

**TOWN OF EDGEWOOD
ORDINANCE NO. 2006-11
AN ORDINANCE**

PROVIDING FOR AN APPLICATION AND REVIEW PROCESS FOR ANNEXATIONS

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SECTION 1. TITLE.

This ordinance may be cited as the “Annexation Ordinance”.

SECTION 2. AUTHORITY AND JURISDICTION.

A. AUTHORITY. This ordinance is adopted pursuant to §§ 3-7-1 et seq. NMSA, 1978.

B. JURISDICTION. These Regulations are designed to accomplish the procedures for the processing, consideration and filing of annexations for the Town of Edgewood hereinafter, the “Town”.

SECTION 3. PURPOSE.

The Town of Edgewood finds that the establishment of annexation procedures will promote uniformity and certainty in annexation applications and that the establishment of annexation procedures will promote the public health, safety and general welfare. Unless relieved of the obligation to do so as provided herein, the applicant shall submit plans and applicable studies for all components of the proposed annexation as set forth by this ordinance.

40 **SECTION 4. INTERPRETATION.**

41 These regulations are intended to be minimum requirements to carry out the purpose
42 stated herein and are not intended to interfere with any other laws, or ordinances. Whenever any
43 of the provisions of these Regulations are more or less restrictive than other laws, or ordinances,
44 then whichever is more restrictive shall govern.

45 **SECTION 5. APPLICABILITY.**

46 All annexation petitions shall be controlled by the provisions of these regulations. To the
47 extent the procedures of these regulations conflict with the procedures of NMSA 3-7-1 thru 3-7-
48 18 and other applicable state statutes, the provisions of state law shall control.

49 **SECTION 6. APPLICATION PROCESS AND FEES.**

50 An application for an annexation of real property into the Town of Edgewood shall be
51 filed with the Town by the owners of a majority of the number of acres in the contiguous
52 territory. The applicant shall pay the non-refundable application fee for the proposed
53 annexation, as established by ordinance, at the time of the filing of the annexation application.

54 **SECTION 7. CONCURRENT ZONING CLASSIFICATION.**

55 The Town shall concurrently with the application for annexation consider an application
56 for a zoning classification consistent with the requirements (including notice provisions) and
57 standards of the Edgewood Zoning Ordinance. The Town shall not consider any other
58 application by the applicant on the subject property under the Town's zoning or subdivision
59 ordinance unless and until the application for annexation has been approved and an annexation
60 ordinance has been adopted and published in accordance with state law.

61 **SECTION 8. SUBMITTAL REQUIREMENTS.**

62 Except as otherwise provided, the application shall include or attach at least the
63 following:

- 64 A. Application fees established by ordinance.
- 65 B. A statement of the size of the property in square footage and acres.
- 66 C. A description of the proposed project, including the approximate:
 - 67 a) number and size of proposed lots,
 - 68 b) length and location of the proposed water and sewer mains,
 - 69 c) length and location of proposed streets and alleys, and
 - 70 d) length and location of the proposed sidewalks.
- 71 D. A schematic design of the entire project showing the proposed uses, density, streets,
72 alleys, easements, and proposed size and location of open spaces and parks.
- 73 E. A statement describing how the proposed project complies with specific goals and
74 policies of the Edgewood Comprehensive Plan.
- 75 F. A statement describing how the proposed project is compatible with adjacent
76 neighborhood(s).
- 77 G. A statement describing how the applicable natural resources (e.g., water courses, springs,
78 streams, wildlife and access to public lands) and natural hazards (e.g., avalanche,

