

CHAPTER 15

Annexation

Article 1 Annexation Procedure

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ARTICLE 1

Annexation Procedure

Sec. 15-1-10. Purpose.

The purpose of this Chapter 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 (the "Annexation Act"). This Chapter, in part, provides supplemental requirements for annexation pursuant to the Annexation Act 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 Chapter 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. (Prior LUC §12.1; Ord. 2007-07 §1)

Sec. 15-1-20. Statement of policy and 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 land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the Comprehensive Plan and to the land uses depicted on the Future Land Use Map, as amended.

(3) Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the Town in order that the public needs may be served by such facilities. These facilities include, but not by way of limitation, arterial streets, bridges, public parks and recreation areas, school sites, fire and police station sites and storm drainage facilities. The annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly annexed area.

(4) The petitioner for annexation shall be responsible for paying the Town's full cost for processing the annexation petition, from initial discussion with staff before submittal of the petition, through the approval and recording of the final annexation documents.

(5) The applicant is responsible for having a representative at all meetings where the request is reviewed. Failure to do so will be cause to have the item withdrawn from the agenda of that meeting.

(6) The applicant shall consult with Town staff to discuss any special conditions pertaining to the annexation and to obtain necessary petitions and forms.

(7) The applicant is responsible for submitting complete and accurate information in a timely manner, as described in these procedures.

(8) Annexed areas will not divide tracts of land to prevent further annexation of adjoining parcels (for example, leaving a "gap" or a "strip" of land between property to be annexed and the adjoining property).

(9) All subsurface (nontributary) water rights shall be deeded to the Town at the time of annexation.

(10) The Town shall have in place an annexation master plan for the three-mile area surrounding the Town. The annexation master plan shall be updated for each annexation or once per year, whichever is less. (Prior LUC §12.2)

Sec. 15-1-30. Eligibility for annexation.

Eligibility for annexation shall be determined by conformity with the requirements of Sections 31-12-104 and 31-12-105, C.R.S., and as determined by the Board of Trustees in its sole discretion. (Prior LUC §12.3)

Sec. 15-1-40. Procedure.

The purpose of these procedures is to promote the harmonious growth of the Town in accordance with the Comprehensive Plan; provide for an orderly system for extending municipal facilities, government services and utilities; and distribute fairly and equitably the costs of such among the beneficiaries. (Prior LUC §12.4)

Sec. 15-1-50. Preliminary steps.

(a) The petition for annexation and all required information and materials shall be filed with the Town Clerk. A land use and development deposit as set forth in Appendix B to this Code shall accompany the petition. For tracts smaller than five (5) acres, a deposit as set forth in Appendix B to this Code is required. The petitioner shall agree to pay the required annexation filing fee and all costs incurred by the Town in reviewing the petition. Fees and costs will be withdrawn from the deposit. If at any time the amount of the deposit drops below five hundred dollars (\$500.00), annexation proceedings will be suspended. See Appendix B to this Code for the fee schedule.

(b) All petitions for annexation and required material shall be submitted to the Town Clerk. The Town Planner shall review documents submitted for completeness to determine whether application is reviewable.

(c) The Town Planner shall ensure that the Review Team members, consisting of the Town Planner, Town Administrator, Town Attorney and Town Engineer, are furnished with annexation packages for appropriate review and written comment. The Review Team will review the application to determine if the proposed annexation and initial zoning are in conformance with the Annexation Act, the Comprehensive Plan, this Code and other Town regulations and policies. Either an incomplete submittal or a finding that the area does not meet requirements pertaining to eligibility for annexation shall automatically terminate the annexation proceedings.

(d) During this process, the applicant may be asked to submit additional information and attend meetings with individual or collective members of the Review Team.

(e) Upon determination that the application is complete, the Town Planner shall notify the Town Clerk. The Town Clerk shall present the annexation petition, supporting documents, comments, a draft annexation agreement and a resolution initiating annexation proceedings to the Board of Trustees at a regularly scheduled meeting. Upon determination that the petition is adequate and the parcel is eligible for annexation, the Board of Trustees shall establish a date for a public hearing and direct the Town Attorney to draw up an annexation agreement. The hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the effective date of the resolution setting the hearing.

