

ANNEXATION Guide

NOTE: FOR DETAILED PROCEDURES,
REFER TO CHAPTER 15 OF THE
Lyons Municipal Code

The Lyons code sets out the following annexation steps:

- Step 1, Pre-application conference**
- Step 2, Annexation application submittal**
- Step 3, Staff certifies application is complete**
- Step 4, Annexation petition referral to Board of Trustees**
- Step 5, Town Clerk publishes public notice**
- Step 6, Town provides petitioner draft annexation agreement**
- Step 7, Town Clerk refers annexation petition to County and special districts**
- Step 8, Town Clerk files annexation impact report**
- Step 9, Applicant posts signs on property and provides signed affidavit to Town**
- Step 10, Town Clerk refers annexation application to interested parties**
- Step 11, Staff report**
- Step 12, Planning and Community Development Commission review and recommendation**
- Step 13, Staff report update**
- Step 14, Board of Trustees public hearing and action**
- Step 15, Final submission**
- Step 16, Record annexation map**

Step 1, Pre-application conference

Pre-application Conference w/Town Staff:

An Applicant is required to schedule a pre-application conference with the Town of Lyons before making a formal annexation application submittal. The pre-application conference provides an opportunity for an informal evaluation of the Applicant's proposal by Community Development Staff and Staff can discuss with the Applicant the application process, submittal requirements, and applicable standards in the Municipal Code.

The Applicant is responsible for bringing to the meeting a description of the character, location and magnitude of the proposed development that is supported by documents such as maps, drawings or models.

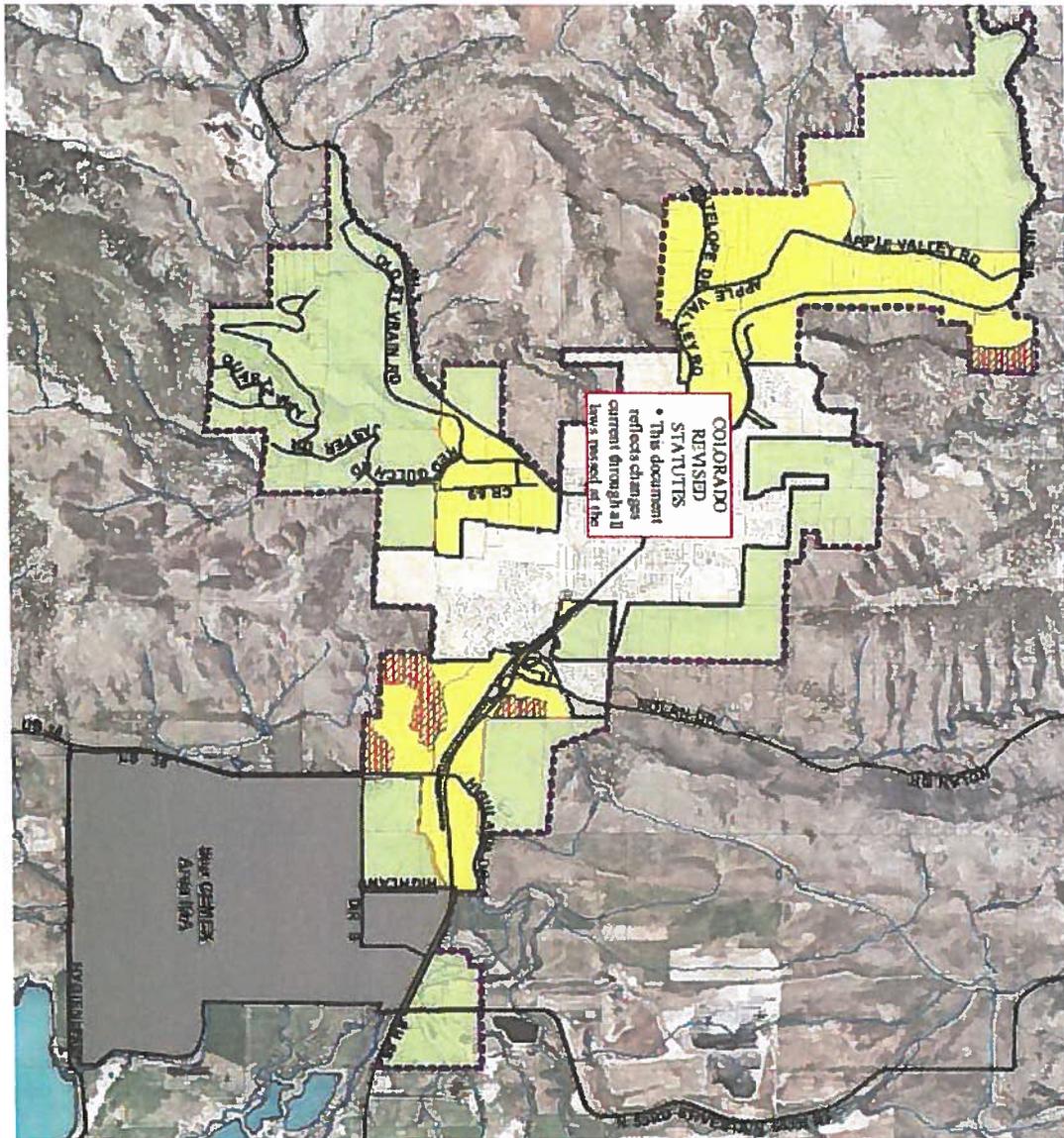
The informal evaluation by the Town at the pre-application conference is not binding upon the applicant or the Town, but are intended to serve as a guide to the applicant in making the application. After a pre-application conference has been held, a complete formal application should be submitted within six months. If an application is not submitted within six months, a new pre-application conference should be required.

