

TOWN OF PALMER LAKE, COLORADO

RESOLUTION NO. 56-2022

**A RESOLUTION TO ADOPT THE TOWN 3-MILE/ANNEXATION PLAN FOR
PALMER LAKE, COLORADO**

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado; and

WHEREAS, the Planning Commission adopted a community master plan for the Town of Palmer Lake; and

WHEREAS, a portion of the plan includes as exhibited a required three-mile plan or annexation plan for the town; and

WHEREAS, the Board of Trustees desires to adopt the annexation plan for the Town of Palmer Lake.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE
TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:**

1. The Town Board of Trustees hereby adopts the 3-mile annexation plan as presented.
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Resolution. The Board of Trustees hereby declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
3. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

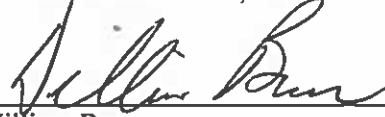
**INTRODUCED, RESOLVED, AND PASSED AT A REGULAR MEETING OF THE BOARD OF
TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 11th DAY OF NOVEMBER 2022.**

ATTEST:

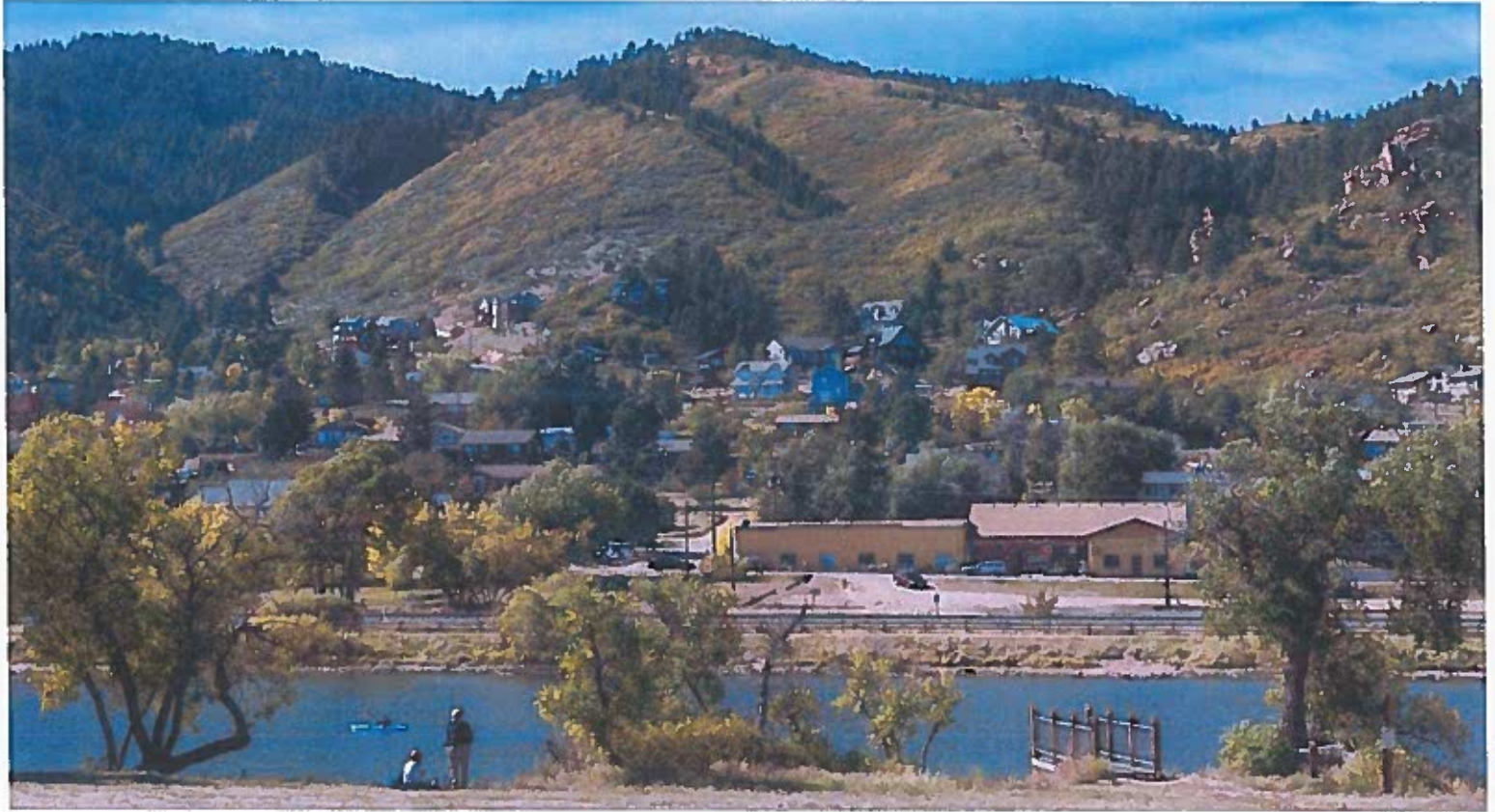


Dawn A. Collins
Town Administrator/Clerk

TOWN OF PALMER LAKE, COLORADO

BY: 

William Bass
Mayor



Three Mile Plan

Palmer Lake

Colorado

November 2022



PALMER LAKE THREE-MILE PLAN

The purpose of this Three-Mile Plan, which is also found in its entirety in the recently adopted 2022 Community Master Plan is to satisfy the requirements of Section 31-12-105(1) (e), C.R.S. This statute limits municipal annexations to no more than “three miles in any direction from any point of such municipal boundary in any one year.” Contiguity as 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. The three-mile limit may be exceeded if it would divide a property held in identical ownership if at least 50% of the property is within the three-mile limit.

Palmer Lake’s Three-Mile area boundary is intended to promote a regional approach to planning, particularly concerning the availability of centralized services.

