

ORDINANCE NO. 129**AN ORDINANCE TO ESTABLISH A PROCEDURE FOR THE ANNEXATION OF REAL PROPERTY INTO THE TOWN OF ARRIBA, LINCOLN COUNTY, COLORADO**

Whereas, the Town of Arriba, (hereinafter referred to as the “Town”), in the County of Lincoln and the State of Colorado, is the body corporate operating as a statutory town pursuant to the general statutes of the State of Colorado; and

Whereas, the Colorado Revised Statutes 31-12-101, et. seq., govern and control the means and methods by which a municipality may consider or approve the annexation of real property into the Town; and

Whereas, the Board wishes to incorporate into the Town laws the state statute governing the annexation of real property as well as create and adopt a reasonable procedure for such annexation and consideration of annexation;

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ARRIBA, COLORADO:**SECTION I: ANNEXATION****A. Purpose**

All annexations to the Town of Arriba utilizing the petition method will follow the following process and standards to ensure that petitions are processed in an orderly manner, that municipal services are adequate and available to the property, that costs of annexation are paid by the owners of the petitioned property, and that all requirements of Colorado Revised Statutes 31-12-101, et. seq. are followed and fulfilled.

B. Responsibilities

The applicant is required to prepare all necessary documents in a professional manner and submit all documents as required. The applicant is required upon the submittal of the application to negotiate with the Town or its designee both a Pre-Annexation Agreement and an Annexation Agreement as described herein. The Town Board must approve a resolution for annexation prior to the holding of a public hearing pursuant to state statute. In addition the Town Clerk will publish the resolution and the public notice of hearing for four (4) successive weeks in the Town’s official newspaper. The first publication shall be at least thirty (30) days prior to the public hearing before the Town Board. The Town Clerk will also send a copy of the notice to the Lincoln County land use board, and to any special district and school district having territory within the area to be annexed at least twenty-five days prior to the date fixed for such hearing.

C. Eligibility for Annexation.

Properties proposed for annexation must meet the following requirements:

1. Owners of more than fifty percent of the area to be annexed including streets and alleys shall sign the petition for annexation.
2. Not less than one-sixth the outside perimeter of the area to be annexed shall be contiguous to existing town limits.
3. No property owned in a separate tract shall be divided by the boundary of the proposed annexation without consent of such property owner.
4. Should the state statutes concerning the annexation of real property be amended subsequent to the adoption of this Ordinance or should it be determined that this Ordinance does not comply with the State of Colorado statutes concerning annexation of real property, then the state statutes shall control as if fully set forth herein.

D. Who May Petition for Annexation.

Only owners of the land or their legal representatives may petition the Town for annexation. Only the subject landowners may sign the petition.

E. Required Annexation Impact Reports.

1. An annexation impact report is required for parcels larger than ten acres, unless the Lincoln County officials and the Town agree that the report may be waived. If a report is required, it must be completed at least twenty-five (25) days before the hearing date and filed with the County twenty (20) days before the hearing date. While it is the responsibility of the Town to prepare this report, the petitioners shall initiate and pay for such report with the supervision of the Town. Information from the petitioners for the report would include:

- 1.1 The existing and proposed land use patterns in the areas to be annexed;
- 1.2 The identity of existing districts within the area to be annexed;
- 1.3 The effect of the annexation upon the local public school district including the estimated number of students generated and the capital construction required to educate such students;
- 1.4 A statement of the Town's plans for extending financing and providing municipal services within the area to be annexed;
- 1.5 A statement identifying all existing special districts within the area to be annexed;



1.6 A map of the Town and adjacent area showing the present and proposed boundaries of the Town in the vicinity of the proposed annexation and 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.

2. The Town may also require that a fiscal impact report be prepared under its direction and at the petitioner's expense. This report should provide the information needed by the Town to evaluate the fiscal costs and benefits of the proposed annexation over a multi-year period.

3. The Town staff or designee must also review the proposed annexation and provide their evaluation and recommendations to the Board prior to the scheduled public hearing. The Town, at the Petitioner's expense, shall conduct an investigation and issue a report as to the Town's capacity to meet the proposed utility needs of the annexed property and shall review and assess the topographical features of the proposed annexation as to drainage and other relevant issues.

