

ORDINANCE NO. 2011 -27

AN ORDINANCE ANNEXING PROPERTY COMMONLY LOCATED AT 432 EASY STREET TO THE CITY OF WALLA WALLA, CANCELING AND GRANTING FRANCHISES IN THE ANNEXED TERRITORY, AND TAKING SUCH OTHER ACTION RELATED THERETO

WHEREAS, the City of Walla Walla passed City Ordinance A -2405 on May 13, 1970 which classified the City of Walla Walla as a nonchartered code city under Title 35A of the Revised Code Washington (RCW); and

WHEREAS, the Walla Walla County Board of Commissioners passed County Resolution number 90 -449 on October 30, 1990 opting into planning activities under the Washington Growth Management Act, RCW Ch. 36.70A; and

WHEREAS, RCW 35A.14.295 (1)(b) provides that code cities may annex property having at least eighty percent of its boundaries contiguous to the city; and

WHEREAS, the City of Walla Walla duly annexed certain property to the City effective December 23, 2003 by City Ordinance 2003 -25 (11/5/2003) in accordance with RCW 35A.14.295, .297, and .299 and all other applicable procedures; and

WHEREAS, City Ordinance 2003 -25 inadvertently omitted property commonly located at 432 Easy St. from the legal description of the property annexed although such property was intended to be annexed; and

WHEREAS, the property is included within the Urban Growth Area for the City of Walla Walla; and

WHEREAS, the property described above is subject to, and annexation is consistent with, the City of Walla Walla's Urban Area Comprehensive Plan; and

WHEREAS, the Walla Walla City Council has considered this matter during a regularly and duly called public meeting of said Council, has given said matter careful review and consideration, and finds that good government and the best interests of the City of Walla Walla will be served by annexation of the area described in section 1 hereto and taking such other action related thereto;

NOW THEREFORE, the City Council of the City of Walla Walla do ordain as follows:

Section 1: Property commonly located at 432 Easy St. and legally described as follows, is hereby annexed to the City of Walla Walla effective February 5, 2012:

All that part of lot one (1) in block two (2) of Jacob Krein's Addition to the City of Walla Walla, Washington, according to the official plat thereof recorded in volume "E" of plats

at page 25, records of the office of the Auditor of Walla Walla County, Washington, lying north of a line drawn parallel to and 15.3 north, measured at right angles, from the south line of said lot one (1).

Also all that part of the vacated portion of Easy Street abutting upon the easterly line of the above described tract.

Section 2: The Walla Walla Zoning Code, Walla Walla Municipal Code Title 20, as amended, and the zoning designation of single family residential (R -60) are hereby adopted as zoning regulations for the property described in section 1 herein upon the effective date of annexation.

Section 3: Subject to any applicable exemptions, all property within the area described in section 1 herein shall be assessed and taxed at the same rate and on the same basis as other property in the City of Walla Walla is assessed and taxed subject to any applicable exemptions. Subject to any applicable exemptions, all property within the area described in section 1 herein shall be assessed and taxed at such rate and basis to pay for any outstanding indebtedness of the City of Walla Walla contracted prior to, or existing at, the date of annexation.

Section 4: The annexation of the territory described in section 1 herein shall cancel, as of December 23, 2003, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such territory, authorizing or otherwise permitting the operation of any public utility, including but not limited to, public electric, water, transportation, garbage disposal, solid waste collection, or other similar public service business or facility within the limits of the annexed territory.

A. The holder of any such franchise or permit canceled pursuant to this section is forthwith granted by the City of Walla Walla a franchise to continue such business within the annexed territory for a term which shall expire upon the earliest of either (a) the purchase by the City of Walla Walla of said franchise, business, or facilities at an agreed or negotiated price, (b) the expiration of the remaining term of the original franchise or permit, or (c) the expiration of seven years following December 23, 2003. This franchise shall be exclusive except nothing herein shall prevent the City of Walla Walla from extending similar or competing services to the annexed territory by franchise, permit or public operation upon a proper showing of the inability or refusal of the franchisee to adequately service said annexed territory at a reasonable price.