This Three-Mile Plan meets the statutory requirement of having a “plan in place” for the area outside the municipality – a required precondition to any annexation [C.R.S. § 31-12-105]. The planning area intends to ensure that development within the Town’s recognized annexation plan boundary is reviewed to determine future eligibility for annexation and to ensure it connects to existing development logically.

Colorado law also requires counties to inform municipalities of any development planned within two miles of a municipality’s corporate boundary. This established Three-Mile Plan allows the Town or its citizens to comment on new development on its periphery and fosters an intergovernmental approach to addressing growth where services might be shared, and regional and local plans respected.

The adoption of the Three-Mile Plan does not imply that all land within the area shown on the Three-Mile Plan map will or should be annexed. Palmer Lake’s Three-Mile Plan defines areas adjacent to but outside of Palmer Lake, that Palmer Lake would consider annexing if able to provide centralized services, especially in cases where another jurisdiction could not.

The Three-Mile Plan is land that is likely to be subject to increased development pressure and does not need to encompass all three miles. The Palmer Lake Three-Mile Plan does not extend three miles in all directions because the Town of Monument is adjacent to Palmer Lake’s southern municipal limits and the Pike National Forest borders Palmer Lake’s western boundary.

STATUTORY REQUIREMENT FOR THE THREE-MILE PLAN

The information required for a Three-Mile Plan is relatively simple and follows much of the same information outlined in the C.R.S for a ‘master plan,’ which was recently updated as of August 10, 2022. “*The plan must generally describe the proposed location, character, and extent of the following and be updated at least annually*”¹.

1. *Subways, and bridges:* There are none within the designated area.
2. *Waterways, and waterfronts:* The Environmental Hazards Map identifies lakes, streams, flood plain, and groundwater recharge areas.
3. *Parkways, playgrounds, squares, parks:* The Parks, Trails, and Open Space Map shows existing parks, recreational facilities, trails, open spaces, and national forest within the Three-Mile Plan area.