Step 2, Annexation application and submittal

The Annexation process provides the procedure by which land shall be brought into the jurisdiction of the Town of Lyons. All Annexation applicants are required to submit an Initial Zoning application with their Annexation application for concurrent processing.

Eligibility for Annexation is first evaluated by Staff and then determined by the Town Board of Trustees based on the Colorado statutory requirements (substantial compliance with CRS 31-12-107). Flag pole annexations are limited by statute to a three mile distance from the Town boundaries. Flag pole annexations are governed by state statute and by the Lyons code wherein any landowner directly adjacent to a flag pole is entitled to annex into Town along with the "flag" property on the end of the "pole".

Also, the Town and Boulder County have entered into an IGA that identifies an area of interest designated as the **Lyons Planning Area** (LPA, see map below). This same area is addressed in the Lyons Comprehensive Plan and is given general future land use designations that are set out in a map titled "**2010 Land Use Plan**".



Lyons Planning Area

Step 3, Staff certifies application is complete

Petition to Annex Submittal:

The applicant shall submit to the Town of Lyons one copy of the application submittal packet that includes a completed application form, fees and support documents as specified in **Sec. 15-1-120** of the Lyons Code.

Determination of Application Completeness:

The Town Planner will review the application submittal packet for completeness. The Town Planner will determine whether an application submittal packet is complete and can continue forward or is not complete and moves back in the process to **Application Returned to Applicant**.

Application Returned to Applicant - "Not Complete":

An application submittal packet that is not complete in terms of submitting the documents required or

adequacy of the information provided or fees required will not be accepted by the Town for further review. The Town Planner will return the application submittal packet to the Applicant, so the Applicant can address the elements of the application submittal packet that are not complete. Once the Town Planner's review for completeness items are addressed, the Applicant resubmits the application submittal materials as described in Sec. 15-1-120. Step 2, Annexation application submittal. .

Applicant Submits Petition to Annex - "Complete":

An application submittal packet that is deemed to be complete by the Town Planner will continue on into the review process. The first step of the application review process is for the Applicant to submit to the Town of Lyons copies of the application submittal packet for review by Town staff, Town consultants.

Step 4, Annexation petition referral to Board of Trustees

Schedule BOT Meeting (Substantial Compliance):

The Town Planner shall notify the Applicant when the application is ready to move forward to the Board of Trustees meeting for acceptance of the annexation application as in substantial compliance with the State regulations for annexation and to set the annexation public hearing date. The Town Planner will schedule the first available Board of Trustees hearing date based on room on the BOT agenda.

BOT Meeting (Substantial Compliance):

The Board of Trustees will make a finding on the annexation petition, by the resolution. If the BOT finds the petition in substantial compliance with CRS 31-12-107 then the public hearing date for the annexation application is set by adopting a Resolution of Substantial Compliance and Intent to Annex. If the BOT finds that the petition is not in substantial compliance, then no further action is taken on the annexation application.

Eligibility for Annexation is determined by the Town Board of Trustees based on a finding of substantial compliance with the following statutory requirements:

1. That at least 1/6 of the perimeter of the area proposed to be annexed is contiguous with the Town.
2. That a community interest exists between the area proposed to be annexed and the Town.
3. That the area is urban or will be urbanized in the near future.
4. That the area can be integrated into the utilities, services, transportation network, etc. of the Town.
5. No land will be divided into separate tracts without written consent of the landowner.
6. Annexation proceedings have not been commenced by another municipality.
7. The Annexation will not result in detachment from a school district.
8. The Annexation will not result in an outward extension of the Town's boundaries by more than three miles in any one year.

If a street or alley is annexed, the entire width of the right-of-way must be annexed.

