



ANNEXATION User's Guide

NOTE: FOR DETAILED PROCEDURES,
REFER TO CHAPTER 7 OF THE
UNIFIED DEVELOPMENT CODE

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Click on Departments>Planning & Development>Planning Division>User's Guides>Annexation

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Purpose

The Annexation process provides the procedure by which land shall be brought into the jurisdiction of the Town of Erie.

All Annexation applicants are required to submit an Initial Zoning application with their Annexation application for concurrent processing; see the Initial Zoning User's Guides for submittal requirements for this procedure.

Eligibility Requirements

Eligibility for Annexation is determined by the Town Board of Trustees based on the following statutory requirements:

1. That at least 1/6 of the perimeter of the area proposed to be annexed is contiguous with the Town.
2. That a community interest exists between the area proposed to be annexed and the Town.
3. That the area is urban or will be urbanized in the near future.
4. That the area can be integrated into the utilities, services, transportation network, and etc. of the Town.
5. No land will be divided into separate tracts without written consent of the landowner.
6. Annexation proceedings have not been commenced by another municipality.
7. The Annexation will not result in detachment from a school district.
8. The Annexation will not result in an outward extension of the Town's boundaries by more than three miles in any one year.
9. If a street or alley is annexed, the entire width of the right-of-way must be annexed.

Annexation Agreement

The Town shall prepare the first draft of an Annexation Agreement after review of submitted information and discussions with the applicant, that detail the obligations of the Town and the Owner including but not limited to:

1. Density or intensity of development and land use mix, including designation of the density distribution within the parcel to be annexed;
2. Phasing of the development in general terms;
3. Drainage, detailing major improvements required, participation in the storm drainage utility, participation in existing improvements, and how drainage requirements will be satisfied;
4. Street and bikeways, detailing participation in existing and proposed improvements, dedication of perimeter rights-of-way and timing of such, major street improvements required and designation of responsibility for construction, treatment of local, interior street and rights-of-way, responsibility

for construction or participation in traffic signals and other traffic-control devices, payment for any transportation or site access studies or any addenda;

5. Utilities, detailing participation in existing systems, major improvements to be constructed, dedication of necessary easements and timing of such, and utilities required;
6. Landscaping, detailing responsibility and scheduling of arterial and collector street landscaping and primary greenway development, and maintenance of such facilities;
7. Fire protection, detailing responsibility for fire protection measures;
8. Land dedication and/or reservation, designating land for public purposes including but not limited to streets, utilities, parks, schools, greenways, or cash-in-lieu agreements. Land reserved for future park purchase will be paid at fair market value with the appraisal value determined by pre-annexation raw land value;
9. Exclusion from special districts and acknowledgement of the property owner's responsibility in securing exclusion;
10. Special districts, all agreements concerning special districts projected to be created within the Town limits, including, but not limited to, applicant's agreement to use any district for installation, construction warranty, and repair of public improvements;
11. Vested rights and growth management:
 - a. Specifying that the Town's action in annexing the property and approving the Concept Plan and Zoning do not create a vested right as defined in the Colorado Revised Statutes or other Town regulation or ordinance,
 - b. Specifying that, unless otherwise agreed to by the Town, the landowner requesting annexation shall waive any pre-existing vested property rights as a condition of such annexation, and
 - c. Specifying that the annexed property will be subject to any future phasing or growth management regulations that may be adopted by the Town;
12. Enforcement, specifying that the agreement is binding on heirs, successors and assigns;
13. Non-contestability clause detailing reliance by all on the agreement and providing for disconnection of the Annexation, at the option of the Town, upon noncompliance or nonperformance by the applicant;
14. Other issues as may be unique to the property including, but not limited to, necessary off-site improvements, railroad and river crossing improvements, relocation or maintenance of irrigation ditches and laterals, and purchase of existing electric facilities and/or electric service territory; and
15. Other issues as may be necessary to evidence compliance with the Municipal Code.

Process Summary

The following is a brief summary of the typical Annexation process. Detailed step by step instructions may be found in Chapter 7, *Review and Approval Procedures* of Title 10 of the Municipal Code.

*Typical Time Shown, Actual Time Up to Applicant

Pre-Application Conference w/Town Staff:

An Applicant is required to schedule a pre-application conference with Planning & Development before making a formal annexation application submittal. The pre-application conference provides an opportunity for an informal evaluation of the Applicant's proposal by Community Development Staff and Staff can discuss with the Applicant the application process, submittal requirements, and applicable standards in the Municipal Code.

