

CHAPTER 26

Annexations

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ARTICLE I

In General

Sec. 26-1. Purpose.

The purpose of this Chapter is to establish a procedure to bring land within the jurisdictional limits of the City in compliance with the Colorado Municipal Annexation Act of 1965 (hereinafter referred to as the "Act"), contained in Sections 31-12-101 through 31-12-123, C.R.S., as amended. This Chapter provides supplemental requirements for annexation pursuant to the 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 provisions of this Chapter or any requirements set forth in other portions of this Code, it is the expressed intent of the City Council that the more stringent provision shall control.

(Ord. 8 §1, 2006)

Sec. 26-2. Policy; review criteria.

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

- (1) Annexation is a discretionary act. With the exception of a petition initiated by the City for the annexation of an enclave, the City Council shall exercise its sole discretion in the annexation of territory to the City.
- (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.
- (3) Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the City in order that the public needs may be served by such facilities. These facilities may include, but not by way of limitation, arterial streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites and storm drainage facilities. The annexation of lands to the City shall not create any additional cost or burden on the then-existing residents of the City to provide such public facilities in any newly annexed area.
- (4) The applicant for annexation shall be responsible for paying the City's full cost for processing the annexation applications and petition, from initial discussion with City staff before submittal of the petition, through the approval and recording of the final annexation documents.
- (5) The applicant for annexation shall not divide tracts of land to prevent further annexation of adjoining parcels (*i.e.*, leaving a "gap" or a "strip" of land between property to be annexed and the adjoining property).
- (6) The property owner shall have complied with all requirements of the Act and this Chapter prior to final approval of an annexation petition.

(Ord. 8 §1, 2006)

Sec. 26-3. Notices.

(A) In addition to the notice and publication requirements of the Act, the City shall send notice of any public hearing associated with the annexation by first class mail, postage prepaid, to the owners of real property within one hundred fifty (150) feet of the boundary of the property proposed for annexation. Failure to provide the notice to surrounding property owners shall not create a jurisdictional defect in the hearing process. Notice thus provided by the City shall not relieve the applicant from the responsibility of providing notice as required by Section 24-65.5-101 *et seq.*, C.R.S., as amended.

(B) The applicant shall provide the City with mailing labels for all parties and agencies required to receive notice. In addition to the property owners listed in Subsection (A) above, there shall also be provided mailing labels for the Clear Creek Fire Authority, the Clear Creek County School District and other referral agencies as directed by the City. The applicant shall also provide certification that no party or agency required to receive notice was omitted.

(Ord. 8 §1, 2006)

Sec. 26-4. Zoning of annexed land.

The applicant may apply for zoning of the proposed annexation at the same time the annexation application is submitted or thereafter; however, the area annexed must be brought under the City's zoning regulations and zoning map within ninety (90) days after the effective date of the annexation ordinance. Zoning applications shall be handled in the same manner as set forth in Chapter 21, Article IX of this Code. The City Council public hearing required therein may be combined with the public hearing on the annexation petition required in Section 26-26 of this Chapter. (Ord. 8 §1, 2006)

Sec. 26-5. Raw water rights.

(A) Future annexations of land to the City shall include conveyance of water rights to the City in an amount and of a quality sufficient, in the judgment of the City Council, to serve the anticipated development of the property.

(B) This requirement may be satisfied as follows:

- (1) The owner of the property shall convey to the City all water rights associated with the property, including without limitation all surface water rights and all rights to the use of water in the tributary, nontributary and not-nontributary alluvial aquifers underlying the property. The water rights shall be conveyed to the City free and clear of all liens and encumbrances at the time of annexation.
- (2) If there is a deficit between the water rights the landowner conveys to the City and the anticipated water requirements for the development of the property, the landowner shall transfer sufficient other water rights acceptable to the City, or pay cash in lieu of such transfer in an amount sufficient for the City to purchase the necessary raw water rights to serve the property, with the actual cash amount to be determined as part of the annexation.
- (3) The water transfer requirement or payment in lieu shall be in addition to any other charges or fees currently charged or hereinafter charged by the City for annexation and water service to the property.
- (4) The determination of whether any water rights are sufficient to serve the property in question shall be made by the City Council after taking into consideration the recommendations of the City Attorney and engineering consultants. The City shall have the right to accept or reject any water rights proposed for transfer to the City. The final authority to accept or reject any water rights shall be in the City Council. No reimbursement or recovery for funds expended for such water rights shall be paid by the City.

