

ORDINANCE 2024-001

AN ORDINANCE PROVIDING FOR A UNIFORM PROCESS OF REVIEWING PETITIONS FOR ANNEXATION FILED WITH THE TOWN OF ALPINE, WYOMING, BY THE LANDOWNERS WITHIN THE AREA PROPOSED TO BE ANNEXED, PURSUANT TO WYOMING STATUTE §15 – 1 – 401, ET. SEQ.; ESTABLISHING REQUIREMENTS FOR PETITIONERS TO GATHER AND SUPPLY EVIDENCE REQUIRED IN THE FINDINGS SET FORTH IN WYOMING STATUTE §15 – 1 – 402 AND TO PROVIDE SAID EVIDENCE CONCURRENT WITH THE PETITION FOR ANNEXATION; DECLARING THAT THE PETITIONER CARRIES THE BURDEN OF PROOF ANY ASSERTATIONS OR CLAIMS PROFFERED DURING THE PETITION PROCESS AND HEARINGS; ESTABLISHING A REQUIREMENT OF A PRE-ANNEXATION MEETING TO BE HELD WITH THE PLANNING STAFF AND CLERK OF THE TOWN OF ALPINE, WYOMING; ESTABLISHING CLASSIFICATIONS FOR MAJOR AND MINOR ANNEXATIONS AND DEFINING THE CLASSIFICATIONS; ESTABLISHING A PRE – ANNEXATION FEE TO BE PAID BY THE PETITIONERS; ESTABLISHING A REQUIREMENT THAT THE PETITIONERS PREPARE ALL PUBLIC NOTICES AND PAY ALL COSTS ASSOCIATED WITH PUBLICATION OF SAID NOTICE, INCLUDING, BUT NOT LIMITED TO SUCH NOTICES REQUIRED BY WYOMING STATUTE § 15 – 1 – 402 (a) (vi) AND § 15 – 1 – 405 (b); ESTABLISHING A PETITION FEE STRUCTURE TO BE PAID BY PETITIONERS; ESTABLISHING A REQUIREMENT FOR THE DEPOSIT OF FUNDS TO COVER THE TOWN OF ALPINE, WYOMING’S COSTS FOR REVIEW OF THE PETITION AND EVIDENCE; EXEMPTING THE TOWN OF ALPINE, WYOMING FROM THE REQUIREMENTS OF THIS ORDINANCE.

WHEREAS, the Governing Body of the Town of Alpine, Wyoming, pursuant to Wyoming Statute § 15 – 1 – 103 (a) (xli) has authority to enact laws that regulate and protect the health, safety, and welfare of its citizens;

WHEREAS, the Governing Body of the Town of Alpine, Wyoming has authority, pursuant to Wyoming Statute § 15 – 1 – 401, et. seq. to receive petitions from landowners seeking to be annexed to the incorporated boundaries of the Town of Alpine, Wyoming; and

WHEREAS, the Governing Body of the Town of Alpine, Wyoming has determined that the process of review, gathering of information, planning, and publication of notice as set for the in Wyoming Statute §§ 15 – 1 – 401, et. seq. place a financial and time burden on the Town, which result in both an unfunded mandate from the Wyoming State Legislature and the subsidization by the citizens of the Town of Alpine, Wyoming of private land speculators and developers.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the Town of Alpine, Wyoming that:

17-\_\_ - \_\_\_\_. **Regulation of Petitions for Annexation by Private Landowners to the Town of Alpine, Wyoming**

## **17- - Intent.**

(a) The intent of this section is to promote the public health, safety, and welfare of the people of the Town of Alpine, Wyoming, to establish a process for review of annexation petitions prior to the filing of the petition with the Town of Alpine, Wyoming, to require petitioners for annexation to provide clear and convincing evidence of the information required for preparation of the annexation report as required by W.S. §15 – 1 – 402, assigning the burden of proof to the petitioner to support any claims made during the annexation process with clear and convincing evidence, to establish rules governing the annexation petition process, to set classifications of “minor” and “major” annexations, to establish pre-petition fees, annexation petition fees, requiring petitioners to pay a deposit to cover costs of the proceedings, and to require petitioners to pay the costs of all publication of notices required under W.S. §15 – 1- 402 and §15 – 1- 405.

(b) The Town of Alpine, Wyoming shall be exempt from any provision contained in this ordinance if the Town of Alpine, Wyoming is the petitioner for annexation under W.S. § 15 – 1 – 404.

## **17 - - Definitions.**

(a) *Major annexation.* A major annexation shall be defined as any parcel of land proposed to be annexed to the Town of Alpine, Wyoming consisting of an area greater than two and one-half (2 ½) acres.

(b) *Minor annexation.* A minor annexation shall be defined as any parcel of land proposed to be annexed to the Town of Alpine, Wyoming consisting of an area of two and one-half (2 ½) acres or less.

## **17- - Prepetition Conference Required, Prepetition Fee Required, Information Petitioner to Provided at Prepetition Conference, Requirement that Prepetition Conference Statement and Proposed Petition be Reviewed and a Recommendation Made, Presentation of Proposed Petition to a Work Session of the Governing Body of the Town of Alpine, Wyoming Prior to Filing of Petition for Annexation**

(a) All landowner(s) seeking annexation to the Town of Alpine, Wyoming shall, prior filing a petition for annexation, as outlined in W.S. § 15 – 1 – 403, attend a prepetition conference with representatives of the Town of Alpine, Wyoming planning and zoning department and the Town Clerk.

(b) All landowner(s) seeking annexation to the Town of Alpine, Wyoming shall pay, prior to the prepetition conference, a fee of seven hundred fifty dollars (\$750.00). In addition to the prepetition fee, the landowner(s) shall pay any costs for publication of notice of Town of Alpine Planning and Zoning hearing of the proposed petition as required by subsection (d) of this section.

(c) No less than five (5) days prior to the prepetition conference, all landowner(s) or their legal representatives shall file a memorandum, prepared and signed by the landowner(s) or their legal representatives, in which the following information is provided:

- (i) A clear and concise statement of the intended or planned use of the property if the annexation is granted;
- (ii) A clear and concise statement as to why the annexation of the area would be for the protection of the health, safety and welfare of the persons residing in the area and for the current residents of the Town. Statements containing conclusory statements and statements not supported by clear and convincing evidence will be deemed irrelevant;
- (iii) A clear and concise statement as to how the urban development of the area sought to be annexed would constitute a natural, geographical, economical and social part of the Town. Statements containing conclusory statements and statements not supported by clear and convincing evidence will be deemed irrelevant;
- (iv) A clear and concise statement as to how the area sought to be annexed would be a logical and feasible addition to the Town of Alpine, Wyoming and the extension of basic and other services customarily available to the residents of the Town of Alpine, Wyoming shall, within reason, be available to the area proposed to be annexed as well as a clear and concise statement of what actions the landowner(s) will take to install, pay for, and extend the services to the area sought to be annexed. Statements containing conclusory statements and statements not supported by clear and convincing evidence will be deemed irrelevant;
- (v) A clear and concise statement as to how the area sought to be annexed is contiguous with or adjacent to the Town of Alpine, Wyoming, or the area meets the requirements of W.S. § 15 – 1- 407. A map or most recent survey of the area sought to be annexed shall be included with the prepetition conference documents and statements;
- (vi) A clear and concise statement as to all utilities needed or potentially needed to serve the area sought to be annexed along with written proof that said utilities have been contacted and have received notification of the landowner(s) intent to seek annexation. The landowner(s) shall provide, as part of the exhibits included with the memorandum required under subsection (c) above, written proof from the utility provider that is ready and willing to provide the utility service;
- (v) Request for zoning of the area sought to be annexed with a clear and concise statement as to the reasoning for the zoning; and
- (vi) Proof of payment of the prepetition conference fee.

