

## **CHAPTER 16**

### **Land Use Code**

#### **Article XIII Annexation Procedures**

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## ARTICLE XIII

### Annexation Procedures

#### Sec. 16-13-10. Purpose.

The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the *Colorado Municipal Annexation Act of 1965*, as amended. This Article, in part, provides supplemental requirements for annexation pursuant to the *Colorado Municipal Annexation Act of 1965*, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that act, or any requirements set forth in other portions of this Code. In the event of a conflict between the act, the provisions of this Article or any requirements set forth in other portions of this Code, it is the expressed intent of the Board of Trustees that the more stringent provision shall control. (Ord. 627 §1, 2010)

#### Sec. 16-13-15. Responsibilities of applicant.

In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Act of 1965 (the "Act"), as amended, all applicants shall have the following responsibilities: The applicant is responsible for having a representative at all meetings of the Planning Commission and the Board of Trustees where the request is reviewed. Failure to have a representative present may cause to have the item withdrawn from the agenda of that meeting. (Ord. 627 §1, 2010)

#### Sec. 16-13-20. Annexation policy

(a) All annexations to the Town shall comply with the *Colorado Municipal Annexation Act of 1965* (Sections 31-12-104 and 31-12-105, C.R.S.).

(b) All annexation shall comply with the annexation policies of the Town's Comprehensive Plan including:

(1) Annexation of enclaves may be accomplished for the purpose of improving the continuity of the Town's boundary and to provide more efficient and effective delivery of services.

(2) Annexation of unincorporated land may be accomplished in situations where the Town has the ability to serve, or will have the ability to serve in the near future, the annexed land.

(3) Annexation of land should mainly be limited to the Urban Growth Area of the Town as defined by the Framework Map.

(4) The fiscal impact of the annexation, if any, shall be determined by applying the Town's fiscal impact model to the present and proposed land use of the annexed area. The fiscal impact shall not be the sole determinant of annexation approval, but shall be one of the determinants in a decision to annex land.

(5) At the time of annexation action on the part of the Town, all adjoining landowners and any landowners within three hundred (300) feet shall be notified. (Ord. 627 §1, 2010)

**Sec. 16-13-30. Annexation application process.**

The requirements as set forth in this Section may be waived or modified as determined by the Town Administrator or his or her designee based on the size of the proposed land area to be annexed and the timing and intensity of development proposed by the applicant. No such waiver or modification shall apply to the requirements of the *Colorado Municipal Annexation Act of 1965*, as amended.

(1) Step 1: Preapplication Conference. The applicant shall schedule a preapplication conference with the Community Development Department for the purpose of reviewing the Town's requirements, obtaining the annexation application materials and to discuss any special conditions pertaining to the annexation.

(2) Step 2: Annexation Application Submittal. At least fifteen (15) days prior to the presentation of any annexation petition to the Board of Trustees, the applicant shall submit two (2) copies of the following information to the Town:

a. Land Use Application Form.

b. Application and Deposit Fees. A nonrefundable application fee as determined by the adopted Town Fee Schedule shall accompany each application. This fee is for the cost of the Town to process and review the application. A deposit as determined by the adopted Town Fee Schedule shall accompany each application for outside fees accrued by the Town for review and processing of the application. Any unused amount will be refunded to the applicant as per the fee and deposit agreement. The aforementioned fee and deposit may be waived at the discretion of the Town.

c. Annexation map. All annexation maps shall be made with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, and shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The annexation map shall contain the following information:

1. The date of preparation, the scale and a symbol designating true north.
2. The name of the annexation. The name of the annexation shall be approved by Town Staff.
3. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the annexation map.
4. The legal description shall be provided in digital format either in MSWord or WordPerfect format.
5. Designation of the boundary that is contiguous to the Town and the length of the same.
6. Lot and block numbers if the area is already platted.
7. Existing and proposed easements and rights-of-way.
8. Existing and requested zoning and acreage of each requested zone.

9. Ownership of all parcels within and adjacent to the annexation.

10. Appropriate certification blocks as directed by the Community Development Department.

11. A digital copy of the annexation map shall be submitted.

d. Concept plan. All concept plans shall be made with an engineer's scale, at a minimum scale of one (1) inch represents one hundred (100) feet, and shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The concept plan shall contain the following information:

1. The date of preparation, the scale and a symbol designating true north.

2. The name of the annexation. The name of the annexation shall be approved by Town Staff.

3. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the concept plan.

