

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CERTAIN ANNEXATION PROVISIONS WITHIN
CHAPTER 16 OF THE BENNETT MUNICIPAL CODE**

WHEREAS, the Board of Trustees of the Town of Bennett previously adopted Chapter 16 of the Bennett Municipal Code entitled “Land Use and Development,” which includes requirements for annexation of land into the Town; and

WHEREAS, the Board of Trustees anticipates that annexation petition requests may be submitted to the Town in the near future; and

WHEREAS, the Board of Trustees desires to make revisions to the Town’s annexation policies, procedures and standards that are contained within Chapter 16 of the Bennett Municipal Code to facilitate the processing of potential annexation petitions; and

WHEREAS, the Board is authorized to adopt this ordinance pursuant to state law, including but not limited to, C.R.S. § 24-67-101 et seq. and C.R.S. § 31-23-301 et seq.; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BENNETT, COLORADO, AS FOLLOWS:

Section 1. Chapter 16 of the Bennett Municipal Code entitled “Land Use and Development” is hereby amended to incorporate the revisions identified in Exhibit A.

INTRODUCED, READ, and ADOPTED this _____ day of _____, 2012.

TOWN OF BENNETT, COLORADO

Sue Horn, Mayor

ATTEST:

Lynette White, Town Clerk

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Sec. 16-1-100. Definitions.

Annexation agreement means a contract between a petitioning landowner and the Town in connection with the annexation of private land into the Town. An annexation agreement may include provisions for zoning of the property, the physical development of the property, the timing of development, dedications associated with annexation, the allocation of the cost of required public improvements and services, and/or other matters relating to the public interest.

Development agreement means a contract between a developer and the Town in connection with any discretionary development approval, including without limitation ~~annexation~~, rezoning, subdivision and/or PD approval.

Petitioner means a person owning an undivided interest in fee of a parcel of land (including a corporate owner) who has signed a petition for annexation of such land to the Town pursuant to CRS 31-12-107(1), or a registered elector of the Town who has signed a petition for an election with respect to the annexation of land to the Town pursuant to CRS 31-12-107(2).

Sec. 16-2-130. Public hearing notice requirements.

(b) Published Notice. At least fifteen (15) days prior to any public hearing which requires published notice (thirty [30] days for annexation petition hearing – see Sec. 16-3-20 [and CRS 31-12-108](#)), the Zoning Administrator shall cause to be published in the legal section of a newspaper of general circulation within the Town a notice of such public hearing.

(c) Posted Notice. ...~~–~~Within ten (10) days after final Town action on the application, the Applicant shall remove the posted signs and return any Town signs to the Town. Property posting is not required where ~~an annexation or~~ zoning exclusively involves public right-of-way only.

ARTICLE III

Annexation

Division 1 General Provisions

Sec. 16-3-10. ~~Purpose~~Scope.

This Article contains procedures and requirements for all annexations to the Town utilizing the petition method to ensure that petitions are processed in an orderly manner, that municipal services are or can be made adequate and available to the property, ~~that the costs of annexation are paid by the owner of the petitioning property~~, and that all statutory requirements relating to annexation per C.R.S. § 31-12-101, et. seq., are fulfilled. (Ord. 446 §11.03.010, 2001; Ord. 467 §1, 2002)

Sec. 16-3-20. Responsibilities.

(a) Applicant. An applicant for annexation is required to prepare all necessary documents in a professional manner and submit sufficient copies of complete sets of all documents as required.

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(b) Zoning Administrator. The Zoning Administrator shall administratively process the proposed annexation. Upon receipt of an annexation petition, the Zoning Administrator shall determine if the petition is complete and appears to meet the following minimum requirements:

(1) That the property meets the State statutes requirements required for annexation.

(2) That the property is within the Town of Bennett 3Three--Mile Area Plan boundaries urban area of the Bennett Comprehensive Plan, or that prior to completion of annexation, a three-mile area plan will be in place per Section 31-12-105 (1)(e), C.R.S.

(3) That the annexation is consistent with any intergovernmental agreements the Town may have with any other governments.