(d) If, after the prepetition conference, the representatives of the Town of Alpine, Wyoming planning and zoning department and the Town Clerk determine that the statements and supporting documentation and exhibits are complete and meet the standards outlined in (c) (i) – (vi) above, the proposed petition, along with the prepetition conference statements and supporting documentation and exhibits submitted by the landowner(s) shall be delivered by the

Town Clerk to the Town of Alpine, Wyoming Planning and Zoning Board for review at the board's next scheduled meeting. The proposed petition, along with the prepetition conference statements and supporting documentation and exhibits submitted by the landowner(s) shall be provided to the board no less than five (5) days prior to the board's next scheduled meeting. If the prepetition conference is held less than ten (10) days prior to the board's next scheduled meeting, then the review by the board shall be scheduled to occur at the following regularly scheduled board meeting.

(e) During the hearing on the proposed petition and request for zoning pursuant to (d) above, the landowner(s), or their legal representative, shall be present at said hearing. It shall be the burden of the landowner(s), or their legal representative, to provide clear and convincing evidence of all statements, representations, evidence, and exhibits contained in the proposed petition, request for zoning, and any other claim are truthful and based on actual evidence and not conclusory or promotional in nature.

(f) After the prepetition review hearing held by the Town of Alpine, Wyoming Planning and Zoning Board, the board shall file with the Clerk of the Town of Alpine, Wyoming a written report of their findings and along with any recommendations or suggested edits to the proposed petition and any request for zoning. The Town of Alpine, Wyoming Planning and Zoning Board shall determine, and include in the written report, whether the proposed annexation qualifies as minor or major annexation based on the definitions given in 17 - -.

(g) Upon receipt of the information outlined in subsection (f) above, the Clerk of the Town of Alpine, Wyoming shall set a prepetition work session at the next scheduled work session of the Governing Body of the Town of Alpine, Wyoming. Notice of the work session shall be provided to the landowner(s) and/or their legal representatives. No less than five (5) days prior to the work session, the Clerk shall provide copies of the proposed petition, supporting documentation and exhibits, along with the Town of Alpine, Wyoming Planning and Zoning Board's written report and recommendations to the members of the Governing Body.

(h) At the work session outlined in subsection (d) above, the landowners, and/or their legal representatives, shall be granted no more than twenty (20) minutes to present their proposed petition, along with their memorandum, supporting documentation and exhibits and to answer any questions from the Governing Body of the Town of Alpine, Wyoming.

(i) Following the work session presentation of the proposed petition by the landowner(s), and/or their legal representatives, the landowners may proceed to the process of filing their annexation petition pursuant to W.S. §§ 15 – 1 – 401, et. seq.

## **17- - Establishment of Petition Fee and Deposits**

(a) All landowner(s) seeking annexation to the Town of Alpine, Wyoming shall, prior filing a petition for annexation, as outlined in W.S. § 15 – 1 – 403, shall be required to pay the following fees for annexation:

i. Minor annexation filing fee and deposit. The filing fee for all petitions for a minor annexation, as defined by § 17 - - (a), and determined to be a minor annexation by the Planning and Zoning Board pursuant to § 17 - - (d), shall be the sum of one thousand (\$1,000.00) dollars. In addition to the filing fee charged for a minor annexation, the landowner(s) shall tender to the Clerk of the Town of Alpine, Wyoming the sum of five thousand dollars (\$5,000.00). Said deposit for a minor annexation shall be held by the Clerk and the sums used to pay for costs of preparation of the annexation report required by W.S. § 15 – 1 – 402 and to pay for review of any infrastructure by the Town Engineer. The Clerk shall return any unused portion of said deposit, along with an itemized statement of the costs incurred and charged to the deposit, to the landowner(s) within thirty (30) days after approval or denial of the petition.

