

A JOINT RESOLUTION AMENDING THE ORIGINAL ORDERLY  
ANNEXATION AGREEMENT DOCKET #A-2148(OA)-2  
AND PROVIDING FOR THE ORDERLY ANNEXATION  
OF CERTAIN AREAS WITHIN SPRING LAKE TOWNSHIP  
TO THE CITY OF PRIOR LAKE

Spring Lake Township Resolution No. \_\_\_\_\_

City of Prior Lake Resolution No. 03-130  
Motion by Petersen, Second by Zieska

Recitals

- Whereas**, on November 20, 1972 Spring Lake Township, located in Scott County, Minnesota (the “Township”) and the City of Prior Lake located in Scott County, Minnesota (the “City”) entered into an Orderly Annexation Agreement (“1972 OAA”) pursuant to Minnesota Statutes Chapter 414 for the Orderly Annexation of that certain land within the Township described in the 1972 OAA, which is attached hereto and incorporated herein as Exhibit 1; and
- Whereas**, in April 1991, the 1972 OAA was amended to apply to one property; and
- Whereas**, during the pendency of the 1972 OAA certain lands have been annexed into the City of Prior Lake; and
- Whereas**, circumstances and conditions have changed during the time that has elapsed since the adoption of the 1972 OAA; and
- Whereas**, the Township and City have met to discuss the changed circumstances and conditions and pursuant to said meetings have determined that the 1972 OAA no longer serves the best interests of the residents of the Township and City; and
- Whereas**, the Township and City desire to terminate the 1972 OAA and pass a Joint Resolution, pursuant to Minnesota Statute Section 414.0325 Subdivision 1(g) adopting a new Orderly Annexation Agreement; and
- Whereas**, the Township and City desire to set out the terms and conditions that will govern the new Orderly Annexation Agreement.

**Now Therefore be it Jointly Resolved** by the Spring Lake Township Board of Supervisors and the City of Prior Lake City Council that:

1. **Recitals**. The Recitals set forth above are incorporated herein and made part of this Joint Resolution.
2. **Designated Land**. This Joint Resolution is intended to establish an Orderly Annexation Agreement between Spring Land Township and the City of Prior Lake (hereinafter “OAA”). The OAA consists of the land designated in Exhibit 2 and legally described in Exhibit 3, which Exhibits are incorporated herein and made part of this Joint Resolution (“Orderly Annexation Area”). This Joint Resolution provides for the terms and conditions applicable to the Orderly Annexation of said land and the OAA.

3. **Director of the Office of Strategic and Long Range Planning.** This Joint Resolution is adopted by the Township and City pursuant to the provisions set out on Minnesota Statutes Section 414.0325 (g) which limits the role of the Director of the Office of Strategic and Long Range Planning or its successor agency to review and comment on an orderly annexation. No consideration by the Director of the Office of Strategic and Long Range Planning or its successor agency is necessary in order for any boundary adjustment to occur within the Orderly Annexation Area pursuant to this Joint Resolution.

The Director of the Office of Strategic and Long Range Planning or its successor agency may review and comment, but shall, within 30 days, order an annexation in the accordance with the terms of this Joint Resolution.

4. **Reasons Land Designated is in Need of Orderly Annexation.** The land designated in Exhibit 2 is in need of Orderly Annexation because:

- a. The owners of property within the 1972 OAA have been subject to uncertainty since 1972 over when their property would be annexed into the City.
- b. The OAA describes with particularity and certainty the terms, conditions and timeframe property will be annexed into the City.
- c. The designated area is now or about to become urban or suburban in character and the City is capable of providing the services required by the area within a reasonable time.
- d. The annexation will be in the best interest of the designated area.
- e. The designation is consistent with the findings of the legislature as set forth in Minnesota Statute Section 414.01 Subdivision 1a (1) – (4).

