

Option B - Patterned After Other IGA Models

AN INTERGOVERNMENTAL AGREEMENT Regarding Land Use Planning and Related Issues for the Estes Valley

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and effective this 1st day of April, 2020 (“Effective Date”) by and between LARIMER COUNTY, COLORADO (“County”), a body politic organized under and existing by virtue of the laws of the State of Colorado and THE TOWN OF ESTES PARK, COLORADO (“Town”) and jointly referred to as the “Parties.”

RECITALS

- A. **WHEREAS**, the Parties have worked together cooperatively on land use planning since the mid-1990s, with an initial intergovernmental agreement (IGA) effective February 1, 2000, with five subsequent amendments, and which expires in February 2020;
- B. **WHEREAS**, in 1996, the Town and County prepared and jointly adopted the Estes Valley Comprehensive Plan for the land area in the Estes Valley Planning Area which includes lands within Town limits and in unincorporated Larimer County, which plan is effective until updated or superseded;
- C. **WHEREAS**, the Parties agree that maintaining and enhancing areas of Town development in a thoughtful and deliberate way, managing growth in the Estes Valley, and protecting open space and conserving rural character are enhanced by cooperation in land use planning and development review services;
- D. **WHEREAS**, concentrating Town Level Development in areas planned and designated for such development affords greater efficiency in the delivery of services such as water, streets and transportation, fire and police protection and other services, and affords a measure of predictability to landowners and residents concerning where services will be provided in the future;
- E. **WHEREAS**, maintaining the parts of the Estes Valley Planning Area that are designated for rural uses as rural promotes the purposes of providing a community buffer between the Town and the adjacent national park and federal lands, serves economic and community interests, and meets the goals of the community as set forth through the Estes Valley Comprehensive Plan;
- F. **WHEREAS**, the purposes of this Intergovernmental Agreement (Agreement) are to:
 - 1. Implement the Estes Valley Comprehensive Plan as it currently exists or may hereafter be amended or replaced;
 - 2. Establish effective means of planning for future development and conservation within the unincorporated portion of the County in the Estes Valley;
 - 3. Assure that Town Level Development occurs only where and when facilities and services can be provided to it and in appropriate locations within the Estes Valley that are able to support higher intensities of development;

4. Assure that land eligible for annexation to the Town are considered for annexation prior to or concurrently with development;
5. Provide effective means for the appropriate design, construction, and maintenance of public improvements;
6. Encourage the efficient use of land and open space conservation in appropriate locations, including those in the unincorporated areas of the Estes Valley;
7. Provide a mechanism for property owners, residents, stakeholders, and others to have input on and be informed as to where development will occur in the future;
8. Ensure that development standards are thoughtfully aligned on either side of the Town limits, so as to allow for intentional patterns of development that are consistent with the plan and vision for the Estes Valley;
9. Assure that development in the vicinity of the Town does not negatively impact roads or other infrastructure improvements in unincorporated Larimer County, and provide that when there are negative impacts, those impacts will be appropriately mitigated; and
10. Allocate responsibilities of Larimer County and the Town of for purposes of administering land use within their respective jurisdictions.

- G. **WHEREAS**, pursuant to State of Colorado law, local jurisdictions are authorized to regulate the location of activities and developments; phase development of services and facilities; regulate development on the basis of its impact on the community or surrounding areas; plan for and regulate the use of land so as to provide for planned and orderly use of land and protection of the environment; cooperate or contract with other units of government for the purpose of planning and regulating the development of land, including, but not limited to, the joint exercise of planning, zoning, subdivision, building, and related regulations and annexation of property, all in a manner consistent with constitutional rights and statutory procedures;
- H. **WHEREAS**, communication among local jurisdictions, special districts, property owners and other interested parties is essential to accomplishing this Agreement;
- I. **WHEREAS**, any provisions in this Agreement may be implemented only to the extent legally permitted by State and Federal Law;
- J. **WHEREAS**, the Parties have sought community input and held hearings after proper public notice for the consideration of entering into this Agreement; and
- K. **WHEREAS**, in order to provide for an orderly transition to this Intergovernmental Agreement and to allow for appropriate allocation of resources by all parties to support it, it is desirable to extend the February 1, 2010 Intergovernmental Agreement and its subsequent amendments for an additional two (2) months, to terminate on March 31, 2020, with this new Intergovernmental Agreement to become effective on April 1, 2020. The extension is being accomplished by an amendment contemporaneous with this Agreement.

AGREEMENT

NOW, THEREFORE in consideration of the covenants and obligations expressed herein, it is hereby agreed by and between the Parties as follows:

1. DEFINITIONS

The following terms shall have the meanings set forth below.