(c) Town Clerk. The Town Clerk will publish the resolution and the public notice of hearing before the Board of Trustees for four (4) successive weeks in the Town's official newspaper. The first publication shall be at least thirty (30) days prior to the public hearing before the Board of Trustees. The Town Clerk will also send a copy of the notice, together with a copy of the resolution and petition as filed to the board of county commissioners and county attorneyplanning department of the county in which the property is located, and to any special district or school district having territory within the area to be annexed at least twenty-five (25) days prior to the date fixed for such hearing.

(d) Board of Trustees. The Board of Trustees shall serve as the governing body for approving or denying the proposed annexation.

Sec. 16-3-30. Eligibility for annexation.

Properties proposed for annexation by petition must meet the following requirements:

(1) The owners of more than fifty percent (50%) of the total land area within the boundary of the land proposed to be annexed (including streets and alleys) shall sign the petition.

(2) Not less than one-sixth ($\frac{1}{6}$) of the outside perimeter of the area to be annexed shall be contiguous to the existing Town limits.

(3) All other eligibility requirements of Section 31-12-104, C.R.S. (Ord. 446 §11.03.030, 2001; Ord. 467 §1, 2002), shall apply.

Sec. 16-3-40. Who may petition for annexation.

Only owners of the land proposed for annexation or their legal representatives may petition the Town for annexation, as well as registered electors living within the area proposed for annexation, who may petition for an election upon the question of annexation of such land.- (Ord. 446 §11.03.040, 2001; Ord. 467 §1, 2002)

Sec. 16-3-50. Required annexation impact reports.

(a) An annexation impact report is required for parcels larger than ten (10) acres, unless the County officials and the Town agree that the report may be waived. If a report is required, the Zoning

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Administrator shall complete the report at least twenty-five (25) days before the Board of Trustees' hearing date and file the report with the County twenty (20) days before said hearing date.

(b) The annexation impact report shall be prepared in compliance with Section 31-12-108.5, C.R.S. The applicant shall provide the Zoning Administrator with the following information for the annexation impact report:

(1) A copy of any annexation or pre-annexation agreement;

(2) The identity of existing districts within the area to be annexed;

(3) The effect of the annexation on the School District, including the estimated number of students generated and the capital construction required to educate such students;

(4) The effect of the annexation on the Fire District;

(5) A statement of the applicant's plans (if any) for extending, financing and providing municipal services within the area to be annexed (Note: the Zoning Administrator will need to supplement the applicant's information with any Town plans for extending, financing and providing municipal services within the area to be annexed);

(6) A statement identifying all existing special districts within the area to be annexed;

(7) A map of the Town and adjacent area showing:

a. Present and proposed boundaries of the Town in the vicinity of the proposed annexation;

b. The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation;

c. The existing and proposed land use patterns in the areas to be annexed.

(8) An annexation plat containing the survey and legal description of the land proposed to be annexed, and the computed length of contiguity with the existing Town boundary.

(c) The Town may also require that a fiscal impact report be prepared under its direction at the petitioner's expense. This report should provide the information needed by the Town to evaluate the fiscal costs and benefits of the proposed annexation over a multi-year period. (Ord. 446 §11.03.050, 2001; Ord. 467 §1, 2002; Ord. 526 §1, 2005)

Sec. 16-3-60. Required dedications.

(a) As a condition of annexation, and except as may be specifically provided in an annexation agreement, the Town may require at the time of annexation the dedication of major streets or easements to and through the property being annexed that may be needed in advance of subdivision of the property.

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~~(b) As a condition of annexation, and except as may be specifically provided in an annexation agreement, the petitioners shall dedicate to the Town, by special warranty deed or such other instruments as the Town may require, free and clear of all liens, encumbrances and assessments, all right, title and interest in and to all water, water rights and groundwater rights associated with the property, including but not limited to any and all rights, whether vested, conditional or inchoate, tributary, nontributary and not nontributary groundwater and surface water, decreed and undecreed water rights, and return flows appertaining thereto, and the right to all water from the Denver, Upper Arapahoe, Lower Arapahoe and the Laramie Fox Hills Aquifers, including those provided for in determinations of water rights for the property by the Colorado Groundwater Commission. Such dedication shall also include approved replacement plans by the Groundwater Commission as necessary to allow the ability to pump the not tributary groundwater included with the dedication. Such dedication and transfer shall be made at no cost to the Town and prior to recording of any annexation ordinance for the property.~~

(be) As a condition of annexation, and except as may be specifically provided in an annexation agreement, the petitioners may be required to construct all roads, utilities and other improvements at their sole expense and according to the requirements, standards and specifications of the Town.

