

Division 3 Annexation Regulations

Sec. 15-1-310. Annexation review criteria.

It shall be the general policy of the Board of Trustees 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:
 - a. Not less than one-sixth ($1/6$) of the perimeter of the area proposed to be annexed is contiguous with the Town. Contiguity is not affected by the existence of streets, alleys, rights-of-way, public lands (except County-owned open space) or water bodies between the Town and the land proposed to be annexed. The one-sixth contiguity of the perimeter may be achieved by the annexation of one (1) or more parcels in a series, which can be considered simultaneously for the purpose of the public hearing.
 - b. A community of interest exists between the territory proposed to be annexed and the Town.
 - c. The territory proposed to be annexed is urban or will be urbanized in the near future and is integrated or is capable of being integrated with the Town. Existence of Subparagraph a. above is a basis for a finding of Subparagraphs b. and c., unless the Board of Trustees at a public hearing finds that at least two (2) of the following exist:
 1. Less than fifty percent (50%) of the adult residents of the area proposed to be annexed use any of the recreational, civic, social, religious, industrial or commercial facilities of the Town and less than twenty-five percent (25%) of these adult residents are employed in the annexing Town;
 2. At least one-half ($1/2$) of the land proposed to be annexed is agricultural, and landowners constituting at least one-half ($1/2$) of the total area express, under oath, an intention to devote the land to such agricultural use for at least five (5) years; and
 3. It is physically impractical to extend to the proposed area those urban services the Town provides to all its citizens and upon the same conditions. This standard does not apply to the extent that any portion of an area proposed to be annexed is provided with, or will within the reasonably near future be provided with, service by a quasi-municipal corporation (such as a special district).
- (3) No land held in identical ownership may be divided into separate parcels for annexation without written consent of the landowner unless the parcels are separated by a dedicated street, road or other public way. (This applies even when the federal government owns the land, although federal and state public lands may be ignored for purposes of contiguity.)
- (4) No land in identical ownership that comprises at least twenty (20) acres and that has improvements with an assessed value in excess of two hundred thousand dollars (\$200,000.00) for ad valorem tax purposes may be included in the annexation without written consent of the owner unless the parcel is located entirely within the outer boundaries of the Town as they exist at the time of annexation.

- (5) No annexation resolution pursuant to Section 15-1-330 of this Chapter and no annexation petition or petition for an annexation election is valid when annexation proceedings have been initiated for the annexation of part of such territory by another Town. In that case, other provisions apply. See Section 31-12-114, C.R.S.
- (6) If an annexation will result in the detachment of area from a school district and its removal to another school district, the annexation petition or petition for annexation election must be accompanied by a resolution of the board of directors of the school district to which such area will be attached, approving the annexation.
- (7) The parcel annexed must not have the effect of extending the Town's boundary more than three (3) miles in any direction in any one (1) year. This three-mile limit may be exceeded if the limit would have the effect of dividing a parcel of property held in identical ownership if at least fifty percent (50%) of the property is within the three-mile limit. In such event, the entire property held in identical ownership may be annexed in any one (1) year without regard to such mileage limitation. Such three-mile limit may also be exceeded for the annexation of an enterprise zone.
- (8) Prior to completion of any annexation within the three-mile area, the Town shall have in place a plan for that area that generally describes the proposed location, character and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities and terminals for water, light, sanitation, transportation and power to be provided by the Town and the proposed land uses for the area. Such plan shall be updated at least once annually.
- (9) If a portion of a platted street or alley is to be annexed, the entire width of the street or alley must be included within the area annexed.
- (10) The Town may not deny reasonable access to landowners or owners of easements or franchises adjoining a platted street or alley that the Town has annexed but that is bounded on one (1) or both sides by unincorporated property.
- (11) 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).
- (12) The land to be annexed and the uses proposed for the land shall contribute to the orderly growth of the Town and shall generally conform to the goals and policies of the Comprehensive Plan.
- (13) 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.
- (14) The petitioner for annexation shall be responsible for paying the Town's full cost for processing the annexation petition, from initial discussion with the Planning Commission before submittal of the petition, through the approval and recording of the final annexation documents, unless otherwise approved by the Board of Trustees.
- (15) All subsurface (nontributary) water rights shall be deeded to the Town at the time of annexation as authorized by Article 90 of Title 37, C.R.S.
- (16) No proceedings for annexation to a municipality may be initiated in any area which is the same or substantially the same area in which an election for annexation to the same municipality has been held within the preceding twelve (12) months.

Sec. 15-1-320. Annexation of flagpoles or rights-of-way.