- 1.1. **Annexation.** Annexation means the incorporation of land area into an existing municipality with a resulting change in the boundaries of that municipality.
- 1.2. **Estes Valley Comprehensive Plan.** The adopted Comprehensive Plan for the Estes Valley Planning Area, adopted by the Estes Park Planning Commission and the Larimer County Planning Commission in December 1996. The Plan addresses land use, transportation, natural resources, and other elements and guides through maps and text and generally indicates the types, densities and intensities of land use that are acceptable for any given parcel of land or area in the Estes Valley Planning Area. It also establishes the Estes Valley Planning Area boundary.
- 1.3. **Estes Valley Development Code (EVDC).** The adopted land use, zoning, and development standards for the Estes Valley Planning Area adopted by the Town and County effective in 1999 and as subsequently amended.
- 1.4. **Estes Valley Planning Area (EVPA).** The Estes Valley Planning Area is that geographical area including all of the Town of Estes Park and certain designated areas beyond Town limits established in the Estes Valley Comprehensive Plan, and as depicted in Exhibit 1.
- 1.5. **Estes Valley Overlay District (EV Overlay District).** Regulations proposed to be adopted by Larimer County in the EVPA as part of the Larimer County Land Use Code to maintain consistency with existing Estes Valley Development Code and to implement this Agreement. In such area generally, Town Level Development is currently not considered appropriate or desired except where it annexes to the Town.
- 1.6. **Larimer County Comprehensive Plan.** The official vision and policy document guiding long-range framework for decision making for Larimer County's unincorporated areas outside the Estes Valley Planning Area, adopted in 2019 by the County Planning Commission.
- 1.7. **Larimer County Land Use Code.** The regulations proposed to be adopted and amended by the Board of County Commissioners pursuant to the authority of Title 30, Article 28 of the Colorado Revised Statutes to implement the Larimer County Comprehensive Plan. The Land Use Code contains, *inter alia*, land use regulations, development standards, and development review procedures for the unincorporated areas.
- 1.8. **Open Space.** Land that is not occupied by any structure or artificial impervious surfaces and that is intended for long-term conservation purposes.
- 1.9. **Rural Areas.** Areas which are outside the Town's corporate limits and which are planned or zoned for rural estate or other rural residential uses or which are designated to remain as

conserved areas. These lands are not intended to be annexed and will generally remain rural in character.

- 1.10. **Supplemental Regulations.** Regulations proposed to be adopted by Larimer County in the Land Use Code as part of the Estes Valley Overlay District (EV Overlay District) and that provide for the implementation of land use, street, design, and other development standards consistent with the Estes Valley Development Code and carried forward through the County’s development review process.
- 1.11. **Town Level Development.** Any development which uses Town level facilities and services provided either by the Town or special districts and which is at higher intensities than rural areas.
- 1.12. **Town Level Facilities and Services.** Services such as central water, sewer, responsive fire protection, urban level street construction and maintenance, and/or similar services that are typically provided by the Town or an appropriate district and are necessary to serve Town Level Development as defined in this Agreement.
- 1.13. **Town of Estes Park Development Code.** The regulations proposed to be adopted and amended by the Town of Estes Park Town Board of Trustees pursuant to the authority of Title 31 Article 23 of the Colorado Revised Statutes to implement the Estes Valley Comprehensive Plan or its successor Plan(s) as such Plan(s) may apply to the Town of Estes Park.

2. ADOPTION OF NEW PLANS AND REGULATIONS

This section identifies the plans and boundary maps which are referenced in this Agreement.

2.1. Comprehensive Plan for the Estes Valley Planning Area.

2.1.1. Jointly Prepared Comprehensive Plan. The Parties agree to communicate and coordinate to prepare a Comprehensive Plan for the Estes Valley Planning Area that will encompass the Town and the unincorporated area of Larimer County, which upon adoption shall replace and supersede the current Estes Valley Comprehensive Plan. If by December 31, 2021, the Comprehensive Plan has not been completed or does not extend to cover the Estes Valley Planning Area, the County shall amend its Comprehensive Plan to include policies and maps that address the unincorporated area of the Estes Valley Planning Area, and the Town shall adopt a Comprehensive Plan to include policies and maps that address the incorporated Town of Estes Park. While the Comprehensive Plan will be jointly prepared, each Party will adopt it for its respective jurisdiction, and nothing in this Agreement prevents each Party from amending the Comprehensive Plan with respect to land use decisions within its own jurisdiction.

2.1.2 Boundary to Guide Future Annexation. The Comprehensive Plan also will include a boundary within the Estes Valley Planning Area boundary to delineate areas of the unincorporated Estes Valley Planning Area that are suitable for annexation to the Town (e.g., a “town limit” or “town growth boundary,” or another term to be defined), and areas beyond which should remain rural in unincorporated Larimer County.

