

Renumbered 5/12/2015

10-2-104 Notice to owner of property -- Exclusion of property from proposed boundaries.

- (1) As used in this section:
 - (a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.
 - (b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.
 - (c) "Urban" means an area with a residential density of greater than one unit per acre.
- (2) Within seven calendar days of the date on which a request under Section 10-2-103 is filed, the county clerk shall send written notice of the proposed incorporation to each record owner of real property owning more than:
 - (a) 1% of the assessed value of all property in the proposed incorporation boundaries; or
 - (b) 10% of the total private land area within the proposed incorporation boundaries.
- (3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the county legislative body within 15 calendar days of receiving the clerk's notice under Subsection (2).
- (4) The county legislative body shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries unless the county legislative body finds by clear and convincing evidence in the record that:
 - (a) the exclusion will leave an unincorporated island within the proposed municipality; and
 - (b) the property to be excluded:
 - (i) is urban; and
 - (ii) currently receives from the county a majority of municipal-type services including:
 - (A) culinary or irrigation water;
 - (B) sewage collection or treatment;
 - (C) storm drainage or flood control;
 - (D) recreational facilities or parks;
 - (E) electric generation or transportation;
 - (F) construction or maintenance of local streets and roads;
 - (G) curb and gutter or sidewalk maintenance;
 - (H) garbage and refuse collection; and
 - (I) street lighting.
- (5) This section applies only to counties of the first or second class.
- (6) If the county legislative body excludes property from the proposed boundaries under Subsection (4), the county legislative body shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor.