



LEGAL DIVISION
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Memorandum

DATE: November 6, 2003
TO: Bruce Walden
FROM: Jack Waaler
RE: Annexation Agreements/Applicability of Ordinances

Section 5/11-15.1-2 of the statutes provides that, in an annexation agreement, the City may agree to the continuation in effect of any ordinance relating to subdivision controls, zoning, official plan, building and housing related restrictions, and any other matter not inconsistent with the provisions of the Illinois Municipal Code nor forbidden by law.

The existing provisions of Section 2-150(c) of the Urbana City Code already anticipate that the City Council may, in an annexation agreement, “modify or vary the application of the Zoning Ordinance to the property . . .”. But while the statute speaks of more than just zoning ordinances, the City Code is silent regarding any special treatment of ordinances other than the Zoning Ordinance with respect to the subject parcel.

The “freezing” of ordinances for the period of the agreement is not often used in Urbana, but to soften the economic impact of some annexations, the City has in some instances agreed to delay enforcement of building codes to allow a grace period to come into compliance with City building codes. Note, to delay application of an existing ordinance is a slightly different situation than merely agreeing to withhold application of amendments to ordinances to the subject property. The proposed ordinance is a slight extension of the principle underlying the statutory provision concerning amendments to allow for waivers of specific ordinances for limited times when it makes sense in the situation and does no harm.

The economic development efforts of the City sometimes result in parcels that are still in agricultural use being annexed as part of a T.I.F. development area. This creates a temporary anomaly of agricultural parcels being technically subject to urban-type ordinance restrictions.

The attached proposed ordinance is intended to clarify the legal basis for such limited waivers and provide guidance in the matter of delaying application of ordinances by providing that the Council may waive application of specific ordinances if it deems such is reasonably related to the proposed annexation situation and is in the public good.

Examples of what the proposed ordinance would clarify:

1. Notwithstanding other ordinances to the contrary, a structure or use could continue for its useful life, especially if it was legally established.
2. That application of our fence ordinance to a parcel that is still in agricultural use is not desirable.
3. That application of our ordinance prohibiting keeping of farm animals in the city limits would not make sense for a parcel that, although annexed, remains in agricultural use.
4. Applying our ordinance regarding recycling pickups and tax to a parcel that remains an agricultural use.

ORDINANCE NO. 2003-11-128

AN ORDINANCE TO AMEND SECTION 2-150 BY ADDING A SUBSECTION D

(Annexation Agreement Provisions)

WHEREAS, annexation agreements are useful tools to guide future annexations; and

WHEREAS, annexation agreements frequently involve unimproved land which may not actually be annexed for many years; and

WHEREAS, annexation agreements also frequently involve properties that are fully developed, which properties however, are automatically subject to all City of Urbana ordinances upon annexation, but immediate compliance with such ordinances is not always practicable; and

WHEREAS, providing flexibility in timeframes for the application of City of Urbana ordinances to properties that are the subject of annexation agreements, would be an efficient and expeditious way of addressing the problems.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

1. That new Section (d) is hereby added to Section 2-150 of the Urbana City Code.

"(d) In addition to variances or modifications to Zoning Ordinance requirements permitted under Section XI-14 of the Zoning Ordinance, the Corporate Authorities may provide for a delay of the application of specified ordinances to the subject parcel for such periods as are deemed reasonable by the corporate authorities considering the following:

- 1) The remaining useful life of the improvements or conditions affected;
- 2) Whether the improvement or conditions were lawfully established;
- 3) Whether a delay in the application of the specific ordinance will adversely impact surrounding uses;
- 4) Whether immediate enforcement of the specified ordinance would be of any practical use."

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said City Council.

PASSED by the City Council this _____ day of _____,
_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
_____.

Tod Satterthwaite, Mayor