2.2. Estes Valley Planning Area Boundary. The Estes Valley Planning Area boundary is identified in “**Exhibit 1**”, and attached hereto and incorporated herein, including any subsequent amendments thereto.

2.3. Town and County Land Use Codes. The Parties agree that there shall be a Land Use Code for the Town and a Land Use Code for the County, and upon such designations by the respective parties shall replace and supersede the current Estes Valley Development Code as to that Party. As used in this Agreement, the terms “Land Use Code” and “Development Code” shall be deemed synonymous. The Parties intend that the County’s Land Use Code as currently existing or hereafter amended or superseded will include regulations specific to the unincorporated area of Larimer County within the Estes Valley Planning Area.

2.4. Land Use and Zoning Designations in the unincorporated Estes Valley Planning Area. The County intends to recognize and carry forward the zoning districts and certain development standards of the Estes Valley Development Code when proposing and adopting supplemental regulations to the County Land Use Code for the unincorporated area of the Estes Valley Planning Area in order to maintain consistency with the Estes Valley Comprehensive Plan. These districts and standards are intended to provide continuity of development standards and terminology within and outside the Town limits, and shall include but are not limited to standards for steep slopes, ridgeline protection, grading and site disturbance, tree and vegetation protection, wildlife habitat protection, exterior lighting, and allowed uses, building heights, density, and setbacks associated with the relevant zoning districts, that are guided by the Estes Valley Comprehensive Plan. As the Estes Valley Comprehensive Plan is updated, or as the Larimer County Land Use Code is updated, the County shall exercise its regulatory function consistent with the policies of the plan. Also, as the Town updates its Development Code over time, it will forward its amendments to the County for consideration of adoption of parallel updates in the County Land Use Code for the unincorporated area of the Estes Valley Planning Area.

2.5. Land Use and Zoning Designations in the Town of Estes Park. The Town intends to recognize and carry forward the zoning districts and certain development standards of the Estes Valley Development Code via preparation and adoption of the Town of Estes Park Development Code. It is anticipated that the Town of Estes Park Development Code’s original adoption will in content be substantially similar to the Town-applicable provisions of the Estes Valley Development Code as it exists at the time of adoption of this Intergovernmental Agreement, provided that the Town of Estes Park Development Code may from time to time adopt appropriate amendments and modifications for clarity and reconciliation of non-harmonious Code sections, or may include changes as deemed appropriate in response to specific land-use requests on behalf of property owners. It is further anticipated that after adoption of a new Comprehensive Plan, a rewritten Town of Estes Park Development Code that conforms to guidance in the Plan will be prepared and adopted by the Town.

3. LAND USE REGULATIONS AND FEES

This section addresses the relevant development standards, procedures, and fees that apply to proposed development in the Estes Valley Planning Area.

3.1. Town Limits. Within the municipal boundaries of the Town of Estes Park as they exist or may be changed through annexation, the Town shall maintain and exercise the right to review and

approve development subject to the Town of Estes Park Development Code, as existing or hereafter amended. The Parties agree that, except as modified through appropriate due process in accordance with applicable law and procedures, all Town regulations, standards and procedures shall apply to future development within the incorporated Town of Estes Park. The Parties agree that land-use applications, appeals, interpretations, and variances, including those applied for at the building permit stage, shall be processed and decided by the Town as provided for in the Town of Estes Park Development Code, as existing or hereafter amended.

3.2. Unincorporated Estes Valley Planning Area. Within the unincorporated area of the Estes Valley Planning Area, Larimer County shall maintain and exercise the right to review and approve development subject to the Larimer County Land Use Code (including the Estes Valley Overlay District and supplementary regulations). The Parties agree that, except as modified by the supplemental regulations noted below, all County regulations, standards and procedures shall apply to future development within the unincorporated portion of the Estes Valley Planning Area. The Parties agree that land use application, appeals, interpretations, and variances shall be processed and decided by the County as provided for in the Larimer County Land Use Code. Building Permits shall be processed according to the County Building Code.

3.3. Estes Valley Overlay District and Supplemental Regulations. The County will undertake the required legislative process to establish the Estes Valley Overlay Zone District (EV Overlay District) and supplemental land use regulations to implement this Agreement. The County agrees that it will require development applications for Rezonings, Special Review, Development Plans or Site Plans, and Planned Land Division in the unincorporated areas of the Estes Valley Planning Area to meet either the Larimer County development standards, as contained within the Larimer County Land Use Code and its technical supplements or any other standards contained in the Estes Valley Overlay District and supplemental regulations.

