

ARTICLE X. Annexation

1. Purpose

All petitions for annexation to the Town of Empire will follow the following process and standards to ensure that petitions are processed in an orderly manner, that municipal services are adequate and available to the property, that the costs of an annexation are paid by the owners of the petitioning property, and that all requirements of C.R.S. § 31-12-101 et seq. are fulfilled.

2. Responsibilities

The applicant is required to prepare all necessary documents in a professional manner and submit all documents as required. The Planning Commission will provide recommendations to the Board of Trustees; who will make the final decision on all petitions for annexation. In addition the Town Clerk will publish the petition and the public notice of hearing for four (4) consecutive weeks in a newspaper of general circulation in the Town of Empire. The first publication shall be at least thirty (30) days prior to the public hearing before the Planning Commission. The Town Clerk will also send a copy of the notice to the Clear Creek County Land Use department, and to any special district or school district having territory within the area to be annexed at least twenty-five (25) days prior to the date fixed for such hearing.

3. Eligibility for Annexation

Properties proposed for an annexation must meet the following requirements:

- 3.1 Owners of more than fifty percent of the area to be annexed including streets and alleys shall sign the petition for annexation.
- 3.2 Not less than one-sixth the outside perimeter of the area to be annexed shall be contiguous to existing Town of Empire limits.
- 3.3 No property owned in a separate tract shall be divided by the boundary of the proposed annexation without consent of such property owner.

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4. Who May Petition for Annexation

Only owners of the land or their legal representatives may petition the Town of Empire for annexation. Only the landowners may sign the petition.

5. Required Annexation Impact Reports

5.1 An annexation impact report is required for parcels larger than ten acres, unless the County officials and the Town of Empire agree that the report may be waived. If a report is required, it must be completed at least twenty-five (25) days before the hearing date and filed with the County twenty (20) days before the hearing date. It is the responsibility of the petitioning party to prepare this report. The report must include:

5.1.1 The existing and proposed land use pattern in the areas to be annexed;

5.1.2 The identity of existing districts within the area to be annexed;

5.1.3 A statement of impact to the Town of Empire's municipal services within the area to be annexed. Is this in compliance with the Comprehensive Plan and Three Mile Plan?

5.1.4 A map of the Town of Empire and adjacent area showing:

5.1.4(a) Present and proposed boundaries of the Town of Empire in the vicinity of the proposed annexation; and

5.1.4(b) The present streets, major trunk water lines, storm and sanitation sewer interceptors and outfalls, telephone, cable and other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.

5.2 The Town of Empire may also require that a fiscal impact report be prepared by the petitioning party. This report should provide the information needed by the Town of Empire to evaluate the fiscal costs and benefits of the proposed annexation over a multi-

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year period, and should include: water, wastewater, police services, snow removal, street maintenance, etc.

- 5.3 A Site Development Plan must be prepared, for parcels of ten acres or more, describing the proposed use of the property after annexation. The Site Development Plan is required to determine the development intentions of the petitioners, to use as a basis for the negotiation of an annexation agreement, and to properly zone the property after annexation.
- 5.4 Town staff must also review the proposed annexation and provide their evaluation and recommendations to the Planning Commission and the Board of Trustees prior to the scheduled public hearing.
- 5.5 Town staff shall refer the annexation impact report, the fiscal impact report and the Site Development Plan to relevant review agencies at least twenty (20) days prior to the hearing date.

6. Required Dedications

- 6.1 The petitioners must dedicate or agree to dedicate sufficient land and rights-of-way to the Town of Empire for public streets and alleys as set forth in the standards and specifications of the Town of Empire, and the Town's Comprehensive Plan.
- 6.2 The petitioners must dedicate or agree to dedicate sufficient and unobstructed rights-of-way for utility easements and storm drainage to serve the proposed development. Petitioners also agree to pay utility development fee and tap fees as developed by the Town of Empire.
- 6.3 Petitioners of parcels larger than ten acres must dedicate or agree to dedicate to the Town of Empire, and/or pay cash in lieu of at the time of platting, land to be used for public purposes of at least six (6) percent of all residential and two (2) percent of all nonresidential property proposed for annexation.
- 6.4 The petitioners will be required to construct all roads, utilities, and other improvements at their sole expense and according to the requirements, standards and specifications of the

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Town of Empire. Connection of such improvements to existing Town systems and/or the dedication of such improvements to the Town shall be at the Town's convenience.

7. Pre-Annexation Agreement

Petitioners will enter into a pre-annexation agreement to establish the amount of deposit fees required to process the annexation petition, annexation agreement and Site Development Plan review.

8. Annexation Agreement

Petitioners must engage in negotiations to develop a formal annexation agreement that addresses timing and requirements of dedications outlined in Section 6 above and tied to the Site Development Plan requirements of Article X, Section 5. Although annexation petitions may be accepted by the Town of Empire prior to conclusion of negotiations of an annexation agreement, no zoning of the property will occur until the annexation agreement is complete. Petitioners shall pay the Town's actual costs involved in negotiating, drafting, reviewing, preparing, and developing the annexation agreement, including but not limited to the Town's staff, legal, and consultant costs.

9. Proposed Zoning

The proposed zoning for the area to be annexed shall be included in the annexation agreement, and final annexation of the property contingent on the subsequent adoption of zoning. Processing of annexation petitions, findings of eligibility, annexation agreements and zoning may proceed concurrently through the review process, but approvals must be sequenced in order and according to this ordinance and state law.

10. Standards for Annexation

10.1 In considering a petition for annexation, the Board of Trustees shall make findings of facts and conclusions on the following standards for annexation.

