

## **THREE MILE PLAN/URBAN GROWTH BOUNDARY INTERGOVERNMENTAL AGREEMENT**

THIS INTERGOVERNMENTAL AGREEMENT, entered into by and between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, a statutory Colorado county organized under and existing by virtue of the laws of the State of Colorado, hereinafter referred to as the "County," and THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, a Municipal Corporation, herein after referred to as the "City," is to be made effective on the 3rd day of July, 2001.

### WITNESSETH:

WHEREAS, coordination between the City and the County can result in better management of the continued growth and development in the Gunnison area; and

WHEREAS, both the City and the County have the mutual goal to plan for and regulate the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights and without unnecessary time and expense by applicants or the public; and

WHEREAS, both the City and the County desire to promote a compact development pattern, in which denser and more intense forms of development will occur contiguous to, or in close proximity to, existing population and development centers and public services and to encourage development patterns that will tend to minimize the cost of providing governmental and other services and will preserve open space; and,

WHEREAS, pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has found and declared that in order to provide for planned and orderly development within Colorado and a balancing of the basic human needs of a changing population with legitimate environmental concerns., the policy of the State of Colorado is to clarify and provide broad authority to local governments to plan for and regulate the use of land within their respective jurisdictions; and

WHEREAS, pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has designated certain powers to local governments, among them the power to regulate the location of activities and developments that may result in significant changes in population density, the power to provide for phased development of services and facilities, the power to regulate the use of land on the basis of the impact thereof on the community or surrounding areas, and the power to otherwise plan for and regulate the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights; and

WHEREAS, pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has authorized and encouraged local governments to 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

WHEREAS, pursuant to various statutes of the State of Colorado (including 31-23-255,

Colorado Revised Statutes, as amended), the General Assembly of the State of Colorado has enacted various supervisory tools in order that the State may better monitor the planning activities of units of local governments; and

WHEREAS, pursuant to the Municipal Annexation Act of the State of Colorado, C.R.S. 3112-101 through 123, the City has the authority to annex property; and

WHEREAS, the City of Gunnison and Gunnison County entered into a Memorandum of Agreement on July 2, 1985, which identifies the location of an Urban Services Area for the purpose of providing wastewater services; and,

WHEREAS, the City and County wish to supersede the Memorandum of Agreement dated July 2, 1985, in full; and,

WHEREAS, the City and County have agreed that there shall be policies applied to the unincorporated portion of Gunnison County defined herein as the Three-Mile Area and area within the Urban Growth Boundary.

## I. DEFINITIONS

For the purpose of this Agreement, certain terms and words are hereby defined as follows:

### A. Airport Influence Area

The Airport Influence Area is defined as property where particular land uses are either influenced by, or will influence, the operation of the airport, in a positive or negative manner. Part of the Airport Influence Area is within the jurisdiction of the City and part of the Airport Influence Area is within the jurisdiction of the County.

### B. Board of Adjustment

The Gunnison County Board of Adjustment

### C. City Limits

The legally established corporate limits of the City of Gunnison, Colorado

### D. City Planning Commission

The City of Gunnison Planning Commission

### E. City Planning Staff

The staff of the City of Gunnison's Community Development Department

### F. County Planning Commission

The Gunnison County Planning Commission

### G. County Planning Staff

The staff of Gunnison County's Planning Department

### H. Hazard, Geologic

A geologic phenomenon that conflicts with construction or land use so as to constitute a

significant hazard to public health, safety, or to property, including avalanches, landslides, rockfalls, alluvial fans, talus slopes, steep, unstable, or potentially unstable slopes, Mancos shale, mudflows, and faults, as defined in the Gunnison County Land Use Resolution, as amended.

#### I. Individual Sewage Disposal System (ISDS)

An absorption system of any size or flow, or a system or facility for collecting, storing, treating, neutralizing, stabilizing, or disposing of sewage that is not a part of, or connected to, a wastewater treatment system, as defined in the Gunnison County Land Use Resolution, as amended.

#### J. Major Impact

A growth impact defined as "major" in the Gunnison County Land Use Resolution, as amended.

#### K. Minor Impact

A growth impact defined as "minor" in the Gunnison County Land Use Resolution, as amended.

#### L. Non-Urban Land Uses

Development that conforms to the standards of the Rural Residential and Low-Density Residential land use categories, as described in the City of Gunnison Three Mile Plan, as amended.

#### M. Agricultural Lands

Agricultural lands mean any lands primarily in agricultural use as defined in the Gunnison County Land Use Resolution, as amended.

#### N. Proposed Development Applications

As related to applications filed with the County with respect to proposed development within the unincorporated areas of the County, this term shall include proposed developments within the unincorporated areas of the County which are classified as minor or major impact. This term shall not include requests for variances which are subject to review by the Board of Adjustment. As related to applications filed with the City, this term shall include all annexation petitions, initial zoning requests and all submissions requiring a development permit in connection with a petition for annexation.

#### O. Technical Review Committee (TRC)

The Technical Review Committee is comprised of various members of the City and County Planning Staffs and representatives of appropriate and relevant review agencies. The composition of the Committee shall be identified by City and County Staffs and shall be determined, on an application-specific basis, by considering the Proposed Development Application under review. The recommendations of the TRC are advisory only and not binding on the parties to this Agreement.

#### P. Three--Mile Area

The area within three miles of the municipal boundaries of the City of Gunnison, as depicted on the map entitled "Three Mile Plan and Urban Growth Boundary Map," dated 6/2/00, in the City of Gunnison Three Mile Plan, as amended.

#### Q. Three Mile Plan

The municipal planning area plan conducted and adopted by the City of Gunnison pursuant to C.R.S. 31-12-105(1)(e) for the purposes of planning for growth and land use within a defined Three Mile Area of the City Limits of the City, as it may be amended.

#### R. Urban Development

Development that conforms to the standards of the Moderate and High Density Residential, Commercial Industrial or Tourist Accommodations land use categories, as described in the City of Gunnison Three Mile Plan.

#### S. Urban Growth Boundary

The boundary indicated on the map entitled "Three Mile Plan and Urban Growth Boundary Map," dated 6/2/00, in the City of Gunnison Three Mile Plan, or subsequent maps as amended during the annual review process.

#### T. Viewshed

An area of particularly significant visual value as defined in the Gunnison County Land Use Resolution.

### II. POLICIES

The City of Gunnison Three Mile Plan establishes the following policies for intergovernmental coordination between the City of Gunnison and Gunnison County that are hereby incorporated into this Agreement.

#### A. Joint Review Process

The City and County shall establish a process for City and County review of Proposed Development Applications within the Three-Mile Area.

#### B. Locational Standards

The County shall adopt locational standards within the Urban Growth Boundary to direct planned urban development to suitable lands within this area and to limit new development outside of the Urban Growth Boundary to non-urban land uses.

#### C. Utility Extension and Service Policies

The City and County shall require planned urban development to connect to public utility systems and should not provide, or assume the operation of, these services in areas designated as rural or low density residential. The City and County shall only provide public utilities to lands within the Urban Growth Boundary that are designated in the Three Mile Plan as being suitable for urban development, or when the extension is necessary to resolve water quality problems. When such situations occur, properties adjacent to the sewer interceptor will be required to connect either during the time of construction or when failure of ISDS systems occurs. This decision will be made during the project development stage.

#### D. Future Urbanizing Standards

The County shall adopt "future urbanizing standards" that require development within the Urban Growth Boundary to be consistent with City improvement and design standards or to assure the development is capable of being upgraded to meet such standards.

#### E. Annexation

The City shall consider the annexation of parcels of land only when the land is capable of being annexed and located within the Urban Growth Boundary. The City shall ensure that development proposed in annexed areas is compatible with existing land uses in adjacent unincorporated areas.

#### F. Airport Influence Area

The City and County shall work cooperatively to expeditiously establish an Airport Influence Area, and adopt airport overlay zoning regulations which are consistent with regulations of the Federal Aviation Administration (FAA). The City and County shall work to establish a process for joint City and County Planning Commission review of Proposed Development Applications within the Airport Influence Area.

WHEREAS, in order to effectuate the policies agreed upon by the County and the City, it is appropriate that an Intergovernmental Agreement be entered into.

### III. AGREEMENTS

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

#### A. Three Mile Plan

The Board of County Commissioners adopts and approves the City of Gunnison Three Mile Plan, dated December 1997, and the Urban Growth Boundary Map, dated June 2, 2000, as amended.