The Town of Lyons code further specifies the following criteria:

(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 ($\frac{1}{6}$) 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 ($\frac{1}{2}$) of the land proposed to be annexed is agricultural, and landowners constituting at least one-half ($\frac{1}{2}$) 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. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Step 5, Town Clerk publishes public notice of the annexation petition and related calendar of Hearings.

Step 6, Town provides petitioner draft annexation agreement

Annexation Agreement

The Town shall provide to the petitioner a draft annexation agreement not less than three (3) weeks prior to the annexation public hearing before the Board of Trustees. This document outlines the responsibilities of the applicant and the Town regarding the provision and extension of streets and utilities, the dedication of water rights and the applicability of Town regulations. Any changes or additions to the standard form annexation agreement proposed by the applicant or the Town shall be addressed in the "Supplemental provisions" section of the document. 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 shall be signed by each owner. The final document shall be signed by the applicant and made available to the Town Clerk not less than two (2) weeks before the date of the public hearing on the annexation.

The Town shall prepare the first draft of an Annexation Agreement after review of submitted information and discussions with the applicant, that detail the obligations of the Town and the Owner including but not limited to:

1. Density or intensity of development and land use mix, including designation of the density distribution within the parcel to be annexed;
2. Phasing of the development in general terms;
3. Drainage, detailing major improvements required, participation in the storm drainage utility, participation in existing improvements, and how drainage requirements will be satisfied;
4. Street and bikeways, detailing participation in existing and proposed improvements, dedication of perimeter rights-of-way and timing of such, major street improvements required and designation of responsibility for construction, treatment of local, interior street and rights-of-way, responsibility

for construction or participation in traffic signals and other traffic-control devices, payment for any transportation or site access studies or any addenda;

5. Utilities, detailing participation in existing systems, major improvements to be constructed, dedication of necessary easements and timing of such, and utilities required;
6. Landscaping, detailing responsibility and scheduling of arterial and collector street landscaping and primary greenway development, and maintenance of such facilities;
7. Fire protection, detailing responsibility for fire protection measures;
8. Land dedication and/or reservation, designating land for public purposes including but not limited to streets, utilities, parks, schools, greenways, or cash-in-lieu agreements. Land reserved for future park purchase will be paid at fair market value with the appraisal value determined by pre-annexation raw land value;
9. Exclusion from special districts and acknowledgement of the property owner's responsibility in securing exclusion;
10. Special districts, all agreements concerning special districts projected to be created within the Town limits, including, but not limited to, applicant's agreement to use any district for installation, construction warranty, and repair of public improvements;
11. Vested rights and growth management:
 - a. Specifying that the Town's action in annexing the property and approving the Concept Plan and Zoning do not create a vested right as defined in the Colorado Revised Statutes or other Town regulation or ordinance,
 - b. Specifying that, unless otherwise agreed to by the Town, the landowner requesting annexation shall waive any pre-existing vested property rights as a condition of such annexation, and
 - c. Specifying that the annexed property will be subject to any future phasing or growth management regulations that may be adopted by the Town;
12. Enforcement, specifying that the agreement is binding on heirs, successors and assigns;
13. Non-contestability clause detailing reliance by all on the agreement and providing for disconnection of the Annexation, at the option of the Town, upon noncompliance or nonperformance by the applicant;
14. Other issues as may be unique to the property including, but not limited to, necessary off-site improvements, railroad and river crossing improvements, relocation or maintenance of irrigation ditches and laterals, and purchase of existing electric facilities and/or electric service territory; and
15. Other issues as may be necessary to evidence compliance with the Municipal Code.

Step 7, Town Clerk refers annexation petition to County and special districts.

Referral Agency Review:

Referral agencies will have approximately three weeks to review the application submittal packets. Referral agency written comments will be due to the Town of Lyons before the **Staff Review Team Meeting (SRT)** is held so that any issues a referral agency may have can be discussed at the SRT meeting. The Town Planner will collect and coordinate all referral comments.

Staff Review Meeting:

The Town Planner will schedule a Staff Review Meeting after the referral agency review period is over. At the SRT meeting the Town Planner discusses the review comments from all review agencies.

Applicant Receives Staff Comments:

The Town Planner will provide the Applicant with a copy of all the staff and referral comments from the review of the application submittal packet. A meeting between staff and the applicant may be held to review the staff and referral comments. The applicant may also meet directly with the agency(ies) that have expressed concerns with the application. The Town Planner should be included in meeting or correspondence with referral agencies.

Step 8, Town Clerk files annexation impact report if land area is 10 acres or greater.

The Town Clerk shall file one (1) copy of the impact report with the Board of County Commissioners governing the area proposed to be annexed at least twenty (20) days before the date of the public hearing. The preparation and filing of the annexation impact report may be waived upon approval of both the Town and the Board of County Commissioners. This step is not required if the annexation is ten (1) acres or less.