The Applicant is responsible for bringing to the meeting a description of the character, location and magnitude of the proposed development that is supported by documents such as maps, drawings or models. The Applicant is also responsible for providing a summary of the meeting when the formal application materials are submitted to the Town.

The informal evaluation by the Town at the conference are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application. After a pre-application conference has been held, a complete formal application must be submitted within six months. If an application is not submitted within six months, a new pre-application conference will be required.

Optional Planning Commission Conference:

At the Applicant's request, Planning & Development will schedule at the next available Planning Commission meeting an application conference with the Planning Commission, which shall be in addition to the required pre-application conference. The pre-application conference provides an opportunity for an informal evaluation of the Applicant's proposal by the Planning Commission. Noticing of the Planning Commission Conference is not required.

The applicant is required to submit one paper copy and one PDF file of the Applicant's presentation materials to Planning & Development 16 days before the scheduled Planning Commission meeting. The presentation materials should contain at a minimum a written description of the character, location and magnitude of the proposed development that is supported by documents such as maps, drawings or models.

The Planning Commission conference will be conducted by the Town of Erie Planning Commission. The order of the proceedings at the conference shall be as follows:

1. The Planning Commission shall announce the agenda item to be heard.
2. The Project Planner will present a brief summary of the property location and current comprehensive plan designation.
3. The Applicant will present any relevant information the Applicant deems appropriate for the hearing.
4. The Planning Commission may ask questions of the Applicant and Staff.
5. The Planning Commission will make comments on the Applicant's proposal for development. No decision or consensus is made at the Planning Commission conference and the comments made are not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application.

Development Application Submittal:

The applicant shall submit to Planning & Development one copy of the application submittal packet that includes a completed application form, fees and support documents as specified in the **Submittal Requirements** section below.

Determination of Application Completeness:

The assigned Community Development Project Planner will review the application submittal packet for completeness. The Project Planner will determine whether an application submittal packet is complete and can continue forward to **Applicant Submits Referral Packets** or is not complete and moves back in the process to **Application Returned to Applicant**.

Application Returned to Applicant - "Not Complete":

An application submittal packet that is not complete in terms of submitting the documents required or adequacy of the information provided or fees required will not be accepted by the Town for further review. The Project Planner will return the application submittal packet to the Applicant, so the Applicant can address the elements of the application submittal packet that are not complete. Once the Project Planner's review for completeness items are addressed, the Applicant resubmits the application submittal materials as described in **Development Application Submittal**.

Applicant Submits Referral Packets - "Complete":

An application submittal packet that is deemed to be complete by the Project Planner will continue on into the review process. The first step of the application review process is for the Applicant to submit to Planning & Development copies of the application submittal packet for review by Town staff, Town consultants and outside referral agencies. The Project Planner will give the Applicant a list of the referral agencies in which to make referral packets for. Referral packets shall be submitted in unsealed Tyvek envelopes, addressed to the referral agencies identified by the Project Planner, containing all submittal information properly folded and compiled.

Referral Packets Distributed:

Once Planning & Development has received the referral packets from the Applicant, Planning & Development will distribute the referral packets to the appropriate Town staff, Town consultants and outside referral agencies.

Referral Agency Review:

Referral agencies will have approximately three weeks to review the application submittal packets. Referral agency written comments will be due to Planning & Development before the **Development Review Team Meeting (DRT)** is held so that any issues a referral agency may have can be discussed at the DRT meeting. The Project Planner will collect and coordinate all referral comments. The applicant is required to pay fees assessed by referral agencies for their review.

Development Review Team Meeting (DRT):

The Project Planner will schedule a Development Review Team Meeting (DRT) after the referral agency review period is over. At the DRT meeting the Project Planner discusses the review comments from all review agencies and discusses the neighborhood meeting comments with the DRT attendees. The DRT meeting typically includes Community Development staff, Public Works staff, the Building Official, Town consultants, and the Fire Marshall. The DRT Meeting does not include the Applicant. If the applicant would like to explain the application to the Project Planner before the DRT meeting they should contact the Project Planner to set up a separate meeting before the DRT meeting is held. After the DRT meeting, the Project Planner will compile all of the staff and referral comments for distribution to the applicant.