(cd) As a condition of annexation, and except as may be specifically provided in an annexation agreement, the petitioners may be required to dedicate land and/or water rights, pursuant to Code section 16-16-210 for public purposes, or cash in lieu thereof, in accordance with the provisions of this Chapter or as otherwise adopted by ordinance. (Ord. 446 §11.03.060, 2001; Ord. 467 §1, 2002; Ord. 492 §2, 2003)

Sec. 16-3-70. Annexation agreement.

(a) The Town may require that ~~the~~ petitioners for annexation enter into an annexation agreement with the Town. The annexation agreement may contain provisions for zoning of the property, the physical development of the property, the timing of development, the allocation of the cost of required public improvements and services, and or other matters relating to the public interest.

~~(b) Annexation agreements may contain any of the items required in a subdivision development agreement, as stated in Section 16-14-420, including provisions for financial guarantees.~~

(eb) All executed annexation agreements shall be recorded with the appropriate County Clerk and Recorder. (Ord. 446 §11.03.070, 2001; Ord. 467 §1, 2002)

Sec. 16-3-80. Proposed zoning.

(a) The proposed zoning for the area to be annexed may be addressed included in the annexation agreement. The annexation agreement may provide for disconnection of Town may agree to disconnect the property if, after annexation, the proposed zoning is materially different than that specified in the annexation agreement.

(b) The Town may zone the property either concurrent with the proposed annexation or within ninety (90) days of recording of the annexation, per Section 31-12-115, C.R.S.

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(c) Nothing in this Article shall be construed as preempting the Planning Commission's role in recommending approval of the zoning for the property. The Planning Commission shall conduct a public hearing on any application for the initial zoning of the property separately from the annexation review process, although the zoning and annexation hearings before the Board of Trustees may occur on the same date. (Ord. 446 §11.03.080, 2001; Ord. 467 §1, 2002)

Sec. 16-3-90. Standards for annexation.

In considering a petition for annexation, the Board of Trustees shall ~~make findings of fact and conclusions based upon~~ consider the following standards ~~for annexation~~:

(1) The property to be annexed is a reasonable and logical extension of the Town and compatible with the goals and policies of the Comprehensive Plan and the Three-Mile Area Plan.

~~(2) Areas proposed for annexation shall not divide tracts in order to prevent further annexation of adjoining parcels.~~

~~(3) Areas~~ The degree to which areas proposed for annexation ~~which~~, due to their configuration, cause excessive police, fire, utility and street costs. ~~may not be accepted.~~

~~(4) Whether Zoning-zoning~~ of the area proposed for annexation ~~shall be is~~ reasonable in terms of existing Town zoning classifications, and consistent with the Comprehensive Plan and the Three-Mile Area Plan.

~~(5) The area proposed for annexation shall should~~ be located where street extensions and water and sewer utility services are possible without undue expense to the Town. Where exceptional costs may be required in serving the area proposed for annexation, financial arrangements to extend streets, water or sewer mains ~~shall should~~ be agreed upon prior to annexation.

~~(6) Stormwater drainage shall be considered prior to annexation to ensure that flooding problems within and adjoining the area proposed for annexation will not be increased by development of the land.~~

~~(7) Adequate water rights are provided to serve the proposed development on the property proposed for annexation and/or fees in lieu of water rights transfer are agreed to be paid.~~

~~(8) Whether annexation of the area is in the best interests of the Town.~~ (Ord. 446 §11.03.090, 2001; Ord. 467 §1, 2002)

Division 2 Annexation Procedure

Sec. 16-3-210. Staff action.

(a) Upon receipt of a complete annexation petition and supportive documents, the Zoning Administrator shall provide all reviewing agencies with a copy of the pertinent information for their review and comment. The agencies shall be provided with an opportunity to submit written comments to the Zoning Administrator.

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(b) The Zoning Administrator shall schedule the request for the next available meeting before the Board of Trustees in conformance with state law.

(c) After the Board of Trustees meeting determining that the annexation petition is in substantial compliance with State statutes, the Town staff shall cause the notice of the proposed annexation hearing to be published in accordance with state law requirements, and shall mail notice of the annexation hearing to the owners of all property within three hundred (300) feet of the land that is proposed for annexation. The mailing shall occur at least fifteen (15) days prior to the annexation hearing. The applicant shall reimburse the Town for the cost of publication and mailing.