Step 9, Applicant posts signs on property and provides signed affidavit to Town

Step 10, Town Clerk refers annexation application to interested parties

Upon the Board of Trustees' acceptance of the annexation petition, the Town Clerk shall send copies of the annexation map, the concept plan and the notice of the public hearing by regular mail, with delivery confirmation requested, to the property owners within three hundred (300) feet of the boundaries of the proposed annexation, irrigation ditch companies whose rights-of-way traverse the property to be annexed, mineral estate owners and their lessees of the property to be annexed, and the Colorado Division of Wildlife.

Step 11, Staff report

The Town Staff will review the application materials and the comments received from referral agencies and interested parties and prepare a report to the PCDC explaining how the application is or is not consistent with the annexation and zoning amendment review criteria.

Step 12, Planning and Community Development Commission review and recommendation

(a) The PCDC shall consider the annexation application at a regular or special meeting to be held prior to the date of the public hearing before the Board of Trustees. If zoning of the property is requested at the time of annexation, the PCDC shall hold a public hearing on the zoning of the property at the same meeting. Notice of the public hearing on zoning shall be given in accordance with the requirements for an amendment to the zoning map set forth in Chapter 16, Article 14 of this Code.

(b) The PCDC shall, by resolution, recommend approval of the petition for annexation with or without modifications and/or conditions, or recommend denial. If zoning of the property is requested at the time of annexation, the PCDC shall, by resolution, recommend approval with or without modifications and/or conditions, or recommend denial of the requested zoning. The PCDC shall refer any such recommendation to the Board of Trustees. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Step 13, Staff report update

Applicant Revisions Submitted/Resolution of Issues Complete:

The Applicant shall address, in writing, all issues and deficiencies identified in the staff and referral comments and the Planning Commission review and findings. To continue the process in a timely fashion, the applicant must complete the requested revisions and resubmit the revised application submittal packet for a second review by Staff and any applicable referral agencies as quickly as possible.

The Town Staff will review any changes to the application and update the staff report prepared in Step 11 above to incorporate any changes to the application and the PCDC's recommendation for the Board of Trustees.

Step 14, Board of Trustees public hearing and action

The Town Planner shall notify the Applicant when the application is ready for public hearing with the Board of Trustees. The Town Planner will schedule the first available Board of Trustees hearing date based on public hearing notification requirements and room on the BOT agenda. Two separate Board of Trustees hearing dates will be scheduled by the Town Planner for this application review. The two BOT hearing dates are necessary because the Board of Trustees adopts their findings and decision on the application by ordinance which requires two readings by the BOT.

Board of Trustees (BOT) Public Hearing (1st Reading):

The Applicant is required to submit all required public hearing documents at least 3 weeks before the public hearing so that the staff has adequate time to write the report and draft ordinance for the Board of Trustees. The staff report and draft ordinance shall be forwarded to the Applicant by the Town Planner when the BOT agenda packets are sent to the Board of Trustees for review. A copy of all public hearing documents are available in the Town of Lyons for public review at this time as well.

The public hearing will be conducted by the Town of Board of Trustees. The order of the proceedings at the public hearing should be as follows:

1. The Board of Trustees shall open the public hearing.
2. The Town Planner will present the staff report and draft ordinance.
3. The Applicant will present any relevant information the Applicant deems appropriate for the hearing.
4. Public testimony is heard by the Board of Trustees.
5. The Board of Trustees will ask questions of the Applicant and Staff, and for clarification on any issues raised during public testimony.
6. The Board of Trustees will close the public hearing. No decision will be made by the Board of Trustees on the first reading of the ordinance. The Board of Trustees will make their decision at the next meeting.

Board of Trustees (BOT) Public Hearing (2nd Reading):

The Second reading of the Ordinance will be on the Board of Trustees agenda for a final decision on the application.

The second reading of the ordinance will be conducted by the Town of Board of Trustees. The order of the proceedings for the second reading shall be as follows:

7. The Board of Trustees will introduce the agenda item.
8. The Town Planner will give a brief overview of the application.
9. The Applicant will not make a presentation at the second reading but must be available for any questions the BOT may have.
10. Public testimony is not taken at the second reading.