- 79 floodplains and floodways) are incorporated into proposed project and/or mitigated.
- 80 **H.** A statement describing what contributions and/or dedications the applicant is willing to
- 81 make as part of the proposed annexation.
- 82 **I.** A description of how the proposed annexation will protect Edgewood’s established or
- 83 proposed wellhead protection zones.
- 84 **J.** A description of how the annexation will impact the existing municipal infrastructure and
- 85 services (e.g., water, sewer, streets, library, police, fire and parks).
- 86 **K.** A statement of who will maintain the streets, alleys, parks and utilities (privately and
- 87 publicly owned utilities) and how the maintenance of the streets, alleys, parks and
- 88 utilities (privately and publicly owned utilities) will be funded.
- 89 **L.** A phasing plan showing the proposed dates of construction and completion of phased
- 90 construction for infrastructure, streets, alleys, utilities and all other development. In the
- 91 case of a phased project, items C and D above may be omitted for future phases; however
- 92 provisions shall be made within an annexation agreement for submittal of plans and
- 93 payment of fees for future phases.
- 94 **M.** The following studies shall be submitted:
- 95 a) Traffic study showing impact on adjacent streets and streets that would serve the
- 96 proposed project.
- 97 b) Floodplain study (if applicable).
- 98 c) Contour map depicting 15% and 25% slope lines measured at two foot (2’) intervals.
- 99 **N.** A fiscal impact analysis or an updated fiscal impact analysis. The analysis may be
- 100 submitted at the time of the application for annexation, or when the application is
- 101 reviewed for zoning by the Planning & Zoning. In preparing this analysis, the applicant
- 102 may utilize the annexation cost matrix developed by the Town to assist it in estimating
- 103 the costs and benefits to the Town of the proposed annexation.
- 104 **O.** The Manager, in consultation with such other departments and appointed boards as the
- 105 Manager deems necessary, shall prepare and update on an annual basis a cost matrix
- 106 estimating the fiscal impact to the Town in the form of anticipated increased
- 107 governmental services necessary to support the proposed annexation, including:
- 108 1 Road and trail maintenance costs;
- 109 2 Police, fire, and EMS costs;
- 110 3 Park and recreation facility costs;
- 111 4 Additional Town staffing requirements; and
- 112 5 Solid waste disposal costs.

113 **SECTION 9. PROCEDURE FOR OBTAINING EXEMPTION FROM SPECIFIC**

114 **SUBMITTAL REQUIREMENTS.**

- 115 **A.** If the applicant believes that one or more of the requirements in Section 8 of this
- 116 Ordinance should not apply to the applicant’s annexation petition, because of the size,
- 117 proposed use, or other factors related to the proposed annexation would render such
- 118 requirements inapplicable or unduly burdensome, the applicant may request to be
- 119 exempted from those requirements as provided in this Section.
- 120 **B.** An applicant who wishes to be relieved of one or more requirements in Section 8 shall
- 121 file a written, signed request with the Community Planning & Development Manager

- 122 stating which specific requirement or requirements the applicant requests not be applied
123 to the applicant’s petition. The request shall be made and acted upon prior to certification
124 by the Manager that the application is complete pursuant to Section 10 of this Ordinance.
- 125 C. All requests to be exempted from specific requirements in Section 8 of this Ordinance
126 shall state with particularity the basis for the request.
 - 127 D. If the Manager determines the applicant should be exempted from complying with the
128 specified requirements because they are inapplicable to the proposed annexation, unduly
129 burdensome on the applicant, or that the exemption otherwise would be in the public
130 interest, the Manager shall grant the requested exemption in writing, specifying the basis
131 upon which the exemption is to be granted. Likewise, if the Manager determines the
132 exemption should not be granted, the Manager shall state the reasons why, in the
133 Manager’s judgment, the exemption should not be granted.
 - 134 E. If the applicant disagrees with the Manager’s determination, that party may file a written
135 appeal of the decision with the Town Council. Its decision on the appeal shall constitute
136 a final decision by the Town on the issue.