¹ *Italicized text* is from C.R.S. 31-23-206. Master plan. (Effective until August 10, 2022)



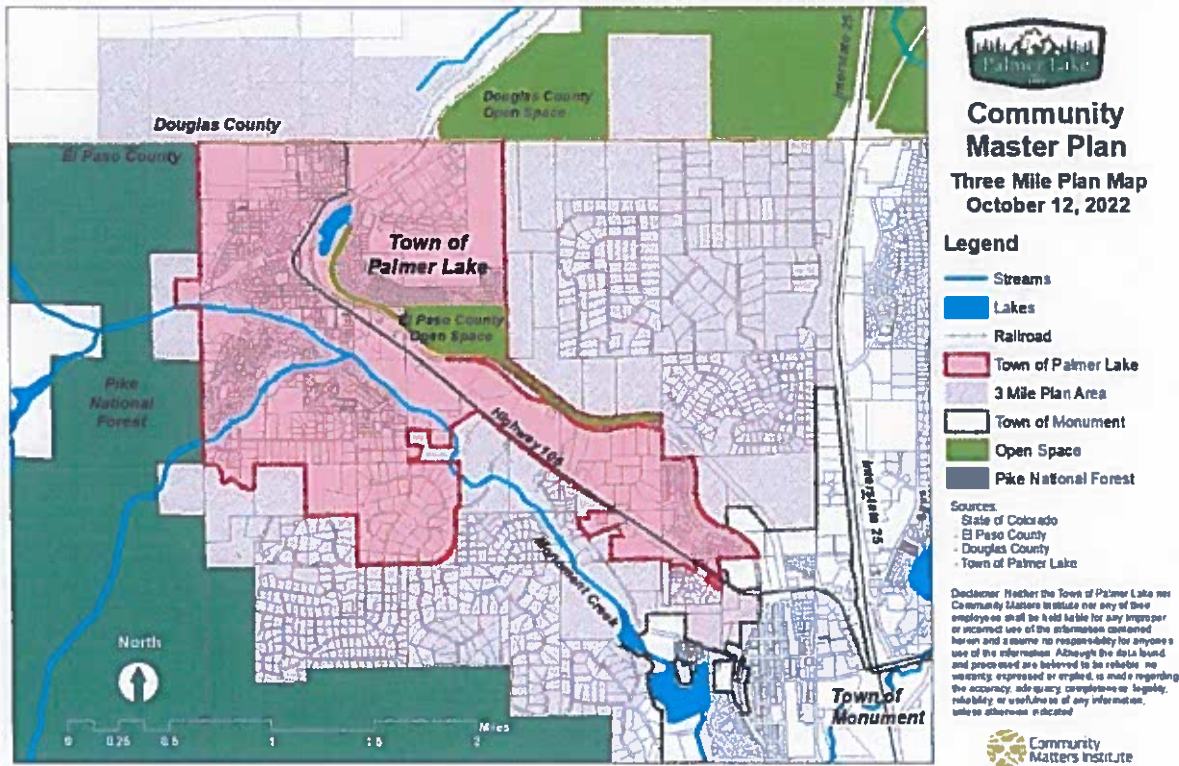
4. **Aviation fields:** *There are none within the designated area*
5. **Other public ways, grounds, and open spaces:** These are shown on the Parks, Trails, and Open Space Map and include the Greenland Open Space Area along County Line Road in Douglas County.
6. **Public utilities:** Public utilities include common carriers that provide electric, gas, water, sanitation, telecommunication, internet, and cable. The Town of Palmer Lake and the area included in Palmer Lake's Three-Mile Plan are served by the following entities:
 - **Electric:** Core Electric Cooperative (CORE) District 3 except for a portion of land adjacent to I-25.
 - **Natural Gas:** Black Hills Energy.
 - **Water:** Provided by the Town of Palmer Lake unless on private residential wells.
 - **Sanitation:** Sewer is provided by Palmer Lake Sanitation District (PLSD) or private septic.
 - **Other Special and Metropolitan districts in the Three-Mile planning area:** A variety of districts provide water and/or sanitary sewer service and can be found on the Community Master Plan Map titled Districts: Water, Sewer, & Metro. Existing water and sewer lines within the Town can be found on the map entitled Water and Sewer Lines.
 - **Cable and Internet:** Services are available through Comcast/Xfinity, Force Broadband, and Century Link.
7. **Terminals for water, light, sanitation, transportation, and power to be provided by the municipality [not such utilities provided by others].** See above.