3.4. Modifications and Variances to Regulations. The Parties agree that the Town or County may allow reasonable modifications from adopted standards within their respective jurisdictions where the Town or County in its respective discretion determines that either:

3.4.1. By reason of exceptional physical conditions or other extraordinary and exceptional situations unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness, or topography, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional and undue hardship upon the owner of the affected property, provided that such difficulties are not caused by an act or omission on the part of the owner or applicant, or

3.4.2. The proposed modification will serve to advance or protect the public interests and purposes of the standards for which the modification is requested equally well or better than a plan which complies with the standard for which a modification is requested. The County agrees it will refer any proposed modifications to the Town for its review and a recommendation.

3.5. Fees for Development.

3.5.1. The Parties agree to maintain and administer separate fees with their respective jurisdictions in the Estes Valley Planning Area.

3.5.2. The County’s Capital Expansion fees for roads, community parks, and drainage shall apply within the unincorporated areas of the Estes Valley Planning Area.

3.5.3. The County’s regional park fee shall not apply within the unincorporated portion of the Estes Valley Planning Area.

4. PARTIES’ ROLES IN DEVELOPMENT REVIEW, COMPLIANCE

4.1. Establishment of Improvement Districts. The County agrees to notify and allow the Town to comment prior to establishing any improvement district within the unincorporated Estes Valley Planning Area.

4.2. Utilities and Services. In areas where the Town has jurisdiction and oversight over the delivery of utility services and other services relative to public improvements, the Town agrees to provide a mechanism for the performance of inspections of any utility or other public improvements provided by developers. In areas where special districts have jurisdiction and oversight over the delivery of utility services and other services relative to public improvements, the Town agrees to propose that the Town and the respective special district include terms in the intergovernmental agreement with the special district that stipulate that the special district will perform these inspections. The County agrees that it will propose provisions in the supplemental regulations that the Town or the special district may charge developers an appropriate fee for this inspection service.

4.3. Improvement Guarantees. Improvement guarantees shall be required as set forth in the EVDC, or the Town’s and County’s respective Land Use Codes. The respective jurisdictions shall administer and maintain all improvement guarantees. Appropriate jurisdictional agencies, such as the Town Engineer and County Engineer, the Town Utilities Department, and the Sanitation District(s) with jurisdiction, shall verify the estimate of construction costs, depending on the geographic location of the improvements. Releases of security from an Improvement Guarantee shall be authorized by the respective jurisdictional authority and released by the authorized Community Development Department. To the extent that development in the Town requires the construction of off-site public improvements in the unincorporated Estes Valley Planning Area that are typically not associated with development in the County, the Town agrees to provide a mechanism for maintenance of those off-site public improvements by adjacent property owner. Such improvements include, but are not limited to, curbs and gutters, bicycle and pedestrian facilities, transit facilities, traffic signals, traffic control and traffic calming devices, drainage facilitates, streetscapes, and medians.

4.4. Maintenance of Required Public Facilities. 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 and subject to other applicable regulations. Each public facility shall be subject to the policies and procedures of the respective jurisdiction.

4.5. Development Review Staffing Roles.

4.5.1. Duties of the Town and County Staff. Town and County staff shall cooperate in the review, approval, and monitoring of land use development within the Estes Valley Planning Area.

4.5.1.1. Duties of the Town Community Development Department. Town staff shall serve as the primary administrator of the Town's Development Code within town limits.

4.5.1.2. Duties of the County Community Development Department. County staff shall serve as the primary administrator of the County's Land Use Code within the unincorporated Estes Valley Planning Area.

4.5.2. Referrals.

4.5.2.1. County Review, Town Referral within the Estes Valley Planning Area. Within the unincorporated Estes Valley Planning Area, the County agrees to submit proposals for the following proposed development applications to the Town staff for review and comment: Rezoning; Special Review; Public Site Plan, Minor Special review, Special Exception, or any land division application that results in the creation of one or more additional lots. The Town's review and comment shall include consideration of whether and how the proposal is consistent with the Estes Valley Overlay District and supplemental regulations. The Town agrees to provide the County with written comments, if any, within twenty-one (21) days after the County or its authorized representative mails to the Town a request for comments in accordance with state statute.

4.5.2.2. Town Review, Referral to County for Town Development that May Impact County's Public Improvements. The Town agrees to provide to the County an opportunity to review and comment upon applications for development within the Town that may affect the County's interests and public improvements, including, but not limited to, road improvements and annexations.

4.6. Additional Review Roles. The Town and the County have additional operating rules, regulations, ordinances and requirements which may apply to development and use of property within the Estes Valley Planning Area. These include but are not limited to the areas of regulation noted in Table 1 below.