5. **Phasing of Annexation of Land within Designated Area.** The land within the designated area is divided into sub-areas. The sub-areas are depicted on Exhibit 2. The land identified in each sub-area (*legal descriptions of which are provided as Exhibit 3*) shall be annexed to the City according to the timetable identified below:

- a. Area within 3.1 shall be annexed upon the effective date of this Agreement.
- b. Area within 4.1- 4.4 shall be annexed to the City in 2004.
- c. Area within 6.1 and 6.2 shall be annexed in 2006.
- d. Area within 7.1 shall be annexed in 2007.
- e. Area within 8.1, 8.2 and 8.3 shall be annexed in 2008.
- f. Area within 10.1, 10.2 and 10.3 shall be annexed in 2010.
- g. Area within 12.1 shall be annexed in 2012.
- h. Area in 14.1 and 14.2 shall be annexed in 2014.
- i. Area in 24.1 shall be annexed in 2024.
- j. Area 24.2 shall be annexed in 2006, unless the Township enters into a Sewer and Water Construction and Maintenance Agreement (“SWCMA”) with the City by November 15, 2005. The terms and conditions of the SWCMA shall be similar to the Sewer and Water Construction and Maintenance Agreement for South Shore Drive as amended, attached hereto and incorporated herein as Exhibit 4.
- k. Area 24.3 shall be annexed in 2024. This is Spring Lake (DNR ID:70-54P) below the 912.8 ordinary high water mark.

- 5.1 **Exceptions.** The year of annexation for all Areas set forth above shall be extended if sewer and water service is not within 150 feet of any boundary to the legally described Area. The extension

shall be effective until the latter of the following two situations occurs: (1) sewer and water service is within 150 feet of the Area, or (2) eight years has elapsed. If 8 years elapses and sewer and water is not within 150 feet of the area, the area will, without further action by the Township or City, be eliminated from this OAA.

- 5.2 **Resolution of City to Annex Designated Areas.** To annex land within Areas 4.1 –4.4, 6.1 – 6.2, 7.1, 8.1 – 8.3, 10.1 – 10.3, 12.1, 14.1 and 14.2, and 24.1 – 24.3 as depicted in Exhibit 2, the City shall pass a resolution. Area 3.1 shall be annexed upon the effective date of this OAA. The resolution adopted by the City Council pertaining to the annexation shall state that:
- a. No action by Spring Lake Township or consideration by the Director of the Office of Strategic and Long-Range Planning or its successor agency is required to effectuate the annexation; and
  - b. The Director of the Office of Strategic and Long Range Planning or its successor agency may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.

6. **Township / City Property Taxes Applicable.**

- 6.1 **Property Taxes.** Property taxes payable on the annexed land shall continue to be paid to the Township for the year in which the annexation becomes effective.
- 6.2 **Property Tax Phasing.** If the annexation becomes effective on or before August 1<sup>st</sup> of a levy year, the City will levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1<sup>st</sup> of a levy year, the Township will continue to levy on the annexed area for that levy year, and the City shall not levy on the annexed area until the following levy year.
- 6.3 **Application of Property Tax Phasing.** In the first year following the year when the City can first levy on the annexed area, and thereafter, property taxes on the annexed land shall be paid to the City in accordance with the formula set out below:
- a. In the first year, the property owner shall receive a 50% property tax rate reduction in the City taxes.
  - b. In the second year, the property owner shall receive a 33% property tax rate reduction in City taxes.
  - c. In the third year, the property owner shall receive a 17% property tax rate reduction in City taxes.
  - d. In the fourth year and thereafter, the property owner shall pay full City taxes.
- 6.4 Any property within the Orderly Annexation Area which is subdivided after the effective date of this OAA, but before the date of annexation as set forth in Paragraph 5, shall not benefit from the City tax phasing provisions in Paragraph 6.3 above, nor shall the City be responsible for any payment to the Township pursuant to Paragraph 6.6.
- 6.5 Areas scheduled for annexation between 2004 and 2007 will be subject to phasing regardless of the year of annexation. All Areas scheduled for annexation in 2008 or after shall not be subject to the phasing schedule.
- 6.6 **Payment by the City to the Township for Property Annexed in Years 2008, 2010, 2012, and 2014.** The City shall make a cash payment to the Township for land designated for annexation

in 2008, 2009, 2010, 2011, 2012 and 2014. The amount of the payment shall be two times the amount in taxes that Spring Lake Township levied against the property in the designated annexed area in the preceding year, exclusive of debt service and special levies. The payment is being made in consideration of tax revenues lost by the Township as a consequence of the annexation. The amount payable to the Township applies only to the area annexed within a given year.

The City shall remit payment in two equal payments, the first payment is due by December 15<sup>th</sup> in the year the area is annexed and the second payment is due by December 15<sup>th</sup> in the year following annexation.