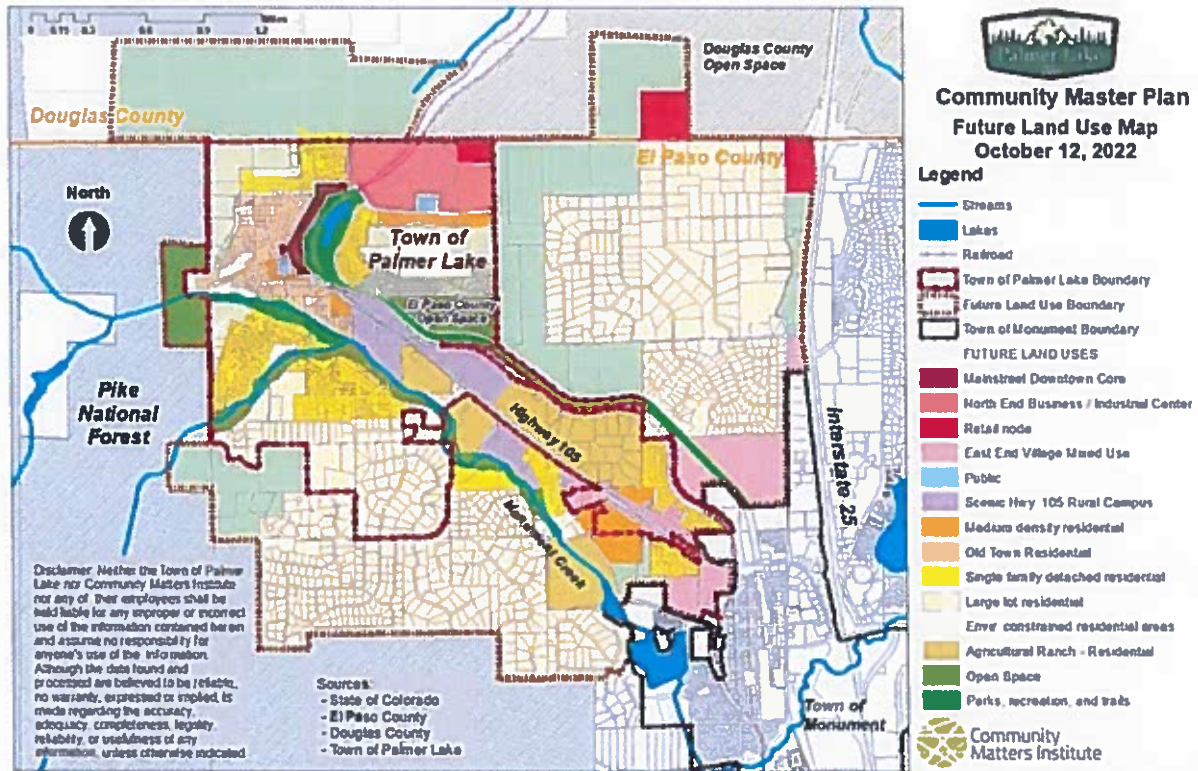




THREE-MILE PLAN: ANNEXATION CONSIDERATIONS

The Three Mile Plan Area Map indicates areas that are eligible for annexation. The Future Land Use Map (see below) also informs the type of land uses desired for lands within in the Three- Mile Plan. The full description of future land uses can be found in Chapter 5 of the October 2022 Community Master Plan. This chapter should be reviewed as part of any annexation request. Annexations should conform to the Future Land Use Plan





POLICIES TO ENSURE REGIONAL LAND USE & UTILITY COORDINATION

- 1) The Town of Palmer Lake’s Three-Mile boundary illustrates lands that the Town of Palmer Lake is willing to consider for annexation if approached by a property owner.
- 2) The Town of Palmer Lake will work with the Town of Monument, El Paso County, and Douglas County to enter into Intergovernmental Agreements (IGAs) specifically outlining Palmer Lake’s intentions and preferences for the development of those areas within the Palmer Lake growth area boundary. Each IGA should outline what areas of northern El Paso County require urban levels of service and should consider entering into a “binding annexation agreement” to prevent the proliferation of new special or metropolitan districts.
- 3) The Town of Palmer Lake requires that any new subdivision or single lot development adhere to the 2022 Community Master Plan as a condition of annexation.
- 4) Metropolitan and special districts within the Three-Mile Area boundary are allowed only as a financing tool of last resort. The Town wants to minimize the proliferation of these districts so that when annexation does occur, there are no additional independent districts within the Town limits or Three-Mile Plan boundary. To this end, the Town will work with the county to adopt regulations that ensure independent infrastructure systems connect to the Town’s infrastructure system.
- 5) All land within the officially recognized Palmer Lake Three-Mile Area will be considered for annexation into the Town of Palmer Lake if the applicant can demonstrate a net economic benefit to the Town and current Palmer Lake residents.



