

THIS AGREEMENT, effective this 1st day of February, 2000,
between the **TOWN OF ESTES PARK, COLORADO** (the "Town"), and the
BOARD OF COUNTY COMMISSIONERS, LARIMER COUNTY,
COLORADO (the "County").

WHEREAS, the Estes Park Planning Commission and the Larimer County Planning Commission have adopted the Estes Valley Comprehensive Plan ("the Comp Plan") for the land area in the Estes Valley Planning Area ("the Planning Area"); and

WHEREAS, the Comp Plan proposed a future uniform land use classification system and administrative procedures for the Planning Area; and

WHEREAS, the Town and the County established the Estes Valley Planning Commission ("EVPC") by an Intergovernmental Agreement effective September 16, 1997; and

WHEREAS, the EVPC has prepared and recommended the adoption of the Estes Valley Development Code ("EVDC"); and

WHEREAS, the Town and the County have adopted the EVDC; and

WHEREAS, Section 30-28-117 (5) C.R.S., provides that the Town and the County may enter into an intergovernmental agreement for the purpose of establishing a joint zoning board of adjustment for the Planning Area; and

WHEREAS, it is necessary for the Town and the County to enter into this Intergovernmental Agreement for the purpose of reenacting the appropriate portions of the Intergovernmental Agreement effective September 16, 1997; providing for the administration of the EVDC within the Planning Area; allocating Town and County resources including necessary funding for administration of the EVDC and related functions within the Planning Area; establishing a joint zoning Board of Adjustment for the Planning Area; agreeing to parameters and procedures involving annexation of property to the Town within the Planning Area; and making all other necessary agreements for the efficient operation of the EVDC and administrative procedures for the Planning Area; and

WHEREAS, pursuant to the applicable statutes of the State of Colorado, the parties hereto are authorized to enter into this Intergovernmental Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE AND THE COVENANTS AND CONDITIONS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

I. AGREEMENTS

This Intergovernmental Agreement hereby replaces and supercedes the Intergovernmental Agreement effective the 16th day of September 1997, between the Town and the County in its entirety. All work, decisions, and recommendations of the Estes Valley Planning Commission prior to the effective date of this Agreement shall remain in force and effect.

II. THE ESTES VALLEY PLANNING AREA

The Estes Valley Planning Area ("the Planning Area") is depicted on Exhibit "A", attached hereto and incorporated herein by reference. This map is also known as the Estes Valley Development Code Boundary Map.

III. THE ESTES VALLEY PLANNING COMMISSION

- A. **Authority.** The parties hereby continue, pursuant to the terms and conditions of this Agreement, the Estes Valley Planning Commission ("EVPC") for the purpose of performing all of the duties and responsibilities of a joint planning commission pursuant to the provisions of the EVDC. The EVPC shall also have all of the duties, responsibilities, and obligations of the Town and/or County planning commissions set forth in the Colorado Revised Statutes for the Planning Area. The EVPC shall also have authority and be responsible for the Comp Plan.
- B. **Membership.** The EVPC is composed of seven (7) members. Three (3) members shall be appointed by the Town and four (4) members shall be appointed by the County. Each member shall serve for a four (4) year term. The terms shall be staggered so that three (3) of the County appointees and one (1) of the Town's appointees shall serve the same term and the other three (3) appointees shall serve the alternate term.
- C. **Residency.** All appointees of the Town shall be residents of the Town for at least one (1) year prior to their appointment. All County appointees shall be residents of the unincorporated portion of the Planning Area for at least one (1) year prior to their appointment. All members shall continue to be residents of their respective areas during their entire term. A County appointee of the EVPC residing in an area annexed by the Town may continue to serve the remainder of that member's term.
- D. **Officers.** There shall be a Chair and a Vice Chair for the EVPC. Each shall serve for one (1) year terms, beginning with the first meeting in January of each year. The Chair shall be from the Town appointees in even years and from the County appointees in odd years. The appointment of the Chair shall alternate between the Town and County appointees throughout the term of this agreement. The Vice Chair shall also alternate between the Town and

County appointees, opposite that of the Chair, namely when the Chair is a Town appointee, the Vice Chair shall be a County appointee. The Chair and Vice Chair shall be chosen by the members of the Commission. The Vice Chair shall serve as the Chair in absence of the Chair.