If an area designated for annexation in 2008, 2009, 2010, 2011, 2012 or 2014 is not annexed in the year designated because sewer and water is not within 150 feet of the annexed area, the payment pursuant to paragraph 6.6 herein shall not occur until the year the annexation occurs. The amount of the payment shall be based on the taxes the Township levied, exclusive of debt service and special levies, in the year the annexation occurs, rather than the year designated for the annexation to occur.

6.7 Certain Early Annexations. The City shall reimburse the Township for lost property tax revenue pursuant to the provisions set forth herein for any property within an area designated for annexation pursuant to Exhibit 2, where the property owner petitions for and annexation occurs prior to the year designated in Exhibit 2.

(a) Subdivisions. Property annexed into the City prior to the year designated in Exhibit 2 shall, upon subdivision, pay a fee to the City in the amount of two times (2x) the amount of taxes the property owner would have been responsible for paying to the Township.

(b) Developer Responsible for Payment to Township. Pursuant to the City's Subdivision Ordinance, all plats are subject to certain standardized charges. Those charges are set out in a Development Agreement between the City and developer or property owner or both. Development Agreements for subdivisions that occur pursuant to Paragraph 6.7 shall include the fee provided for in Paragraph 6.7(a).

(c) Pass-Through Fee to Township. The fee required by Paragraph 6.7(a) and collected pursuant to 6.7(b), shall be paid to the Township within thirty (30) days of receipt by the City.

7. **Special Assessments for Sewer and Water.** The City will extend sewer and water to annexed areas. The amount of the special assessment shall not exceed the special benefit a property receives from having municipal sewer and water. The costs to construct the facilities will be specially assessed against benefiting properties. Special benefit is the fair market value of property before and after the improvement. The property owners will also be responsible for paying any development related fees and/or area charges which may be due.

7.1 Deferred Special Assessments: Pursuant to the "City of Prior Lake Assessment Policy", all parcels within a sewer and water utility improvement area shall be levied an area assessment charge as determined by the Prior Lake City Council. For unplatted property that can be developed at a greater density than its present use, a maximum of 2.5 acres shall be assessed at the time of the improvement. The remaining acreage assessment may be deferred for five years. Large tracts of

land shall be assessed a maximum front footage of 150 feet at the time the improvement is constructed. Any remaining frontage in excess of 150 feet may be deferred for a period of five (5) years to allow for planned and orderly development of the property.

During any deferral period, simple interest will accrue subject to the interest rate established at the improvement project special assessment hearing. If the parcel is subdivided during this time period, the deferred assessments including accrued interest, will automatically be called down and currently certified on the property tax rolls upon final plat approval by the Prior Lake City Council. In addition to the payment for deferred assessments, the property shall be subject to all applicable development fees that would be incorporated into the context of a developers agreement. The City assessment policy is subject to change as determined by the Prior Lake City Council.

7.2 Credit to Special Assessment for Certain Septic Systems. Properties with septic systems will be eligible for a septic system credit. For the purposes of this OAA, the average cost of a septic system (regardless of whether the system is a mound system or other type of system) is deemed to be Fifteen Thousand (\$15,000) and the average life of a septic system is deemed to be twenty (20) years.

In order to be eligible to receive a septic system credit, the property owner must provide the City with a document from an independent inspector acceptable to City and qualified to inspect septic systems, "certifying" that the property owner's septic system falls within one of the following three categories:

- a. compliant with Scott County ordinances and any applicable state regulations in effect at the time of the inspection;
- b. non-compliant but functioning; or
- c. failing or failed.

The certification for a septic system credit must be submitted to the City Council before or at the time of the special assessment hearing date required pursuant to Minnesota Statutes Chapter 429.

7.2.1 **Septic System Credits.** A septic system credit is the amount a special assessment will be reduced. The age of the septic system at the time of the special assessment hearing shall be utilized for purposes of calculating the credit. All septic systems older than twenty (20) years shall not be eligible for a credit. For new septic systems, the beginning of the 20-year period will be calculated from the date the Certificate of Occupancy was granted for the dwelling. For replacement septic systems, the beginning of the 20-year period will be calculated from the date of the final inspection of the system by the permitting authority. The credit for a **compliant** septic system will be calculated based on 100% of Fifteen Thousand (\$15,000) amortized over twenty (20) years. The credit for a **non-compliant** but functioning septic system will be calculated based on 50% of Fifteen Thousand (\$15,000) amortized over a period of twenty (20) years. A **failing** or **failed** septic system is not eligible for a septic system credit against a special assessment for sanitary sewer. A property owner may not re-build a septic system in order to be eligible to qualify for a septic system credit.