- 6) Land that is eligible for annexation into the Town of Palmer Lake and is of a density that requires centralized services will be discouraged from developing within the unincorporated portion of the County. If the Town cannot serve the proposed development at the time a land development application is submitted, the applicant should be required to enter into a pre-annexation agreement with the Town of Palmer Lake.
- 7) The Town of Palmer Lake in cooperation with El Paso County should formally recognize and adopt an IGA that provides further clarity about growth within Palmer Lake's Three-Mile planning area.

ANNEXATION GUIDELINES

The following Annexation Guidelines will help the Town of Palmer Lake consider new annexations. The Planning Commission and Town Board of Trustees could consider referring to the Colorado Municipal League's (CML) "Annexation in Colorado Handbook" 1991 Edition, as amended, or the recent summary of annexation law from CML² to include:

- 1) Does the Annexation meet all the requirements of the Colorado Municipal Annexation Act and its amendments along with the adopted Town of Palmer Lake criteria? Is the land proposed for annexation contiguous to other lands in the Town that is already receiving Town services?
- 2) Is there an accurate map of the proposed annexation that includes all street rights of way and connections to the existing street system, location of current and proposed boundaries, location of utilities that the annexation will connect to, proposed land uses, and zoning requests?
- 3) Has the applicant substantially adhered to the Town of Palmer Lake's adopted Community Master Plan?
- 4) Has the applicant prepared a thorough annexation impact report for parcels over ten acres in size that meets the requirements of C.R.S. 31-12-108.5?
- 5) Has Town Staff prepared a list of benefits and liabilities the proposed annexation would provide for the Town of Palmer Lake (qualitative analysis)?
- 6) Are the financial benefits and costs to the taxpayers of the Town of Palmer Lake and the annexing area clearly defined? What are the near-term fiscal benefits before vertical development? What are the long-term fiscal benefits of build-out? (The quantitative analysis should include but not be limited to the impact on the Town's General Fund, operational funds such as the Water Fund, as well as any Capital Funds.)
- 7) How will the area be serviced? Does the annexation clearly indicate the following:
 - a. Public water and sanitation line capacity
 - b. Public wastewater treatment capacity
 - c. Public water treatment capacity
 - d. Public raw water capacity and water supply as required by El Paso County and the State of Colorado

² https://www.cml.org/docs/default-source/uploadedfiles/events/annual-conference/conference-presentations/annexation-in-colorado.pdf?sfvrsn=6efd6133_2



- e. Minimum acceptable water pressure
 - f. Avoidance of flood-prone areas
- 8) Does the land use application provide for the type and variety of land uses that are consistent with the recommended overall land use patterns as depicted on the Palmer Lake Future Land Use Plan found in the 2022 Community Master Plan?
 - 9) Is there an annexation agreement that satisfactorily addresses land use, transportation, and servicing requirements?
 - 10) Does the residential annexation request include public land dedication requirements so that adequate open space, parkland, and public facility sites (schools, police, fire, and maintenance) are secured?
 - 11) Is there an acceptable draft annexation agreement or pre-annexation agreement that strives to minimize the short- and long-term costs of providing community services and facilities for the sole benefit of the annexed area?
 - 12) How much development can ultimately occur if the land is annexed to the Town?

BASIC PRINCIPLES OF ANNEXATION

ANNEXATION CAN TAKE PLACE IN THREE WAYS

1. Landowner petition signed by more than 50% of the landowners [Colo. Const. Art. II Sec30(1)(b)] owning more than 50% of the land C.R.S. 31-12-107(1). (The petition is a contractual relationship that can be memorialized in an agreement.)
2. Annexation election, in which only landowners and registered electors in the area may vote. [Colo. Const. Art. II Sec. 30(1)(b); C.R.S. 31-12-107(2).] Note: a few municipalities require an election for all annexations.
3. Unilateral annexation by a municipality of an enclave or municipally owned land: C.R.S. 31-12-106. [Palmer Lake could annex the small parcel at the south end of the Town.]