B. The City of Walla Walla hereby decides to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020 as of the effective date of annexation. The Walla Walla City Clerk is hereby directed to notify the State of Washington Utilities and Transportation Commission, in writing, of the City of Walla Walla's decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020 as of the effective date of annexation and to attach a copy of this ordinance to such notification.

C. Terms and conditions of solid waste collection franchises. The following terms and conditions apply to solid waste collection franchises:

(1) Franchisees must notify the City of Walla Walla in writing of any change in physical business address, business mailing address, or business telephone number. The notice must be filed at least ten days before the effective date of the change.

(2) Franchisees must keep and maintain records as provided in Washington Administrative Code Section (WAC) 480 -70 -061. Franchisees must adhere to accounting requirements of WAC 480 -70 -066. Franchisees must file with the City of Walla Walla, by no later than May 1 of each year, a complete, accurate, annual report showing an end -of -the -year summary of financial and operational activity of franchisee in the annexed territory. Each franchisee shall make its records available for inspection by the City of Walla Walla.

(3) Franchisees shall maintain insurance in a form and amount as provided in WAC 480 -70 -181 which covers each motor vehicle it operates in the annexed territory.

(4) Franchisees shall comply with WAC 480-70-191, 480-70-196, WAC 480-70-201, WAC 480-70-206, and WAC 480-211 with respect to their equipment and drivers.

(5) Franchisees shall comply with biomedical waste and hazardous waste rules and regulations promulgated by the State of Washington Utilities and Transportation Commission.

(6) Customers in the annexed territory shall be subject to the same rates, charges, customer notice requirements, and consumer rules which apply to the franchisee's customers in unincorporated areas of Walla Walla County.

(7) Franchisees shall pay a franchise fee to the City of Walla Walla at a rate of one percent of the franchisee's annual gross operating revenue for the annexed territory. Franchise fees must be paid to the City of Walla Walla by April 1 of each year. The franchise fees shall be used to cover the costs of regulating franchisee.

(8) Franchisees shall comply with all federal, state, and local rules and regulations. The terms and conditions of this franchise do not relieve any franchisee from any of its duties or obligations under the laws of the United States, the State of Washington, Walla Walla County, or the City of Walla Walla. The City of Walla Walla reserves and retains the authority to impose additional or different requirements on any solid waste collection company in appropriate circumstances, consistent with the requirements of law.

(9) WAC 480 -70 -041 is hereby incorporated for the definition of terms used in the Washington Administrative Code, and the City of Walla Walla adopts by reference the regulations and standards identified in WAC 480 -70 -999.

(10) Any amendment of the rules and regulations referenced in this franchise grant shall be deemed to amend the terms hereof in conformity therewith.

(11) Noncompliance with any of the terms or conditions of this franchise shall be deemed to be an inability or refusal of the franchisee to adequately service the annexed territory at a reasonable price.

Section 5: The Walla Walla City Clerk is directed to file a certified copy of this ordinance with the Board of Commissioners for Walla Walla County as provided in RCW 35A.14.140.

Section 6: The Walla Walla City Clerk is directed to submit certificates of annexation as provided in RCW 35A.14.700.

Section 7: The Walla Walla City Clerk is directed to file, record, and give notice of this ordinance in such manner as required by law.

Section 8: The Walla Walla City Clerk is directed to publish a summary of this ordinance as permitted by RCW 35A.13.200 and 35A.12.160 in the form attached hereto.

Section 9: The Walla Walla City Manager and the administrative service of the City of Walla Walla is authorized and directed to adjust the utility account and bills for 432 Easy St. in an equitable manner as if the property had been annexed to the City effective December 23, 2003 instead of inadvertently omitted from the legal description of the property annexed by City Ordinance 2003 -25 (11/5/2003).

Section 10: The City Clerk is authorized to make necessary clerical corrections to this ordinance including, but not limited to, the correction of scrivener's /clerical errors, references, ordinance numbering, section /subsection numbers and any references thereto.

Section 11: If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance and the application of the provision to other persons or circumstances is not affected.

PASSED by the City Council of the City of Walla Walla, Washington, this 21st day of December, 2011.

/s/ Barbara Clark
Mayor

Attest:
/s/ Kammy D. Hill
City Clerk

Approved as to form:
/s/ Tim Donaldson
City Attorney