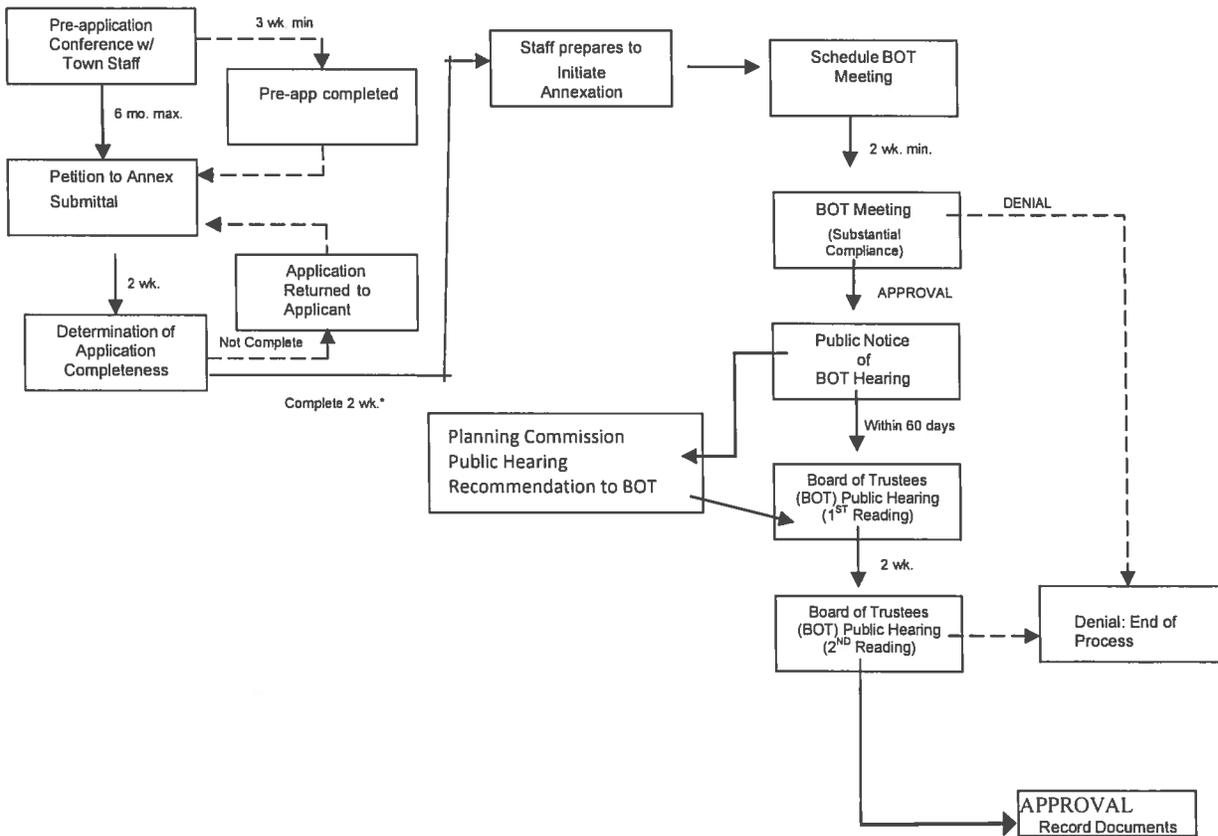
Step 15, Final submission

Step 16, Record annexation map

The Town Clerk shall record four (4) certified copies of the annexation ordinance and map with the County Clerk and Recorder. The Town shall request that the County Clerk and Recorder forward one (1) copy of the annexation map and ordinance to the Colorado Department of Local Affairs and one (1) copy of the annexation map and ordinance to the Colorado Department of Revenue. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Process Summary

The following is a brief summary of the typical Annexation process. Detailed step by step instructions are found in Chapter 15 Annexations.



*Typical Time Shown, Actual Time Up to Applicant

CHAPTER 15

Annexations

Article 1 Annexation Procedures

Division 1 General Provisions

Sec. 15-1-10 Purpose

Division 2 Annexation Application Procedures

Sec. 15-1-110 Step 1, Preapplication conference

Sec. 15-1-120 Step 2, Annexation application submittal

Sec. 15-1-130 Step 3, Staff certifies application is complete

Sec. 15-1-140 Step 4, Annexation petition referral to Board of Trustees

Sec. 15-1-150 Step 5, Town Clerk publishes public notice

Sec. 15-1-160 Step 6, Town provides petitioner draft annexation agreement

Sec. 15-1-170 Step 7, Town Clerk refers annexation petition to County and special districts

Sec. 15-1-180 Step 8, Town Clerk files annexation impact report

Sec. 15-1-190 Step 9, Applicant posts signs on property and provides signed affidavit to Town

Sec. 15-1-200 Step 10: Town Clerk refers annexation application to interested parties

Sec. 15-1-210 Step 11, Staff report

Sec. 15-1-220 Step 12, Planning and Community Development Commission review and recommendation

Sec. 15-1-230 Step 13, Staff report update

Sec. 15-1-240 Step 14: Board of Trustees public hearing and action

Sec. 15-1-250 Step 15, Final submission

Sec. 15-1-260 Step 16, Record annexation map

Division 3 Annexation Regulations

Sec. 15-1-310 Annexation review criteria

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

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

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

ARTICLE 1

Annexation Procedures

Division 1 General Provisions

Sec. 15-1-10. Purpose.