“Landowner” means the owner in fee of the surface estate, not the owner of the mineral estate if severed. C.R.S. 31-12-103(6).

ONE-SIXTH BOUNDARY CONTIGUITY

1. One-sixth boundary contiguity must exist between the municipality and property to be annexed: C.R.S. 31-12-104(1)(a).
2. Configuration of the parcel to be annexed is not relevant to review.
3. Roads, water bodies, and most government lands may be “skipped over” for purposes of establishing the required contiguity.
4. Existence of contiguity satisfies the “community of interest” requirement of C.R.S. 31-12-104(1)(b).



5. Prior noncontiguous annexations render subsequent annexations relying upon those annexations void ab initio. C.R.S. 31-12-104(2).
6. Establishing eligibility:
 - Series/simultaneous annexation of streets, rights-of-way, etc. permitted: C.R.S. 31-12-104(1)(a); 105(1)(e).
 - No division of property held in "identical ownership," without landowner consent unless separated by a "dedicated street, road or other public way"
 - Written consent is also required to annex 20 acres or more in identical ownership valued in excess of \$200,000. C.R.S. 31-12-105(1) (a & b).
 - No annexation of property for which annexation proceedings have been initiated by another municipality. C.R.S. 31-12-105(1)(c).
 - No annexation which will detach property from a school district without the written consent of the district. C.R.S. 31-12-105(1)(d).
 - No annexation to expand municipal boundaries greater than three miles in "any one year." C.R.S. 31-12-105(1)(e)(I).
 - Three-Mile plan required. C.R.S. 31-12-105(1)(e)(I).
 - Flagpole annexations must permit annexation of abutting property "under the same or substantially similar terms and conditions." C.R.S. 31-12-105(1)(e)(II).
 - If annexing a portion of a street or alley, must annex the entire width. C.R.S. 31-12-105(1)(f).
 - Annexation shall not deny reasonable access to landowners, easement owners, or franchise owners adjoining a platted street or alley that has been annexed and is not bounded on both sides by the municipality. C.R.S. 31-12-105(1)(g).
 - Power of attorney not sufficient for annexation election. C.R.S. 31-12-105(1) (h).
 - Most annexations have unique and greater requirements for providing public notice.

ANNEXATION IMPACT REPORT

- Required for annexations over 10 acres, unless waived by the board of county commissioners. C.R.S. 31-12-108.5.
- Some statutory towns that we have worked with have adopted a 5-acre requirement.
- Often, the County does not respond to the notice it is sent.



Community Master Plan Topography October 12, 2022

Legend

- 40 foot vertical contour interval
- Streams
- Lakes
- Town of Palmer Lake Boundary
- Town of Monument Boundary
- Open Space
- Pike National Forest

Sources:
 - Town of Palmer Lake
 - Town of Monument
 - G&S, Inc. Consulting Engineers
 - El Paso County
 - Douglas County
 - Colorado Department of Transportation
 - United States Geological Survey

Disclaimer: Neither the Town of Palmer Lake nor Community Matters Institute nor any of their employees shall be held liable for any improper or incorrect use of the information contained herein and assume no responsibility for improper use of the information. Although the data used and processed are believed to be reliable, no warranty, expressed or implied, is made regarding the accuracy, adequacy, completeness, legality, reliability, or usefulness of any information, unless otherwise indicated.



THREE-MILE PLAN LEGAL CONSIDERATIONS

1. No annexation may have the effect of extending a municipal boundary more than three miles in any one year. [See, *Town of Berthoud v. Town of Johnstown*, 983 P.2d 174 (Colo.App.1999)] "Year" is defined as a "calendar year." [C.R.S. 2-4-107]
2. As a precondition to the final adoption of an annexation ordinance within the three-mile area outside of the present municipal boundaries, the municipality must have in place a plan for that area, like a comprehensive or master plan.
3. The statute does not require that the Three-Mile plan be adopted before submission of an annexation petition; instead, it must be in place "prior to completion of any annexation within the three-mile area. . ."; thus, prior to final action on the annexation ordinance and recording with the clerk and recorder under C.R.S. 31-12-113(2).