Table 1: Review Roles of Town of Estes Park and Larimer County

Type of Process or Regulation	Within Town of Estes Park (Who Administers)	Within Unincorporated Estes Valley – Larimer County (Who Administers)
Development Review for Planning Cases	Town of Estes Development Code (Town Community Development Department)	Larimer County Land Use Code – Estes Valley Supplement (County Community Development Department)
Floodplain Regulations	Town floodplain regulations (Town Community Development)	County floodplain regulations (County Engineering)
Sign Regulations	Town sign regulations (Town Community Development)	County sign regulations (LC Community Development)
Building Permits	Town Building Code (Town Building Official)	County Building Code, permit, and inspection programs (County Building Official)
Streets and Roads Standards	Street standards (Town Engineer)	Larimer County Rural Area Street Standards. County road construction, safety, and maintenance (County Engineer)
Drainage	Drainage standards (Town Engineer)	Drainage standards (County Engineer)
Public Health and Safety	County Health Department	County Health Department
Wildfire Construction	Wildfire Construction standards in Larimer County’s building code (Town Building Official)	Wildfire Construction standards in Larimer County’s building code (County Building Official)
Code Compliance	Town Code Compliance	County Code Compliance
Legal Counsel	Primary legal advisory to Town Staff and the Town boards and commissions for items in town limits and to institute and maintain all necessary legal actions for matters within the town limits (Town Attorney)	Primary legal advisory to County Staff and boards and commissions for the unincorporated area and to institute and maintain all necessary legal actions for matters therein (County Attorney)
Vacation Rentals	Approved by Town (Town Maintains its rentals and cap)	County Land Use Code (New approvals by County; County maintains the current cap in the unincorporated area)

5. DEVELOPMENT REVIEW APPROVALS (PLANNING COMMISSION AND BOARD OF ADJUSTMENT)

- 5.1. Larimer County Planning Commission.** The Larimer County Planning Commission shall hear all planning cases in the unincorporated Estes Valley Planning Area pursuant to the Larimer County Land Use Code review development applications.
- 5.2. Larimer County Board of Adjustment.** The Larimer County Board of Adjustment shall hear all variance requests pursuant to the terms of conditions of state statute, the Larimer County Land Use Code, and supplemental regulations.

5.3 Town of Estes Park Board of Adjustment. The Town shall appoint a Board of Adjustment in accordance with Title 31 Article 23 Part 3 of the Colorado Revised Statutes and the Town of Estes Park Development Code, with duties, responsibilities, and obligations as specified therein. The Town of Estes Park Board of Adjustment shall have authority in all applications that are designated in Statute and Code for Board of Adjustment review within the Town of Estes Park, for all applications that are not instead reviewed by the Estes Valley Transitional Board of Adjustment under section 5.5, below. Membership and residency shall be as specified in Title 31 Article 23 Part 3 of the Colorado Revised Statutes and the Town of Estes Park Development Code. It is anticipated that membership will consist of three (3) members appointed by the Town Board for staggered terms.

5.4 Town of Estes Park Planning Commission. The Town shall appoint a Planning Commission in accordance with Title 31 Article 23 Part 2 of the Colorado Revised Statutes and the Town of Estes Park Development Code, with duties, responsibilities, and obligations as specified therein. The Town of Estes Park Planning Commission shall have authority in all applications that are designated in Statute and Code for Planning Commission review within the Town of Estes Park, for all applications that are not instead reviewed by the Estes Valley Transitional Planning Commission under section 5.5, below. Membership and residency shall be as specified in Title 31 Article 23 Part 2 of the Colorado Revised Statutes and the Town of Estes Park Development Code. It is anticipated that membership will consist of five (5) members appointed by the Town Board for staggered terms.

5.5. Transitional Roles for EVPC and EVBOA. The parties hereby continue, for a time-limited transitional period, the existing Estes Valley Planning Commission (“Transitional EVPC”) and Estes Valley Board of Adjustment (“Transitional EVBoA”), with duties, responsibilities, authority, obligations, and operational parameters pursuant to the terms and conditions of this Agreement as described in “**Exhibit 2.**”

6. ANNEXATION

6.1. Eligibility for Annexation. The Parties agree that the term “eligibility for annexation” shall mean any land that is contiguous to the corporate town limits via one or more points of connection, and that it is anticipated that the Town would annex lands eligible for annexation in the Estes Valley Planning Area at such time that a development proposal and annexation petition, including all required fees and supplemental information, is received from the property owner(s). When a town growth boundary is defined, lands within that area shall be considered for annexation at such time that a development proposal is presented. The Town represents that it will give due consideration to the desirability of annexing lands at such time that they become eligible for annexation based upon State annexation statutes (Title 31, Article 12, Colorado Revised Statutes (C.R.S.)).

6.2. Town Limits Annexation Area. The Estes Valley Comprehensive Plan will define the area appropriate for future annexation adjacent to the Town of Estes Park.

6.3. Annexation Petition. The County agrees that it will not accept any application for Rezoning; Special Review; Public Site Plan, Minor Special review, Special Exception, or any land division application that results in the creation of one or more additional lots on property that is eligible for voluntary annexation to the Town unless a written annexation request which conforms to the

Town's standard annexation conditions is submitted to the Town and is subsequently denied by the Town. If such an annexation petition is denied by the Town, the County may accept said application on the property and, if appropriate, approve it in accordance with the Larimer County Land Use Code.

