

## 17.98 Annexation of Land

(a) Applicability. This section shall apply to all actions to annex new land into the municipal boundaries of the Town and shall apply to all property sought to be annexed to the Town by voluntary petition of landowners, except this section is not intended to apply to and nothing in this section shall be interpreted to increase the requirements or add to the processes for annexation of enclaves, partially surrounded land, and municipally owned land as provided for in C.R.S. §31-12-106.

(b) Specific Procedure.

- (1) The applicant for the annexation of land and the Town shall complete all those actions necessary for full compliance with C.R.S. §§ 31-12-101 et. seq., the Colorado Annexation Act of 1965, as amended.
- (2) In case of any conflict between the provisions of this Code and the requirements of C.R.S. §§ 31-12-101 et. seq., the provisions of C.R.S. §§ 31-12-101 et. seq. shall apply.
- (3) By petitioning for and accepting annexation of property to the Town, the petitioner shall be deemed to agree to be governed and abide by the terms and conditions herein set forth, together with any other conditions or requirements which the Town Board of Trustees may lawfully impose in a specific case.
- (4) The petitioner has the burden of demonstrating that his or her property is eligible for annexation, as defined by C.R.S. §§31-12-104 and 31-12-105.
- (5) Property annexed to the Town shall be eligible for municipal services, including utilities, subject to and as provided by the annexation agreement pertaining to the annexation, this Code, and Town ordinances, resolutions, rules, and regulations as now or hereafter constituted.
- (6) Each application for annexation shall be accompanied by an application for zoning of the annexed properties into one or more of the zoning districts shown in Article 2 and the Town shall complete the procedure for making a decision on the proposed zoning of the land pursuant to Section 17.14 Rezoning (Amendment to Official Zoning Map), but final action by the Town Board of Trustees regarding zoning for the annexed property shall not be taken before the annexation of the property has been completed.
- (7) The Town shall provide to the applicant a draft annexation agreement prior to the zoning public hearing before the planning commission. The annexation agreement shall outline the responsibilities of the applicant and the Town regarding the provision and extension of streets and utilities, the dedication of water rights, the payment of fees and charges related to the annexation and proposed development, the provision of facilities for the public and for residents and occupants of the annexed land, and other matters related to the impacts of the annexation on the Town. Any changes or additions to the annexation agreement proposed by the Town or suggested by the applicant shall be resolved

before the public hearing before the planning commission. If a property to be annexed has multiple ownership, all of the owners must sign the annexation agreement. If multiple properties are combined for annexation purposes, but each will be developed separately, separate annexation agreements are to be signed by each owner. The final annexation agreement shall be signed by the applicant and made available to the Town Clerk before final action by the Town Board of Trustees on the proposed annexation.

(c) Request for Concept Review. Prior to the submission of a petition for annexation, the petitioner may request a concept review. Upon receipt of a request, the Town will schedule a meeting with the Planning Commission and/or the Town Board of Trustees, as necessary.

(1) Purpose of Concept Review. The concept review is an informal opportunity for the petitioner to discuss the scope and general concept of the proposed annexation with the Planning Commission and/or the Board of Trustees and to receive assistance in identifying issues and concerns regarding the proposed annexation that would likely be of concern to the Planning Commission, the Board of Trustees and the public prior to the submission of a petition for annexation.

(2) Information required. At the concept review, the petitioner should be prepared to provide general information regarding the property to be annexed, including but not limited to:

- a. Existing uses of the property.
- b. Land uses and densities proposed for the property following annexation and expected zoning classifications.
- c. Major public improvements necessary to serve the property, including potential access points and major streets.
- d. Anticipated public utility and service demands.
- e. Natural hazards and physical features.
- f. Sketches, photographs and conceptual drawings or plans that will aid in the understanding of the proposed annexation.
- g. Statement of benefit to the Town and any other matters relevant to the annexation, development, and service needs of the property.

(d) Petition for Annexation. In addition to the matters and allegations required by C.R.S. § 31-12-107, the petition for annexation shall contain the information set forth below:

(1) A written legal description of the boundaries of the area proposed to be annexed. If requested by the Town, the petitioner shall include within the boundaries of such area the full width of any and all county roads designated by the Town for annexation, along with the privately owned lands.

(2) Evidence of fee ownership of each separately owned parcel of land proposed for annexation. Such evidence shall consist of a commitment for or a title insurance

policy, a written attorney title opinion, a subdivision certificate or a written ownership and encumbrance report, all dated within 30 days before the date of submission to the Town. If a corporation, partnership, or joint venture owns the property, the petitioner shall furnish such additional information (e.g., partnership agreement or joint venture affidavit, as provided by Section 38-30-166, C.R.S.) as may be requested by the Town in order to determine that the signatories have been authorized by that entity to execute such documents.

- (3) Legal descriptions of water and ditch rights appurtenant to the properties within the area proposed to be annexed.
- (e) Criteria for Decision. In making their recommendation or decision, the planning commission, and Board of Trustees, respectively, shall approve the annexation of land, only if it makes the findings required by C.R.S. § 31-12-110. In addition, the annexation shall comply with the annexation policies of the Town's Community Master Plan (aka Comprehensive Plan.)
- (f) Required Notice. An application for the annexation of land requires special noticing requirement pursuant to C.R.S. §§ 31-12-108. Notice shall be published in a newspaper of general circulation in the municipality at least once each week for four consecutive weeks before the hearing.
  - (1) Published notice shall:
    - a. Identify the application type.
    - b. Describe the nature and scope of the proposed project.
    - c. Identify the location subject to the application.
    - d. Identify where and when the application and associated materials may be inspected; and
    - e. Indicate opportunity to appear at the public hearing, including the public hearing date, time, and location.
  - (2) Mailed notice complying with C.R.S. §§ 31-12-108 shall be sent to the Town Board of Trustees and the Town attorney and to any special district or school district in which the areas to be annexed are located, at least 25 days before the date fixed for the public hearing.
  - (3) Mailed notice complying with C.R.S. §§ 31-12-108 shall be sent to the owners of real property within 300 feet of the boundaries of the proposed annexation, irrigation ditch companies whose rights-of-way traverse the property to be annexed, and to the mineral estate owners and their lessees of the property to be annexed. Notice provided by the Town to the owners of the minerals estate and their lessees shall not relieve the petitioner(s) from the responsibility of providing notice as required by C.R.S. § 24-65.5-101, et. seq.
  - (4) In the case of a “flagpole” annexation, the Town shall also provide notice to abutting property owners as specified in C.R.S. § 31-12-105 as amended.
- (g) Annexation Agreement.

- (1) Agreement required. As a condition of approval of an annexation, the Town will require the petitioner to agree to certain terms and conditions for such annexation and to execute an annexation agreement memorializing such agreement.
  - (2) Enforceability. The terms and conditions of the final annexation agreement are not effective or enforceable until approved by the Town Board of Trustees by ordinance.
- (h) Deed Conveying Water Rights. Any person seeking to annex to the Town shall comply with the requirements of Section 13.28.040 of the Town Code regarding deeding of water and water rights to the Town, unless expressly exempted from doing so by the terms of an annexation agreement.