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## Chapter 20.02

### Annexation

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#### **20.02.010 Legislative declaration.**

The Town Council recognizes that the process for determining eligibility for annexation is prescribed by the Municipal Annexation Act of 1965 (the "Act") and that the decision of the Town Council on eligibility is a quasi-judicial action. Accordingly, this Chapter shall not be applied or construed so as to modify or conflict with the Act, nor impair the due process of law granted an applicant under the Act. The Town Council further finds that the process for determining whether it is in the community interest to annex property otherwise eligible for annexation is a matter of local concern and legislative prerogative. (Ord. 97-13 §1(part), 1997)

#### **20.02.020 Annexation hearing and public notice.**

After the Town Council's compliance with the process prescribed by the Act, including the public hearing to determine the eligibility for annexation of the petitioned property (the "Property"), the Town Council shall conduct a separate hearing on the proposed annexation ordinance to determine whether such annexation is consistent with the Town of Castle Rock Master Plan and is otherwise a desirable addition to the Town (the "Annexation Hearing"). The Annexation Hearing shall be held not later than one hundred eighty (180) days from the date of the Town Council's determination of eligibility for annexation, unless deferred with the consent of the petitioner. In addition, at least ten (10) days prior to the date set for the Annexation Hearing before the Town Council, the annexation request shall be reviewed in a public hearing by the Planning Commission. Notification of the Annexation Hearing before the Planning Commission and Town Council shall occur by publishing notice in the newspaper customarily utilized for the legal publications of the Town at least fifteen (15) days prior to the respective hearing, containing the following information:

- A. The date, time and place for the hearings before the Planning Commission and the Town Council to consider annexation of the Property to the Town;
- B. The names of the petitioners and either the verbatim legal description of the Property or a general description of the Property referring to established reference points; and
- C. That a copy of the petition for annexation may be examined at the Town offices during regular business hours.

The required public notice of the Annexation Hearing may be combined with the public notice of the proposed zoning classification of the Property and/or the public notice of the ordinance authorizing the annexation. (Ord. 97-13 §1(part), 1997)

### **20.02.030 Relation to zoning.**

The Town Council may evaluate any pending zoning requests for the Property concurrently with the annexation request, and the Annexation Hearing may be combined and held concurrently with the required public hearings on the zoning classification of the Property. (Ord. 97-13 §1(part), 1997)

### **20.02.040 Review and determination.**

The Town Council shall consider the policies, guidelines and criteria in the Town Master Plan, as amended, along with any other relevant information in determining whether it is in the best interests of the Town to grant or deny the petition for annexation. In addition, for properties within territory covered by the Intergovernmental Development Plan, the Town Council shall consider whether the annexation is in compliance with the Intergovernmental Development Plan. Approval or denial of the annexation ordinance is at the legislative discretion of the Town Council. Upon conclusion of the Annexation Hearing, the Town Council shall determine whether the Property should be annexed by its action on the annexation ordinance. If a Council motion to approve the annexation ordinance fails, the annexation is disapproved and the annexation process is concluded, unless the matter is brought before the Council at the same meeting for reconsideration in accordance with Council parliamentary procedure. (Ord. 2004-47 §5, 2004; Ord. 97-13 §1(part), 1997)

### **20.02.050 Applicability.**

This Chapter shall apply only to annexation requests for which the Act requires the Town Council to hold an eligibility hearing under Section 31-12-104, C.R.S. (Ord. 99-51 §1, 1999)

## **Chapter 20.03**

### **Enclave Annexation Fee Reductions**

#### **20.03.010 Purpose**

#### **20.03.020 Application**

#### **20.03.030 Modification of rates and fees**

#### **20.03.010 Purpose.**

An annexation of property to the Town as an enclave under Section 13-12-106, C.R.S., results in the imposition of the Town's comprehensive rate and fee structure which will vary from the similar rate and fee structure applicable to such properties prior to annexation. In contrast to a petitioned annexation, the property owners in an enclave annexation would not typically have incorporated the Town's rate and fee structure into their business plans and development planning. Accordingly, it is appropriate to modify certain rates and fees applicable to such properties during a transition period after annexation of an enclave. Properties annexed as an enclave are referred to in this Chapter as "Qualifying Properties." (Ord. 2011-17 §1, 2011)

#### **20.03.020 Application.**

This Chapter shall apply to all Qualifying Properties annexed to the Town after December 31, 2010. This Chapter shall have no application or effect on properties annexed to the Town in any manner other than as an enclave. (Ord. 2011-17 §1, 2011)

### **20.03.030 Modification of rates and fees.**

A. Storm Water Fees: The monthly storm water fee imposed under Section 13.30.060 of this Code on Qualifying Properties shall be reduced by fifty percent (50%) for a five-year period commencing with the first month storm water fees are imposed on such properties.

B. Land Use, Building and Development Fees: Excluding Development Impact Fees, System Development Fees and use tax, the fees imposed by the Town pursuant to the official Development Services Fee Schedule, as amended from time to time, on land use applications, development or construction on the Qualifying Properties shall be imposed at the lesser of the then-equivalent fee imposed by Douglas County or the fee imposed by the Town. In the event a fee is imposed by the Town, but not Douglas County, the Town fee shall apply.

