

TOWN OF WINTER PARK

RESOLUTION NO. 827
SERIES OF 2004

A RESOLUTION ADOPTING THE TOWN OF WINTER PARK ANNEXATION POLICIES

WHEREAS, the Town Council anticipates the future annexation of lands (developed or undeveloped) into the Town of Winter Park boundaries; and

WHEREAS, there are currently no guidelines or policies pertaining to general annexation requirements for owners/developers; and

WHEREAS, the Town Council has developed Annexation Policies with the assistance of Winston Associates and Town staff (attached hereto as Exhibit A); and

WHEREAS, the Annexation Policies outline annexation type, the annexation petition, the annexation agreement, and minimum submittal requirements for an annexation; and

WHEREAS, important issues to be addressed include, but are not limited to density, zoning, access, utilities, infrastructure, open space, affordable housing, economic analysis, annexation impact report, annexation agreement, subdivision improvements agreement, vesting of development rights, and site plan; and

WHEREAS, such Annexation Policies will enable applicants the knowledge and understanding of the Town's requirements; thereby, allowing for complete, comprehensive application submittal; and

WHEREAS, such Annexation Policies also enable staff, Planning and Zoning Commission and Town Council to review such applications in a more structured manner; hence, reducing the need for multiple meetings to determine the Town's specific needs or wants pertaining to such annexation policies.

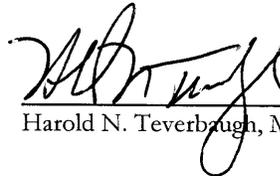
NOW, THEREFORE, BE IT RESOLVED that the Town Council of Winter Park, Colorado hereby adopts the Annexations Polices set forth and hereto attached as Exhibit A.

APPROVED AND PASSED this 20th day of January, 2004, by a vote of 7 to 0.



ATTEST:

TOWN OF WINTER PARK



Harold N. Teverbaugh, Mayor



Nancy J. Anderson, CMC, Town Clerk

EXHIBIT A

**Town of Winter Park
ANNEXATION POLICIES
January 20, 2004**

1. Types of Annexations

1.1. Three types of annexation are contemplated:

Type I - Annexation with vesting pursuant to Planned Development zoning

Type II - Annexation with vesting pursuant to use-by-right Zoning

Type III - Annexation without vesting, but with use-by-right Zoning

2. Annexation Petition

2.1. An Annexation Petition must be provided in accordance with C.R.S. 31-12-102 and be accompanied by one of the following:

Type I - a Preliminary Development Plan pursuant to Section 7-7 of the Town Code (if Planned Development zoning with vesting is requested)

Type II - an Annexation and Zoning Analysis ¹ (if use-by-right Zoning with vesting is requested).

Type III - an Annexation and Zoning Analysis ² (if use-by-right Zoning without vesting is requested)

3. Annexation Agreement

3.1. Each annexation will be memorialized with an Annexation Agreement that will address not only the conditions of annexation, but also the implementation of the conditions. At a minimum, the Annexation Agreement should address the following:

- | | |
|---------------------------------|----------------------|
| ◆ Zoning | ◆ Open space |
| ◆ Density | ◆ Phasing |
| ◆ Miscellaneous annexation fees | ◆ Affordable housing |
| ◆ Impact fees | ◆ Vesting |
| ◆ Design Standards | |

¹ Attached hereto on Page 5

² Same as footnote above.

4. Annexation Approval

- 4.1. The P&Z may recommend to the Town Council the Applicant's requested zoning. However, the Town Council has sole authority to determine appropriate zoning and the P&Z recommendation does not bind the Town.
- 4.2. An Annexation will become effective upon all of the following:
 - Final approval of the Annexation Petition by the Town Council
 - Recording of the Annexation Plat
 - Recording of the Annexation Ordinance

5. Vesting of Development Rights

- 5.1. Subject to a site specific development plan (for Type I and II annexations), the Town will consider vesting of property rights, as appropriate and of mutual benefit to the Town and the Applicant. Depending on the magnitude of the proposed development, for Type I and II annexations the Town will consider granting vested development rights for a period up to 10 years or as appropriate.
- 5.2. Although the Town will generally endeavor to treat annexations consistently, it is acknowledged that each annexation will have unique circumstances that warrant unique conditions and commitments.
- 5.3. If an applicant is granted Annexation based on a Preliminary Development Plan for a Planned Development District and the subsequent Final Development Plan is not in substantial compliance with the Preliminary Development Plan, the Town is under no obligation to maintain the vested rights previously granted.
- 5.4. The establishment of vested rights under an Annexation agreement shall not preclude the application of Town regulations of general applicability.
- 5.5. The Town is not obligated to approve future subdivisions or building permits if adequate infrastructure services are not available.

6. Legal Challenges to Annexation

- 6.1. The Town shall not be responsible if development of the annexed parcel is prevented or delayed for reasons beyond the Town's control.
- 6.2. The Town may choose not to defend against legal challenges to an annexation.