(f) Upon the establishment of a public hearing date, the Town Clerk shall give notice in accordance with the Annexation Act. Notice of the public hearing must be published once per week for four (4) consecutive weeks. At least twenty-five (25) days before the public hearing, the Town Clerk shall direct copies of the annexation petition and resolution initiating the annexation procedure by certified mail to the Board of County Commissioners, County Attorney, the affected school districts and any special district with territory within the proposed annexation.

(g) Upon establishment of the public hearing date and after conferring with Town Planner, the applicant shall furnish copies of the annexation map, concept master plan and any required review fees to the entities listed below for review. The Town staff may direct submission of copies to additional entities for comment. All entities shall be notified that any objections or comments to the annexation map and concept master plan must be submitted, in writing, to the Town within ten (10) days of receipt of the materials. The applicant must provide documentation of receipt to the Town. (A draft referral sheet is available.)

- (1) Windsor-Severance Fire Protection District.
- (2) Poudre Valley REA (as applicable).
- (3) Xcel Energy.
- (4) Qwest.
- (5) North Weld Water Conservation District (comments must be received by the Town).
- (6) Colorado Department of Transportation.
- (7) Appropriate school district (Weld County RE-4, Eaton or Ault).
- (8) Soils Conservation District.
- (9) Colorado Department of Wildlife.
- (10) Any additional telephone companies or franchise utility companies with an interest in the affected territory.

(h) The Town staff shall submit petition packages to the Board of County Commissioners, County Attorney and all other special districts within the affected territory.

(i) The Planning Commission shall hold a public hearing on the annexation petition and zoning, and the Chair of the Planning Commission shall submit the Planning Commission's written recommendation to the Board of Trustees. Such a report will include a recommendation on the zoning for the lands if the Board of Trustees annexes such land into the Town.

(j) The Board of Trustees shall hold a public hearing on the annexation petition. Upon submission of documentation in accordance with the Town's annexation procedures and requirements and those set forth in the Annexation Act, the Board of Trustees may consider the approval of an ordinance annexing the subject property. Within fifteen (15) days of the motion of its findings, the Board of Trustees shall notify the petitioner in writing of its findings and conclusions and may deny or approve the annexation under terms and conditions deemed necessary.

(k) Within ninety (90) days of the effective date of the annexation, the land will be zoned.

(l) As soon as practical after adoption of the annexation ordinance, the Town Clerk shall file one (1) copy of the annexation map with the original of the annexation ordinance in the Town Clerk's office and three (3) certified copies of the map and ordinance with the County Clerk and Recorder.

(m) Thirty (30) days following publication of the annexation ordinance, said ordinance shall become legally effective. (Prior LUC §12.4; Ord. 2007-07 §1)

Sec. 15-1-60. Terms and conditions.

(a) Land annexed to the Town shall be eligible for municipal services and shall be subject to all laws, regulations and taxes of the Town.

(b) Eligibility. The petitioner must provide proof of eligibility for annexation, as defined by the Annexation Act.

(c) Utilities. The cost of utility main extensions to annexing lands shall be borne by the petitioner. The Town may at its discretion require oversizing of mains to serve anticipated future needs. In this event, the Town shall pay the difference between the oversizing and that required to adequately serve the area to be annexed. If utility mains have previously been extended to the annexing property, the petitioner must pay any outstanding assessments due on the existing mains.

(d) Water.

(1) The petitioner shall agree to grant in perpetuity to the Town the sole and exclusive right to withdraw, appropriate and use all wells and groundwater attached to the land. The owners will also agree to provide to the Town such other water as will be required, including raw water in an amount equivalent to one (1) acre-foot of water per residential unit, acceptable to NWWCD (CBT, WG, N. Poudre Irrigation or other), and water as may be required to irrigate open space and common areas.