The EVPC may appoint such other officers, such as Secretary, as the Commission deems necessary for the conduct of its business. Said other officers may be non-members of the Commission.

- E. Attendance.** All members shall attend all meetings, including special meetings of the EVPC, if possible. In the event any member misses three (3) consecutive regular meetings or a total of four (4) regular meetings in a calendar year, the Town or the County may remove its appointed member for neglect of duty and designate a new member to fill the vacancy. A Town appointed member may only be removed pursuant to the procedures set forth in Section 31-23-203 [3] C.R.S.
- F. Vacancy.** Any vacancy occurring on the Commission shall be filled as soon as practical by appointment by either the Town or County.
- G. Meetings.** Regular meetings of the EVPC shall be once a month. Special meetings may be called as necessary.
- H. By-laws:** The By-laws of the EVPC dated December 7, 1999, shall be the By-laws of the EVPC and are hereby approved by the Town and the County.

IV. ESTABLISHMENT OF THE ESTES VALLEY BOARD OF ADJUSTMENT

- A. Authority.** The parties hereby establish, pursuant to the terms and conditions of this Agreement, the Estes Valley Board of Adjustment ("EVBOA") for the purpose of performing all of the duties, responsibilities and obligations of the Estes Valley Board of Adjustment set forth in the EVDC and the statutory responsibilities of the Town and the County Board of Adjustment within the Planning Area. The EVBOA shall hear all variance requests pursuant to the terms and conditions of the EVDC.
- B. Membership.** The EVBOA shall be composed of five (5) members. Three (3) members shall be appointed by the Town and two (2) members shall be appointed by the County. Each member shall serve a three (3) year term. The terms shall be staggered so that two of the Town's appointees and one (1) of the County's appointees shall serve a three (3) year term. The other two (2) appointees shall serve a two-year term. Thereafter, all appointees shall serve three (3) year terms.

- C. **Residency.** All appointees of the Town shall be residents of the Town for at least one (1) year prior to their appointment. All County appointees shall be residents of the unincorporated portion of the Planning Area for at least one (1) year prior to their appointment. All members shall continue to be residents of their respective areas during their entire term. A member of the EVBOA in an area annexed by the Town may continue to serve the remainder of that member's term.
- D. **Officers.** There shall be a Chair and a Vice Chair for the EVBOA. Each shall serve for a one (1) year term, beginning with the first meeting in January of each year. The Chair shall be from the Town appointees in odd years and from the County appointees in even years. The appointment of the Chair shall alternate between the Town and County appointees throughout the term of this agreement. The Vice Chair shall also alternate between the Town and County appointees, opposite that of the Chair. The EVBOA may appoint other officers, such as Secretary, as deemed necessary for the conduct of business. Said other officers may be non-members of the EVBOA.
- E. **Attendance.** All members shall attend all meetings of the EVBOA, if possible. In the event any member misses three (3) consecutive regular meetings or a total of four (4) regular meetings in a calendar year, the Town or the County may remove its appointed member for neglect of duty and designate a new member to fill the vacancy.
- F. **Vacancy.** Any vacancy occurring on the EVBOA shall be filled as soon as practical by appointment by either the Town or County.
- G. **Meetings.** Regular meetings of the EVBOA shall be once a month, if necessary.

**V. DEVELOPMENT WITHIN THE ESTES VALLEY PLANNING AREA
- ANNEXATION**

- A. The Town agrees to consider the annexation of all properties within the unincorporated portion of the Planning Area which are eligible for or which can be made eligible for voluntary annexation in accordance with the provisions of Title 31, Article 12, C.R.S. upon the filing by the Owners of the property of one or more of the following development applications:
 - 1. Subdivision of five (5) or more lots for residential use
 - 2. Application for re-zoning
 - 3. Concept Plan
 - 4. Development Plan for Commercial Accommodation, Commercial, Industrial, or Multi-family development of 10 or more units

All land use applications subject to consideration for annexation shall be accompanied by a signed petition for annexation meeting the requirements of Title 31, Article 12, C.R.S.