- 6.4. Future Annexations.** The County agrees that, in the case of lands within the unincorporated Estes Valley Planning Area that are not eligible for annexation but that are proposing Town Level Development, the County shall require applicants that apply for one of the following County processes after the effective date of this Agreement to sign an agreement to annex agreement as a condition of development approval: Rezoning; Special Review; Public Site Plan, Minor Special review, Special Exception, or any land division application that results in the creation of one or more additional lots.
- 6.5. Annexation Agreements.** The County agrees to require a binding annexation agreement as a condition of approval on any development application for uses approved and located within the unincorporated portion of the Planning Area that is planned for future town annexation but not eligible for annexation to the Town at the time of development application, excluding subdivision of 4 or less lots for residential use.
- 6.6. Amendment to Implement Annexation Policy.** The Town is deliberating regarding the appropriate policy to coordinate annexation with the County. The Parties agree to cooperate diligently on the creation of such a policy to be completed within six months of adoption of the Comprehensive Plan described in section 2.1.1 and intend to incorporate it herein as an amendment once it is determined. Until such time, while the Town undertakes no specific obligations with regard to annexation, the Parties agree to cooperate regarding Town Level Development in the unincorporated Estes Valley Planning Area and on annexation petitions.

7. IMPLEMENTATION OF AGREEMENT

- 7.1. Commencement and Transition Period.** Staff processing of applications for development submitted after the effective date of this IGA shall be conducted according to this Agreement. The County shall on April 1, 2020 resume maintaining all unincorporated-area project files and Town staff shall have access to files. Town staff will be available to support County staff access to historic case files for at least one year from the time of this Agreement or such time when files may be transitioned from the Town to County.
- 7.2. Larimer County and Town Regulations Timing.** The Parties agree that by April 1, 2020 they will have proposed regulations to their Codes to implement the terms of this Agreement. Such proposed regulations will address fees, land uses and development standards. The Parties further agree to undertake the required legislative process to propose amending their respective land use codes or related documents and procedures as necessary to implement this Agreement.
- 7.3. Training Regarding this Agreement.** The Parties agree to (a) notify newly elected officials, new managers and key staff of the existence of this Agreement, and (b) on an as-needed basis, conduct training sessions on the procedures which are necessary to implement this Agreement.

7.4. Mediation. If the Parties fail to reach agreement on any provisions contained in this Agreement, the Parties agree to engage a trained mediator to help them resolve the issue.

8. PERFORMANCE OF AGREEMENT

Either party may seek specific performance or enforcement of this Agreement in a Court of competent jurisdiction, but neither party shall have any claim or remedy for damages arising from an alleged breach hereof against the other, nor shall this Agreement confer on either Party standing to contest a land use decision or action of the other except as a breach of this Agreement.

9. THIRD-PARTY RIGHTS

This Agreement is not intended to modify the standing the Parties may possess independent of this Agreement. This Agreement is between the Town of Estes Park and Larimer County and no third-party rights or beneficiaries exist or are created hereby.

10. AGREEMENT AMENDMENTS

The procedures for amending this Agreement shall be as follows:

- 10.1. Amendments to the text of this Agreement.** The text of this Agreement may be amended only by written agreement of both Parties. Either Party may initiate an amendment, but any such initiation must be in writing.
- 10.2. Amendments to the Estes Valley Planning Area boundary.** The Estes Valley Planning Area Boundary may be amended in the Joint Estes Valley Comprehensive Plan or by written agreement of both Parties.
- 10.3. Amendments to Elements of the Estes Valley Comprehensive Plan.** It is acknowledged that the adoption of amendments to the Estes Valley Comprehensive Plan may necessitate amendments to this agreement.
- 10.4. Separate Plans.** In the event that the Town and County prepare separate comprehensive plans, each party shall notify the other party at least thirty (30) days prior to the adoption of any amendments to any elements of the Comprehensive Plan(s) and provide the other party with an opportunity to make comments on any such amendments to the Plan that would in any way either (1) affect the Estes Valley Planning Area, (2) call for an amendment to the boundaries, or (3) cause any changes to be made to any of the Town or County regulations.

11. SEVERABILITY

Invalidation of any specific provisions of this Agreement shall not affect the validity of any other provision of this Agreement.

12. TERM AND TERMINATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of five (5) years from the date of its execution. Thereafter, it shall be automatically renewed for successive five-year terms unless at least six (6) months prior to its scheduled expiration, either Party should notify the other Party in writing of its decision that the Agreement not be renewed. Either party may terminate this Agreement upon at least six (6) months' notice.

