

CHAPTER 16

Land Use Code

Article XIII Annexation Procedures

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ARTICLE XIII**Annexation Procedures****Sec. 16-13-10. Purpose.**

The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town of Milliken in compliance with the *Colorado Municipal Annexation Act of 1965*, as amended. This Article, 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 the Municipal Code. In the event of a conflict between the act, the provisions of this Article or any requirements set forth in other portions of the Municipal Code, it is the expressed intent of the Board of Trustees that the more stringent provision shall control. (Ord. 480 §13, 2003)

Sec. 16-13-20. Annexation application process.

(a) 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.

(b) Step 2: Annexation Petition and Application Materials. At least thirty (30) days prior to the presentation of any annexation petition to the Board of Trustees, the applicant shall submit to the Town the annexation petition, the annexation fee, a minimum of fifteen (15) copies of the master plan and annexation map, and a minimum of eight (8) copies of all required supportive information.

(1) Land Use Application Form.

(2) Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable 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) Annexation Technical Criteria Form (see Workbook).

(4) Annexation map. All annexation maps 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 annexation map 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 annexation map.

d. The written legal description provided on magnetic disk or CD in MSWord or WordPerfect format.

e. Distinction of the boundary that is contiguous to the Town and the length of the same.

f. Lot and block numbers if the area is already platted.

g. Existing and proposed easements and rights-of-way.

h. Existing and requested zoning and acreage of each requested zone.

i. Ownership of all parcels within and adjacent to the annexation.

j. Appropriate certification blocks as directed by the Planning Department.

(5) 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 master plan.

d. Existing and proposed easements and rights-of-way.

e. Block numbers and lot numbers with approximate dimensions.

f. Proposed gross and net residential density.

g. Existing watercourses with adequate easements for flood control.

h. Designation of all public sites to be reserved and dedicated.

i. Existing two-foot contours.

j. Appropriate certification blocks as directed by the Planning Department.

(6) Supportive information. The following supportive information shall be submitted with the annexation map and master plan:

a. Annexation petition.

b. Soils description and limitation.

c. Preliminary utility plan.

d. Title commitment. Such commitment must have an effective date less than thirty (30) days prior to the date of the submittal of the annexation petition.

e. Mailing list and envelopes for County, special districts, irrigation ditch companies, mineral interest owners and adjacent property owners. The applicant is to provide a mailing address list and envelopes as required by the Town of all property owners within three hundred (300) feet of the boundaries of the annexation.

f. A completed Comprehensive Plan Project Summary Worksheet. This standardized worksheet was developed with the Comprehensive Plan. The applicant is required to provide a narrative response to the series of questions related to the conformance of the project to the goals, policies and strategies identified in the Comprehensive Plan. The applicant is to provide a word processing file of the completed worksheet document.

g. 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 (tributary) and subsurface (nontributary and not nontributary groundwater). The applicant shall provide a signed warranty deed for sufficient water rights to provide the domestic needs of property to be developed as a result of the annexation. In addition, the applicant shall provide a signed standard form warranty deed for the transfer of all subsurface (nontributary) water rights to the Town.

h. Zoning of property to be annexed. If zoning is requested simultaneously with annexation, the petitioner must submit a completed zoning application form, provide a zoning map for the property and a zoning amendment map amending the official zoning map, and pay the application and recording fees. If zoning is not requested simultaneously with annexation, the property is required by statute to be brought under the Town's Zoning Code and zoning map within ninety (90) days of the completion of the annexation process.

i. Property tax statement.

j. 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.

k. Statement on community need for proposed annexation and zoning.

l. 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.

(7) Annexation impact report.

a. For all annexations, 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.

b. One (1) copy of the impact report shall be filed with the Board of County Commissioners governing the area proposed to be annexed within five (5) days thereafter. The preparation and filing of the annexation impact report may be waived upon approval of the Board of County Commissioners governing the area proposed to be annexed.

(8) The annexation impact report shall include the following:

a. A map or maps of the Town and adjacent territory showing the following information:

1. The present and proposed boundaries of the Town in the vicinity of the proposed annexation.

2. 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.