(Ord. 8 §1, 2006)

Sec. 26-6—26-10. Reserved.

ARTICLE II

Submittal Requirements

Sec. 26-11. Application.

(A) An annexation application shall be submitted to the City for any proposed annexation, prior to submission of a petition for annexation. Such application is necessary for the City to evaluate the impacts on the City of annexing the property identified in the application and negotiate an annexation agreement. The annexation application shall include the following information:

- (1) The name, mailing address, e-mail address and phone number of the applicant on a completed application form supplied by the City.
- (2) A written legal description and map of the property and its surroundings.
- (3) Current use and requested zoning classification for the property.
- (4) Known hazards and environmental issues, if any, that may be present due to the topography, geology or hydrology of the property.

- (5) The anticipated sources of water, sanitary sewer and other utilities to be used to serve the property, if known.
- (6) A general development concept plan describing the desired use of the property after annexation, if known.
- (7) An outline of any known terms proposed for the annexation agreement.
- (8) Any other subjects pertinent to the property requiring inclusion in the annexation agreement between the City and the applicant.
- (9) An application fee as set forth in the City's fee schedule.

(B) At the time of filing an annexation application, the applicant shall deposit a sum to be determined by the City to ensure payment of the City's costs incurred in processing the annexation application and petition, and shall execute an agreement to replenish the deposit when requested by the City and to pay on a monthly basis all costs incurred by the City in processing the annexation application and petition. The City Clerk shall send the applicant a monthly statement of costs incurred by the City. Costs chargeable hereunder include, but are not limited to, publication costs, postage costs, recording fees, attorney's fees, engineering fees, planning fees, administrative costs and other professional fees. Any amount of the deposit not expended will be refunded by the City within forty-five (45) days after the effective date of the annexation ordinance.

(Ord. 8 §1, 2006)

Sec. 26-12. Petition.

Complete annexation petitions shall conform to the requirements of Section 31-12-107, C.R.S., as amended. In addition, the following documents shall accompany the petition:

- (1) Proof of ownership of the land to be annexed. Such proof shall be in the form of a current title commitment, issued by a Colorado licensed title insurance company, the date of which shall be no more than thirty (30) days prior to the date of submittal of the petition. Ownership must match the ownership listed in the petition. If the legal description of the area to be annexed as shown on the annexation map does not match the legal description of the property owned, for whatever reason, the title commitment must certify that the property owned is wholly contained within the described area on the annexation map.
- (2) If the applicant is not the property owner, a notarized affidavit by the owner stating that the applicant is authorized by the owner to make application for annexation.
- (3) A water rights report for the property, prepared by a qualified water engineer or water attorney, detailing the water rights appurtenant to and severed from the property to be annexed, and their historical use. The report must include both surface (tributary) and subsurface (non-tributary and tributary) groundwater. If there are not water rights associated with the property, there shall be included a statement of that fact.
- (4) If zoning of the property is requested simultaneously with annexation, a completed zoning application form, including a zoning map for the property as required in Chapter 21, Article IX of this Code.
- (5) A narrative report assessing the effect of the proposed annexation upon the community and existing services and facilities, detailing the need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. Where applicable, specific issues to be addressed shall include but not be limited to the annexation's impact on community needs, the City's economy, the school system, City services and emergency services.

(Ord. 8 §1, 2006)

Sec. 26-13. Annexation map technical standards.

The annexation map shall be prepared by or under the supervision of a registered professional land surveyor licensed with the State. The annexation map shall conform to the standards and contain the information set forth in the City's Annexation Map Technical Standards regulations, a copy of which shall be provided to the applicant at the preapplication conference required in Section 26-21 of this Chapter. Maps shall be neat, clear, permanent, legible and reproducible documents. Inaccurate, incomplete or poorly drawn maps shall be rejected.

(Ord. 8 §1, 2006)

Sec. 26-14—26-20. Reserved.

ARTICLE III
Annexation Procedure

Sec. 26-21. Preapplication conference.

The application process begins with a preapplication conference with City staff to determine the feasibility of the annexation request. City staff attending the conference shall include but not be limited to the City Planner and at least one (1) representative of the Public Works Department. Following this informal meeting, the applicant may submit a completed annexation application form, maps and supporting documents.
(Ord. 8 §1, 2006)

Sec. 26-22. Evaluation.