ANNEXATION CONSIDERATIONS

1. Unlike zoning and subdivision applications, a petition for annexation is not a quasi-judicial matter for the municipality. The municipality does not have to approve an annexation.
2. As shown on the attached planning area map, Monument is at your southern border.³

³ The Monument website does show the adopted Three-Mile Plan as well as all annexations from 2003- 2017.



Palmer Lake Three-Mile Plan

- a. Several citizens and Palmer Lake Trustees and Planning Commissioners have voiced concern about Monument simply annexing Palmer Lake. Legally this would be extremely difficult to do because it requires a 2/3rd vote of the people to dissolve the municipality.⁴
- b. Look at possible strategic annexations that would prevent Monument from growing further north along lands that Palmer Lake could annex.
3. Larkspur's Planning Area boundary extends to the County line. It is unlikely that Larkspur would annex across the county line during the lifespan of this Master Plan. However, be mindful that in 1983, the Monument Comprehensive Plan envisioned NO development east of I-25. Open Space acquisitions also make further annexation to the south unlikely.
4. There are many areas within the Three-Mile area that are not eligible for annexation. This includes the Town of Monument and Pike National Forest.
5. Flagpole Annexations. If there is a fiscal benefit, nearby municipalities including those that are more than three miles away might consider a flagpole annexation.
 - a. "...not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the annexing municipality."
 - b. C.R.S. 31-12-104(1)(a). • C.R.S. 31-12-104(1)(a) was amended in 1987 to confirm as legitimate the longstanding practice of annexing one or more parcels in a series, considered simultaneously, to annex property that, taken as a whole, does not have the requisite one-sixth contiguity.
 - c. Within the defined Three-Mile area, the contiguity required by Section 31-12-104(1)(a) 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 (i.e., the RR ROW), or a lake, reservoir, stream, or other natural or artificial waterways."
 - d. C.R.S. 31-12-105(1)(e). Often a street is used to serve as the "pole" to reach, and thus annex, the desirable "flag" of property. However, it is required that the municipality also annex the "pole," and offer annexation to any properties abutting the pole.
 - e. In Palmer Lake, both 105 and the RR ROW could serve as a means to annex property that has a clear fiscal benefit. This could be accomplished by any of the area municipalities. (See planning area map.)
6. Annexation agreements are critical.
 - a. An annexation agreement is a contract.

⁴ State law outlines the process for how a home rule or statutory city may discontinue its incorporation. The proceedings for discontinuance of incorporation begin when a petition for discontinuance is filed with the district court of the county where the municipality exists. The petition must be signed by at least 25 percent of the registered electors of the municipality.

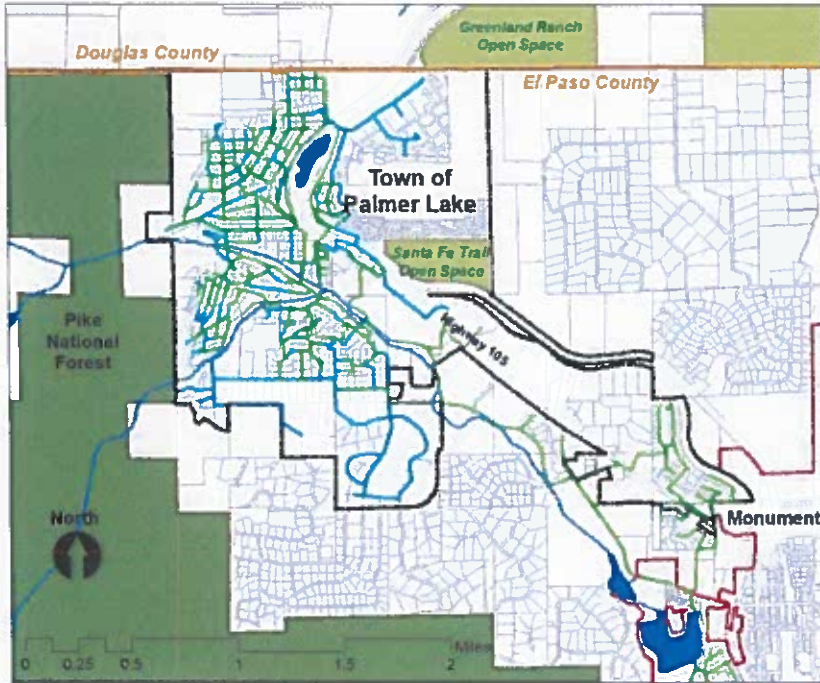
(Footnote is continued at the bottom of the following page.)

