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CHAPTER 15 Annexation¹

ARTICLE I Annexation Policies and Procedures

Sec. 15-1-10. Title.

The provisions of this Article shall be known and cited as the "Blue River Annexation Policies and Procedures."

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-20. Authority.

This Chapter is authorized pursuant to the powers conferred by the Colorado Municipal Annexation Act of 1965.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-30. Annexation a legislative decision.

No landowner shall be entitled to a right to the annexation of land and such decision to annex property shall be a legislative and discretionary decision of the Town.

(Ord. No. 2021-07, § 1, 5-17-2021)

¹Editor's note(s)—Ord. No. 2021-07, § 1, adopted May 17, 2021, repealed Ch. 15, §§ 15-1-10—15-1-130, and enacted a new chapter, as set out herein. The former chapter pertained to similar subject matter and derived from the prior Code 6-9-1—6-9-5, 6-9-6A—H; and Ord. 06-01 §1, adopted 2006.

Sec. 15-1-40. Acknowledgement, purpose and interpretation.

The Town acknowledges the applicability of the Colorado Municipal Annexation Act of 1965, Sections 31-12-101, et seq., C.R.S. for annexations to the Town of Blue River. This Article is intended to implement and supplement the Colorado Municipal Annexation Act of 1965 and shall be liberally construed for the following purposes:

- (1) To encourage a natural and well-ordered development of the Town;
- (2) To distribute fairly and equitably the costs of municipal services among those persons who benefit from such services;
- (3) To extend municipality, services, and facilities to eligible areas which form a part of the whole community;
- (4) To simplify governmental structure;
- (5) To provide an orderly system for extending municipal regulations to newly annexed areas;
- (6) To reduce potential friction among contiguous or neighboring municipalities;
- (7) To increase the ability of the Town to provide their citizens with the services they require; and
- (8) To exercise to the greatest extent possible the Town's authority and powers conferred by State law and applicable judicial precedent.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-50. Definitions.

The meaning of words and phrases contained in this Chapter 15 shall have the meanings ascribed to them by Section 31-12-103, C.R.S. unless the context clearly indicates a different meaning.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-60. Three-mile limitation and three-mile plan.

- (a) Except as otherwise provided in this Section, no annexation may take place that would have the effect of extending the Town's municipal boundary more than three (3) miles in any direction from any point of such municipal boundary in any one (1) year. Within the three-mile area, the contiguity required by Section 31-12-104(1)(a), C.R.S., may be achieved by annexing 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. Such three-mile limit may be exceeded if such limit would have the effect of dividing a parcel of property held in identical ownership provided that at least fifty (50) percent 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.
- (b) The Town's three-mile plan and its comprehensive plan, as amended, shall serve as and shall constitute the "plan in place" referenced in Section 31-12-105(1)(e), C.R.S., unless a different plan, supplement, or revision is expressly adopted to serve as a plan in place. The plan in place may also be commonly referred to as the "three-mile plan" and such plan shall be deemed automatically updated annually on January 1 of each year without further action by the Town unless a change or modification is necessary and is adopted by resolution or ordinance by the Town Board of Trustees. The absence of a specific reference in such plan to a particular parcel of land proposed for annexation shall not be interpreted as a statement of intent to not annex such parcel of land; it is the plan and intent of the Town Board to evaluate and to consider for potential annexation all property within three (3) miles of the Town's then existing municipal boundaries upon

submission of a petition or as otherwise permitted by this Article and the Colorado Municipal Annexation Act of 1965. The absence in the plan of a specific reference to any character or 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 shall not be interpreted as a failure to comply with Section 31-12-105(1)(e), C.R.S., but shall be interpreted as a plan by the Town to determine the appropriate character or extent of land uses and services through the Town's applicable processes of annexation, planning, and development approvals on a case by case basis. The plan in place may also be amended or modified to more specifically identify the character or extent of land uses and services at any time or contemporaneously with any annexation.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-70. Petition fee and charges for processing annexation petitions.

- (a) It is the Town's intent that petitioners for annexation bear the costs of processing a petition subject to any waiver of costs as permitted by this Section. The minimum petition fee for annexation shall be two thousand dollars (\$2,000.00) for each legally described lot or parcel of land within the area proposed for annexation; provided, however, that the Town Manager may administratively establish and modify as needed a different petition fee together with additional consultant fees for the processing of an annexation petition. In setting such fees, the Town Manager shall consider the anticipated or estimated costs to be incurred by the Town in reviewing and processing the annexation and obtaining necessary data, studies, and reports. The Town Manager shall administratively advise the Town Board of the petition fee and consultant reimbursement fees for each petition. No petition shall be processed unless accompanied by the applicable petition and consultant reimbursement fees and such petition shall be deemed incomplete until such fees are paid in full.
- (b) The Town Manager, in consultation with the Town Board, may require as a condition of annexation the payment of additional amounts by the petitioners or others deemed necessary, beneficial, or advantageous by the Town, including, but not limited to, payments to offset anticipated costs or expenses of providing services to the annexed property or residents of the annexed area, mitigate anticipated impacts to the annexed area or to surrounding lands, to upgrade infrastructure within the Town, and/or to defray any costs or expenses of the Town.
- (c) The Town may waive all or any portion of a fee or charge for annexation where the Town Board administratively finds in its sole discretion that the proposed annexation may provide substantial benefits or advance important economic or other goals and objectives of the Town.
- (d) The Town may refund all or any portion of fees paid by a petitioner that were not applied to the processing of the annexation petition. Such refund shall require that the Town Board administratively find in its sole discretion that the petitioner has demonstrated sufficient cause or reason for a refund following a denial of a petition by the Town or following the voluntary withdrawal of a petition by the petitioner. No refund shall be issued where the unexpended fees total less than three hundred dollars (\$300.00), the annexation was subject to an election, or the Town incurred unpaid costs and expenses in administrative staff time, attorney fees, or consultant fees that were not anticipated or estimated in the setting of the petition fee paid by the petitioner.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-80. Annexation process.