The purpose of this Chapter is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965, as amended. This Chapter, in part, provides supplemental requirements for annexation pursuant to the Colorado Municipal Annexation Act of 1965, 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 Act, the provisions of this Chapter and/or any requirements set forth in other portions of this Code, it is the expressed intent of the Board of Trustees that the most stringent provision shall control. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Division 2 Annexation Application Procedures

Sec. 15-1-110. Step 1, Preapplication conference.

The applicant shall schedule a preapplication conference with the Town Clerk to discuss any special conditions pertaining to the annexation and to obtain an annexation petition. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-120. Step 2, Annexation application submittal.

The applicant shall submit two (2) copies of the following information to the Town:

(1) Land use application form.

(2) Application fee and fee agreement. A nonrefundable fee is collected to cover: (a) the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ; and (b) notice and publication expenses. Actual costs may exceed the deposit, in which case the applicant shall be responsible for costs in excess of the application fee according to the fee agreement. The Town shall provide the applicant with a copy of the most current fee schedule and fee agreement form.

(3) Letter of intent and statement of community need. The applicant shall provide a cover letter for the annexation petition that introduces the applicant to the Board of Trustees, requests annexation of the petitioner's property, describes how the community will benefit from the proposed annexation, explains what zoning is requested and details development plans for the property, if applicable.

(4) Annexation petition (see Workbook).

(5) Annexation technical criteria form (see Workbook).

(6) Annexation map. All annexation maps shall be drafted at a scale that best conveys the detailed survey. Acceptable scales are 1" = 50', 1" = 100' or 1" = 200' (for large properties). The annexation map shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches and shall contain the following information:

- a. The date of preparation, the scale and a symbol designating true north.
- b. The name of the annexation.
- c. The names and addresses of the applicant and the firm or person responsible for preparing the annexation map.
- d. The written legal description (please also provide an electronic version of the legal description in Microsoft Word format).
- e. Vicinity map.
- f. Section, quarter-section and other monument corners and a description of all monuments that mark the property boundaries and all control monuments.
- g. Lot and block numbers if the area is already platted.
- h. The purpose, width, location and ownership of all existing and proposed easements and rights-of-way.
- i. Existing and requested zoning and acreage of each requested zone.
- j. Ownership of all parcels within and adjacent to the annexation.
- k. A map note that indicates the total perimeter of the annexation boundary, the contiguous length to the existing Town boundary and the length representing one-sixth ($\frac{1}{6}$) of the total annexation boundary perimeter.
- l. Certification blocks for the surveyor, petitioner, Planning and Community Development Commission, Board of Trustees and any other certifications that they Town Staff deems appropriate (see Workbook).

(7) Annexation map land surveying standards checklist (see Workbook).

(8) Concept plan. All concept plans shall be made with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, and shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The concept plan shall contain the following information:

- a. The date of preparation, the scale and a symbol designating true north.
- b. The name of the annexation.

- c. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the concept plan.
- d. The boundary of the property.
- e. Existing and proposed easements and rights-of-way.
- f. Block numbers and lot numbers with approximate dimensions (if known).
- g. Location and approximate acreage of proposed land uses, including open space and public sites to be dedicated.
- h. Existing watercourses with adequate easements for flood control.
- i. Land use table that includes land uses, approximate acreage of each land use, percentage of each land use, proposed density or floor area ratio and proposed number of dwelling units.
- j. Significant natural or manmade features on the site, such as bluffs, trees, ditches and wetlands.
- k. USGS topographic contours.
- l. Proposed zoning.

(9) Description of soil types and their limitations.

(10) Proof of ownership report. Such report must have an effective date less than thirty (30) days prior to the date of the submittal of the annexation petition.

(11) Mailing lists and envelopes. The applicant shall provide the Town Clerk with two (2) sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town's address as the return address and shall be addressed to the property owners within three hundred (300) feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property, and the appropriate referral agencies (including Boulder County, Special Districts, and irrigation ditch companies).

(12) Description of consistency with the Comprehensive Plan. The applicant shall provide a narrative discussing how the project relates to the goals, policies and strategies set forth in the Comprehensive Plan.

(13) Water Rights. The applicant shall provide 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 and subsurface (tributary and nontributary groundwater). In addition, the applicant shall provide a deed transferring all subsurface (nontributary) water rights (e.g., Laramie-Fox Hills aquifer) to the Town as authorized by Article 90 of Title 37, C.R.S.

