

## SECTION 9: PETITIONS FOR EXCLUSION FROM DISTRICT

The process for excluding parcels of property from the District is established by Colorado Statute (C.R.S. Sec. 32-1-501).

The following provisions are adopted for implementation of said statute:

### General provisions:

1. An application can be made by submittal to the District Board at any meeting of the Board, or by submittal to legal counsel for the District: Steamboat Lawyers Group, PLLC, physical address - 635 Yampa Street, Steamboat Springs, CO 80487 or mailing address - P. O. Box 775565, Steamboat Springs, CO 80477.
2. The application must be complete and in proper form. [A copy of the recommended form is attached hereto as **Exhibit A**.]
3. A deposit in the amount of \$1,200.00 per property owner (where properties are similar and proximate<sup>1</sup>) must be paid and the applicant must agree to pay all of the costs of the exclusion proceedings. The District will track the actual costs incurred -- for administrative staff, for legal, for advertising, and for filing of a court order (if appropriate). If the applicant has overpaid, the amount of overpayment will be refunded. If the applicant has not paid enough to cover such costs, then the applicant will be required to do so before final action is taken on the application by the District. [See **Exhibit C**; Required.]
  - 3A. An amount equal to \$200.00 of the deposit noted above shall be nonrefundable as this amount will be used to cover staff administrative and legal costs related to processing the application. If the applicant notifies the District of his or her intent to withdraw his/her petition for exclusion prior to the applicable hearing, then any remaining funds from the initial deposit (other than the \$200.00 nonrefundable portion) shall be refunded to the property owner within sixty (60) days of the withdrawal of the petition for exclusion. The applicant will be charged for any staff or legal review time of the application through the date of the withdrawal of the petition.
  - 3B. Applications may, in the discretion of the District, be consolidated for consideration when at least 6 similar and proximate applications have been submitted in approximately the same time period.
  - 3C. For purposes of calculating actual costs incurred for an application, the District shall charge for staff time in the amount of \$30 per hour (or such other hourly rate as may be subsequently approved by the Board) and legal fees based on the current existing rate schedule of the District's legal counsel. As a courtesy to property owners that apply for exclusion, the \$1,200.00 application fee shall be the maximum charge for exclusion petitions so long as District legal counsel time does not exceed eight (8) hours and staff time does not exceed ten (10) hours. If either of these

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<sup>1</sup> Properties are considered "similar and proximate" if they are in the same filing and of a similar size with similar issues to consider.

thresholds are reached, then legal counsel or staff (as applicable) shall begin charging their then applicable hourly rates as part of this exclusion process.

Procedure to be followed:

- A. Upon receipt of a complete application and deposit, counsel will notify the Board and the Board will set a date for the required public hearing and will notify the applicant.
- B. Approximately 45 days prior to the date set for the public hearing, the Board will cause notice of the application to be published in the local newspaper, as provided by statute.
- C. Upon commencement of the public hearing on a specific application, the matter will be announced by the Board and the application described for the record. The Board will then permit the applicant or the applicant's representative to make a presentation in support of the application (Recommended time limit: 5 minutes), and to present any documentary evidence (Recommended that each document be labeled with "Exhibit \_\_\_\_").
- D. The Board will accept any written objections, hear any other public testimony, and receive any other exhibits, either in support or in opposition to the application (Recommended time limit: 3 minutes for each).
- E. Upon conclusion of the hearing and completion of the "record" to be considered, the Board shall evaluate the application against the statutorily-required criteria. The Board may, in its discretion, take any of the following steps:
- Upon proper motion, the Board may leave public session and enter into an executive session to obtain advice of counsel on any legal issues related to the application or to the testimony or information that was received;
  - Refer the "record" to the District's counsel or its administrative staff for the drafting of proposed findings for consideration and decision by the Board;
  - Consider and discuss the criteria and make its preliminary findings and conclusions as part of the "record" of the proceedings at the time of the public hearing; then direct that an "order" be prepared for approval at the next regular Board meeting.
- [If the Board defers making findings and a decision on the application, the Board's policy is to make its decision at the next regular monthly meeting of the Board.]
- F. As noted above, at such time as the Board approves the application, the Board shall direct counsel to prepare an Order for entry by the Board reflecting such. Then, upon receipt of any costs that are due to the District, counsel shall be further directed to file the Board's Order with the Routt County District Court for entry of an Order by the Court. When such Order is entered, a copy shall be provided to the applicant, to the Routt County Clerk and Recorder's Office, and to the Routt County Assessor.

### Appeal to Board of County Commissioners.

When the Board makes its final decision on the application, the applicant or an aggrieved party may appeal the Board's decision to the Board of County Commissioners. For purposes of determining a final decision of the Board, no decision will be deemed as final until the petitioner has made payment for all costs incurred by the District as part of the hearing process or upon the conclusion of sixty (60) days after the decision on the petition is made by the Board, whichever occurs first. For applicants that do not have charges over and above the \$1,200.00 deposit, then the decision of the Board shall be final on the date that the decision is made. The Board shall inform any applicant at the time of the decision as to whether additional charges over and above the \$1,200.00 deposit are due and owing. Following this final decision of the Board and upon request by the applicant or aggrieved party, the Board will cause the "record" of the proceedings before the District Board to be prepared and the "record" will be then "certified" by a notarized statement from an officer or agent of the District and forwarded to the County. The Board's policy is to have such record prepared and certified within 60 days after the decision of the Board, provided that all "costs" have been paid to the District by the applicant, or as appropriate, by the aggrieved party filing the appeal. (By statute, the appeal must be taken within 30 days after the final decision of the Board.)

The District will retain the "record" on an application for at least 90 days after the District enters its order. Thereafter the "record" may be destroyed or deleted, unless the District has actual notice of ongoing proceedings.

Note: The record to be provided may include a "recording" which may be audio-only, or which may be audio-video of the public hearing. If the applicant wishes to have a written transcript prepared, the District will work with the applicant to have that accomplished, at the applicant's cost.

### Appeal to District Court.

Any decision of the Board of County Commissioners may be appealed to the Routt County District Court within 30 days of the decision of the Board of County Commissioners.