#### B. Joint Review Process

1. The City and County shall establish a process for joint City and County Planning Commission review of projects within the Three-Mile Area This joint process shall require the following:

##### a. Technical Review Committee

A Technical Review Committee (TRC) shall be created to jointly review Proposed Development Applications upon request by either the City or the County.

b. Proposed Development Applications to the County for Land within the Urban Growth Boundary. but Outside the City Limits (1) Upon receipt of a completed Proposed Development Application for land located within the Three-Mile Area, County Planning Staff shall forward a copy of the application to City Planning Staff and shall advise City Planning Staff of the dates on which the application will be heard by the County Planning Commission and/or the Board of County Commissioners as applicable. The County shall provide the City Planning Staff with a copy of the complete submittal package at least thirty (30) days prior to the initial action on the application so as to permit adequate time for the City to provide comments. The City shall provide any comments it may have concerning the Proposed Development Application, in writing, to the County Planning Staff at least 5 days prior to the first scheduled hearing on the application before the Planning Commission or Board of County Commissioners as the case may be.

(2) In the event that a potential applicant requests a pre-application meeting with the County Planning Staff, the County Planning Staff shall advise the City Planning Staff of the request and, subject to the agreement of the potential applicant, the City Planning Staff shall be entitled to

send a representative to the meeting; provided, however that this provision shall not apply to minor, unscheduled visits by a potential applicant. If the applicant does not agree to the joint pre-application meeting, a separate pre-application meeting with the City Planning Staff may be required.

(3) The forwarding of the Proposed Development Application and notification of hearing dates will be provided in accordance with the foregoing provision and shall constitute a referral of the application for discretionary and advisory review and comment to the City Planning Staff, the City Planning Commission and/or the City Council. The decision as to whether to review the Proposed Development Application and whether it shall be reviewed by the City Planning Staff, the City Planning Commission, or the City Council, or some or all of those groups, shall be at the discretion of the City; provided however that all Major Impact Proposed Development Applications shall be reviewed by the TRC. Unless otherwise agreed to by the applicant and the County, the applicant shall not be required to attend any additional meetings or hearings as part of such review.

(4) The City and County shall each have sole responsibility for providing such notice of any hearing or meeting of its government administration as may be required by law. The City shall provide any comments it may have concerning the Proposed Development Application, in writing, to the County Planning Staff at least 10 days prior to the first scheduled hearing on the Application before the County Planning Commission or Board of County Commissioners as the case may be. In the case of Proposed Development Applications classified as Major Impact projects, joint meetings between the City and County Planning Commissions will be held where practical.

(5) Any deadline established above relating to the provision of information or comments may be extended by mutual agreement of the City and County Planning Staffs, but the dates and times of hearings shall only be extended as permitted by applicable law and regulation.

c. Proposed Development Applications to the County for Land within the Three Mile Plan Boundary, but Outside the Urban Growth Boundary.

(1) Upon receipt of a completed Proposed Development Application for land classified as either a Minor or Major Impact application within the Three Mile Plan Boundary, but outside the Urban Growth Boundary, the County Planning Staff shall forward a copy of the application to City Planning Staff and shall advise City Planning Staff of the dates on which the application will be heard by the County Planning Commission and/or the Board of County Commissioners as applicable. The County shall provide the City Planning Staff with a copy of the complete submittal package at least thirty (30) days prior to the initial action on the application so as to permit adequate time for the City to provide comments as permitted below.

(2) The City Planning Staff may review and comment on all Proposed Development Applications within the Three Mile Plan Boundary, and outside of the Urban Growth Boundary.

(3) The City Planning Staff may refer applications not in accordance with the adopted Three Mile Plan to the City Planning Commission. Those applications may be reviewed by the City Planning Commission in a public hearing for which notice in a newspaper of general circulation shall be posted at least five (5) days prior to the hearing date.

(4) The TRC maybe asked to review any project within this area at the discretion of the either the City or County Planning Staff.

(5) The City and County shall each have sole responsibility for providing such notice of any hearing or meeting of its government administration as may be required by law. The City shall provide any comments it may have concerning the Proposed Development Application, in writing, to the County Planning Staff at least ten (10) days prior to the first scheduled hearing on the Application before the County Planning Commission or Board of County Commissioners as the case may be.

(6) Any deadline established above relating to the provision of information or comments may be extended by mutual agreement of the City and County Planning Staffs, but the dates and times of hearings shall only be extended as permitted by applicable law and regulation.

#### d. Final Authority

After review of Proposed Development Applications by the City Planning Commission and the recommendation for approval, approval with conditions, or disapproval is forwarded to the County Planning Commission, final authority regarding approval or disapproval of Proposed Development Applications is vested in the Board of County Commissioners or as it determines. Should the Board of County Commissioners take action on a Proposed Development Application which is contrary to the City's recommendations, then it shall provide the reasons for doing so in writing to the City Council within twenty (20) days following such action.