137 **SECTION 10. CERTIFICATION, SUBMISSION TO THE COUNTY, AND**
138 **REVIEW BY THE PLANNING AND ZONING COMMISSION.**

- 139 A. The Manager shall review the application to determine whether the application, as subject
140 to any exemptions, is complete.
- 141 B. Once the Manager finds the application complete, the Manager shall certify the
142 application as complete. When the application is so certified, the annexation petition
143 shall be deemed submitted to the Town for consideration.
- 144 C. Upon certification, the Manager shall immediately forward the annexation petition,
145 together with supporting documents, to the appropriate County government for its review
146 and comments as provided by State law.
- 147 D. Upon certification, the Manager also shall immediately submit the application for review
148 and comment to the applicable Town departments and appointed recommending boards,
149 which shall provide comments on the proposed annexation within thirty days of
150 certification.
- 151 E. The Community Planning & Development Manager shall schedule a meeting with the
152 Edgewood Planning and Zoning Commission (“Commission”) at its next regular
153 available meeting following expiration of the thirty-day comment period for review of the
154 application by the Commission.

155 **SECTION 11. NOTICE.**

156 Public notice shall be as designated by the 2006-2 Early Neighbor Notification
157 Ordinance.

158 **SECTION 12. COMMISSION REVIEW.**

- 159 A. Commission shall review annexation petitions, together with supporting documents,
160 for consistency with contiguous zoning, the Comprehensive Plan as per the 2003-4
161 Zoning Ordinance.

162 **SECTION 13. COUNCIL REVIEW.**

163 **A. Conduct and Notice of Council Hearing.** Upon receipt of the Commission’s review,
164 the Council shall schedule a public hearing to review the application for annexation at
165 its next available regular meeting and no later than 59 days following certification that
166 the annexation is complete. The Council shall have the right to request further
167 information deemed necessary by the Council at any time during the proceedings.
168

169 **B. Fiscal Impact Studies.** To assist the Council in the determination whether an
170 annexation will have any substantial fiscal impact, the Council may, in its sole and
171 absolute discretion, require the applicant for annexation, at the applicant’s sole
172 expense, to submit a fiscal analysis or an updated fiscal analysis by a qualified and
173 independent person or firm acceptable by the Council and in a format acceptable by
174 the Council, to determine the proposed annexation’s impact and to recommend the
175 base amount of annexation fees. The Council retains the right to require further
176 monetary or non-monetary contributions for any annexation. The applicant has the
177 right to seek the Town’s approval of such a fiscal impact study at any point in the
178 annexation process.
179

180 **C. Decision.** The Council, sitting in its legislative capacity as provided by State law, has
181 the sole and absolute discretionary right to approve, approve with conditions or deny
182 an application for annexation. In addition, the Council is authorized to require, as a
183 condition of approval, that the applicant and the Town enter into an annexation
184 agreement providing for the terms and conditions of an approved annexation. In the
185 event a subsequent development proposal materially differs from the development
186 shown in approved annexation, the annexation agreement shall provide that the
187 proposed development may be denied, and/or that the applicant shall be responsible
188 for any increased annexation fees.
189

190 **D. Appeal.** Appeals from a Council decision shall be had solely as provided by State
191 Statute. The procedures adopted herein are intended to provide necessary information
192 to the Council so that it may exercise its legislative discretion in approving or
193 disapproving the proposed annexation in the public interest, and are not intended to
194 create any additional right, privileges, duties, or liabilities to individual members of
195 the public beyond those already provided by applicable State Statutes governing
196 appeals from annexation petition decisions.
197

198 **E.** If the Council elects to approve the application for annexation with or without
199 conditions, the Council shall also establish the appropriate zoning district(s) for the
200 annexed property in accordance with the procedures set forth in the Edgewood Zoning
201 Ordinance.
202

203 **SECTION 14. SEVERABILITY CLAUSE.**

204 If any section, paragraph, sentence or provision hereof or the application thereof to any

205 particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect
206 the remainder hereof, which shall continue in full force and effect and applicable to all
207 circumstances to which it may validly apply.
208

209 **SECTION 15. EFFECTIVE DATE.**

210 This Ordinance shall be in full force and effect after its passage, approval and publication
211 according to law.
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213 **PASSED AND ADOPTED BY THE EDGEWOOD TOWN COUNCIL** and approved the 6th
214 day of December, 2006.
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