(2) For each phase of a subdivision with final approval, the Town will require a minimum of ten percent (10%) of the equivalent water requirements for the total lots approved for the phase to be held in escrow and credited against the last lots permitted for the build-out of the phase. This water shall be dedicated after final approval of the phase, but before any building permits will be issued. The Town will also require that a minimum block of ten (10) acre-foot units of CBT or

equivalent water be dedicated to the Town to satisfy raw water requirements for each ten (10) building lots requesting permits. This water will be dedicated prior to the issuance of the permits.

(3) For a dual water system, a lower raw water requirement may be negotiated in the subdivision improvements agreement.

(4) Water requirements for commercial and industrial zoned properties will be negotiated separately.

(5) No property shall be annexed until an investigation has been made by the Town Administrator to determine if any water historically used upon the property shall be dedicated to the Town for use with the potable or nonpotable water system, or for use in open-space irrigation. No such water shall be sold or transferred after annexation without first obtaining approval, in writing, from the Town.

(e) Rights-of-way and easements. The petitioner shall agree to deed to the Town any drainage easements deemed necessary by the Town for the protection of the Town and land to be annexed from flood hazards, and shall also agree to pay drainage fees as established by the Town. The petitioner shall also agree to deed to the Town all streets, alleys and utility easements.

(f) The petitioner shall agree to reserve all land necessary to provide streets and roads to assure adequate circulation of vehicles and pedestrians within the land to be annexed and to assure conformance with the existing street and road system of the Town. The petitioner shall agree to dedicate, design and fully improve, to the Town's standards, internal public streets and one-half (½) of abutting public streets.

(g) The petitioner shall agree to deed to the Town a minimum fifteen percent (15%) of the land to be annexed for open space, pay an equivalent fee in lieu of land or pay a park and trails fee per dwelling unit, or any combination of the three (3), as required by the Board of Trustees.

(h) No petition for annexation will be considered unless all required information, including a concept master plan, is submitted with the petition.

(i) Annexed territory shall be zoned within ninety (90) days from the effective date of the annexation in accordance with the provisions of this Code.

(j) The petitioner shall agree to submit to the Town Planner a preliminary subdivision plan as specified by Chapter 17 of this Code within ninety (90) days of approval of annexation and establishment of zoning of the annexed territory by the Board of Trustees. Such preliminary plan will be in conformance with the concept master plan as submitted and approved with the petition for annexation. (Prior LUC §12.5; Ord. 2007-07 §1)

Sec. 15-1-70. Annexation impact report.

(a) In accordance with Section 31-12-108.5, C.R.S., the Town shall prepare an impact report for annexations greater than ten (10) acres. The applicant shall prepare and submit twenty-nine (29) copies with the annexation petition as required in Section 15-1-80 below.

(b) The full report shall be prepared and mailed by the Town no less than twenty-five (25) days prior to the date of the annexation hearing. One (1) copy of the report shall be filed with the Board of County Commissioners within five (5) days thereafter.

(c) The annexation impact report checklist is contained in Appendix 15-A attached to this Chapter. (Prior LUC §12.6; Ord. 2007-07 §1)

Sec. 15-1-80. Annexation petition submittal requirements.

(a) There will be twenty-nine (29) sets, four (4) of which will be complete sets and include full-sized plans. The remaining twenty-five (25) sets shall be partial sets and include reduced sets of plans. Only complete applications shall be considered.

(b) To avoid delays due to inadequate information, annexation applications must include all items listed in Subsections (d), (e) and (f) below.

(c) If an item is not checked as included in the submittal, a narrative statement detailing the reason for exclusion must be included. All copies shall to be collated into complete application packets prefaced with a content identification sheet.

(d) The application for annexation shall contain the information contained in Appendix 15-B to this Chapter.

(e) The annexation map shall contain the information contained in Appendix 15-C to this Chapter.

(f) The annexation agreement template shall, at a minimum, contain the contain the information contained in Appendix 15-D to this Chapter. (Prior LUC §§12.7, 12.8, 12.10; Ord. 2007-07 §1)

Sec. 15-1-90. Concept master plan.

Information regarding the concept master plan is contained in Chapter 17, Article II, Division 1 of this Code. All fees associated with such plan are set forth in Appendix B to this Code. (Prior LUC §12.9; Ord. 2007-07 §1)