The Town shall not be required to consider annexation of any property within the unincorporated portion of the Planning Area for the following types of development applications:

1. Development plan for residential property
 2. Subdivision of 4 or less lots for residential use
- B.** The Town also agrees to annexation of all County roads and rights-of-way, easements, etc. adjacent to a voluntary annexation in accordance with Title 31, Article 12, C.R.S., provided however, that the Town reserves the right not to annex such County roads and rights-of-way if annexation of such roads and rights-of-way would impede future annexation anticipated by the Town.
- C.** The County agrees to require a binding annexation agreement as a condition of approval on any development application of the following listed land use approvals located within the unincorporated portion of the Planning Area but not eligible for voluntary annexation to the Town at the time of development application.
1. Subdivision of five (5) or more lots for residential use
 2. Application for re-zoning
 3. Concept Plan
 4. Development Plan for Commercial Accommodation, Commercial, Industrial, or Multi-family developments of 10 or more units

The County shall not require an annexation agreement for any property within the unincorporated portion of the Planning Area for the following types of development applications:

1. Development plan for residential property
 2. Subdivision of 4 or less lots for residential use
- D.** The Town and County agree that annexation of any property within the Planning Area by the Town is subject to the sole legislative discretion of the Board of Trustees of the Town.
- E.** As part of the annexation, the Town may require the Owners to enter into an annexation agreement. The terms and conditions of said agreement shall be in the sole discretion of the Town.

- F. The annexation may be processed contemporaneously with the development proposal under the applicable terms and conditions of the EVDC. In the event the Town determines at any time during the process not to annex the property, the review process shall continue through the EVPC and the Board of County Commissioners.

VI. Development Compliance With Other Town and County Requirements.

- A. The Town and the County have other operating rules, regulations, ordinances and requirements which may apply to development and use of property within the Planning Area. These include, but are not limited to the following areas of regulation:

1. **Flood Plain Regulations.** The Town and County shall administer their flood plain regulations within their respective jurisdictions.
2. **Sign Regulations.** The Town and County shall continue to administer their sign regulations within their respective jurisdictions except that the Town shall provide staff administration of applications for sign permits.
3. **Building Permits.** The Town and County shall continue to administer their building code, permit and inspection programs within their respective jurisdictions.
4. **Streets and Roads.** The Town Engineer and County Engineer shall maintain their responsibilities for ensuring proper road construction, maintenance and safety within their respective jurisdictions.
5. **Drainage.** The Town Engineer and County Engineer shall maintain their respective responsibilities, if any, for drainage improvements and maintenance within their respective jurisdictions.
6. **Public Health and Safety.** The Town and County shall maintain their respective responsibilities for public health, welfare and safety within their respective jurisdictions.
7. **Wildfire Construction.** Larimer County's building code requirements regarding construction in wildfire hazard areas shall apply in the unincorporated portion of the Planning Area.

VII. Fees for Parks, Roads, Drainage, and Development for the Planning Area.

1. The County's Capital Expansion Fees for roads, community parks, and drainage shall apply within the unincorporated portions of the Planning Area. The County's regional park fee shall not apply within the unincorporated portion of the Planning Area.
2. The Town agrees to study one or more of the above fees for possible inclusion for development within the Town.
3. The Town and County may maintain separate land use application fees for applications within their respective jurisdictions in the Planning Area. Said fees shall be collected by the Town as a part of its

administrative responsibility and retained by the Town to assist the Town in recovering the cost of the Town's administrative duties pursuant to this Agreement.

VIII. DUTIES AND RESPONSIBILITIES OF THE EVPC.

A. Recommendations of the EVPC.

1. All land use decisions of the EVPC shall be advisory only. All final approvals of said decisions shall be the responsibility and obligation of either the Board of Trustees or the Board of County Commissioners depending upon the geographic location of the land use proposal.
2. The EVPC shall have responsibility for the Estes Valley Comprehensive Plan as that responsibility is set forth in the applicable state statutes.

IX. STAFFING AND COSTS

A. Town and County staff shall cooperate in the review, approval, and monitoring of land use development within the Planning Area. Primary responsibility for all administration of staffing shall be with the Town's Community Development Department (CDD).