7.2.1.1 Septic system assessment credits for a **compliant system** shall be calculated according to the following table:

Septic System Age	Assessment Credit	Septic System Age	Assessment Credit
Less than 1 year	\$15,000	Less than 11 years	\$7,500
Less than 2 years	\$14,250	Less than 12 years	\$6,750
Less than 3 years	\$13,500	Less than 13 years	\$6,000
Less than 4 years	\$12,750	Less than 14 years	\$5,250
Less than 5 years	\$12,000	Less than 15 years	\$4,500
Less than 6 years	\$11,250	Less than 16 years	\$3,750
Less than 7 years	\$10,500	Less than 17 years	\$3,000
Less than 8 years	\$9,750	Less than 18 years	\$2,250
Less than 9 years	\$9,000	Less than 19 years	\$1,500
Less than 10 years	\$8,250	Less than 20 years	\$750

7.2.1.2 Septic system assessment credits for a **non-compliant system** shall be calculated according to the following table:

Septic System Age	Assessment Credit	Septic System Age	Assessment Credit
Less than 1 year	\$7,500	Less than 11 years	\$3,750
Less than 2 years	\$7,125	Less than 12 years	\$3,375
Less than 3 years	\$6,750	Less than 13 years	\$3,000
Less than 4 years	\$6,375	Less than 14 years	\$2,625
Less than 5 years	\$6,000	Less than 15 years	\$2,250
Less than 6 years	\$5,625	Less than 16 years	\$1,875
Less than 7 years	\$5,250	Less than 17 years	\$1,500
Less than 8 years	\$4,875	Less than 18 years	\$1,125
Less than 9 years	\$4,500	Less than 19 years	\$750
Less than 10 years	\$4,125	Less than 20 years	\$375

7.3 Deferral of Hook-Up to Certified Septic Systems. Special assessments for the construction of a municipal sewer and water system are due and payable pursuant to the terms and conditions adopted by the City Council and certified to the County Auditor. Notwithstanding the foregoing, all property owners must either connect to the municipal sewer system or provide certification by an independent inspector pursuant to the provisions set forth in 7.2 above. Compliant septic systems shall be re-certified every 36 months from the original date of certification in order to continue to defer hook-up. A property owner who fails to provide any timely certification to the City shall be responsible for immediate hook-up within six months and for payment of all connection fees in effect at the time of hook-up to the municipal sewer system.

7.4 Deferral of Payment of Special Assessment. A qualifying property owner may apply for a deferral of special assessments. The City Council has adopted a special assessment deferral policy applicable to hardship situations. The policy, which is subject to change at the discretion of the City Council, provides eligibility criteria for the hardship deferral of special assessments. The decision whether to grant a special assessment is solely within the discretion of the City Council.

7.5 Properties with Existing Wells. Annexed properties must connect to municipal sewer and water within one (1) year of its availability subject to paragraphs 7.2 and 7.3 above. Annexed properties with existing wells which are in compliance with all applicable state regulations may continue to use the well for outside, non-domestic use, including but not limited to lawn sprinkling, filling swimming pools, washing cars and other non-domestic uses. Cross-connection with the municipal water system is prohibited.