Applicant Receives DRT/Referral Comments:

The Project Planner will provide the Applicant with a copy of all the staff and referral comments from the review of the application submittal packet. A meeting between staff and the applicant may be held to review the staff and referral comments. The applicant may also meet directly with the agency(ies) that have expressed concerns with the application. The Project Planner should be included in meeting or correspondence with referral agencies.

Applicant Revisions Submitted/Resolution of Issues Complete:

The Applicant shall address, in writing, all issues and deficiencies identified in the staff and referral comments. To continue the process in a timely fashion, the applicant must complete the requested revisions and resubmit the revised application submittal packet for a second review by the Project Manager and any applicable referral agencies as quickly as possible. If an Applicant fails to submit required information for a period of more than six months from the initial request, the applicant shall become void and the resubmittal of a new application and fees will be required.

The revised application submittal packet will be reviewed by Project Planner at a DRT meeting after any further referral agency comments are received on the revised application submittal packet. The Project Planner shall provide the Applicant with a copy of the staff and referral comments from the second review and will indicate whether or not the application has resolved all of the issues raised in the comments. If the issues have not been resolved then the application goes back to the **Applicant Submits Referral Packets** portion of the process for another round of reviews. Additional fees may be charged for resubmittals that do not address comments. If the issues have been resolved then the application goes forward to the **Schedule/Notice Public Hearing for BOT** portion of the process.

Schedule BOT Meeting (Substantial Compliance):

The Project Planner shall notify the Applicant when the application is ready to move forward to the Board of Trustees meeting for acceptance of the annexation application as in substantial compliance with the State regulations for annexation and to set the annexation public hearing date. The Project Planner will schedule the first available Board of Trustees hearing date based on room on the BOT agenda.

BOT Meeting (Substantial Compliance):

The Board of Trustees will make a finding on the annexation petition, by the resolution. If the BOT finds the petition in substantial compliance with CRS 31-12-107 then the public hearing date for the annexation application is set by adopting a Resolution of Substantial Compliance. If the BOT finds that the petition is not in substantial compliance, then no further action is taken on the annexation application. The Resolution is typically placed on the consent agenda; so, no presentations or public comment are taken. The applicant should be present at the meeting in case the BOT chooses to move the Resolution from the Consent Agenda to the regular agenda for discussion before voting on the Resolution.

Schedule/Notice Public Hearing for BOT:

The Project Planner shall notify the Applicant when the application is ready for public hearing with the Board of Trustees (BOT). The Project Planner will schedule the first available BOT hearing date based on public hearing notification requirements and room on the BOT agenda. The BOT hearing is held to review the application and is necessary because the BOT adopts their findings and decision on the application by ordinance.

The BOT public hearing requires public hearing notification in the form of notice published in the newspaper, and notice posted on the property by sign. Full detail of the notice process can be found in Municipal Code Title 10 Unified Development Code Section 7.2 F.

Planning & Development shall have the public notice published in compliance with State regulations. The Applicant is responsible for providing the correct legal description of the property to the Town before the notice is sent to the newspaper for publication.

Planning & Development shall provide the Applicant with signs to be posted on the property for public hearing notice. The applicant is responsible for posting the signs at least 15 days before the public hearing, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Before the public hearing the applicant shall submit to Planning & Development a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

Board of Trustees (BOT) Public Hearing:

The Applicant is required to submit all required public hearing documents at least 3 weeks before the public hearing so that the Project Planner has adequate time to write the staff report and draft ordinance for the Board of Trustees. The public hearing documents shall be submitted as one paper copy for public review and a full copy of the public hearing documents in a PDF format for the Board of Trustees review. The staff report and draft ordinance shall be forwarded to the Applicant by the Project Planner when the BOT agenda packets are sent to the Board of Trustees for review. A copy of all public hearing documents are available in Planning & Development for public review at this time as well.

The public hearing will be conducted by the Town of Board of Trustees. The order of the proceedings at the public hearing shall be as follows:

6. The Board of Trustees shall open the public hearing.
7. The Project Planner will present the staff report, draft ordinance and provide a brief overview of the application.
8. The Applicant will present any relevant information the Applicant deems appropriate for the hearing. The Applicant will also be available for any questions the Board of Trustees may have.
9. Public testimony is heard by the Board of Trustees.
10. The Board of Trustees will ask questions of the Applicant and Staff, and for clarification on any issues raised during public testimony, and before making their findings and final decision on the application.
11. The Board of Trustees will close the public hearing.
12. The Board of Trustees may ask questions of the Applicant and Staff before making their findings and final decision on the application.
13. The Board of Trustees will make a final decision on the application by resolution and ordinance. The decision will be to approve or deny the application, based on the criteria listed below, or refer the Annexation to the Planning Commission or to a committee of the Board of Trustees for further consideration. If the application is denied you move to **End of Process**. If the application is approved you move to **Record Documents**.