- (a) Generally. All annexations shall be accomplished in general accordance with the procedures set forth in the Colorado Municipal Annexation Act, as amended, through an ordinance duly adopted by the Town Board. Any petitions for annexation or petitions for annexation election shall contain the information required by

the Municipal Annexation Act of 1965, as the same may be amended from time to time. The Town may institute the procedure to zone land proposed for annexation on or after the submittal of an annexation petition, provided that the proposed zoning ordinance shall not be passed prior to the date when the annexation ordinance is adopted.

- (b) Notice. All public notices of hearings shall include the date, time, place, and purpose of the hearing, a general description of the property affected, and any other information deemed appropriate by the Town to apprise the public of the general nature of the action proposed. Errors or inaccuracies in the notice shall not be deemed sufficient cause to postpone or invalidate a hearing except where such errors are substantive and material and are found to have reasonably mislead or misinformed the public as to the date, time, place or purpose of the hearing.
 - (1) Required notice by publication. Notice for the public hearing for all annexations shall meet the requirements of the Colorado Municipal Annexation Act of 1965.
 - (2) Courtesy notice by mailing. Notice by mailing is a courtesy and a supplementary means of advising persons of the pendency of an application but shall not be deemed a legal requirement for the processing of an annexation petition or the conduct of a hearing if notice by publication was properly completed. The Town may send the mailed notice or may require the petition to undertake the mailing of notice. Mailed notice shall be addressed to owners of property within three hundred (300) feet of the property described in the petition as their names appear in the real property records of the Summit County Assessor. In measuring the required distance, the measurement shall be made from the perimeter of the area proposed for annexation to the property line of neighboring properties without regard to topography (i.e., in a two-dimensional plane or map). Courtesy notice by mailing shall be deposited in the United States Mail first class postage prepaid or shall be delivered by another comparable service, including hand-delivery to the address. The deposit in the U.S. Mail or delivery by another comparable service shall be made at least fifteen (15) days before the date of the hearing. Failure of the addressee to receive notice shall not be deemed sufficient cause to require a postponement of the hearing, re-mailing of notice, or invalidation of the hearing. If the petitioner undertakes the mailing of notice, the petitioner shall deliver to the Town prior to the public hearing a signed, written certification stating that the petitioner completed notice by mailing in accordance with this Section.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-90. Optional referral to Planning and Zoning Commission.

The Blue River Planning and Zoning Commission shall not be required to consider or recommend action on a petition for annexation. The Board of Trustees may, at its discretion, refer such petition to the Commission for a recommendation or for comment as to any aspect of a proposed annexation. Following a referral, the Town Board may revoke a request for recommendation or comment, disregard such recommendation or comment, or deem a recommendation or comment untimely if not submitted to the Town Board prior to the hearing required by Section 31-12-109, C.R.S.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-100. Annexed property subject to all laws.

- (a) Unless otherwise provided by an agreement or by ordinance governing the annexation of property into the Town, the ordinances, resolutions, rules, and regulations of the Town shall remain fully valid and effective as to any property annexed into the Town.

- (b) The Town Board may require the annexing owner to agree to bring the annexed property into conformance with Town ordinances, resolutions, rules, and regulations either at the time of annexation or within a time period stated in an agreement.

(Ord. No. 2021-07, § 1, 5-17-2021)

Sec. 15-1-110. Annexation agreements.

- (a) The Town is authorized to enter into one (1) or more agreements with property owner(s) memorializing understandings of the property owner(s) and the Town and/or imposing terms, conditions, obligations, and rights upon annexation mutually acceptable to the parties. An annexation agreement is not required as a condition of an annexation except upon demand by the Board of Trustees. An annexation agreement may suspend, supersede, or waive the applicability or application of a provision of the Town Code or any ordinance, resolution, rule, or regulation of the Town when deemed in the Town's best interests by the Board of Trustees; provided, however, that nothing contained in such agreement shall suspend, supersede, or waive any provision of any ordinance, resolution, rule, or regulation of the Town unless:

- (1) Such agreement explicitly identifies a provision of an ordinance, resolution, rule or regulation of the Town that is intended to be superseded by the agreement; or
- (2) A provision of such agreement directly and irreconcilably conflicts with obligations and rights of the parties otherwise made applicable by a provision of an ordinance, resolution, rule, or regulation of the Town.

- (b) Annexation agreements shall be deemed legislative decisions of the Town and approved by ordinance.

(Ord. No. 2021-07, § 1, 5-17-2021)