



Colorado Springs Utilities  
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# **Proposed Annexation-Related City Code Changes**

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Presentation to Utilities Board

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# Agenda

1. Controlling Law
2. Purpose of proposed changes
3. Types of proposed changes
  - a. Annexation considerations
  - b. Exceptions to the exclusive provider provisions
  - c. Clarifying outside City service
4. Next Steps

# Controlling Law

- Annexation is controlled by three sets of laws
  - Colorado Constitution
  - State Law—Municipal Annexation Act of 1965
    - C.R.S. 31-12-101, *et seq.*
    - What and how property can be annexed
  - City Code
    - What City Council should consider when deciding whether to annex

# Purpose of Proposed Changes

- To update City Code to be consistent with current practice
- To provide tools to adapt to changing legal landscape

# 3 Sets of Proposed Changes

- Annexation considerations
- Exceptions to the exclusive provider provisions
- Clarifying outside City service

# Annexation Considerations

# Annexation Considerations

- Proposed changes to annexation considerations
  - Reorganization
  - Clarification of what Colorado Springs Utilities analyzes when reviewing an annexation petition
  - Expansion of conditions imposed on annexations

# Annexation Considerations

- Reorganization
  - Moving “criteria” that were really conditions of annexation to “conditions” section
  - Moving sections on cost-benefit analysis from Outside City Service to Annexation
  - Separating outside City water and wastewater service from annexation
  - Moving the details of outside City water and wastewater service to Chapter 12 of City Code (Utilities)



# Annexation Considerations

- Clarifying what Colorado Springs Utilities analyzes when reviewing annexation petition
  - All 4 services
  - Changing language to allow look forward at projected demand, supply, and capacity to serve
    - Resources and infrastructure
    - Impact on projected customer
  - Review of impact on performance criteria
  - Utilities-specific cost-benefit analysis: Will projected revenues offset estimated costs to serve?
  - Clarifies that “first come-first served” applies to wastewater

# Annexation Considerations

- Expands conditions imposed on annexations
  - Annexor required to convey to City all water rights appurtenant or used for benefit of the property
  - Annexor required to deal with special districts of which it may be a part

# Exclusive Provider

# Current City Code 12.1.111

“The Utilities shall, *to the maximum extent of its capabilities and consistent with its purposes*, be the sole and exclusive provider of electric, natural gas, water and wastewater utility services within the corporate limits of the City.”

Interpreted as Colorado Springs Utilities is exclusive provider of all four utility services within City boundaries

# Exclusive Provider - Proposed Exceptions

- Strategic - may be granted if:
  - In the best interest of Colorado Springs Utilities not to serve a property and
  - Supports current Utilities Board directives or instructions
- Legal – may be granted if:
  - Serving the property would create legal problem for Colorado Springs Utilities (violation of or inconsistent with law or legal obligation under contract)

# Exclusive Provider - Process

- Utilities Board would grant exception based on a recommendation of Colorado Springs Utilities' CEO
  - Allows for possibility of granting exception outside of annexation
  - CEO recommendation based on:
    - Financial analysis
    - Risk analysis
    - Demonstration property can receive service elsewhere or doesn't need service
- Notice recorded against property
- Agreement between property owner and Colorado Springs Utilities

# Outside City Service

# Outside City Service

- Two types of water/wastewater outside City service
  - Special Contract Service
  - Agreement to Annex



# Outside City Service

- Special Contract Service
  - Only for service to other entities, such as special districts, municipalities, etc.
  - Entities then sell service to customers at retail

# Outside City Service

- Agreement to Annex
  - Service to individual properties at retail outside of City limits
    - Properties eligible or likely to become eligible to annex but annexation not in City's best interest at time of request
    - Properties eligible or likely to become eligible to annex but property owner unwilling or unable to petition the City for annexation
    - Service pending annexation
    - Service to be provided at outside City rates
  - Allowed under C.R.S. 31-12-121

# Outside City Service

- Agreement to Annex
  - Requires owner to petition for annexation once eligible if requested by City
  - Requires owner to comply with
    - Chapter 12 of City Code and Colorado Springs Utilities' policies, standards and requirements
    - Chapter 7 development requirements, for new development
    - Dedication of easements
    - Drainage facilities and fees

# Outside City Service

- Proposed changes
  - Move all of special contract service to Chapter 12, because not related to annexation
  - Create a new part in Chapter 7 for agreements to annex

# Next Steps

# Next Steps

- After ReTool
- Chapter 7 changes
  - City Planning Commission
  - City Council
- Chapter 12 changes
  - Utilities Board
  - City Council



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Proposed Annexation-Related Code Changes  
Summary of Code Changes-Simplified

Current Code	Proposed Revision to Code
Area logical extension of City’s boundary	No change
Development beneficial to City	<p>Added:</p> <ul style="list-style-type: none"> <li>• Determination of estimated immediate and long-term costs to the City under proposed development (cost of extending City services, cost of City-financed capital improvements, time schedule proposed by annexor). This came from section on outside City water/wastewater service.</li> <li>• Determination of estimated revenues to be generated by proposed development (e.g. sales and use taxes, etc.). This came from section on outside City water/wastewater service.</li> <li>• Determination of whether estimated Colorado Springs Utilities revenue will offset estimated immediate and long-term costs to Springs Utilities for serving development.</li> <li>• Other benefits to the City that would result from the annexation (e.g. increased employment opportunity, etc.)</li> </ul>
Projected available water surplus at time of request	<ul style="list-style-type: none"> <li>• Projected available surplus capacity and resources</li> <li>• All Springs Utilities’ service lines</li> <li>• For the foreseeable future</li> <li>• To serve all present users, the projected users within the existing corporate limits of the City, and the projected new users from the area proposed to be annexed</li> <li>• Performance criteria for each service will not be impaired</li> </ul>
The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve <u>all present users</u> whether within or outside the corporate limits of the City;	Added “projected users”
The annexation can be effected at the time the utilities are extended or at some time in the future;	Clarified the language: Colorado Springs Utilities service and facilities can be extended to serve the property proposed to be annexed at the time of annexation or sometime in the future.



Proposed Annexation-Related Code Changes  
Summary of Code Changes-Simplified

<p>Requirement to transfer of title to all groundwater underlying the land proposed to be annexed or pay the City for the value of the groundwater rights.</p>	<p>This, as modified, will no longer be a criteria for consideration, but instead will be a condition to all annexations:</p> <p>Requirement to transfer of title to <u>all water rights appurtenant</u> to, including without limitation all groundwater underlying, <u>and all water rights historically used on or for the benefit of the annexation property</u> the land proposed to be annexed (such as water associated with water shares that have been historically used on the property).</p>
<p>All rights of way or easements required by Colorado Springs Utilities necessary to serve the proposed annexation, to serve beyond the annexation, and for system integrity, shall be granted to Springs Utilities. Colorado Springs Utilities, at the time of utility system development, shall determine such rights of way and easements;</p>	<p>Moved from criteria to condition</p>
<p>If the proposed annexation to the City overlaps an existing service area of another utility, the applicant shall petition the PUC (Public Utilities Commission) or other governing authority to revise the service area such that the new service area will be contiguous to the new corporate boundary of the City.</p>	<p>Added:</p> <p>The applicant will pay any and all fees or costs associated with revising the service area, including without limitation any required condition assessment, system improvements, and just compensation due to the existing service provider.</p> <p>If the proposed annexation overlaps the service territory of a special district, the applicant shall either have the property removed from the service territory of the special district or shall obtain permission from the special district for the property to receive utility services from Colorado Springs Utilities. City Council may waive or modify the requirements in this subsection by resolution.</p>