4. The Town staff or designee shall refer the annexation impact report to relevant review agencies, if any.

F. Required Dedications:

1. The petitioners must dedicate or agree to dedicate sufficient land and rights-of-way to the Town for public streets and alleys as set forth in the standards and specifications of the Town, and the Town's Master Plan.

2. The petitioners must dedicate or agree to dedicate sufficient and unobstructed rights-of-way to the Town for utility easements and storm drainage to serve the proposed development. Petitioners also agree to pay utility development fee and tap fees as developed by the Town.

3. The Town shall reserve the first option for all rights, title and interest in any water rights associated with the property or in any and all water located beneath the property to be annexed. The option for water rights shall be held in perpetuity. In the event of exercising the option, the Town shall pay a total of One Dollar (\$1.00) to the property owner, for the aforementioned rights.

4. The petitioners will be required to construct all roads, utilities, and other improvements at their sole expense and according to the requirements, standards and specifications of the Town. Connection of such improvements to existing Town systems and/or the dedication of such improvements to the Town shall be at the Town's discretion and convenience.

G. Pre-Annexation Agreement

Petitioners will enter into a Pre-Annexation Agreement to establish the amount of deposit fees to be made by the petitioners as required to process the annexation petition, annexation agreement and other review.

H. Annexation Agreement.

Petitioners must engage in negotiations to develop a formal Annexation Agreement that addresses timing and requirements of dedications outlined in this ordinance. The Town will begin this process using a model annexation agreement of its own making.

I. Standards for Annexation.

In considering a petition for annexation, the Town Board shall make findings of facts and conclusions on the following standards for annexation.

1. The property to be annexed is a reasonable and logical extension of the Town, and compatible with the goals and intents of the Town's comprehensive plans or Master Plan.
2. Areas proposed for annexation shall not divide tracts in order to prevent further annexation of adjoining parcels.
3. Areas proposed for annexation, which due to their configuration cause excessive police, fire, utility, and street cost may not be accepted.
4. The area proposed for annexation shall be located where street extensions and water and sewer utility services are possible without undue expense to the Town. Where exceptional costs may be required in serving the area proposed for annexation, financial arrangements to extend streets, water or sewer mains shall be agreed upon prior to annexation.
5. Problems of storm drainage shall be considered prior to annexation to ensure that flooding problems within and adjoining the area proposed for annexation will not be increased by development of the tract.
6. Adequate water rights are provided to serve the proposed development on the property proposed for annexation.
7. Petitioner has deposited with the Town monies in an amount determined by the Town Board upon a preliminary review of the petition for annexation according to the Pre-Annexation Agreement. The amount of monies to be deposited shall be solely in the discretion of the Town Board and shall be intended to cover all costs to the Town resulting from the petition for annexation including review by the Town Attorney. No petition for annexation shall be deemed complete until such time as petitioner has

deposited an amount of money as determined by the Town Board and petitioner has agreed to pay such additional sums to the Town as may be required to cover unexpected costs.

8. Any additional conditions or requirements, which the Town Board deems necessary for the proper evaluation of the petition.

J. Initial Action.

1. At the first regular Town Board meeting following the filing of a petition or application for annexation, the Town Board shall appoint Town staff or another designee to commence negotiations with the applicant and the preparation of a Pre-Annexation Agreement and an Annexation Agreement as described herein. The Town staff or designee shall review and discuss with the applicant the following:

- 1.1 The accuracy of annexation petitions and maps:
- 1.2 The land use allocations, circulation plans, and proposed utility systems proposed by applicant;
- 1.3 The proposed dedications;
- 1.4 The completeness and accuracy of submittal documents; and
- 1.5 The referral comments concerning the annexation and annexation impact report.

K. Town Board Action.

The Town Board, after receiving all necessary recommendations, shall follow the procedure required by the state enabling statutes to include the following:

1. Following receipt of the Town staff or designee recommendations, the Town Board, if appropriate, will adopt a resolution finding the petition to be in substantial compliance with the statutes. If the petition is signed by the owners of one hundred percent of the area proposed for annexation, the Board may annex the territory by resolution and ordinance after notice and a public hearing and, further, without an election unless additional terms and conditions are to be imposed. The Board will set the date, time and place for a public hearing to determine if the annexation meets the requirements of Colorado Revised Statute 31-12-104 and 105. This hearing will be held not less than thirty (30) days nor more than sixty (60) days after the effective date of the resolution setting the hearing.