Upon verification of the petition, the court will notify the electors of the municipality of a vote at the next regular election on whether or not to discontinue the incorporation of the municipality. At least two-thirds of the electorate must vote to discontinue incorporation.



Palmer Lake Three-Mile Plan

- b. Example developer/annexor obligations: dedicate and improve roads, install water and sewer lines, pay fees for water rights and transmission.
 - c. Example municipal obligations: provide water and sanitary sewer service.
7. Fiscal benefits are analyzed at the time a petition is filed.

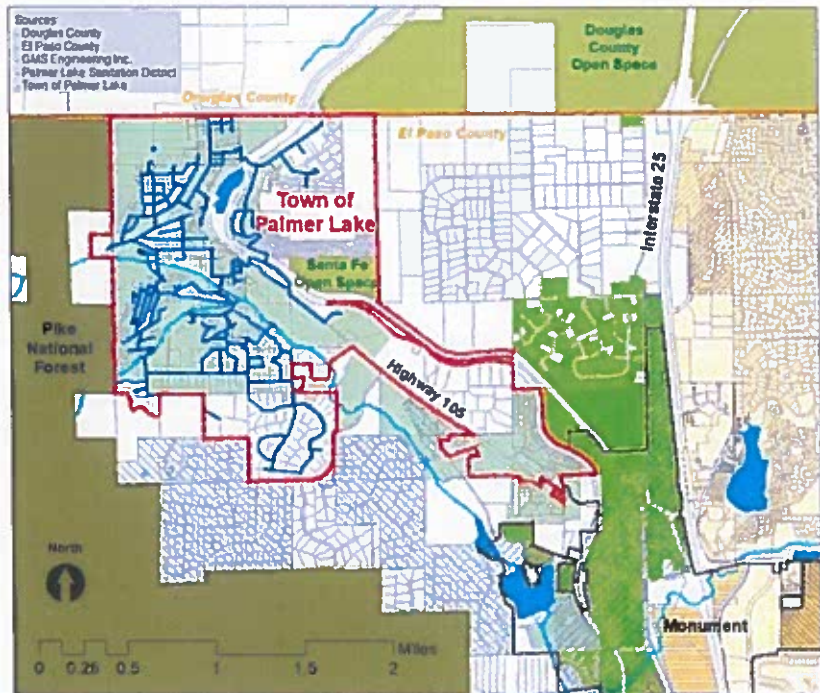


Community Master Plan
Water & Sewer Lines Map
October 12, 2022

- Legend**
- PLSD Sewer Main
 - PL Water Main
 - - - Streams
 - Lakes
 - ▭ Town of Palmer Lake Boundary
 - ▭ Town of Monument Boundary
 - Open Space
 - Pike National Forest

Sources
Town of Palmer Lake
GMS, Inc., Consulting Engineers
El Paso County
Douglas County
State of Colorado

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Community Master Plan
Districts: Water, Sewer, Metro
October 12, 2022

- Legend**
- ▭ Town of Palmer Lake Boundary
 - ▭ Town of Monument Boundary
 - Palmer Lake water main
- Water Districts**
- ▨ Forest View Acres Water District
 - ▨ Monument Water District
- Sanitation Districts**
- ▨ Monument Sanitation District
 - ▨ Palmer Lake Sanitation District
- Metropolitan Districts**
- ▨ Misty Acres MD
 - ▨ Terrace MD
 - ▨ Village Center MD
- Water & Sewer Districts**
- ▨ Woodmoor EWD

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