4. Existing and proposed easements and rights-of-way.

5. Location and approximate acreage of proposed land uses including open space and public sites to be dedicated.

6. Existing watercourses with adequate easements for flood control.

7. Land Use Table that includes land uses (including oil and gas facilities and their required setbacks), approximate acreage of each land use, percentage of each land use, proposed density or floor area ratio and proposed number of dwelling units.

8. USGS topographic contours, most current available.

9. Proposed zoning of the property.

10. A digital copy of the concept map shall be submitted.

e. Supportive information. The following supportive information may be submitted with the annexation map and master plan:

1. Annexation petition. See CRS 31-12-107 for requirements.

2. Soils description and limitation.

3. Preliminary utility plan.

4. Floodplain information.

5. Title commitment. Such commitment must have an effective date less than thirty (30) days prior to the date of the submittal of the annexation petition.

6. Mailing list and labels for county, special districts, irrigation ditch companies, mineral interest owners and adjacent property owners. The applicant is to provide a mailing address list and labels as required by the Town of all property owners within three hundred (300) feet of the boundaries of the annexation.

7. In the case of flagpole annexations, a separate list and set of mailing labels of owners of property adjacent to the public right-of-way proposed to achieve contiguity.

8. Descriptive Summary stating how the annexation is consistent with the goals, policies and strategies set forth in the Comprehensive Plan.

9. Water rights. Water rights sufficient for development of annexed land shall be provided to the Town. One-acre-foot, as the net amount delivered to the applicable treatment facility, per single-family residential unit or in an amount as determined by a water demand analysis for residential or non-residential development shall be applicable. Water rights shall be conveyed as units of the Northern Colorado Water Conservancy District or paid for based on the current market value as determined by the Town Administrator based upon current reliable sales information. Water rights shall be provided at the time of final plat approval or prior to the issuance of a building permit as determined by the Board of Trustees upon approval of the final plat.

10. Zoning map of property to be annexed. All zoning maps shall be made with an engineer's scale at a minimum scale of one (1) inch represents one hundred (100) feet, and shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The concept plan shall contain the following information:

- i. The date of preparation, the scale and a symbol designating true north.
- ii. The name of the annexation. The name of the annexation shall be approved by Town Staff.
- iii. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the zoning map.
- iv. Existing and requested zoning and acreage of each requested zone. Type and maximum density, including gross and net density of residential land uses; and floor area ratios of nonresidential uses.
- v. Legal description of the property.
- vi. All existing land uses within the parcels to be rezoned.
- vii. Appropriate certification blocks as directed by the Community Development Department.
- viii. A digital copy of the zoning map shall be submitted.

ix. Property tax statement.

x. Vicinity map with a radius of one and one-half (1½) miles, at a minimum scale of one (1) inch represents two thousand (2,000) feet.

xi. Statement on community need for proposed annexation and zoning.

xii. For all annexations in excess of ten (10) acres, the applicant shall obtain from the school district governing the area to be annexed a statement of the effect of the annexation upon the school district, including an estimate of the number of students generated by the proposed annexation.

f. Annexation impact report. See Section 31-12-108.5, C.R.S., for requirements.

1. One (1) copy of the impact report shall be filed with the Board of County Commissioners governing the area proposed to be annexed within five (5) days thereafter. The preparation and filing of the annexation impact report may be waived upon approval of the Board of County Commissioners governing the area proposed to be annexed.

2. The annexation impact report shall include the following:

i. A map or maps of the Town and adjacent territory showing the following information:

(a) The present and proposed boundaries of the Town in the vicinity of the proposed annexation.

(b) The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.

(c) The existing and proposed land use pattern in the areas to be annexed.

ii. A statement of the Town's plans for extending or providing for municipal services within the area to be annexed.

iii. A statement of the Town's plans for the financing of municipal services to be extended into the area to be annexed.

iv. A statement identifying all existing districts within the area to be annexed.

v. A statement of the effect of the annexation upon the school district governing the area to be annexed, as is more fully set forth in Subparagraph i. above.

(3) Step 3: Staff Certifies the Application is Complete. Within thirty (30) days, Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified by the Community Development Director) to the Town. If all documents are

complete and accurate, the Community Development Department shall submit the annexation petition to the Town Clerk.

(4) Step 4: Annexation Petition Referral to the Board of Trustees. The Town Clerk shall present the annexation petition and a resolution initiating annexation proceedings to the Board of Trustees, which shall thereafter establish the dates for a public hearing.

(5) Step 5: Publish Public Notice. At least thirty (30) days prior to the public hearing, the Town Clerk shall publish notice of the date, time and place that the Planning Commission and Board of Trustees will be holding the public hearing. The notice must be published once a week for four (4) consecutive weeks.