2. On the appointed date and time, the Town Board will hold the public hearing. The petitioners will present evidence in support of the petition. The Town staff or designee will testify as to:

- 2.1 The validity of the surveys and legal descriptions of annexation maps;
- 2.2 The one-sixth boundary contiguity requirement;
- 2.3 That no land held in identical ownership is to be divided except with the consent of the landowners;
- 2.4 That no tract of twenty acres or more having Two Hundred Thousand Dollars (\$200,000.00) in valuation is included without the consent of the land owners;
- 2.5 That the entire width of perimeter streets or alleys will be annexed;
- 2.6 That no proceedings are pending to annex the land to another town or city; and
- 2.7 That this annexation will not result in extending the Town's boundaries more than three miles in any direction in any one year.

Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Town Board. All proceedings must be recorded.

3. At the conclusion of the hearing, the Town Board will adopt a resolution containing the findings of facts and conclusions, including;

- 3.1 Whether or not the requirements of C.R.S. 31-12-104 and 105, and of this Ordinance have been met,
- 3.2 Whether or not additional terms and conditions are to be imposed; and
- 3.3 Whether or not an election is required either as a result of a petition for election or the imposition of additional terms and conditions.

If the Town Board finds that the area proposed for annexation does not comply with the items above, the annexation proceeding will be terminated.

4. If the Town Board finds the annexation to be in compliance with the items above and no additional terms and conditions are to be imposed, the Town Board immediately may pass the annexation ordinance. If additional terms and conditions are to be imposed which are not agreed to voluntarily and in writing by the landowners, an election must be held.

5. After passage of the annexation ordinance, the area is annexed as of the effective date of the ordinance. The effective date for taxation will be the ensuing January 1st.

6. After final passage of the annexation ordinance, the Town will file one copy of the annexation map with the original of the annexation ordinance in the office of the Town Clerk and file for recording two certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area with the county clerk and recorder. The petitioners are responsible for the cost of preparing such maps and plats as required and for the recording of the same with the Lincoln County Clerk and Recorder. The Town will ask the county clerk to forward one copy of the map and ordinance to the Division of Local Government in the Colorado Department of Local Affairs.

L. General Development Plan.

A General Development Plan must be prepared describing the desired use of the property after annexation. Such General Development Plan shall be prepared in conjunction with and may be incorporated into the Annexation Agreement. The General Development Plan is required to determine the development intentions of the petitioners and to use as a basis for the negotiation of an Annexation Agreement.

SECTION II: VALIDITY

If any part or parts of this ordinance are for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this ordinance. The Board hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any part or parts be declared invalid.

SECTION III: REPEAL

Existing ordinances or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.

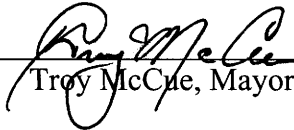
SECTION IV: INTERPRETATION

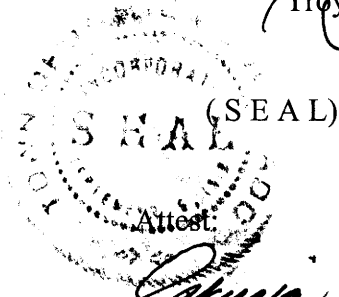
This ordinance shall be so interpreted and construed as to effectuate its general purpose to conform to the State's statutes concerning annexation of real property as set forth in C.R.S. 31-12-101, et. seq.

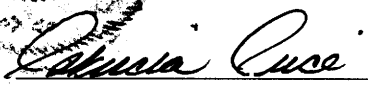
SECTION V: EFFECTIVE PERIOD

This ordinance shall take effect after public hearing and approval by the Arriba Town Board of Trustees and appropriate publication in accordance with statute.

Adopted and Approved this 18th day of November, 2002.

Signed 
Troy McCue, Mayor



(SEAL)

Patricia Price, Town Clerk