent and purpose of this Chapter and the General Plan.

(C) Every annexation shall include the greatest amount of property possible that is a contiguous area and that is contiguous to the Town's municipal boundaries.

(D) Piecemeal annexation of individual small properties shall be discouraged if larger contiguous parcels are available for annexation within a reasonable time frame in order to avoid repetitious annexations.

(E) Islands of county jurisdiction shall not be left or created as a result of the annexation and peninsulas and irregular boundaries shall be avoided.

(F) In addition to services provided by existing districts, such as sewer, fire protection, and public schools, the following urban level services, consistent with those normally provided in the rest of the incorporated boundaries will be provided to annexed areas:

(1) Police protection;

(2) Snow removal on public streets, subject to standard Town snow removal policies;

(3) Street maintenance on existing streets, provided that such streets have been constructed or reconstructed to Town street standards or are acceptable to the Town Engineer and Town Council;

(4) Planning, zoning, and code enforcement;

(5) Availability of municipal sponsored parks and recreational activities and cultural events and facilities;

(6) Water services as the area is developed. Existing water treatment and storage facilities may currently be inadequate to provide services to the annexed area. Developers of the annexed area are required to pay for the cost of improvements related to the extension of and connection with the Town lines and systems as well as participate in additional improvements such as storage capacity and distribution as necessary for safe, reliable, and

efficient water flows or as governed by impact fees.

(G) If feasible and practical, water and sewer lines shall be extended to the area proposed for annexation. Expenses associated with such extension shall be the responsibility of the applicant(s). The Town shall determine timing and capacity of extending water and sewer to the proposed annexation area.

(H) Before considering requests for annexation, the Town shall carefully analyze the impacts of annexation of an area, taking into consideration whether the Area will create negative impacts on the Town and considering whether the Town can economically provide services to the annexed area. Community issues such as location and adequacy of schools and community facilities, traffic, fire protection, particularly in Wildfire/Wildland Interface zones, usable open space and recreation areas, protection of sensitive lands, conservation of natural resource, protection of view corridors, protection and preservation of historic resources, a balance of housing types and ownership, and adequate water and sewer capacity to serve the future needs of the proposed annexation area shall also be considered.

(I) Situations may exist where it is in the public interest to preserve certain lands from development where there exist geologic hazards, excessive slopes, flood plains or where the need for preservation of community open space and/or agricultural lands is consistent with the General Plan. In such circumstances, annexations may occur as a means of retaining those lands in a natural state.

(J) The Town shall consider annexation of unincorporated areas of the Sevier County that are within the annexation expansion area as defined by Exhibit A. Please refer to the Town for review of Exhibit A.

(K) In general, the Town does not favor annexation of territory which should be located within another municipality, nor does it favor the annexation of unincorporated territory solely for the purpose of acquiring municipal revenues, or for retarding the capacity of another municipality to annex.

(L) Annexations that expand the economy, preserve environmentally sensitive lands, and provide significant public open space and/or community facilities are preferred.

### **C. PROPERTY OWNER INITIATION OF ANNEXATION.**

When initiated by a property owner, the process for annexation shall be as follows:

(A) The property owner or owners shall submit to the Town a petition for annexation. The petition shall meet the criteria and shall be in the form as established by the Town and in compliance with State law as set forth in Sections 10-2-401, 402, and 403, Utah Code Annotated, 1953, as amended.

(1) The petition shall contain signatures of property owners representing a majority of the private land area and at least 1/3 of the value of all private real property within the area proposed for annexation.

(2) If the area is within an agriculture protection area created under state law Title 17, Chapter 41, Agriculture Protection Area, then the petition must cover one hundred percent (100%) of the private land area within the area proposed for annexation.

(3) If the property is owned by a public entity other than the federal government, the petition shall be signed by the owner of all of the publicly owned property within the area proposed for annexation.

(4) Said petition shall designate up to five of the petitioners as sponsors, one of whom shall be designated as the contact sponsor. The mailing address of each sponsor shall be included in the petition.

(B) Attached to and as part of the petition shall be an accurate certified survey plat of the property to be annexed, prepared by a surveyor licensed to practice in Utah, accurately describing the existing Town boundaries and each individual ownership sought to be annexed, including an accurate legal description of the property to be annexed.

(C) There shall also be attached to the annexation petition a statement as to the anticipated timetable for development, if applicable, of the property being annexed.

(D) If the proposed property is intended for development, the petition for annexation shall include complete applications for a preliminary subdivision plat. The petition shall state the requested zoning designation(s), and shall show the proposed zoning district lines on the plans. Impact mitigation considerations in the annexation agreement will be based on the density permitted under the requested or applied zone requirements.

(E) Zoning requests are subject to review and consideration of the Planning Commission for a recommendation, with final approval by the Town Council concurrent with public hearings on the proposed annexation.

(F) The annexation petition shall not propose annexation of any land area proposed for annexation to a municipality in a previously filed petition that has not been granted, denied, or rejected.

(G) The annexation petition shall not propose annexation of any land area being considered for incorporation under Utah State law.

(H) On the date of filing the annexation petition with the Town Recorder, the petition sponsor(s) shall also deliver or mail a copy of the petition to the County Clerk of the county in which the property is located and to the chair of the Planning Commission which has review authority or jurisdiction over the said property.

(I) There shall be attached to the petition a review and analysis of surrounding property.

(J) The Town Clerk, upon receipt of a properly prepared annexation petition accompanied by the proper plat shall collect fees in the amount of \$500.00 to cover the costs of processing said petition, and at that time shall place the petition on the agenda for consideration at a regular town council meeting within fourteen days of its receipt.