(d) The Zoning Administrator shall prepare a report containing the Town staff's recommendations and the comments received from the reviewing agencies.

Sec. 16-3-220. Board of Trustees action.

The Board of Trustees shall follow the procedure required by state statutes, to include the following:

(1) Determination of eligibility. The Board of Trustees shall adopt a resolution finding whether the petition is in substantial compliance with the statutory requirements for annexation. The Board of Trustees will set the date, time and place for a public hearing to determine if the annexation meets the requirements of Sections 31-12-104 and 31-12-105, C.R.S. This hearing will be held not less than thirty (30) days nor more than sixty (60) days after the effective date of the resolution setting the hearing, and will comply with all other notice provisions of Section 31-12-108, C.R.S.

(2) Annexation hearing. On the designated date and time specified in the resolution of substantial compliance, the Board of Trustees shall hold a public hearing on the annexation petition in compliance with Sections 31-12-109 and 31-12-110, C.R.S.

(3) Annexation ordinance. If the Board of Trustees determines that all applicable statutory sections have been met and that an election is not required and does not determine that additional terms and conditions are to be imposed, the Board of Trustees may annex the area proposed to be annexed by ordinance. (Ord. 446 §11.03.130, 2001; Ord. 467 §1, 2002)

Sec. 16-3-230. Effective date.

The property is annexed as of the effective date of the annexation ordinance, except as otherwise provided in Section 31-12-113, C.R.S. (Ord. 446 §11.03.140, 2001; Ord. 467 §1, 2002; Ord. 526 §1, 2005)

Sec. 16-3-240. Recording.

After final passage of the annexation ordinance, the Town will file one (1) copy of the annexation plat with the original of the annexation ordinance in the office of the Town Clerk and record with the appropriate County Clerk and Recorder three (3) certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area. (Ord. 446 §11.03.150, 2001; Ord. 467 §1, 2002)

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Sec. 16-7-30. Types of PD Districts.

(1) PD Zone District. A PD Zone District may be established by zoning land as a PD Zone District ~~either through a rezoning process or by the initial zoning of land at the time of annexation.~~

Sec. 16-14-30. General provisions.

(e) Subdivision review may be conducted concurrently with initial zoning ~~upon annexation~~ or with site ~~plan~~ review.

Sec. 16-16-20. Intent and purpose.

(b) This Chapter provides supplemental requirements for annexation pursuant to the Municipal Annexation Act of 1965, as amended, Section 31-12-101 et seq., C.R.S., and is not to be construed as altering, modifying, eliminating or replacing any requirements set forth in that Act, in this Code or in any other ordinances, resolutions, rules, regulations or requirements of the Town. ~~(e)~~

Sec. 16-16-210. ~~Approvals conditioned upon dedication of water rights. Reserved.~~

~~(a) It shall be a condition precedent to annexation that the applicant dedicate to the Town all water and water rights appurtenant to or associated with the property to be annexed, as further set forth in Subsection 16-3-60(b) of this Chapter.~~

Sec. 16-16-220. Amounts of water to be dedicated.

In addition to the dedication of water rights required at the time of annexation, ~~as provided in Section 16-3-60 of this Chapter,~~ an applicant seeking approval of development shall dedicate to the Town the following amounts of water:

(3) Industrial. Industrial demands and required dedications shall be evaluated on a case-by-case basis at the time of the proposed industrial ~~annexation zoning~~ or industrial use. It shall be a condition precedent to such industrial ~~annexation zoning~~ or use that the water rights required by the Town are dedicated to the Town.

Sec. 16-16-310. Application submission and contents.

All applications for ~~annexation,~~ subdivision, resubdivision, nonresidential building permit, change of use or extension of municipal water service shall be submitted to the Zoning Administrator.

Sec. 16-16-410. Option to purchase.

~~...~~Said option may be exercised by the Town at any time for a period of two (2) years following approval of the ~~application for~~ annexation, subdivision, resubdivision or water service extension.

Sec. 16-18-10. Purpose.

The Board of Trustees has determined that the fiscal impact of ~~annexation,~~ subdivision and development should properly be borne by those parties who receive the benefits therefrom.