7. Third Party Costs

- 7.1. The owner/developer may be responsible for any of the Town's 3rd party costs associated with review of the annexation application pursuant to Section 1-8 and Section 7-10-8 of the Town Code.

8. Infrastructure

- 8.1. Developer is responsible for construction, at developer's sole cost and expense, on- and off-site infrastructure improvements needed to accommodate impacts of the proposed development.

- 8.2. The design and construction of roads, driveways, power, utilities and drainage associated with the annexation are required to meet the design standards of the Town and all appropriate special districts and utility companies, unless otherwise accepted by the Town in the Annexation Agreement.
- 8.3. The Town may accept internal subdivision roads for dedication if the resulting development will provide adequate public benefits, financial or otherwise.
- 8.4. The Town, at its sole option, may choose to reimburse the landowner/developer for oversizing required by the Town, or consider creating a recapture area and recapture period (typically up to 10 years) to allow other properties to reimburse the annexing landowner/developer for reasonable costs incurred to install oversized infrastructure, the use of which will benefit other properties.
- 8.5. Developer shall convey to the Town and/or appropriate special district or utility company, at developer's sole expense, easements and ROW's for the installation, operation, maintenance, repair, and replacement of such infrastructure as necessary for said entity to provide service to the annexing property and the structures to be constructed thereon.
- 8.6. Type I and Type II annexation applications must be accompanied by proof of infrastructure service from the appropriate service provider.

9. Open Space

- 9.1. For Type I and II annexations, the proposed zoning plan must indicate the general location of proposed open space with respect to the anticipated development areas.
- 9.2. The physical characteristics (size, shape, terrain, vegetation, etc.) of any open space intended to be Public must be acceptable to the Town.
- 9.3. Open Space areas (non-development zones) not conveyed to the Town must be managed by a single entity, such as a Homeowners Association or land trust. However, following subsequent subdivisions or replats, said entity may delegate management responsibility to subsequent Homeowner Associations.
- 9.4. For Type I and Type II annexations the initial application for subdivision plat approval of any portion of the annexing property shall include assurances³ of the dedication of the entire Open Space area.

³ Assurances (actual dedications, deeds in escrow, etc.) must be acceptable to the Town.

- 9.5. For Type I annexations, all Open Space to be conveyed to the Town must either be conveyed prior to the issuance of the first building permit or contemporaneously with each subdivision or replat.
- 9.5. For Type II annexations, the Town may require the landowner/developer to convey title to a portion of the land equivalent to the open space requirement, to be held in escrow or exchanged for specific dedications at the time of subdivision.
- 9.7. Any conveyance of any portion of the Open Space shall limit the use thereof in perpetuity to open space uses.

10. Affordable Housing

- 10.1. For all annexations, the landowner/developer will be required to address affordable housing, which may include, but is not limited to the following:
 - ◆ Construction of affordable housing units on-site unless there is a significant public benefit to locate the affordable housing units off-site.
 - ◆ Dedication of land acceptable to the Town for affordable housing.
 - ◆ Fees in-lieu of constructing affordable housing units and/or dedicating land for affordable housing.
- 10.2. An annexing owner/developer may convey the ownership or management of the affordable housing units and/or land dedication to the Town, a housing authority or other management entity acceptable to the Town.

TYPE II ANNEXATION AND ZONING ANALYSIS

Each Type II Annexation Petition must be accompanied by a detailed Annexation and Zoning Analysis that must include, but is not limited to the following:

Annexation - Pursuant to C.R.S. 31-12-102

Zoning - Proposed Zoning District Map, Number of Units, Densities

- R-1 -D-C
- R-2 -R-C
- M-E -O-S-F - (parks, wetlands, riparian, slopes > 30%, ridge lines / wildlife corridors)

Dedications

- Parks
- Public / Private
- Dedication / Acreage
- Fees In-Lieu

Trails

- Dedication / Acreage
- Public / Private

Open Space

- Dedication / Acreage
- Fees In-Lieu

Affordable Housing

- Construction of Units / Deed Restrictions
- Dedication / Acreage
- Fees In-Lieu (\$3/sq. ft.)

On/Off-Site Improvements

Roads / Access

- Improvements
- 2 Means of Access
- Internal Subdivision Roads / Maintenance (Public / Private)
- Main Collector / Local Roads (Public / Private)

Utilities

- Water / Sanitation
 - Required Infrastructure / Easements
 - Proof of service from the appropriate service provider / annexation agreement
 - Phasing / Build-out Limitation
 - Irrigation
- Electric / Gas -Required Infrastructure / Easements

Documents / Agreements

- Economic Analysis
- Annexation Impact Report
- Annexation Agreement
- Subdivision Improvements Agreement

Vested Rights

Site Plan - Surveyed Development Tracts, Open Space Tracts, Road Network, Zoning Districts

TYPE III ANNEXATION AND ZONING ANALYSIS

Same as Type II above, except all Dedications and On/Off-Site Improvements are generalized in Annexation Agreement to be dealt with at time of Development Review (Planned Development, Subdivision, etc.).