#### **D. PROCEDURE FOR PETITION AND ANNEXATION PLATS.**

The procedure for processing annexation petitions and plats shall be as follows:

(A) A petition and proper plat certified by a licensed surveyor shall be submitted to the Town Recorder in accordance with Section 10-2-403(2)(C) of the Utah Code, Annotated, 1953, as amended, together with any other information required by the Town staff to enable the staff to prepare an annexation impact report.

(B) Prior to Town Council action on the petition, the petition and plat shall be reviewed by the Town Clerk, who shall determine the feasibility of expanding the annexation boundaries and who shall prepare a written recommendation for consideration by the Town Council.

(C) If the Town Council accepts the annexation petition, the petition shall be delivered to the Town Recorder for certification pursuant to Section 10-2-405 of the Utah Code, Annotated, 1953, as amended.

(D) If the annexation petition is certified by the Town Recorder, the Town Council shall provide for public notice and shall set a hearing as set forth in Section 10-2-406 of the Utah Code, Annotated, 1953, as amended.

(E) After receipt of the Town Clerk's recommendation and after giving notice pursuant to Section 10-2-406 of the Utah Code, Annotated, 1953, as amended, the Town Council shall hold

a public hearing on all proposed annexations. After closure of the public hearing, the Town Council may either grant or deny the annexation petition; provided, however, that protests to an annexation petition shall be dealt with as set forth in Section 10-2-407 of the Utah Code, Annotated, 1953, as amended. Denial of or granting the petition under protest is subject to Section 10-2-408 of the Utah Code, Annotated, 1953, as amended. If Town Council grants the annexation petition, it shall assign a zone to the annexed territory at the time the territory is annexed.

(F) Once the Town Council enacts an ordinance annexing an unincorporated area or adjusting a boundary all applicable zoning and the Land Use code sections shall apply to the annexed property.

(G) Within thirty (30) days after enacting an ordinance annexing an unincorporated area or adjusting a boundary, the Town shall:

(1) Record with the County Recorder a certified copy of the ordinance approving the annexation or boundary adjustment, together with the annexation plat or map prepared by a licensed surveyor and approved by the Town, showing the new boundaries of the affected area.

(2) File with the Lieutenant Governor of the State of Utah the amended articles of incorporation reflecting the annexation or boundary adjustment, as provided in Section 10-1-117 of the Utah Code, Annotated, 1953, as amended.

(3) Comply with the notice requirements of Section 10-1-116 of the Utah Code, Annotated, 1953, as amended.

**E.CONDITIONS OF ANNEXATION APPROVAL AND ANNEXATION AGREEMENT.** The Town has established the following conditions which must be met prior to completion of the annexation, unless the Town Council finds that the circumstances of an annexation are such that a condition or conditions do not apply. These conditions shall be applied consistently for each Property; however, unusual or unique circumstances may emerge from time to time where special conditions may be applied. The conditions of annexation approval shall be formalized as part of the written annexation agreement.

The annexation agreement shall be reviewed by the Planning Commission and approved by the Town Council contemporaneously with the certified annexation petition. If approved the annexation agreement shall be signed by the Town council and recorded with the County Recorder. The annexation agreement shall include, but is not limited to the following conditions:

(1) Upon annexation, the newly annexed area shall receive the following services:

- a)fire protection
- b)police protection
- c)planning and zoning
- d)snow removal and street maintenance on deeded dedicated streets

(2). Extension of Needed Municipal Services in Developed and Developing Unincorporated Areas and Payment of the Same.

1. In areas where municipal services are not presently extended, services will be extended on an as-needed basis at the cost of the developer. All extensions of municipal services must comply with all ordinance and policy criteria and will be paid for by the individual developer or property owner.

2. An annexation agreement will be prepared between the town and future developers outlining specific circumstances relating to water and sewer, power and streets and other specific improvements prior to annexation approval.

Water shall be required to be conveyed to Elsinore Town as a condition of development, subdivision approval or issuance of a building permit on property annexed into the Elsinore Town limits. It is the intent that land annexed to Elsinore Town be accompanied by water rights sufficient to accommodate the needs of the existing and potential occupants of said land when development occurs. **Some water rights acceptable to the town include Richfield Canal, Elsinore Canal, Sevier Valley Canal, Annabella Canal, Piute A and B or equivalent underground rights acceptable to the town. All other sources will be considered on a case by case basis. The amount of water required will equal one acre foot of water per developed building lot.**

Water requirements, as referenced by previous paragraph, will be established on a case by case basis utilizing, among other things, Division of Drinking Water standards. Specific requirements will be contained in the annexation agreement, but the general guideline of one (1) acre foot of water per residential building permit will be a minimum standard.

The annexation will allow developers of the annexed property access to culinary water, sewer and electric power service, provided all developments meet Town specifications and comply with all applicable development ordinances and all improvements are installed pursuant to Elsinore Town standards.

The manner in which these amenities are developed will have a bearing on how they will be financed. Property taxes with increased valuation of property and sales tax will contribute to the general fund to help defray the added expenses the town may incur by annexing these properties. In summary, the newly annexed developing areas shall finance the extension of needed municipal services, such as new utilities, streets, curb and gutters, sidewalks and other capital improvements as development occurs.

ADOPTED THIS 6<sup>th</sup> day of December 2011

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Mayor, Elsinore Town

Attest:

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Elsinore Town Clerk