This cap on fees will be in effect for five (5) years commencing on the date a Qualifying Property is annexed to the Town. (Ord. 2011-17 §1, 2011)

## **Chapter 20.04**

### **Disconnection**

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#### **20.04.010 Legislative declaration.**

The disconnection of territory annexed to the Town may be appropriate if the property owner does not wish to maintain the Town's municipal service obligation and the Town Council determines that the disconnection will not unduly impair the Town's ability to provide economical services to other properties remaining within the Town boundaries and the disconnection is otherwise in the Town's best interests. This Chapter provides the exclusive method by which property may be disconnected from the Town upon property owner request. The Town Council finds that Parts 5, 6 and 7 of Article 12, Title 31, C.R.S., do not apply to disconnection from a home rule municipal corporation. It is the intention of the Town Council to establish in this Chapter an orderly procedure for the consideration of requests for disconnection and to establish the terms and conditions under which such petitions for disconnection may be granted. (Ord. 93-01 §1(part), 1993)

#### **20.04.020 Petition.**

In order to initiate consideration of a request by a property owner for disconnection, a petition requesting disconnection shall be submitted to the Town containing the following information:

A. The legal description of the property to be disconnected (the "petitioned property");

B. The names and addresses of the owners of the petitioned property as reflected in the public records of Douglas County (the "petitioners"), and the names and addresses of any persons or parties having an equitable or beneficial interest in such property as reflected in a recorded instrument creating a lien or encumbrance against the petitioned property;

C. An allegation that the petitioners are all of the owners of the petitioned property;

D. The written consent of all lienholders and encumbrancers of the petitioned property to the disconnection;

E. An allegation that the disconnection meets all requirements and conditions of this Chapter; and

F. A concise summary of the reason that the disconnection is sought and the intended uses to be made of the petitioned property upon disconnection.

Concurrently with submission of the petition, the petitioner shall tender a nonrefundable administrative fee of five hundred dollars (\$500.00), to defray the out-of-pocket and administrative expenses the Town may incur in review of the disconnection petition and a title commitment or other title search, acceptable to the Town Attorney, disclosing the owners and lienors of the petitioned property, as reflected in the public records. (Ord. 93-01 §1(part), 1993)

#### **20.04.030 Hearing and public notice.**

The Town Clerk shall forthwith notify the Town Council in writing of the receipt of a complying petition for disconnection and the Town Council shall establish a date for a public hearing on the petition not later than ninety (90) days from the date of receipt of the written communication from the Town Clerk. In addition, at least twenty (20) days prior to the date set for the public hearing before the Town Council, the petition for disconnection shall be reviewed in a public hearing by the Town Planning Commission. Notification of the hearing before the Planning Commission and Town Council shall occur by publishing notice in the newspaper customarily utilized for the legal publications of the Town containing the following information:

A. The date, time and place for the hearings before the Planning Commission and the Town Council to consider disconnection of certain property from the Town;

B. The names of the petitioners and either the verbatim legal description of the property to be disconnected or a general description of same referring to established reference points; and

C. That a copy of the petition for disconnection may be examined at the Town offices during regular business hours.

In addition, the petitioned property shall be posted with a notice containing the above information in the same manner as notice of rezoning is required to be posted under Town regulations. (Ord. 93-01 §1(part), 1993)

#### **20.04.040 County referral.**

A copy of the notice required to be published under Section 20.04.030 shall be sent by certified mail or hand delivered to the clerk of the Douglas County Board of County Commissioners and the County

Attorney, at least thirty-five (35) days prior to the date of the scheduled public hearing before the Planning Commission. The referral comments of the County Commissioners or any office of the County shall be received at the hearing before the Planning Commission and Town Council. (Ord. 93-01 §1(part), 1993)

**20.04.050 Planning Commission review.**

Upon completion of its public hearing, the Planning Commission shall advise the Town Council of its recommendation on the granting of the petition for disconnection. The Planning Commission's advisement shall be made part of the record in the public hearing before the Town Council; however, the recommendation of the Planning Commission shall not be binding on the Town Council. (Ord. 93-01 §1(part), 1993)

**20.04.060 Technical requirements.**

No petition for disconnection shall be granted unless the following technical requirements are met:

A. That, prior to disconnection, at least twenty percent (20%) of the perimeter of the petitioned property is coextensive with the boundary line between the municipal limits and unincorporated Douglas County;

B. No portion of the petitioned property has been made subject to a final subdivision plat processed through the Town subdivision regulations and approved by the Town Council; and

C. All taxes or assessments imposed by the Town lawfully due upon the petitioned property up to the time of the filing of the petition have been fully paid. (Ord. 93-01 §1(part), 1993)

**20.04.070 Criteria.**

The Town Council and Planning Commission shall consider the following criteria in determining whether or not it is in the best interests of the municipality for the petition for disconnection to be granted:

A. Whether or not the petitioned property is situated such that its disconnection may impair the ability of other properties adjacent to or within the area to develop;

B. Whether the petitioned property is situated such that its disconnection may impair or preclude the future annexation of properties adjacent to or in the vicinity of the property within unincorporated Douglas County;

C. Whether development of the petitioned property in accordance with its zoning is likely to generate a commercial tax base;

D. Whether the water rights associated with the petitioned property have been received by the Town and are incorporated into the Town's water supply plan;

E. Whether the provision of municipal services to other properties will likely necessitate the extension of utility lines, streets or other public infrastructure over the petitioned property;

F. Whether the petitioned property is obligated contractually or otherwise expected to participate in the development of regional or wholesale infrastructure;

G. Whether the termination of the Town's municipal service obligation to the petitioned property will have significant financial impact on the Town;

H. The referral comments from Douglas County; and

I. The type of land uses designated for the petitioned property under the Douglas County land use master plan and the compatibility of such development with the approved and anticipated land uses for property remaining within the municipal boundaries of the Town.

In addition to the above criteria, the Town Council may consider any other information which is relevant to the petitioned property. (Ord. 93-01 §1(part), 1993)

#### **20.04.080 Determination.**

Upon conclusion of its public hearing, the Town Council shall decide by consideration of an appropriate ordinance whether or not the petition for disconnection shall be granted. The decision of the Town Council shall be final and binding. The Town Council may by a disconnection agreement specify terms and conditions for granting the disconnection, which terms will survive the disconnection of the petitioned property. (Ord. 93-01 §1(part), 1993)

#### **20.04.090 Conditions for disconnection.**

In addition to any conditions, restrictions or terms placed upon the disconnection by the Town Council in the disconnection ordinance or by agreement with the petitioner, every disconnection shall be conditioned upon satisfaction of the following:

A. The petitioned property shall not be exempt from the payment of any taxes lawfully assessed against it for the purpose of paying any indebtedness or assessment lawfully contracted or imposed by the governing body of the Town while such land was within the limits of the Town and remains unpaid and for the payment of which the petitioned property could be lawfully taxed or assessed. When the Town Council levies a tax upon the petitioned property within the Town for the purpose of paying such indebtedness, the Town Council has the authority to levy a tax at the same rate and for the same purpose on the property so disconnected. The County Treasurer shall pay over to the Town all moneys collected on account of such tax, to be applied only to the payment of such indebtedness. In case the owner of any land so disconnected pays off and discharges a portion of such indebtedness equal in amount to the same proportion of the indebtedness which the valuation for assessment of his or her land bears to the entire valuation for assessment of all the property subject to taxation for the payment of such indebtedness, calculated according to the last assessment previous to such payment, said land shall be exempted from further taxation to pay such indebtedness. Upon such payment being made, the canceled bonds or other evidences of payment of such portion of said indebtedness shall be deposited with the treasurer of the Town, and a certificate shall be given by him or her stating that such payment has been made.

B. The property owners shall convey to the Town any easements or other property interests over the petitioned property that the Town determines are likely to be necessary in order to extend municipal services to adjacent or intervening properties, including the extension of municipal utility lines and transportation facilities and/or other municipal infrastructure.

C. The petitioned property shall not be used for industrial or commercial uses for a six-year period after disconnection if, during such period, the applicable ordinances of the Town prohibit such uses upon the area within the Town adjoining such land. (Ord. 93-01 §1(part), 1993)

#### **20.04.100 Disposition of water rights.**

If the petition for disconnection is granted, the Town shall convey by quit claim deed to the property owners the rights to the Denver Basin groundwater underlying the petitioned property; provided, however, that if the Town has incorporated such water rights to support actual water protection or has relied upon utilization of such water rights in a water supply master plan, the Town may retain ownership of such water rights. (Ord. 93-01 §1(part), 1993)

#### **20.04.110 Disconnection procedure.**

If an ordinance is enacted in accordance with this Chapter approving the disconnection of the petitioned property, the Town Clerk, upon the effective date of such ordinance, shall file with the clerk and recorder of Douglas County two (2) certified copies of the ordinance, which ordinance shall contain the legal description of the petitioned property. The County Clerk and Recorder shall retain one (1) certified copy and shall file the second certified copy with the division of local government in the department of local affairs as provided by applicable state statute. The ordinance approving the disconnection shall also contain a recitation and specific reference to the recording of any annexation or development contract affecting the petitioned property that such contract no longer is binding upon the Town or the property owner and no longer constitutes a lien or restriction against the petitioned property. If the Town and petitioners have entered into a disconnection agreement, such agreement shall be recorded concurrently with the disconnection ordinance. (Ord. 93-01 §1(part), 1993)

#### **20.04.120 Reservation.**

The approval of a disconnection is not intended to impair or prejudice the right of the Town or other property owner within the Town from comment, input or referral on subsequent rezoning of the petitioned property by Douglas County. Disconnection shall not preclude the subsequent submission of a petition for annexation to all or any portion of the petitioned property. (Ord. 93-01 §1(part), 1993)