(14) Zoning of property to be annexed. Zoning must be requested simultaneously with annexation. The petitioner must submit a completed zoning application form and a zoning map.

(15) Current property tax statement.

(16) Vicinity map with a radius of one and one-half (1½) miles, at a minimum scale of one (1) inch represents two thousand (2,000) feet and at a size of eight and one-half (8½) inches by eleven (11) inches.

(17) School district impact. For all annexations in excess of ten (10) acres, the applicant shall obtain from the school district governing the area to be annexed a statement of the effect of the annexation upon the school district, including an estimate of the number of students generated by the proposed annexation and the capital construction required to educate such students.

(18) Annexation impact report.

a. The Town shall review the impact report prepared by the applicant regarding the proposed annexation not less than twenty-five (25) days before the date of the annexation hearing. The Town Clerk must file this report within five (5) days after the report is prepared (see Step 4).

b. The annexation impact report shall include the following:

1. A map of the Town and adjacent territory showing the following information:

a) The 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 pattern in the areas to be annexed.

2. A copy of any draft or final preannexation agreement, if available.

3. A statement of the Town's plans for extending or providing for municipal services within the area to be annexed.

4. A statement of the Town's plans for the financing of municipal services to be extended into the area to be annexed and an estimate of any incremental costs to the Town for providing these services.

5. A statement identifying all existing districts within the area to be annexed.

6. A statement of the effect of the annexation upon the school district governing the area to be annexed, including the estimated number of students generated and the capital construction required to educate such students.

7. A statement of the impact of the proposed development on the environment of the Town and proposals to mitigate any negative impact.

c. If the annexation includes a flagpole, the annexation impact report must consider the parcels that abut such platted street or alley, public or private right-of-way, public or private transportation right-of-way or area, or lake, reservoir, stream or other natural or artificial waterway.

(19) Electronic Copy of application package (pdf format is acceptable, except the legal description must be a Word file). (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-130. Step 3, Staff certifies application is complete.

Within a reasonable period of time, Town Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. If the application is rejected, the applicant shall then correct any deficiencies in the application package and submit the required number of copies of the application as specified by Town Staff. If all documents are complete and accurate, Town Staff shall submit the annexation petition to the Town Clerk. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-140. Step 4, Annexation petition referral to Board of Trustees.

The Town Clerk shall present the annexation petition and a resolution initiating annexation proceedings to the Board of Trustees. If the Board of Trustees finds that the petition complies with the Municipal Annexation Act of 1965, it shall adopt a resolution establishing the date, time and place for a public hearing to determine compliance with the review criteria. The hearing shall not be less than thirty (30) days nor more than sixty (60) days after the effective date of the resolution. If the Board of Trustees finds that the petition is not in compliance with the Municipal Annexation Act of 1965, it shall make such determination by resolution and shall take no further action. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-150. Step 5, Town Clerk publishes public notice.

At least thirty (30) days before the Board of Trustees public hearing, the Town Clerk shall publish notice of the date, time and place that the Board of Trustees will be holding the public hearing. This notice must be published once a week for four (4) successive weeks. If the property is being simultaneously zoned, the Town must publish the notice of date, time and place of the Planning and Community Development Commission (PCDC) hearing to consider the proposed zoning at least ten (10) days prior to the hearing. The PCDC notice must be published once. The Town Clerk shall obtain the proof of publication. The Town Clerk shall also post an electronic copy of the application package and any other pertinent information on the Town's website for public review and comment. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-160. Step 6, Town provides petitioner draft annexation agreement.

The Town shall provide to the petitioner a draft annexation agreement not less than three (3) weeks prior to the annexation public hearing before the Board of Trustees. This document outlines the responsibilities of the applicant and the Town regarding the provision and extension of streets and utilities, the dedication of water rights and the applicability of Town regulations. Any changes or additions to the standard form annexation agreement proposed by the applicant or the Town shall be addressed in the "Supplemental provisions" section of the document. 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 shall be signed by each owner. The final document shall be signed by the applicant and made available to the Town Clerk not less than two (2) weeks before the date of the public hearing on the annexation. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-170. Step 7, Town Clerk refers annexation petition to County and special districts.

Upon the establishment of a public hearing date and at least twenty-five (25) days before the public hearing, the Town Clerk shall send copies of the published notice, the annexation petition and the resolution initiating the annexation procedure by certified mail (return receipt requested) to the Clerk of the Board of County Commissioners, the County Attorney, the school district and all special districts having territory within the annexed area. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-180. Step 8, Town Clerk files annexation impact report.

