



KROB LAW OFFICE, LLC
Attorneys at Law

MEMORANDUM

To: Palmer Lake Board of Trustees
From: Scotty P. Krob, Town Attorney
Date: February 21, 2024
Re: General description of annexation process and timeline

THE ANNEXATION PROCESS GENERALLY

This memo is being provided as a general discussion of the annexation process. It is not intended as legal advice to any specific person or entity and anyone involved in an annexation or considering an annexation should consult with their own attorney.

Annexations are governed primarily by Sections 31-12-101, et seq., of the Colorado Revised Statutes. There are three primary steps in the annexation, assuming 100% of the owners of the property proposed for annexation desire to be annexed to the Town.

1. Submission of annexation petition and map and setting hearing for determining whether the property is eligible to be annexed. During this stage, the property owner drafts and files with the town clerk a petition asking to have their property annexed and attaching an annexation map showing the property in relation to the Town. Upon receipt of the petition and annexation map, the town clerk is to bring the matter to the Board of Trustees at their next meeting, and the Board adopts a resolution reflecting the intent of the property owner to annex to the Town, noting that the petition substantially complies with what annexation petitions are supposed to contain, and setting it for a hearing (sometimes referred to as an eligibility hearing, or sometimes an annexation hearing) to

be held within 30 to 60 days. The resolution adopted by the Board at this first step is sometimes referred to as a resolution of intent to annex, finding of substantial compliance, and setting annexation hearing or sometimes referred to as a resolution setting eligibility hearing.

2. Eligibility hearing. At the date and time set by the Board for the eligibility hearing, the Board considers whether the petition and the property satisfy the requirements of the statutes, primarily Sections 31-12-104 and 31-12-105, C.R.S. Those statutes require the Board to look at things like whether the property boundary is 1/6 contiguous with the Town's boundaries, whether there is a community of interest between the Town and the property, whether the area is urban or will be urbanized, whether the property is integrated or capable of being integrated with the Town, whether the proposed annexation would split a parcel of property, detach land from a school district, or extend the Town's boundaries more than three miles, and other factors. At the conclusion of the eligibility hearing, the Board is to adopt a resolution setting forth its findings related to the criteria contained in Sections 31-12-104 and 31-12-105, C.R.S. and determining that the property is either eligible or ineligible for annexation. Please note that merely adopting the resolution finding property is eligible for annexation does not annex the property to the Town.
3. Annexation. This final step is the actual annexation of the property. This a purely discretionary decision by the Board of Trustees. The Town is never obligated to annex property and the Town can determine the terms and conditions on which the property is to be annexed. Likewise (other than enclaves) a property owner cannot be compelled to annex their property to the Town. Annexation usually does not occur unless it is agreed to by both parties - the Town and the property owner. The terms of the agreement are usually set forth in an annexation agreement. Annexation is accomplished by the Town Board of Trustees adopting an ordinance. The annexation usually approves the annexation thereby making the property a part of the Town, approves the annexation agreement, and zones the property. There is no set time within which the annexation is to be finalized. It can occur at the same time as the eligibility hearing or at some future date after the parties have finished negotiating the annexation agreement.

While strict compliance is required with the substantive provisions of the annexation statutes, such as the one-sixth contiguity requirement, only substantial compliance is required with the procedural aspects of an annexation. For example, in the Ben Lomand annexation the Board is currently considering, there was some delay in getting the annexation impact report materials to the County for its review. However, since the report was provided and the County’s comments were received before the Board made a related decision, the substantive requirements were strictly complied with and procedural requirements were substantially complied with.

A general timeline of the annexation is set forth below, however it is primarily for illustrative purposes and the specific timeline for any particular annexation should be determined by consulting with your own attorney.

TIMELINE FOR ANNEXATION

The process for annexation of property showing the time frame for accomplishing the various requirements for an annexation under the Municipal Annexation Act, C.R.S. § 31-12-101, *et seq.*

<u>Date</u>	<u>Action Required</u>
	Petition for Annexation (“Petition”) signed and submitted. Petition referred to Council by City/Town Clerk.
	Send notice by regular mail to landowners abutting the annexed road, advising of their right to petition for annexation on “the same or similar terms and conditions.” C.R.S. § 31-12-105(1)(e.3).
1	City/Town Council adopts Notice of Public Hearing (“Notice”) and Resolution of Intent to Annex (“Resolution of Intent”), Finding Substantial Compliance, and 7Setting Annexation Hearing.
3	Publish Notice and Resolution of Intent in newspaper of general circulation in the area proposed to be annexed. C.R.S. § 31-12-108(2).
10	Send a copy of the Notice, Resolution of Intent and Petition to the Board of County Commissioners, County Attorney, and any special districts and school districts serving the area proposed to be annexed. C.R.S. § 31-12-108(2).
10	Publish Notice and Resolution of Intent in newspaper of general circulation in the area proposed to be annexed. C.R.S. § 31-12-108(2).

- 10 City/Town begins preparation of Annexation Impact Report (“AIR”) for filing with the Board of County Commissioners, pursuant to C.R.S. §31-12-108.5, unless the Board of County Commissioners waives the requirement, or the property to be annexed is ten acres or less.]. The impact report must include the following:
1. A map or maps of the City/Town and adjacent territory, showing:
 - a. Present and proposed boundaries of the City/Town in the vicinity of the annexation;
 - b. The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches, and the proposed extension of 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.
 2. A copy of any draft or final annexation agreement.
 3. A statement setting forth the plans of the City/Town for extending to or otherwise providing for, within the area to be annexed, municipal services performed by or on behalf of the municipality at the time of annexation.
 4. A statement setting forth the method under which the City/Town plans to finance the extension of the municipal services into the area to be annexed.
 5. A statement identifying existing districts within the area to be annexed.
 6. A statement on the effect of annexation upon local-public school district systems, including the estimated number of students generated and the capital construction required to educate such students.
- 15 File AIR, if required, with the Board of County Commissioners.
- 17 Publish Notice and Resolution of Intent in newspaper of general circulation in the area proposed to be annexed. C.R.S. § 31-12-108(2).
- 24 Publish Notice and Resolution of Intent in newspaper of general circulation in the area proposed to be annexed. C.R.S. § 31-12-108(2).
- 30 Request certificate of publication from owner, manager or editor of newspaper. Add certificate to the record at annexation hearing. C.R.S. § 31-12-108(2).
- 35 City/Town Council conducts public hearing on annexation petition. C.R.S. § 31-12-109.
- 35 After hearing, pursuant to C.R.S. § 31-12-110, City/Town Council adopts a resolution identifying findings of fact.

- 35 After hearing City/Town Council adopts Ordinance Approving Annexation. C.R.S. § 31-12-113.
- 35 After hearing City/Town Clerk signs Certificate of Annexed Plat.
- 36 Original Annexation Ordinance and one copy of the annexation map filed in the office of the City/Town Clerk. C.R.S. § 31-12-113(2)(a)(I).
- 36 Three certified copies of the annexation ordinance and map, containing a legal description, filed for recording with the County Clerk and Recorder. C.R.S. § 31-12-113(2)(a)(II)(A).
- 36 Effective date of Annexation. C.R.S. § 31-12-113(2)(b).
- 40 County Clerk and Recorder files one certified copy of the annexation ordinance and map with the Division of Local Government of the Colorado Department of Local Affairs. C.R.S. 31-12-113(2)(a)(II)(B).
- 40 County Clerk and Recorder files one certified copy of the annexation ordinance and map with the Department of Revenue. C.R.S. 31-12-113(2)(a)(II)(B).