13. COSTS

The County will participate in the Estes Valley Comprehensive Plan by providing staffing to co-lead and support the plan effort, and participating in costs of hiring a shared consultant and contributing to the cost of the consultant. No other payment shall ensue from Town or County to the other party for this agreement.

14. EFFECTIVE DATE

In Witness thereof, the Parties hereto have executed this Agreement to be effective on the Effective Date first written above:

Town of Estes Park:

By: _____

Todd Jirsa, Mayor

ATTEST:

Town Clerk

The County of Larimer:

Tom Donnelly, Chair
Board of Commissioners

ATTEST:

Angela Myers, Clerk and Recorder

Approved as to Legal Form:

Approved as to Content:

County Attorney

County Manager

Exhibit 1: Estes Valley Planning Area Map

Exhibit 2: Transitional Duties for Estes Valley Planning Commission and Board of Adjustment

Exhibit 1: Estes Valley Planning Area Boundary

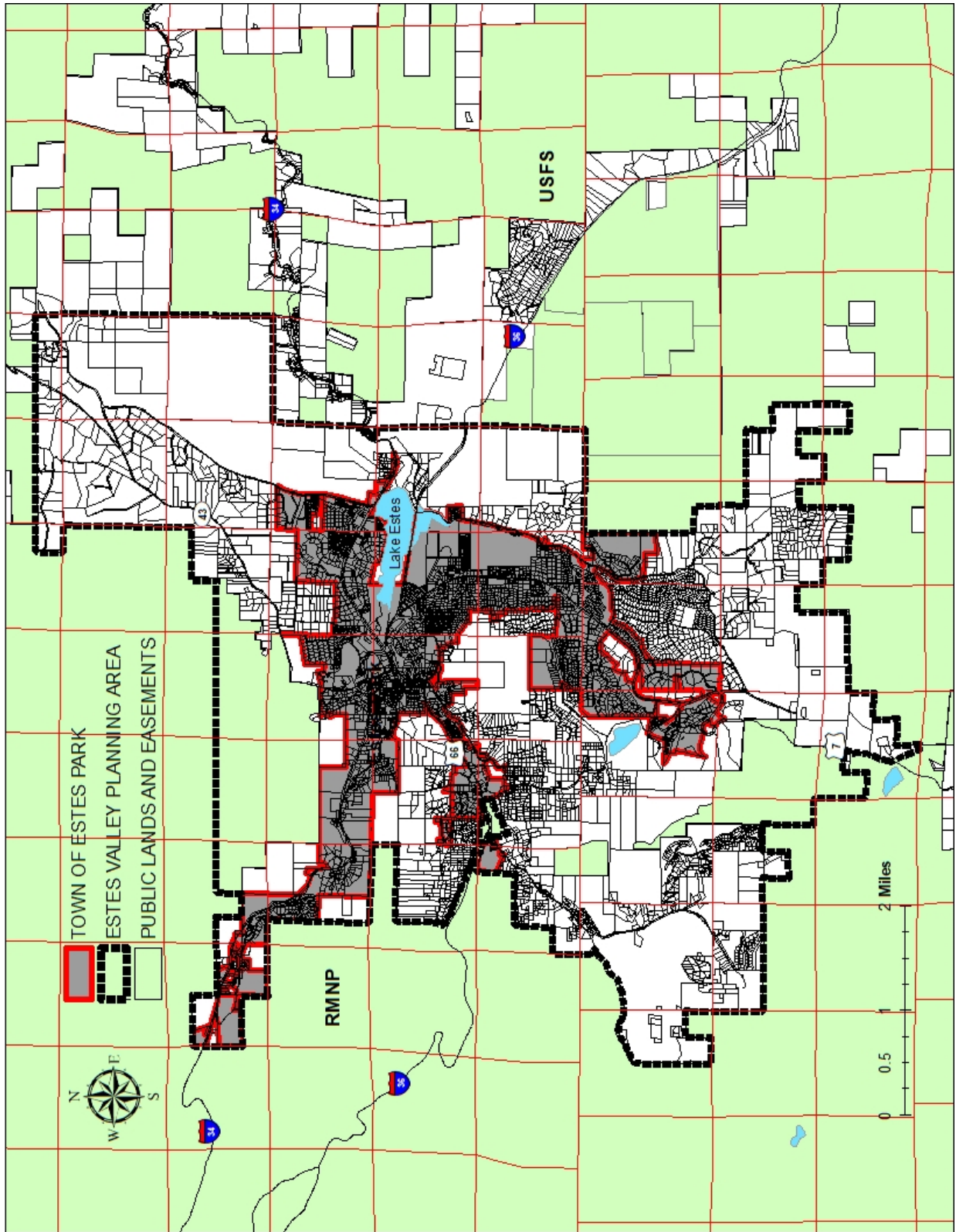


Exhibit 2: Transition Roles for Estes Valley Planning Commission and Board of Adjustment

The following provisions describe the transitional period for the Estes Valley Planning Commission and Estes Valley Board of Adjustment.