The Town Clerk shall file one (1) copy of the impact report with the Board of County Commissioners governing the area proposed to be annexed at least twenty (20) days before the date of the public hearing. The preparation and filing of the annexation impact report may be waived upon approval of both the Town and the Board of County Commissioners. This step is not required if the annexation is ten (1) acres or less. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-190. Step 9, Applicant posts signs on property and provides signed affidavit to Town.

The applicant shall post a sign on the property notifying the public of the hearing dates at least fourteen (14) days prior to the hearing. The sign shall include the time and place of the public hearing and the applicant's name. The applicant shall submit an affidavit certifying the posting of the property. Refer to the Workbook for details on the sign and for a sample affidavit. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-200. Step 10: Town Clerk refers annexation application to interested parties.

Upon the Board of Trustees' acceptance of the annexation petition, the Town Clerk shall send copies of the annexation map, the concept plan and the notice of the public hearing by regular mail, with delivery confirmation requested, to the property owners within three hundred (300) feet of the boundaries of the proposed annexation, irrigation ditch companies whose rights-of-way traverse the property to be annexed, mineral estate owners and their lessees of the property to be annexed, and the Colorado Division of Wildlife. Notice provided by the Town to the owners of the minerals estate and their lessees shall not relieve the petitioner from the responsibility of providing notice as required by Section 24-65.5-101, et seq., C.R.S. Per Section 31-12-105, C.R.S., in the case of a "flagpole" annexation, the Town Clerk shall also provide by regular mail to the owners of any abutting parcel 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.. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-210. Step 11, Staff report.

The Town Staff will review the application materials and the comments received from interested parties and prepare a report to the PCDC explaining how the application is or is not consistent with the annexation and zoning amendment review criteria. The Town Staff report shall consider the compatibility of the property with this Code, including deviations from setback standards, space requirements and permitted uses for the proposed zoning districts. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-220. Step 12, Planning and Community Development Commission review and recommendation.

(a) The PCDC shall consider the annexation application at a regular or special meeting to be held prior to the date of the public hearing before the Board of Trustees. If zoning of the property is requested at the time of annexation, the PCDC shall hold a public hearing on the zoning of the property at the same meeting. Notice of the public hearing on zoning shall be given in accordance with the requirements for an amendment to the zoning map set forth in Chapter 16, Article 14 of this Code.

(b) The PCDC shall, by resolution, recommend approval of the petition for annexation with or without modifications and/or conditions, or recommend denial. If zoning of the property is requested at the time of annexation, the PCDC shall, by resolution, recommend approval with or without modifications and/or conditions, or recommend denial of the requested zoning. The PCDC shall refer any such recommendation to the Board of Trustees. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-230. Step 13, Staff report update.

The petitioner may revise the annexation and zoning application package as necessary. The Town Staff will review any changes to the application and update the staff report prepared in Step 11 above to incorporate any changes to the application and the PCDC's recommendation for the Board of Trustees. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-240. Step 14: Board of Trustees public hearing and action.

(a) Upon the submission of documentation in accordance with this Chapter and upon compliance with the notice and hearing requirements as set forth in the Colorado Municipal Annexation Act of 1965, as amended, the Board of Trustees may consider the approval of an ordinance annexing the subject property to the Town at a public hearing.

(b) Upon completion of the public hearing (which must be recorded), the Board of Trustees shall set forth its findings of fact and its conclusion based on:

(1) The compliance of the proposed annexation with all applicable annexation review criteria.

(2) Whether or not an election is required under Section 31-12-107(2), C.R.S., or Section 15-1-340 of this Chapter.

(c) The Board of Trustees shall also determine whether or not additional terms and conditions are to be imposed.

(d) If the Board of Trustees, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by resolution, stating the grounds for such denial. In the event the Board of Trustees considers and disapproves such annexation, no similar request may be heard for a period of one (1) year from the date of denial. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-250. Step 15, Final submission.

In the event the Board of Trustees approves an annexation ordinance, the applicant shall submit to the Town Clerk four (4) Mylars of the final annexation map and two (2) bound copies of the concept plan and a CAD file of the annexation map within ten (10) days of the effective date of the annexation ordinance. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

Sec. 15-1-260. Step 16, Record annexation map.

The Town Clerk shall record four (4) certified copies of the annexation ordinance and map with the County Clerk and Recorder. The Town shall request that the County Clerk and Recorder forward one (1) copy of the annexation map and ordinance to the Colorado Department of Local Affairs and one (1) copy of the annexation map and ordinance to the Colorado Department of Revenue. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

*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 ($\frac{1}{6}$) 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 ($\frac{1}{2}$) of the land proposed to be annexed is agricultural, and landowners constituting at least one-half ($\frac{1}{2}$) 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. (Ord. 891 §1, 2011; Ord. 956 §1, 2014)

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

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.

(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)