2. The County shall recommend, on any major growth impact development proposed on land that is eligible for annexation to the City, that the owner submit a petition to the City for annexation. The City shall act on this petition within a sixty (60) day time period.

#### C. Locational Standards

1. For development within the Three-Mile Area, the County shall adopt locational standards that direct planned urban development to suitable lands within the City's Urban Growth Boundary, and that limit new development outside of the Urban Growth Boundary, but within the Three Mile Plan, to non-urban land uses. The County shall timely refer a draft version of the locational standards to the City for review and comment prior to adoption by the County.

2. For purposes of this section, criteria for determining "suitable lands" shall include, but not be limited to, proximity to urban facilities, such as central water supply and sewage collection systems, paved and plowed roads, fire stations, emergency medical facilities, and transit and other alternative transportation facilities. "Suitable lands" shall not include sensitive or valued lands such as wetlands, wildlife habitat, riparian areas, agricultural lands, viewsheds, or geologic hazard areas.

#### D. Utility Extension and Service Policies

1. The City and County shall require urban development within the Urban Growth Boundary to connect to utility systems pursuant to the current Wastewater Treatment Facility Agreement between the parties.

2. The City shall continue to make infill of existing infrastructure gaps within the City Limits a high priority for capital improvements. It shall also offer service extensions as provided under current city codes and regulations to induce annexation of contiguous lands within the Urban Growth Boundary that are designated in the City of Gunnison Three Mile Plan as being suitable

for urban development.

3. The City and County shall not permit any new utility lines beyond the Urban Growth Boundary, or to land uses designated as non urban uses, unless the extension is necessary to resolve water quality problems.

#### E. Future Urbanizing Standards

1. The County shall adopt "future urbanizing standards" that require development within the Urban Growth Boundary to be consistent with City standards or to be capable of being upgraded to meet such standards. These standards will ensure there is the opportunity for facilities to be upgraded to urban standards in areas that may eventually be annexed to the City.

2. In formulating its "future urbanizing standards", the County shall consider, but not be limited to, the standards of the City's Land Development Code. The County shall, with the City, adopt an entrance overlay zone, which is consistent with the City's Entrance Overlay zone district, along U.S. Highway 50 and State Highway 135 outside the City Limits, but within the Urban Growth Boundary.

3. The County shall refer a draft version of the "future urbanizing standards" to the City for review and comment prior to adoption.

#### F. Annexation

1. The City shall consider the annexation of parcels of land only when the land is contiguous to the City Limits and located within the Urban Growth Boundary.

2. The County hereby waives the requirement that the City prepare an annexation impact report for any proposed annexation that is within the Urban Growth Boundary, as required by C.R.S. 31-12-108.5, and is consistent with the adopted Three Mile Plan.

3. The County shall recommend that any applicant proposing a major impact development within the Urban Growth Boundary on property that is not eligible for annexation enter into an agreement stating that the property will be voluntarily offered for annexation at such time as it becomes contiguous to the City, and is otherwise eligible to be annexed.

### IV. DISPUTE RESOLUTION

The parties to this Agreement have attempted to anticipate future circumstances that may have an effect upon the rights and obligations of the parties pursuant to this Agreement. Despite the best efforts of the parties to anticipate such future circumstances, the parties agree there must be a method and process to resolve any future disputes that may arise as a result of changes in circumstances arising after the date of approval and execution of this Agreement. Should either party to this Agreement feel that a modification to this Agreement is necessary due to a change in circumstances arising after the date of approval and execution of this Agreement, said party shall invoke the following dispute resolution process:

A. A meeting shall be held promptly between the parties to attempt, in good faith, to negotiate a resolution of the dispute.

B. If, within sixty (60) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, then the termination provisions of the Agreement will be followed.



#### V. AMENDMENT

This Agreement may be amended from time-to-time, subject to the approval of both the City and the County.

#### VI. TERM

This Agreement shall remain in force and effect for a period of one year from the date of its execution. Thereafter, it shall be automatically renewed for additional one-year terms unless at least ninety (90) days prior to its scheduled expiration, either party should notify the other party of its decision that the Agreement not be renewed. Such notification shall be sent by certified letter, with a return receipt requested.

#### VII. TERMINATION

In the event either party makes unilateral changes to regulations or practices that materially change the intent of this Agreement, then the aggrieved party shall have the option of terminating this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this day and year first above written.

COUNTY OF GUNNISON, STATE OF CITY OF GUNNISON,  
COLORADO, By and Through Its BOARD A Colorado Municipal Corporation  
OF COUNTY\_ COMMISSIONERS