3. The existing and proposed land use pattern in the areas to be annexed.

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

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

d. A statement of the Town's plans for the financing of municipal services to be extended into the area to be annexed.

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

f. A statement of the effect of the annexation upon the school district governing the area to be annexed, as is more fully set forth in Subparagraph (b)(6)l. above.

(c) Step 3: Staff Review to Determine that the Application is Complete. The Planning Department shall review all documents submitted for completeness and accuracy. If all documents are complete and accurate, the Planning Department shall submit the annexation petition to the Town Clerk.

(d) Step 4: Annexation Petition Referral to the Board of Trustees. The Town Clerk shall present the annexation petition and a resolution initiating annexation proceedings to the Board of Trustees, which shall thereafter establish a date for a public hearing. Upon the establishment of a public hearing date, the Town Clerk shall give appropriate notice in accordance with the Colorado Municipal Annexation Act of 1965, as amended, and shall specifically direct copies of the annexation petition and the resolution initiating the annexation procedure by certified mail to the Clerk of the Board of County Commissioners and to the County Attorney of the county wherein the territory is located. Copies of the annexation petition and the resolution initiating the annexation procedure shall also be sent by certified mail to any school district or special district having territory within the annexed area. These copies shall be sent at least twenty-one (21) days prior to the public hearing.

(e) Step 5: Referral of the Annexation to Interested Parties. Upon acceptance of the annexation petition by the Board of Trustees, the Planning Department shall furnish to the following entities copies of the annexation map and the master plan. The Planning Department may submit copies of the

annexation map and the master plan to additional interested entities as determined by the Planning Department in its sole discretion. Such entities shall be advised by the Planning Department of the scheduled hearing date and shall further be notified that any objections to the annexation and master plan must be submitted to the Town in writing no later than seven (7) days after receipt of the annexation map and master plan:

- (1) Telephone companies.
 - (2) Franchise utility companies.
 - (3) Town Engineer.
 - (4) Fire Department.
 - (5) Town Water and Sewer Department.
 - (6) Colorado Department of Transportation.
- (f) Step 6: Planning Commission Review and Recommendation.

(1) The Planning Commission shall consider the petition for annexation 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 Planning Commission 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 Section 16-3-540 of this Chapter.

(2) The Planning Commission 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 Planning Commission shall by resolution recommend approval with or without modifications and/or conditions, or recommend denial of the requested zoning. The Planning Commission shall refer any such recommendation to the Board of Trustees.

(g) Step 7: Board of Trustees Public Hearing. Upon the submission of documentation in accordance with this Article 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. 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 ordinance, no similar request may be heard for a period of one (1) year from the date of denial. (Ord. 480 §13, 2003; Ord. 522, 2005)

Sec. 16-13-30. Review criteria.

It shall be the general policy of the Town 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 land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the Comprehensive Plan and to the land uses depicted on the Land Use Map, as amended.

(3) 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.

(4) The petitioner for annexation shall be responsible for paying the Town's full cost for processing the annexation petition, from initial discussion with Town staff before submittal of the petition, through the approval and recording of the final annexation documents.

(5) 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.)

(6) All subsurface (nontributary) water rights shall be deeded to the Town at the time of annexation.

(7) The Town shall have in place an annexation master plan for the three-mile area surrounding the Town. The annexation master plan shall be updated for each annexation or once per year, whichever is less. (Ord. 480 §13, 2003)

Sec. 16-13-40. Responsibilities of applicant.

In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Annexation Act of 1965, as amended, all applicants shall have the following responsibilities: The applicant is responsible for having a representative at all meetings where the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting. (Ord. 480 §13, 2003)

Sec. 16-13-60. Final submission.

In the event the Board of Trustees approves an annexation ordinance, the applicant shall submit to the Town two (2) Mylars of the final annexation map and three (3) blue-line sets of the master plan within ten (10) days of the effective date of the annexation ordinance. (Ord. 480 §13, 2003)