- (a) The Town Clerk shall provide, by regular mail to the owner of any eligible parcels abutting the flagpole (see Subsection 15-1-320(c)), as reflected in the records of the County Assessor, written notice of the annexation and of the landowner's right to petition for annexation pursuant to Section 31-12-107, C.R.S., and Section 15-1-200 of this Chapter. Inadvertent failure to provide such notice shall neither create a cause of action in favor of any landowner nor invalidate any annexation proceeding.
- (b) Prior to completion of an annexation in which the contiguity is achieved by annexing a flagpole, the Town shall annex any of the following parcels that abut a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream or other natural or artificial waterway, where the parcel satisfies all of the eligibility requirements below and for which an annexation petition has been received by the Town no later than forty-five (45) days prior to the date of the Board of Trustees public hearing in Section 15-1-240.
- (c) Eligible parcels shall include:
 - (1) Any parcel of property that has an individual schedule number for county tax filing purposes upon the petition of the owner of such parcel;
 - (2) Any subdivision that consists of only one (1) subdivision filing upon the petition of the requisite number of property owners within the subdivision, as determined pursuant to Section 31-12-107, C.R.S.; and
 - (3) Any subdivision filing within a subdivision that consists of more than one (1) subdivision filing upon the petition of the requisite number of property owners within the subdivision filing, as determined pursuant to Section 31-12-107, C.R.S.
- (d) The eligible parcels shall be annexed under the same or substantially similar terms and conditions and considered at the same hearing and in the same impact report as the initial annexation in which the contiguity required in Subparagraph 15-1-310(2)a. is achieved by annexing flagpole.
- (e) The impact of the annexation on the parcels described in Subsection 15-1-320(b) shall be considered in the annexation impact report (refer to Paragraph 15-1-120(18)).
- (f) As part of the same hearing, the Board of Trustees shall consider and decide upon any petition for annexation of any eligible property that complies with the eligibility requirements in this Section and in Section 15-1-310.

(Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-330. Annexation of enclaves, partly surrounded land and Town-owned land.

When an unincorporated area has been entirely contained within the Town's boundaries for at least three (3) years, the Town may annex the property by ordinance without regard to the review criteria in Section 15-1-310 of this Chapter or the hearing requirements of Section 15-1-240. Public notice under Section 15-5-150 must still be given. (This enclave annexation ability is not available if any boundary of the enclave consists, at the time of annexation, solely of a public right-of-way that has been annexed by the Town. Instead, the Town must truly surround the enclave with other real property.)

Sec. 15-1-340. Annexations to be approved by voters.

- (a) No ordinance annexing property into the Town shall be effective unless and until the ordinance is referred to the registered electors of the Town at a regular or special election and such ordinance is approved by a majority of the registered electors voting thereon.

- (b) The following annexations shall be exempt from this Section:
 - (1) Any annexation of property owned by the Town.
 - (2) Any annexation of property smaller than five (5) acres in size; provided that simultaneous or serial annexations of two (2) or more properties that together comprise a parcel of five (5) or more acres in size shall not be exempt from this Section.
 - (3) Any annexation of property smaller than ten (10) acres in size that is located in the Eastern Corridor subarea as defined in the adopted Lyons Primary Planning Area Master Plan, and as amended; provided that simultaneous or serial annexations of two (2) or more properties that together comprise a parcel of ten (10) or more acres in size shall not be exempt from this Section.
- (c) The applicant for an annexation that is subject to an election pursuant to this Section shall pay the reasonable costs and expenses incurred by the Town in the calling, preparation and conduct of the election. At the time of submission of a petition for an annexation that is subject to an election in accordance with this Section, the applicant shall deliver to the Town an adequate monetary deposit, in an amount determined by the Town Clerk, to secure the applicant's full payment of the Town's costs and expenses associated with the election.

Where the ballot includes other ballot issues or questions, the applicant for annexation shall pay a share of the election costs proportionate to the number of ballot issues or questions. In the event that funds deposited by the applicant exceed the Town's actual costs and expenses of the election, the Town shall promptly refund any remaining deposited funds to the applicant following a final accounting by the Town Clerk of the costs and expenses of the election.
- (d) All elections held pursuant to this Section shall be conducted in accordance with the applicable statutory provisions governing the Board of Trustees' submission of referred municipal ordinances to the registered electors of the Town. The date of any election required by this Section shall be subject to the discretion of the Board of Trustees.

(Ord. 891 §1, 2011; Ord. 956 §1, 2014)

(Ord. No. 1020, § 1, 12-4-2017)