(A) Upon receipt of a completed annexation application, the City Planner shall review the application and accompanying materials for completeness and general conformance with the submission requirements of this Chapter. If the application is found to be incomplete, a notice shall be mailed to the applicant via regular first-class U.S. Mail, postage prepaid, said notice to specify the items or information necessary to complete the application. No further action shall be taken on any incomplete application. The City shall retain any incomplete application for not less than fifteen (15) days following the date of such notice to the applicant. The City may return the application to the applicant only upon request of the applicant, at the expense of the applicant.

(B) Upon determination that the application is complete, City staff shall analyze the feasibility of annexing the proposed property. Issues to be considered shall include but not be limited to the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, police and fire protection; compliance with the Comprehensive Plan; sources of revenue from the property; the City's costs to service the proposed development; and any other related matters. The City Planner shall prepare a written report of the City staff's findings, a copy of which shall be promptly provided to the applicant.
(Ord. 8 §1, 2006)

Sec. 26-23. Annexation agreement; draft.

The City Planner and the applicant shall confer to prepare a draft annexation agreement addressing the items of concern in the evaluation required in Section 26-22 above and other applicable requirements of this Code. The draft agreement, acceptable to the applicant, shall accompany any annexation petition filed with the City.
(Ord. 8 §1, 2006)

Sec. 26-24. Annexation petition.

A petition for annexation or petition for election, draft annexation agreement and all other documents submitted shall be reviewed by the City Planner for completeness and compliance with the provisions of the Act and this Code. The applicant shall be notified within a reasonable time of any deficiencies or inadequacies in the materials submitted. No further action shall be taken on an incomplete submission. Upon the City Planner's determination that the petition and supporting documentation are complete and in compliance with provisions of the Act and this Code, the City Clerk shall refer the petition to the City Council.
(Ord. 8 §1, 2006)

Sec. 26-25. Impact report.

If an impact report is required under Section 31-12-108.5, C.R.S., as amended, then at least twenty-five (25) days prior to the public hearing held pursuant to Section 26-26 below, the City Planner shall consult with other City staff and prepare an annexation impact report that meets the requirements of Section 31-12-108.5, C.R.S., as amended.
(Ord. 8 §1, 2006)

Sec. 26-26. City Council action.

(A) Determination of substantial compliance. The City Council shall take the appropriate steps to determine if the petition is in substantial compliance with the Act.

- (1) If the petition is found to be in substantial compliance with the Act, the City Council shall, by the adoption of a resolution of substantial compliance, set the annexation for public hearing on a specified date, time and place, not less than thirty (30) nor more than sixty (60) days from the effective date of said resolution, subject to compliance with the Act.
- (2) If the petition is not found to be in substantial compliance with the Act, no further action shall be taken, except that the determination shall be made by resolution of the City Council.

(B) Public hearing. The City Council shall hold the public hearing on the petition for annexation as provided above. The applicant may present evidence in support of the petition. City staff shall testify as to the elements required by statute to be present for annexation, the proposed annexation agreement and the annexation impact report as described in the Act and this Chapter. Any comments received from governmental entities affected by the annexation shall be presented. Any other person may appear at the hearing and present evidence on any matter related to the annexation petition, as determined by the City Council. The City Council may continue the hearing to another date without additional notice, as provided by the Act.

(C) Findings. At the conclusion of the public hearing, the City Council shall adopt a resolution containing findings of fact and conclusions as required by the Act. If the City Council finds the annexation petition to be in compliance with requirements of the Act and the annexation agreement to be acceptable to the City, the City Council may annex the land by ordinance without election and approve the annexation agreement. If the City Council, in its sole discretion, finds that the annexation is not in the best interest of the City, it may deny the petition by resolution. (Ord. 8 §1, 2006)

Sec. 26-27. Applicant action; post approval.

After final passage of the annexation ordinance, the applicant shall file the following with the City:

- (1) Final versions of all applicable documents, including two (2) Mylar copies of the annexation map.
- (2) A signed, standard form general warranty deed for transfer of all raw water rights to the City, as described in Section 26-5 of this Chapter.

(Ord. 8 §1, 2006)

Sec. 26-28—26-40. Reserved.