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- 10.1.1 The property to be annexed is a reasonable and logical extension of the Town of Empire, and compatible with the goals and intents of the Town's Comprehensive Plan.
- 10.1.2 Areas proposed for annexation shall not divide tracts in order to prevent further annexation of adjoining parcels.
- 10.1.3 Areas proposed for annexation, which cause excessive police, fire, utility, and street cost may not be accepted.
- 10.1.4 Zoning of the area proposed for annexation shall be reasonable in terms of existing Town zoning classifications and consistent with the Town Comprehensive Plan.
- 10.1.5 The area proposed for annexation shall be located where street extensions and water and sewer utility services are possible without any expense to the Town. Where exceptional costs may be required in serving the area proposed for annexation, financial arrangements to extend streets, water or sewer mains shall be agreed upon prior to annexation.
- 10.1.6 Problems of storm drainage shall be considered prior to annexation to ensure that flooding problems within and adjoining the area proposed for annexation will not be increased by development of the tract.
- 10.1.7 Adequate water rights are provided to serve the proposed development on the property proposed for annexation and/or fees sufficient to provide a adequate water in-lieu of water rights transfer are agreed to be paid.
- 10.1.8 Petitioner has deposited with the Town of Empire monies in an amount determined by the Board of Trustees upon a preliminary review of the petition for annexation according to the pre-annexation agreement. The amount of monies to be deposited shall be solely at the discretion of the Board of Trustees and shall be intended to cover all costs to the Town of Empire resulting from the petition for annexation. No petition for annexation shall be deemed complete until such time as petitioner has deposited an amount of money as determined by

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the Board of Trustees and petitioner has agreed to pay such additional sums to the Town of Empire as may be required to cover unexpected costs.

10.1.9 Any additional conditions or requirements which the Board of Trustees deems necessary for the proper evaluation of the petition.

11. Planning Commission Action

11.1 The Planning Commission shall review:

11.1.1 Accuracy of annexation petitions and maps;

11.1.2 Land use allocations, circulation plans, and proposed utility systems proposed in the General Development Plan;

11.1.3 Proposed dedications;

11.1.4 Proposed zoning;

11.1.5 Completeness and accuracy of submittal documents; and

11.1.6 Referral comments concerning the annexation and annexation impact report.

11.2 The Planning Commission will make recommendations to the Board of Trustees concerning issues to be covered in the Annexation Agreement but are not required to be part of formal annexation agreement negotiations.

11.3 The Planning Commission will make a full record of its findings and recommendation concerning the annexation and forward them to the Board of Trustees at least fifteen (15) days prior to the Board of Trustees's review of the annexation.

12. Town Board Action

The Board of Trustees, after receiving all necessary recommendations, shall follow the procedure required by the state statutes to include the following:

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- 12.1 Following receipt of the Planning Commission recommendations, the Town Board, if appropriate, will adopt a resolution finding the petition to be in substantial compliance with the statutes, and initiating annexation proceedings. The Board of Trustees will set the date, time and place for a public hearing to determine if the annexation meets the requirements of C.R.S. § 31-12-104 and § 31-12-105. This hearing will be held not less than thirty (30) days nor more than sixty (60) days after the effective date of the resolution setting the hearing.
- 12.2 On the appointed date and time, the Board of Trustees will hold the public hearing. The petitioners will present evidence in support of the petition. Town staff will testify as to:
- 12.2.1 The validity of the surveys and legal descriptions of annexation maps;
 - 12.2.2 The 1/6 boundary contiguity requirement;
 - 12.2.3 No land held in identical ownership divided except with the consent of the land owners;
 - 12.2.4 No tract, twenty acres or more without consent of land owners;
 - 12.2.5 The entire width of perimeter streets or alleys will be annexed;
 - 12.2.6 No proceedings are pending to annex the land to another municipality;
 - 12.2.7 This annexation will not result in extending the Town of Empire's boundaries more than three miles in any direction in any one year; and
 - 12.2.8 Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Board of Trustees. All proceedings must be recorded.
- 12.3 At the conclusion of the hearing, the Board of Trustees will adopt a resolution or ordinance, as appropriate, containing the findings of facts and conclusions, including:

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- 12.3.1 Whether the requirements of C.R.S. § 31-12-104 and § 31-12-105, and of this ordinance have been met, and.
- 12.3.2 Whether additional terms and conditions are to be imposed; and
- 12.3.3 Whether or not an election by the property owners of the proposed subdivision is required
- 12.4 If the petition is signed by the owners of one hundred percent of the area proposed for annexation, the Board of Trustees may annex the territory by ordinance after notice and a public hearing, without an election by the property owners of the proposed subdivision, unless additional terms and conditions are to be imposed.
- 12.5 If additional terms and conditions are to be imposed which are not agreed to voluntarily and in writing by the landowners, or if less than one hundred percent of the property owners have signed the petition, the Board of Trustees will call an election, as outlined in C.R.S. § 31-12-112.
- 12.6 If the Board of Trustees finds that the area proposed for annexation does not comply with the items above, the annexation proceeding will be terminated.
- 12.7 After passage of the annexation agreement, the area is annexed as of the effective date of the annexation agreement. The effective date for taxation will be the ensuing January 1.
- 12.8 After final passage of the annexation agreement, the Town of Empire will file one copy of the annexation map with the original of the annexation agreement in the office of the Town Clerk and file for recording two certified copies of the land development code and map of the area annexed containing a legal description of such area with the county clerk and recorder. The Town Clerk will ask the County Clerk to forward one copy of the map and annexation agreement to the Division of Local Government in the Colorado Department of Local Affairs.
- 12.9 After final passage of the annexation agreement, the Town of Empire may zone the property either at the same meeting or within ninety (90) days of recording of the annexation.

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