(6) Step 6: Clerk Refers Annexation Petition, Resolution and Maps to the County, Neighboring Municipalities and Special Districts. Upon the establishment of a public hearing date, the Town Clerk shall give appropriate notice in accordance with the *Colorado Municipal Annexation Act of 1965*, as amended, and shall specifically direct copies of the annexation petition, maps and the resolution initiating the annexation procedure by certified mail to the Clerk of the Weld Board of County Commissioners and the Weld County Attorney. Copies of the annexation petition, maps and the resolution initiating the annexation procedure shall also be sent by certified mail to any school district or special district having territory within the annexed area and all municipalities within three (3) miles of the subject property. These copies shall be sent at least twenty-five (25) days prior to the public hearing.

(7) Step 7: Referral of the Annexation to Interested Parties. Upon acceptance of the annexation petition by the Board of Trustees, Staff shall send copies of the annexation materials to additional interested entities as determined by the Community Development Department. Such entities shall be advised of the scheduled hearing date and shall further be notified that any objections to the annexation and concept plan must be submitted to the Town in writing no later than twelve (12) days after receipt of the annexation map and master plan.

(8) Step 8: Town Clerk Files the Annexation Impact Report. The Town Clerk shall file one (1) copy of the Annexation Impact Report with the Board of Weld County Commissioners at least twenty (20) days before the date of the first public hearing. The preparation and filing of the Annexation Impact Report may be waived if the land being annexed is less than ten (10) acres.

(9) Step 9: Posting of Property and Notification.

a. Using the mailing list provided by the applicant, notification shall be sent by the Town via first-class mail to the all owners of property within three hundred (300) feet of the property proposed for annexation, mineral interest owners of the property and irrigation ditch companies no later than twelve (12) days before the first public hearing.

b. The applicant shall post the property with a notice of the public hearings at least twelve (12) days prior to the first public hearing. The sign shall meet the standards determined by the Community Development Department.

(10) Step 10: Annexation Agreement. The Community Development Department shall coordinate discussion among the applicant and appropriate representatives of the Town regarding the

provisions of an annexation agreement. The agreement shall be in a form provided by the Town. A draft agreement shall be prepared in advance of the Town Board Public Hearing.

(11) Step 11: Planning Commission Review and Recommendation.

a. The Planning Commission shall consider the petition for annexation and zoning of the property at a regular or special meeting to be held prior to the date of the public hearing before the Board of Trustees.

b. The Planning Commission shall, by resolution, recommend approval of the petition for annexation and zoning with or without modifications and/or conditions, or recommend denial. The Planning Commission shall refer any such recommendation to the Board of Trustees.

(12) Step 12: Board of Trustees Public Hearing. Upon the submission of documentation in accordance with this Article and upon compliance with the notice and hearing requirements as set forth in the *Colorado Municipal Annexation Act of 1965*, as amended, and the public hearing, the Board of Trustees may consider the approval of an ordinance annexing and zoning the subject property to the Town. Before approval or denial of the ordinance to annex the subject property, the Board of Trustees per Section 31-12-110, C.R.S., shall set forth a finding of facts through a resolution regarding compliance with Sections 13-12-104 and 13-12-105, C.R.S., and whether or not an election is required. If the Board of Trustees, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by resolution, stating the grounds for such denial. In the event the Board of Trustees considers and disapproves such ordinance, no similar request may be heard for a period of one (1) year from the date of denial.

(13) Step 13: Final Submittal. In the event the Board of Trustees approves the annexation and zoning ordinance, the applicant shall submit to the Town Clerk two (2) mylars of the final annexation and zoning maps within ten (10) days of the effective date of the ordinances.

(14) Step 14: Record the Documents. The Town Clerk shall record two (2) certified copies of the annexation and zoning maps and the signed annexation agreement, if any, with the Weld County Clerk and Recorder Office. (Ord. 627 §1, 2010)

**Sec. 16-13-35. Review criteria.**

It shall be the general policy of the Town with respect to annexations and the consideration of annexation petitions that:

(1) Annexation is a discretionary act. With the exception of an initiated petition for the annexation of an enclave, the Board of Trustees shall exercise its sole discretion in the annexation of territory to the Town.

(2) The property is eligible for annexation if the annexation complies with the *Colorado Annexation Act of 1965* (Sections 31-12-104 and 13-12-105, C.R.S.), as amended.

(3) All annexation shall comply with the annexation policies of the Town's Comprehensive Plan. See Section 16-13-20(b). (Ord. 627 §1, 2010)