End of Process:

Following denial of an annexation request, no new application for the same or substantially the same zoning shall be accepted within one year of the date of denial.

Record Documents:

The Applicant shall submit to Planning & Development the approved Annexation Mylar, Annexation Agreement, fees/payments. The Town shall be responsible for sending the appropriate documents to the County Clerk for recordation. The Applicant shall be billed for the cost to record the documents.

Approval Criteria

All Annexations shall be reviewed for compliance with the Municipal Annexation Act of 1965 (CRS 31-12-101, et seq., as amended). The Annexation process is a discretionary legislative act. The Town shall never be compelled to annex, unless otherwise required by state law, even if the application is found to be in compliance with the Municipal Annexation Act of 1965.

Step 1: Submittal Requirements

One copy of the following information shall be submitted to Planning & Development – Planning Division, unless waived by the Planning & Development Director in order to perform a completeness review. All information shall be submitted in a three ring binder with dividers and all 24" x 36" exhibits shall be folded to fit into pockets within the binder. **Applications will not be accepted for review unless all information is present.**

1. **Completed application.**
2. **Application fee**, see application for fees.
3. **Proof of ownership** consisting of a current title insurance policy or title commitment issued no more than thirty days prior to the date of application, for all of the property within the request.
4. **Letter of Interest**, addressed to the Town Board of Trustees describing the request.
5. **Annexation Petition** (on Town form), containing the following information:
 - a. Allegation that it is desirable and necessary that the area be annexed to the municipality;
 - b. Allegation that eligibility requirements and limitations have been met or addressed respectively;
 - c. Allegation that 50% of the petitioners comprise the landowners or more than 50% of the territory included in the proposed annexation area, excluding streets and alleys;
 - d. Request that the annexing municipality approve the annexation;
 - e. Signatures of petitioning landowners;
 - f. Mailing address of each signer;
 - g. Legal description of the land owned by each signer;
 - h. Date of each signature;
 - i. An affidavit of each petition circulator that each signature is valid; and
6. **Copy of an ALTA/ACSM Land Title Survey**, for the entire property of the proposal.

7. **Annexation Map** prepared by or under the supervision of a registered professional land surveyor licensed in the State of Colorado for recording with the appropriate County Clerk and Recorder. The map shall accurately display the following information:
- a. The map shall be prepared on 24" x 36" paper at a scale that best conveys the detailed survey. If the proposal requires multiple sheets, a composite, on 24" x 36" paper, shall be provided that delineates the boundaries and identifies each sheet number. A 1" margin on all sheets shall be left blank on all sides;
 - b. A title shall be placed at the top/center of all sheets, along the long dimension of each sheet and shall include the name of the proposed annexation, general aliquot legal description with county, the total acreage, and project file number. The name of the annexation shall not duplicate existing annexations;

EXAMPLE: (Insert Subdivision Name, Aliquot Description, Proposed Acres/Lots/Tracts and Project Number. See example below)

ERIE VALLEY ANNEXATION TO THE TOWN OF ERIE
A PORTION OF THE N ½ OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH
PRINCIPLE MERIDIAN, TOWN OF ERIE, COUNTY OF WELD, COLORADO
100 ACRES
AN ___-___

- c. A written metes and bounds legal description of the boundary of the area to be annexed;
- d. The following general notes:
 - i. A Basis of Bearing Statement; and
 - ii. NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- e. A mapped boundary of the total annexation area with bearing, distance and curve data;
- f. The mapped location of each platted and/or un-platted parcel within the boundary. If platted, include plat numbers of lots and a blocks;
- g. Indicate the municipality's contiguous boundary and percent contiguity; and

- d. A statement setting forth the method under which the municipality plans to finance the extension of the municipal services into the area to be annexed (supplied by the Town of Erie);
 - e. A statement identifying existing special districts within the area to be annexed; and
 - f. A statement on the effect of annexation upon local public school district systems including the estimated number of students generated and the capital construction required for educating such students.
7. Any additional information or referral documents as required by the Planning & Development Director, in order to thoroughly review the impacts of the proposed development.