A. If the costs of preparation of the annexation report and review by the Town Engineer exceed the amount of the deposit, the landowner(s) shall be responsible to pay said excess amounts no later than thirty (30) days after approval or denial. If the landowner(s) fail to pay excess costs within the timeframe provided in this subsection, then the Clerk shall not record the annexation with the Clerk/Recorder, Lincoln County, Wyoming and a lien shall be filed against the property.

ii. Major annexation filing fee and deposit. The filing fee for all petitions for a major annexation, as defined by § 17 - - (a), and determined to be a major annexation by the Planning and Zoning Board pursuant to § 17 - - (d), shall be the sum of two thousand five hundred (\$2,500) dollars. In addition to the filing fee charged for a minor annexation, the landowner(s) shall tender to the Clerk of the Town of Alpine, Wyoming the sum of ten thousand dollars (\$10,000.00). Said deposit for a minor annexation shall be held by the Clerk and the sums used to pay for costs of preparation of the annexation report required by W.S. § 15 – 1 – 402. The Clerk shall return any unused portion of said deposit, along with an itemized statement of the costs incurred and charged to the deposit, to the landowner(s) within thirty (30) days after approval or denial of the petition.

A. If the costs of preparation of the annexation report and review by the Town Engineer exceed the amount of the deposit, the landowner(s) shall be responsible to pay said excess amounts no later than thirty (30) days after approval or denial. If the landowner(s) fail to pay excess costs within the timeframe provided in this subsection, then the Clerk shall not record the annexation with the Clerk/Recorder, Lincoln County, Wyoming and a lien shall be filed against the property.

**17- - Petitioner(s) required to mail notices, publish notices prepared by Clerk, and post notice on the property, size requirements of notice posted on property, payment of costs to be borne by the Petitioner(s)**

(a) It shall be the responsibility of the landowner(s)/petitioner(s) to mail notice, via certified mail, to all utilities effected and any persons owning property that is adjacent to or within three hundred (300) feet of the territory proposed to be annexed, regardless of whether the property is inside or outside the corporate limits of the Town of Alpine, Wyoming. Notice shall be prepared

by the Town Clerk and delivered to the landowner(s)/petitioner(s). The landowner(s)/petitioner(s) shall bear the responsibility of paying all costs and postage fees of the mailings of the certified mailing and provide proof of said mailings to the Town Clerk. The landowner(s)/petitioner(s) shall bear the responsibility of providing the notice required under W.S. § 15 – 1 – 402 (a) (vi) within the timeframe provided by said statute. Failure to provide notice within the timeframe shall result in the rejection of the petition.

(b) It shall be the responsibility of the landowner(s)/petitioner(s) to post notice on the territory proposed to be annexed. Notice shall be no less than 18” x 24” and posted on material that is visible from the property line. Costs of production of the notice and posting the notice shall be borne by the petitioner.

**17 - - Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity shall not affect other provisions of application of this Ordinance which can be given affect without the invalid provision or application, and to this and the provisions of this act are severable.

**17 - - Effective Date.**

This Ordinance shall become effective from the date of its passage.

This Ordinance shall become effective from the date of its passage.

PASSED \_\_\_ READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2024.

Vote: \_\_\_ yes \_\_\_ no \_\_\_ abstain \_\_\_ absent

PASSED \_\_\_ READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2024.

Vote: \_\_\_ yes \_\_\_ no \_\_\_ abstain \_\_\_ absent

PASSED \_\_\_ READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2024.

Vote: \_\_\_ yes \_\_\_ no \_\_\_ abstain \_\_\_ absent

PASSED AND APPROVED THIS \_\_\_ DAY OF \_\_\_\_\_, 2024.

BY: \_\_\_\_\_  
Eric Green, Mayor

ATTEST:

BY: \_\_\_\_\_  
Monica Chenault, Clerk

ATTESTATION OF THE TOWN CLERK

STATE OF WYOMING            )  
COUNTY OF LINCOLN        )  
TOWN OF ALPINE             )

I hereby certify that the forgoing Ordinance No. \_\_\_\_\_ was duly posted for ten (10) days in the Town Clerk's Office.

I further certify that the forgoing Ordinance was duly recorded in the BOOK OF ORDINANCES \_\_\_ TOWN OF ALPINE, LINCOLN COUNTY, WYOMING.

ATTEST:

\_\_\_\_\_  
MONICA CHENAULT, CLERK