B. Duties of the Town Community Development Department (CDD).

1. The CDD shall serve as the primary administrator of the EVDC.
2. The CDD shall serve as primary staff to the EVPC, the Board of Trustees, the Larimer County Board of County Commissioners, and the EVBOA for land use development within the Planning Area. CDD shall prepare all staff reports for matters before the EVPC, the Board of Trustees, the Board of County Commissioners, and the EVBOA.
3. The Town shall provide the necessary personnel to provide professional staffing of the CDD and its responsibilities pursuant to this Agreement. In consideration of the Town's obligations to provide the services set forth in this Agreement, the County shall pay to the Town on or before January 15th of each calendar year the sum of \$30,000 during the term of this Agreement. The first payment of said sum shall be paid on or before March 1, 2000. The \$30,000 payment shall be increased annually by an amount equal to the percentage increase for the Denver CPI for June of the previous year.
4. CDD staff shall present all land use applications to the EVPC.
5. CDD staff shall present EVPC land use recommendations to the respective Boards.
6. CDD staff shall present variance requests to the EVBOA.
7. CDD staff shall route land use applications to Larimer County and all referral agencies for review and comment.
8. CDD staff shall prepare all public notices, and publish and notify interested parties, as required by the EVDC.

9. CDD staff shall serve as the primary contact staff for land use proposals within the Planning Area.
10. CDD staff shall present an annual report to the Board of Trustees and the Board of County Commissioners summarizing development activity within the Planning Area.

C. Duties of Larimer County Planning Department (LCPD)

1. LCPD staff shall serve as resource and support staff for the EVPC.
2. LCPD staff shall attend meetings of the EVPC and Larimer County Board of Commissioners as deemed necessary by CDD.
3. LCPD staff shall review and comment, as appropriate, on land use proposals within the unincorporated portions of the Planning Area.
4. LCPD staff shall assist with the routing and coordination needed to assemble comments from various County departments involved with the review process.
5. LCPD staff shall assist CDD staff in providing historical information or perspectives on development proposals within the unincorporated portion of the Planning Area.
6. LCPD staff shall provide access to historical land use application files, copies of maps, staff reports, and other records as necessary.

D. Code Enforcement

1. The CDD staff shall provide code enforcement of the EVDC within the Planning Area.
2. The Town and County shall be responsible for code enforcement of violations existing prior to February 1, 2000, within their respective jurisdictions.
3. LCPD staff shall provide historical records to the Town as needed.
4. The County Attorney shall provide assistance with code enforcement issues within the unincorporated portion of the Planning Area. Any necessary litigation including, but not limited to, state agency review shall be instituted and maintained by the County Attorney or Town Attorney depending on geographical location of the violation.

E. Duties of the Town Attorney.

1. The Town Attorney shall be the primary legal advisor to the CDD staff and the EVPC.
2. The Town Attorney shall attend meetings of the EVPC as necessary.
3. The Town Attorney shall attend meetings of the Board of Trustees or Board of Commissioners, as necessary.
4. The Town Attorney shall institute and maintain all necessary legal actions including litigation and state agency review for land use matters within the geographical area of the Town.

F. Duties of the County Attorney.

1. The County Attorney shall advise CDD staff on matters that may relate to County issues.
2. The County Attorney shall attend EVPC meetings as requested by CDD staff.
3. The County Attorney shall attend Board of County Commissioner meetings, as necessary.
4. The County Attorney shall institute and maintain all necessary legal actions including litigation and state agency review for land use matters within the geographical area of the County.

G. Wild Fire Review

1. Larimer County shall review development proposals for compliance with Wildfire standards and mitigation.
2. Larimer County shall provide site inspection projects prior to issuance of a Certificate of Occupancy for mitigation implementation.
3. The Town shall consider adopting Larimer County's wildfire construction standards.
4. Appropriate wildfire review fees shall be collected by the Town and forwarded to the County.

H. Maintenance of Required Public Facilities

1. Maintenance of public facilities, if any, shall be the responsibility of the Town or County, depending upon the respective geographic location of the public improvement.
2. Each public facility shall be subject to the policies and procedures of the respective jurisdiction.

I. Improvement Guarantees

1. Improvement Guarantees shall be required as set forth in the EVDC. The CDD shall administer all improvement guarantees. Said guarantees shall be maintained in the name of the respective jurisdiction.
2. The Town Engineer and County Engineer shall verify the estimate of construction costs, depending upon the geographic location of the improvements.
3. Releases of security from an Improvement Guarantee shall be authorized by the respective Engineer, and released by the CDD.