8. **Planning and Land Use Control Within the New Orderly Annexation Area.** Pursuant to Minnesota Statutes Section 414.0325, subd. (a) and (b), this Joint Resolution establishes, a three-person board to exercise planning and land use control authority for the land depicted in Exhibit 2 and legally described in Exhibit 3. The three-person board shall make determinations as to land uses for those properties included in the new Orderly Annexation Area prior to the actual year of annexation. The three-person board shall operate in a manner prescribed by MN Stat. Section 471.59, subd. (2)-(8), inclusive, and administer the Comprehensive Plan and Zoning regulations of the County, given the understanding that the County ordinance will be amended as to all Areas except areas 24.1 to 24.2 (the 2024 annexation Area) to provide for one (1) housing units per forty (40) acres, with no bonus density provided for clustering. The composition of the three-person board shall consist of one (1) elected representative from the County, one (1) elected representative from the City, and one (1) elected representative from the Township.
- 8.1 **Applicable Zoning Ordinances.** Prior to the annexation of an area, the provisions of the Scott County laws, regulations and ordinances shall apply within an OAA area. Subsequent to the annexation of an OAA area, the Prior Lake laws, regulations and ordinances shall apply.
- 8.2 **Exception: South Shore Drive and Vergus Avenue.** The development and use of land subject to the South Shore Drive and Vergus Avenue "Construction and Maintenance Agreement for Sanitary Sewer and Water" are subject to the development provisions set out in the respective agreements.
9. **Miscellaneous Provisions.** This Joint Resolution is intended to establish a new Orderly Annexation Agreement between the Township and City and further intended to supercede any previous Orderly Annexation Agreements between the parties hereto.
10. **Municipal Board to Relinquish Jurisdiction.** Passage of this Joint Resolution shall be deemed a request by the Township and City to the Municipal Board to relinquish jurisdiction over that portion of land within the 1972 OAA. The land subject to the new Orderly Annexation Agreement is depicted in Exhibit 2 and described in Exhibit 3.
11. **Urban Expansion Area.** The City supports the re-zoning of the Urban Expansion Area that lies east of Vergus Avenue and is outside of this OAA, to Rural Residential and encourages the County to revise its Comprehensive Plan and Zoning Ordinance promptly in 2005 to reflect this change. For properties located outside this OAA which become adjacent to the City's boundary by virtue of annexation, the Township Board will support any annexation petition by the property owner.
- 11.1 **Vergus Avenue.** The City agrees it will not initiate an annexation of property that lies south of TH13 and east of Vergus Avenue.
12. **Spring Lake Township Parks.** As part of this OAA, the City agrees to develop the parks located on Raymond Avenue and South Shore Drive at its cost. Each park shall contain a play structure and a picnic shelter. The City shall include these park improvements in its Capital Improvement Program. The park improvements, weather permitting, will be completed by December 31, 2009. Upon notice from the City that the City Council has approved plans and specifications and authorized advertisement for bids, the Township will transfer to the City title to the property at no cost to the City for the property acquisition. In order to comply with the public purpose document, before the City lets a contract for the construction of the park, the City must hold title to the property. The City will assume all costs associated with transferring title.
13. **Termination.** This OAA terminates on December 31, 2025.

- 14. **Severability.** The provisions of this Orderly Annexation Agreement are severable. If any provision herein is, for any reason, held by a court of competent jurisdiction to be invalid, contrary to law, or unenforceable, such decision shall not affect the remaining provisions of this Orderly Annexation Agreement.
- 15. **Amendments.** Any amendment to this Joint Resolution shall be adopted pursuant to the process and laws governing and applied to the adoption of this Joint Resolution. This Joint Resolution may not be unilaterally amended by action of the governing body of either the Township or the City. Amendment of this Joint Resolution will require an approval of each governing body.
- 16. **Headings.** Headings are included solely for the purpose of reference. The language in a heading shall not be interpreted as a substantive provision of this OAA.

Adopted by the City Council of the City of Prior Lake, Scott County, Minnesota this 21<sup>st</sup> day of July, 2003.

	YES		NO
Haugen	X	Haugen	
Blomberg	X	Blomberg	
LeMair	X	LeMair	
Petersen	X	Petersen	
Zieska	X	Zieska	

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Frank Boyles, City Manager

Adopted by the Board of Supervisors of Spring Lake Township, Scott County, Minnesota this 14th day of August, 2003.

**MOTION BY:** Steve Pierson

**SECOND BY:** Gene Berens

	YES	NO
Berens		
Henschel		
Pierson		

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Chair, Spring Lake Township Board

This instrument was drafted by:  
 City of Prior Lake  
 16200 Eagle Creek Avenue SE  
 Prior Lake, MN 55372



## **EXHIBITS**

**Exhibit 1** - Orderly Annexation Agreement dated November 20, 1972 by and between Spring Lake Township and the City of Prior Lake.

**Exhibit 2** - Map of land areas to be annexed to the City of Prior Lake and the dates of annexation pursuant to this agreement.

**Exhibit 3** - Legal description of each of the lands to be annexed by the City of Prior Lake pursuant to this agreement.

**Exhibit 4** - Construction and Maintenance Agreement dated March 15, 1999 by and between the City of Prior Lake and Spring Lake Township for sewer and water improvements.