

C.R.S. **31-12-107** (2016)

31-12-107. Petitions for annexation and for annexation elections

(1) Petition for annexation in accordance with section 30 (1) (b) of article II of the state constitution:

(a) Persons comprising more than fifty percent of the landowners in the area and owning more than fifty percent of the area, excluding public streets and alleys and any land owned by the annexing municipality, meeting the requirements of sections 31-12-104 and 31-12-105 may petition the governing body of any municipality for the annexation of such territory.

(b) The petition shall be filed with the clerk.

(c) The petition shall contain the following:

(I) An allegation that it is desirable and necessary that such area be annexed to the municipality;

(II) An allegation that the requirements of sections 31-12-104 and 31-12-105 exist or have been met;

(III) An allegation that the signers of the petition comprise more than fifty percent of the landowners in the area and own more than fifty percent of the area proposed to be annexed, excluding public streets and alleys and any land owned by the annexing municipality;

(IV) A request that the annexing municipality approve the annexation of the area proposed to be annexed;

(V) The signatures of such landowners;

(VI) The mailing address of each such signer;

(VII) The legal description of the land owned by such signer;

(VIII) The date of signing of each signature; and

(IX) The affidavit of each circulator of such petition, whether consisting of one or more sheets, that each signature therein is the signature of the person whose name it purports to be.

(d) Accompanying the petition shall be four copies of an annexation map containing the following information:

(I) A written legal description of the boundaries of the area proposed to be annexed;

(II) A map showing the boundary of the area proposed to be annexed;

(III) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;

(IV) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the annexing municipality and the contiguous boundary of any other municipality abutting the area proposed to be annexed.

(e) No signature on the petition is valid if it is dated more than one hundred eighty days prior to the date of filing the petition for annexation with the clerk. All petitions which substantially comply with the requirements set forth in paragraphs (b) to (d) of this subsection (1) shall be deemed sufficient. No person signing a petition for annexation shall be permitted to withdraw his signature from the petition after the petition has been filed with the clerk, except as such right of withdrawal is otherwise set forth in the petition.

(f) The clerk shall refer the petition to the governing body as a communication. The governing body, without undue delay, shall then take appropriate steps to determine if the petition so filed is substantially in compliance with this subsection (1).

(g) If the petition is found to be in substantial compliance with this subsection (1), the procedure outlined in sections 31-12-108 to 31-12-110 shall then be followed. If it is not in substantial compliance, no further action shall be taken.

(2) Petition for annexation election in accordance with section 30 (1) (a) of article II of the state constitution:

(a) The registered electors may petition the governing body of any municipality to commence proceedings for the holding of an annexation election in the area proposed to be annexed. This petition shall meet the standards described in paragraphs (c) and (d) of this subsection (2) and either:

(I) Shall be signed by at least seventy-five registered electors or ten percent of said electors, whichever is less, if such area is located in a county of more than twenty-five thousand inhabitants; or

(II) Shall be signed by at least forty registered electors or ten percent of said electors, whichever is less, if such area is located in a county of twenty-five thousand inhabitants or less.

(b) The petition shall be filed with the clerk.

(c) The petition for annexation election shall comply with the provisions of paragraph (c) of subsection (1) of this section; except that:

(I) Rather than an allegation of any certain percentage of land owned, it shall contain an allegation that the signers of the petition are qualified electors resident in and landowners of the area proposed to be annexed; and

(II) The petition shall request the annexing municipality to commence proceedings for the holding of an annexation election in accordance with section 30 (1) (a) of article II of the state constitution.

(d) The requirements and procedures provided for in paragraphs (e) and (f) of subsection (1) of this section shall be met and followed in a proceeding under this subsection (2).

(e) If the petition is found to be in substantial compliance with this subsection (2), the procedure outlined in sections 31-12-108 to 31-12-110 shall then be followed, subject thereafter to an annexation election to be held in accordance with section 31-12-112. If the petition for an annexation election is not found to be in substantial compliance, no further action shall be taken; except that the governing body shall make such determination by resolution.

(3) Procedures alternative: The procedures set forth in subsections (1) and (2) of this section are alternative to each other and to any procedure set forth in section 31-12-106; except that a petition for annexation election filed pursuant to subsection (2) of this section shall take precedence over an annexation petition involving the same territory and filed pursuant to subsection (1) of this section if such petition for annexation election is filed at least ten days prior to the hearing date set for the annexation petition filed pursuant to subsection (1) of this section.

(4) Additional terms and conditions on the annexation: Additional terms and conditions may be imposed by the governing body in accordance with section 31-12-112.

(5) If a petition is filed pursuant to subsection (1) or (2) of this section and the territory sought to be annexed meets the specifications of section 31-12-106 (1), the governing body of the municipality with which the petition is filed shall thereupon initiate annexation proceedings pursuant to the appropriate provisions of section 31-12-106 (1). In the event that any governing body fails to initiate such annexation proceedings within a period of one year from the time that such petition is filed, annexation may be effected by an action in the nature of mandamus to the district court of the county where the land to be annexed is located, and the petitioner's court costs and attorney fees incident to such action shall be borne by the municipality.

(6) 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 months.

(7) For the purpose of determining the compliance with the petition requirements in this section, a signature by any landowner shall be sufficient so long as any other owner in fee of an undivided interest in the same area of land does not object in writing to the governing body of the annexing municipality within fourteen days after the filing of the petition for annexation or annexation election. The entire area of the land signed for shall be computed as petitioning for annexation if such signing landowner has become liable for taxes in the last preceding calendar year or is exempt by law from payment of taxes. One who is purchasing land under a written contract duly recorded shall be deemed the owner of the land which is subject to the contract if he has paid the taxes thereon for the next preceding tax year. The signers for an area owned by a corporation, whether profit or nonprofit, shall be the same persons as those authorized to convey land for such corporation.

(8) No power of attorney providing the consent of a landowner to be annexed by a municipality pursuant to this section shall be valid for a term of more than five years, and no such power of attorney executed before May 27, 1997, shall be valid for a term of more than five years after May 27, 1997.