- 1. Transitional Role of Estes Valley Planning Commission.** The Parties hereby continue, for a period up to one year, the existing Estes Valley Planning Commission (“Transitional EVPC”), with duties, responsibilities, authority, obligations, and operational parameters pursuant to the terms and conditions of this Agreement.

1.1 Authority. The Transitional EVPC shall have authority limited to the following:

1.1.a. The Transitional EVPC shall have all of the duties, responsibilities, and obligations of a Joint Planning Commission pursuant to the provisions of the Estes Valley Development Code or its successor Code(s), as those duties, responsibilities, and obligations apply to “in process” applications, as defined here. In process applications are land-use applications that are properly filed, and deemed by the Town’s Community Development Director to be complete and ripe for review by the Transitional EVPC, prior to the effective date of this Intergovernmental Agreement, but that have not reached final disposition by the appropriate final decision-making entity by that date. In process applications also include any applications that have been decided by staff and properly appealed to the Transitional EVPC by that date. It is anticipated that all such applications that are in process will be considered and decided upon in a deliberatively expeditious fashion.

1.1.b. Members of the Transitional EVPC may, upon passage of appropriate Resolution(s) of the Town of Estes Park Board of Trustees and the Board of County Commissioners of Larimer County, be appointed as members of an official Comprehensive Plan Advisory Task Force for preparation and deliberation toward adoption by appropriate authority(s) of new Comprehensive Plan(s) for the Town of Estes Park, the unincorporated Estes Valley, or both together. Upon such adoption, the Comprehensive Plan Advisory Task Force shall adjourn and dissolve until such time as it may be reconstituted by the Parties for the purposes of a future comprehensive plan.

1.1.c. Upon final disposition of all land-use applications in process pursuant to this section, as determined by the Director of Community Development for the Town, the Transitional EVPC shall sunset and cease existence as a Joint Planning Commission. In accordance with Section b above, members of the Transitional EVPC are eligible to continue in a Comprehensive Plan advisory capacity.

- 1.2. Membership.** The Transitional EVPC shall be composed of seven (7) members. Currently serving members of the EVPC shall be considered reappointed as members of the Transitional EVPC, and they may serve as they are able and willing. The appointment process that follows will need to be invoked only in the event of a vacancy. Three (3) members shall be appointed by the County and four (4) members shall be appointed by the Town. Each member shall serve for a four (4) year term, or until the EVPC’s sunset date, whichever may occur first.

1.3. Residency. All appointees of the Town shall be residents of the Town for at least one (1) year prior to their appointment. All appointees of the County shall be residents of the unincorporated portion of the Estes Valley 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 terms. A County appointee on the Transitional EVPC residing in an area annexed by the Town may continue to serve the remainder of that member's term.

2. Estes Valley Transitional Board of Adjustment. The parties hereby continue, for a time-limited transitional period, the Estes Valley Board of Adjustment ("Transitional EVBoA"), with duties, responsibilities, authority, obligations, and operational parameters, pursuant to the terms and conditions of this Agreement as follows:

2.1. Authority. The Transitional EVBoA shall have authority limited to the following:

2.1.a. The Transitional EVBoA shall have all of the duties, responsibilities, and obligations of a Joint Board of Adjustment pursuant to the provisions of the Estes Valley Development Code or its successor Code(s) as those duties, responsibilities, and obligations apply to "in process" applications, as defined here. In process applications are land-use applications that are properly filed, and deemed by the Town's Community Development Director to be complete and ripe for review by the Transitional EVBoA, prior to the effective date of this Intergovernmental Agreement, but that have not reached final disposition by the appropriate final decision-making entity by that date. In process applications also include any applications that have been decided by staff and properly appealed to the Transitional EVPC by that date. It is anticipated that all such applications will be considered and decided upon in a deliberatively expeditious fashion.

2.1.b. Upon final disposition of all land-use applications pursuant to Section a above, the Transitional EVBoA shall sunset and cease existence as a Joint Board of Adjustment.

2.2. Membership. The Transitional 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 for a three (3) year term, or until the EVBoA's sunset date, whichever may occur first. Currently serving members of the EVBoA shall be considered reappointed as members of the Transitional EVBoA, and they may serve as they are able and willing. The appointment process herein will need to be invoked only in the event of a vacancy.

2.3. Residency. All appointees of the Town shall be residents of the Town for at least one (1) year prior to their appointment. All appointees of the County shall be residents of the unincorporated portion of the Estes Valley 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 terms. A County appointee on the Transitional EVBoA residing in an area annexed by the Town may continue to serve the remainder of that member's term.