



DEPARTMENT OF LOCAL AFFAIRS OFFICE OF SMART GROWTH

Three-Mile Plan

BACKGROUND

In 1987, the Colorado legislature made substantial changes to the state's annexation law. One of the more significant changes limited municipal annexations to no more than three miles beyond a current boundary line in any given year, except under special circumstances. The legislature also required that a municipality adopt an annexation master plan for the three-mile area (or three-mile plan, as they are commonly known) prior to the completion of any annexation.

BEFORE YOU ANNEX

Prior to the completion of any annexation within the three-mile area, the municipality must have in place a plan that generally describes the proposed location, character, utilities and infrastructure of the area being annexed. This plan must be updated at least once a year. Even if a municipality argues that an element of its comprehensive plan is the three-mile plan, the former plan will not be lawful unless it has been updated annually.

WHAT IS A THREE-MILE PLAN?

The three-mile plan is a long range planning opportunity for municipalities to consider where they want to annex, how they will provide service in the newly annexed areas, and how they will sustain adequate levels of service throughout the rest of the municipality. It ensures that the municipality will annex land only when it is consistent with pre-existing plans for the surrounding area. The failure to plan specifically for the physical growth of a municipality can result in haphazard annexations that prove expensive to the municipality annexing the land, the county in which the land is located and the neighboring communities.

The three-mile plan is not the municipality's master plan, or the annexation impact report that is sent to the applicable county(ies) for review (see statutory citations below for more information). Although the three-mile plan is similar to the municipality's master plan in many respects, it goes further in requiring the location, character and extent of future utilities and infrastructure (e.g., streets, bridges, aviation fields, parks and open spaces) as well as proposed land uses for the area. The master plan takes into account all land that is functionally related to the growth of the municipality, not just land within three miles of the municipal boundary. In contrast to an annexation impact report, which is site

specific to individual annexations, the three-mile plan takes a broader approach to the annexation and development of land. No plat of a subdivision of land within such an area may be filed or recorded until approved by the municipal planning commission. A proposed annexation should be consistent with the municipality's master plan and three-mile plan, in addition to other policies.

On a separate, more political point, when citizens hear the term "three-mile plan," some may jump to the conclusion that the municipality is intending to force everyone within three miles to annex. It is important to educate the citizens of the municipality but also the citizens in the county on this point. Generally speaking, municipalities cannot force landowners to annex, nor can landowners force municipalities to annex them.

WHAT IF WE DON'T HAVE AN UPDATED THREE-MILE PLAN?

The failure to have a plan prior to the completion of an annexation could open a municipality up to litigation. Colorado law limits those who have a right to challenge annexations to property owners within the annexed area, the county(ies) in which the land is located and neighboring municipalities within one mile. In areas with growth pressures, it is increasingly likely that these three groups will use the lack of a plan as grounds for invalidating the annexation.

State law does not specifically state that an annexation must be in compliance or conformity with a municipality's three-mile plan, though it is likely that a court would require a legislative finding that such compliance or conformity exists. If the annexation is accompanied by a proposed planned unit development, the PUD must be in general conformity with the municipality's master plan, irrespective of the three-mile plan (CRS §24-67-104(1)(f)). Neighbors of the project have the right to challenge the PUD, even though they might, in turn, challenge the annexation.

STATUTES FOR REFERENCE

Three-Mile Plan: 31-12-105(e)

Municipal Annexation Act of 1965: 31-12-101, et. seq.

Annexation Impact Report: 31-12-108.5