J. Data Base Development

1. From time to time, it may be necessary to undertake special projects for data base development to assist with the planning process. Such activities may include aerial photos, topographic base maps, or development planning projects. Costs for these activities shall be shared by the Town and County on a to be determined project by project basis.

K. Permanent Files and Records

1. The Town shall maintain all new project files.
2. Larimer County staff shall have access to all files.

X. OTHER PROVISIONS

A. Transition.

1. During the period of time between February 1, 2000 to July 1, 2001, ("the transition period") the LCPD shall have a staff member present at all meetings of the EVPC and the Board of County Commissioners in which land use applications for the Planning Area are on the agenda, unless the CDD informs the LCPD that such staff member's presence is not necessary.
2. During the transition period the Town Attorney shall be available to attend all meetings of the Board of County Commissioners in which land use applications in the Planning Area are on the agenda and the CDD staff requests attendance.
3. During the transition period, the County Attorney shall be available for attendance at all EVPC meetings in which land use applications in the unincorporated area of the Planning Area are on the agenda and the CDD staff requests attendance.
4. During the transition period, LCPD shall assist the Town during the transition period for code enforcement.

B. Seminars. The Town shall be responsible for funding attendance by members of the EVPC for seminars, conventions, and conferences as the Town in its sole discretion may determine during its normal budget process.

C. Procedures and Policies.

The Town and County staff shall develop necessary procedures and policies to administer their respective functions and obligations pursuant to this Agreement.

D. Term

This Agreement shall remain in force and effect for a period of ten (10) years from its effective date. However, either party may terminate this Agreement at any time by giving the other party nine months written notice of its intention to terminate the Agreement. Such notification shall be sent by certified letter with return receipt requested addressed to the other party as set forth in the notice provision of this Agreement.

E. Enforcement

It is the intent of both the Town and County that this Agreement is binding upon both the Town and County, and that either party hereto

shall be permitted to specifically enforce any provisions of this Agreement in a court of competent jurisdiction.

F. Review

The parties agree to review the terms and conditions of this Agreement every two years.

G. Amendment

This Agreement may be amended in writing at any time by mutual agreement of the parties.

H. Notice

All notices, demands or other documents required or desired to be given, made or sent to either party, under this Agreement shall be in writing, shall be deemed effective upon mailing or personal delivery. If mailed, said notice shall be mailed, by regular mail, postage prepaid (unless this Agreement specifically requires certified mail) addressed as follows:

Larimer County Board of County Commissioners
Attn. Chair
P.O. Box 1190
Fort Collins, Colorado 80522

Town of Estes Park
Attn. Town Administrator
P.O. Box 1200
Estes Park, Colorado 80517

I. Governmental Immunity

The parties agree and understand that both parties are relying on and do not waive, by any provision of this Agreement, the monetary limitations or terms (presently One Hundred Fifty Thousand and 00/100 Dollars (\$150,000) per person and Six Hundred Thousand and 00/100 (\$600,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, C.R.S., as from time to time amended, or otherwise available to the parties or any of their officers, agents or employees.

J. Current Year Obligations.

The parties acknowledge and agree that any payments provided for hereunder or requirements for future appropriations shall constitute only currently budgeted expenditures of the parties. The parties' obligations under this agreement are subject to each individual party's annual right to budget and appropriate the sums necessary to provide the services set forth herein. No provision of this agreement shall constitute a mandatory charge or requirement in any ensuing fiscal year beyond the then current

fiscal year of each individual party. No provision of this agreement shall be construed or interpreted as creating a multiple-fiscal year direct or indirect debt or other financial obligation of either or both parties within the meaning of any constitutional or statutory debt limitation. This agreement shall not directly or indirectly obligate either party to make any payments beyond those appropriated for each party's then current fiscal year. No provision of this agreement shall be construed to pledge or create a lien on any class or source of either party's monies, nor shall any provision of this Agreement restrict the future issuance of either party's bonds or any obligations payable from any class or source of each individual party's money.

BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF LARIMER

By: *Cheryl Olson*
Chair

ATTEST

Maureen Cookman

Deputy Clerk of the Board

TOWN OF ESTES PARK

By: *Robert L. Clepper*
Mayor

ATTEST

Doris O'Connor 1/25/00

Town Clerk

DATE: 2-1-00
APPROVED AS TO FORM:
[Signature]
ASSISTANT COUNTY ATTORNEY