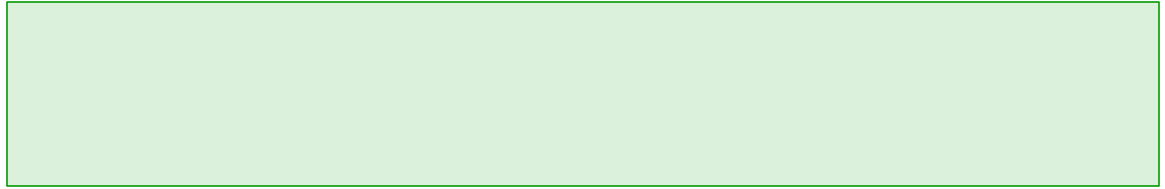


Planning for Growth

Intergovernmental Agreements in Colorado

Colorado Office of Smart Growth





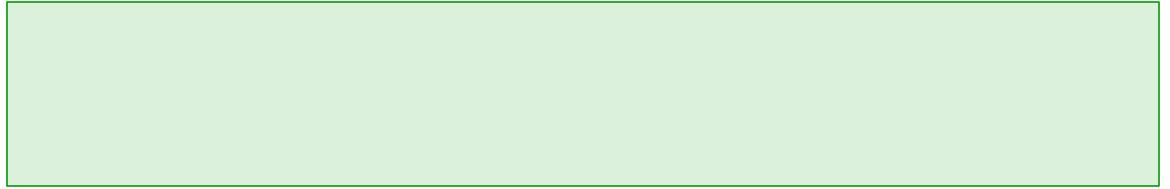
The Office of Smart Growth is indebted
to Abby Janusz for developing this handbook.
We would also like to acknowledge the
contributions of Guy Moussalli.

Edited by the Office of Smart Growth,
Colorado Department of Local Affairs.

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Introduction

Intergovernmental agreements, commonly referred to as IGAs, are contracts between government bodies. They describe relationships, define authority, and seek to achieve efficiencies through mutual cooperation. While these agreements can be used for many different purposes, this handbook will focus on only those used to address land use and growth management goals.

Authority

The use of IGAs is contemplated by the Colorado Constitution:

Nothing in this constitution shall be construed to prohibit the state or any of its political subdivisions from cooperating or contracting with one another or with the government of the United States to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt (Article XIV, Section 18(2)(a)).

Local governments are expressly given the authority to cooperate with each other through IGAs in the Local Government Land Use Control Enabling Act which reads, in part:

Local governments are authorized and encouraged to cooperate or contract with other units of government... for the purposes of planning or regulating the development of land including, but not limited to, the joint exercise of planning, zoning, subdividing, building, and related regulations. (CRS 29-20-105(1)) and,

Without limiting the ability of local governments to cooperate or contract with each other... local governments may provide through intergovernmental agreements for the joint adoption by the governing bodies, after notice and hearing, of mutually binding and enforceable comprehensive development plans for areas within their jurisdictions (CRS 29-20-105(2)(a)).

Local governments typically enter into IGAs to solve problems of mutual concern. IGAs can cover a variety of topics including:

- Joint comprehensive plans;
- Shared development review in specified areas;
- Shared facilities such as playgrounds, recreation, open space, and maintenance facilities;

Authority for local governments to use IGAs

Colorado Constitution:
Article XIV, Section 18(2)(a)

Colorado Statutes:
Section 29-20-105(1) and 105(2)(a)

Introduction

- Operation of joint departments such as transit, police, and fire;
- Revenue sharing;
- Uniform development standards;
- Three-mile plans and annexation policies;
- Service delivery and maintenance functions such as utilities, emergency first responder, health facilities, and
- Urban growth boundaries.

In a 2004 local government land use planning survey, 67% of Colorado counties reported using IGAs, up from 46% in a similar 1992 survey.

In 1992, 25% of Colorado's municipalities had adopted a land use IGA. By 2004, that percentage more than doubled, reaching 57%.

Find survey results on the Office of Smart Growth website at www.dola.state.co.us/smartgrowth.

IGAs for Growth Management

Growth management can be defined as any formal strategy that seeks to plan for or respond to growth in an area. This handbook focuses on IGAs that are used as a tool to implement growth management strategies. Colorado local governments span the spectrum of sizes, densities, and rates of growth. In addition, local governments put great importance on preserving local control.

IGAs are an effective tool because they allow local governments to choose their own outcomes. They allow flexibility with respect to how local governments define and manage growth.

For some communities, implementing an urban growth boundary might not be politically feasible, but delineating the sewer service area might be more tenable – even if they have a similar effect on growth. Some local governments have no need for growth management. In fact, they may be doing everything in their power to attract growth.

Getting Started

One of the most difficult aspects of developing an IGA is getting started. Sometimes a few tips and samples are enough to help a community begin the process. This handbook is not a lengthy, comprehensive guide to creating IGAs. Rather, this document is designed for the diligent planner, the busy county attorney, the inquisitive intern, the harried city manager, or the ambitious planning commissioner looking for a sampling of innovative IGAs in Colorado.

Each IGA highlighted here includes a description of the purpose of creating the IGA, a summary of the agreement, and commentary on what makes it unique.

Introduction

In addition to synopses of the IGAs, the reader will find insights and tips from public officials and staff who have implemented IGAs dealing with land use and growth management. The summaries are designed to help the reader quickly sort through the different samples to find what is needed. The full agreements are also made available for download from the Office of Smart Growth's (OSG) webpage (see below). This handbook highlights only a small selection of IGAs in the state that can serve as models. The OSG website contains additional examples.

www.dola.state.co.us/SmartGrowth/index.htm

The purpose of this handbook is to act as a guide and to showcase examples from across the state where IGAs have been an effective tool for managing growth and instituting better land use practices. Local governments large and small, urban and rural have entered into IGAs to manage growth through a number of mechanisms. Joint planning, urban growth boundaries, revenue sharing and more are explored here.

Intergovernmental agreements offer local governments opportunities to collaborate, pool resources, and improve the provision of services to citizens.

-Lee Merkel, DOLA
Field Manager and
former city
manager

Lessons Learned

Small Steps

Intergovernmental agreements can be intimidating. They may involve relinquishing some level of self-determination—an uncomfortable feeling for elected officials and staff alike. IGAs are often made between neighboring local governments that have historically competed for employment centers, tax-revenue generators, highway interchanges, or real estate. IGAs don't have to be cutting-edge to be effective. Even the small step of beginning to work toward an agreement is positive, because it can begin to establish a more cooperative atmosphere. In the words of one planning director, "the best thing that has come out of this process is reopening of the lines of communication between the county and municipalities."

While some IGAs may not seem to *do* anything, they may nonetheless be an important baby step for future agreements. An IGA focused on cooperation, coordination, and common future goals may lead to IGAs that provide cost-effective service to citizens, achieve visionary goals, and manage growth in the region in a more efficient way. Each step, no matter how small, shows progression toward cooperative planning.

Growing a Shared Vision

A few planners interviewed for this handbook described the difficulty of reaching an acceptable agreement. Some discussions never get off the ground because the parties to the agreement never agree on the level of growth that will be acceptable to the community. In other cases, agreements were forged, only to be dissolved later because of changing community conditions such as economic growth or decline, new political philosophies, or changes in the natural environment. It is important to stick with it and continue to seek common ground; there is usually something on which two entities can agree. Build broad community support for the goals and values of the community.

No Time like the Present

One planning director described the growth pressure on his jurisdiction and how the IGA had been very effective at achieving its intended goals. He went on to state that the IGA would probably not have been finalized if they waited until there was a serious growth problem because pressure from the development community would have been too great on the decision makers. The lesson is to take advantage of any early opportunity to build consensus and trust.

The great potential of intergovernmental agreements is the ability to establish a shared vision for the future. The Super IGA sets a vision for preserving our quality of life and making sure that we maintain the individual identity of each of our communities.

-Ron Stewart,
former Boulder
County
Commissioner

Lessons Learned

Power Struggles

IGAs often occur between local governments with rivalrous relationships. Some elected officials and employees may forget that all local governments are working toward a common goal: promoting and protecting the health, safety and welfare of the people. Everyone is working toward what they feel is best for their own community. All jurisdictions enter into intergovernmental agreements out of self interest. With some give and take, agreements can be drafted that tackle common goals and still protect each party's most fundamental values and concerns.

Enforceability and Writing the Agreement

Land use regulation is an exercise of the police power¹, which local governments cannot delegate.² Some IGAs, however, are developed to allow the sharing of decision-making authority. For example, a city and a county may agree on an urban growth area with city standards applying within the growth area (but outside the city limits). One could question whether the county is improperly delegating or contracting away its police power.

Case law exists that explores the limits of the delegation of police power, but not in the context of IGAs, rather in contracts between governments and private entities.³ Local governments that have carefully constructed their agreements need not worry about this issue.⁴ Colorado's Land Use Control Enabling Act, as mentioned earlier, allows local governments to jointly plan and regulate land use. It specifically states, "local governments may provide through intergovernmental agreements for the joint adoption by the governing bodies, after notice and hearing, of mutually binding and enforceable comprehensive development plans for areas within their jurisdictions (CRS 29-20-105(2)(a)). In addition to this clear authority in state law, the Colorado Supreme Court has held that governments can cooperate on joint projects and that this cooperation does not constitute an unlawful delegation of power."⁵

Those communities that adopt urban growth area IGAs may want to consider doing so within the authority specified in the Land Use Control Enabling Act, by defining comprehensive development plans (CDPs).⁶ The Act states that these CDPs, adopted within intergovernmental agreements, are "mutually binding and enforceable."

It is important to note, however, that IGAs often attempt to bind the parties to a particular manner of exercising legislative power. The Colorado Supreme Court

The state legislature seems to view the sharing of regulatory authority as an important means of intergovernmental cooperation in this area and a lawful exercise of police power, rather than a bargaining away of that power.

-Stephen J. Roy,
"Cooperative Management of Urban Growth Areas Through IGAs," *The Colorado Lawyer*, Nov. 2000, Vol. 29, No. 10

Lessons Learned

has ruled that “a city council, in the exercise of its legislative power, cannot enter into a contract which will bind succeeding city councils and thereby deprive them of the unrestricted exercise of their legislative power.”⁷ This decision can cause one to question whether or not a future council or board could simply decide not to follow the agreement.

To resolve this conflict, all parties to an IGA are encouraged to develop mutually acceptable consequences for breaking the agreement. This approach allows governing boards to exercise their legislative discretion but not without previously-agreed upon consequences. As long as the agreement is properly authorized and executed,⁸ the enforceability remedies do not restrict the legislative power of the governing bodies (and the remedies do not otherwise violate the law or public policy), the agreement should be enforceable.

Some local governments elect to use methods of dispute resolution such as arbitration in their IGAs. As long as the arbitrator is limited to interpreting and applying the specific provisions of the agreement, they are acting in a judicial capacity and thus the issue of delegating legislative power is not applicable. If the arbitrator’s role is to resolve policy disputes, they act in a legislative capacity. This arrangement can still work, but certain conditions must be met to ensure political accountability.⁹

Another concern for implementation and enforceability is the role of TABOR in agreements that promise the spending of funds over time (e.g., for constructing improvements in a certain area). TABOR requires that multiple fiscal year financial obligations be either submitted to a vote of the people or that adequate cash reserves must be pledged to fund the obligation. However, certain kinds of financial obligations will not fall within these requirements if they are made subject to an annual appropriation.

It goes without saying that the legal issues bound up in the IGA process are complex. All IGAs should be carefully reviewed by your local government attorney.

Implementing the Agreement

Like any other policy document, IGAs are only as effective as the regulations and programs that implement them. In this case, an IGA goes beyond a policy document in that the parties to the agreement sign a contract binding them to implementation. In the end, the shared vision and policies in the IGA will only be realized if the communities adopt new regulations, policies and programs consistent with the agreement.

The overall level of planning expertise and regional cooperation in Colorado continues to increase. More and more communities are adopting comprehensive plans and utilizing IGAs to establish collaborative, regional approaches to growth management.

-2004 Colorado Local Government Land Use and Planning Survey

Steps & Tips for Successful IGAs

Steps

1. First define the problem(s) and issues.
2. Determine the subject area(s) where the potential for mutual agreement exists. Some IGAs obligate the parties simply to jointly fund the hiring of a planning consultant; others exact binding waivers of the right to challenge annexations.
3. Determine the relevant governmental units and seek broad participation. Elected officials must be included because their cooperation is needed to adopt and enforce the IGA.
4. Design and implement a process for public participation, including the media. Lack of public support can undermine an agreement at the implementation stage.
5. Seek preliminary consensus first. A basic “agreement to agree,” or interim policy IGA, can serve as a building block for a more comprehensive IGA.
6. Avoid concerns associated with attempts to bind successive governing bodies; include an expiration or termination date, automatic renewals or review periods, or the option to make exemptions or create variances.¹⁰
7. Keep it moving. Once the parties come to the table, select and agree to some baseline matters. If negotiations are allowed to drag on, interim on-the-ground changes may defeat any consensus previously gained.
8. Include a mechanism to revisit the agreement over time. Keep track of problems so that improvements can be made in future years.

By adopting the plan through an intergovernmental agreement, both the city and county gained better control over urban development and service provision, while accomplishing many other conservation objectives.

-Peter Pollock,
“Controlling Sprawl
in Boulder:
Benefits and
Pitfalls,” *Land
Lines*, January
1998, Vol 10, No. 1

Taken from the Colorado Department of Local Affairs. Colorado Heritage Report: Best Practices in Intergovernmental Agreements. Pg 42-43. (December 1999).

Steps & Tips for Successful IGAs

Tips

The effects of land use policies do not end at jurisdictional boundaries. Shared land use visions, as implemented through intergovernmental agreements and joint land use review boards, are absolutely essential to good land use planning. It all represents the collaboration and cooperation between local governments that our citizens truly expect.

-Greg Clifton, Town Manager,
Ridgway; City Attorney, Ouray

- ◇ IGAs must be voluntary and consensual to be effective. Regional power-houses should be wary of exercising political muscle to force an agreement.
- ◇ Key components of an IGA should include:
 - The defined function of the IGA and the policy rationale supporting it;
 - The implementation and fiscal obligations, and administrative responsibilities, assumed by each jurisdiction;
 - A method of review, evaluation, update, and arbitration or mediation for resolving contract interpretation disputes. The agreement must “set forth fully the purposes, powers, rights, obligations, and the responsibilities, financial and otherwise, of the contracting parties” (CRS 29-1-203).
- ◇ Municipalities and counties should view master (comprehensive) plans as key visions and policy guidelines for future growth and development. Frequent updating of plans provides a process and forum to explore potential cooperative planning efforts.
- ◇ The agreement is only as good as the policies and regulations that implement it. Agreements should be developed with this in mind.

Taken from the Colorado Department of Local Affairs. [Colorado Heritage Report: Best Practices in Intergovernmental Agreements](#). Pg 42-43. (December 1999).

Frequently Asked Questions

Q: What is an IGA?

A: IGAs are contracts between local governments. They describe relationships, define authority, and seek to achieve efficiencies through mutual cooperation.

Q: Is there statutory authority to enter into intergovernmental agreements?

A: Yes. Statutory authority can be found in CRS 29-20-105 through 107 and 29-1-203 . Constitutional authority can be found in Article XIV, Section 18 (2)(a) of the Colorado Constitution.

Q: How long do IGAs last?

A: IGA terms vary. In general, the agreement should be tailored to meet the unique circumstances of the communities. Many agreements are valid for a certain time period and include a renewal provision, an amendment process, and a termination process. For example, an agreement may be effective for one-year before termination or amendment; following the first year, the agreement may be terminated by either party with 180 days written notice. The philosophies of local governments evolve over time, so amendment and termination language is important to increase the comfort level of elected leaders and communities in general.

Q: Are IGAs enforceable?

A: Yes. IGAs are contracts between local governments, and the general rights and responsibilities remain in effect. “Each governing body that is a party to an intergovernmental agreement adopting a comprehensive development plan shall have standing in district court to enforce the terms of the agreement and the plan, including specific performance and injunctive relief.” (CRS 29-20-105(g)) Most IGAs specify mechanisms and remedies for enforcement and may also include dispute resolution processes.

Q: Must future commissions or councils adhere to the terms in the IGA?

A: IGAs, like any contract, can carry over to future boards.¹¹ If future boards were not bound by contracts, private companies might be wary of entering into contracts with local governments. Drafting the agreement to allow for amendments, revisions or even for breaching the agreement (i.e., with mutually-agreeable consequences) maintains current and future boards’

Intergovernmental agreements have been adopted for many sub-regions. These agreements contain more detailed information about future land use proposals than the Comprehensive Plan. In cases where an IGA and the Comprehensive Plan are contradictory, the IGA shall prevail because it is a legal contract whereas the Plan is advisory in nature.

-Boulder Valley
Comprehensive
Plan

Frequently Asked Questions

ability to exercise legislative discretion, which is key to making the IGA enforceable.

In addition, many agreements include provisions for amending IGAs simply through a mutually agreeable written amendment. This gives future boards the ability to amend or terminate an agreement that is contrary to changing public policy while favoring the continuation of the IGA .

In order to best manage this future development, the IGAs will include specific land use plans and will establish specific development standards which will be developed for and implemented... by Windsor working cooperatively with each of the respective counties.

*-Windsor
Comprehensive
Plan*

Q: What is an urban growth boundary?

A: Generally, it is the area where urban development can and should occur. “Urban” is a relative term, but it includes development that is not rural in nature. In urban areas, services such as sanitary sewer, potable water, snowplowing, emergency rescue, and other services are available. The City of Gunnison defines an urban growth area as “an area in which urban growth is encouraged and outside of which growth can occur only if it is not urban in nature.”

Q: What is the difference between an urban growth boundary and an urban service area?

A: It varies. For some communities, these terms are interchangeable. An urban service area implies municipal services such as potable water and sanitary sewer will be provided for future growth within the boundary. Some communities may draw two boundaries, often called tiers. The first boundary or tier may show where services are ready to be extended currently, while the second or outside boundary or tier may show the next logical area where the municipality may want to extend growth.

Q: What is a three-mile plan?

A: The required three-mile plan is a long range planning opportunity for municipalities to consider where they want to annex, within three miles of incorporated municipal boundaries, how they will provide service in the newly annexed areas, and how they will sustain adequate levels of service throughout the rest of the municipality. The municipality may designate portions of the three mile area as areas in which the municipality is not interested in annexing. See CRS 31-12-105 (e) for statutory requirements.

Frequently Asked Questions

Q: How can we create an IGA when we have such different growth management philosophies?

A: No IGA is going to be a panacea for divergent attitudes toward growth. Simply going through the process of creating an IGA, if done carefully, can improve the lines of communication between the parties. Once the parties get to know each other and build relationships and trust, it becomes easier to understand each others' issues and concerns. Try to find some common ground and remember—small steps are better than no steps.

Q: Who can I call for help?

A: You can call your DOLA Field Manager. Go to <http://www.dola.state.co.us/fs/index.htm> to find an interactive map of the state. It will direct you to the field representative for your area. Your municipal or county attorney will be able to help you get started in creating a meaningful IGA to address issues in your area. Colorado Counties, Inc and the Colorado Municipal League may be a good resource for you as well. Visit the Office of Smart Growth website, too, for more resource ideas. www.dola.state.co.us/smartgrowth

Conclusion

As varied as any other local government planning tool - from the most innocuous to the most restrictive – intergovernmental agreements represent the very best in local government innovation and regional cooperation. These agreements are contracts entered into voluntarily by communities working toward mutual goals and a shared vision. IGAs address regional problems more effectively than any one jurisdiction can achieve on its own, and they create a level of efficiency that saves tax dollars and improves levels of service and the quality of life for all residents. They may also provide a level of predictability for the development community.

The impacts of growth do not respect political boundaries. Growth impacts include traffic congestion, affordable housing shortages, school siting issues, poor air and water quality, social service limitations, infrastructure inefficiencies, and much more. Intergovernmental agreements help communities work cooperatively to solve regional problems in ways a single jurisdiction cannot achieve alone. Issues such as affordable housing or transportation, for example, must be addressed by all the stakeholders in a region to be effective. IGAs work to institute cooperative planning goals into contract form, helping communities stick to the policies they worked hard to adopt.

Local governments strive to provide residents with effective and efficient services, providing the highest level of service for the most efficient use of tax dollars. There are many ways IGAs increase efficient delivery of local government services. Agreeing which areas will most efficiently accommodate urban development, and specifying areas that are off limits for utility service allows local governments to focus their budget and operations in the existing service area. Local governments can agree which services one will provide and which services another will provide. They can also agree to direct growth to certain areas and then share the revenue that comes from that directed development. Revenue sharing reduces the pressure municipalities may feel to compete with their neighbors to attract retail businesses, often with expensive incentives or financing schemes.

It has been a fairly common practice for some developers to shop various local governments in an area for the best tax incentive deal they can get. This practice, in effect, puts counties and municipalities in competition for desired development, such as commercial uses that promise to bring in significant sales tax revenue. Some communities have agreed to guide growth to areas where that

The overall level of planning expertise and regional cooperation in Colorado continues to increase. More and more communities are adopting comprehensive plans and utilizing IGAs to establish collaborative, regional approaches to growth management.

-2004 Colorado Local Government Land Use and Planning Survey

Conclusion

Our IGA has fostered an environment of trust and mutual respect which is the foundation of the strong working relationship that has grown over the last couple of years.

-Michael Warren,
Mesa County Long
Range Planner

growth makes the most sense (i.e., where it can most effectively be serviced by infrastructure without lowering current levels of service), and they implement this policy through an IGA. In the case of an IGA that delineates a growth area between a county and a municipality, there is more predictability for property owners as to which areas will urbanize first and which areas will remain rural. In the case of an IGA that specifies an area for certain commercial uses within and/or between two municipalities, it is clear to developers where the area as a whole will accept that type of development.

Intergovernmental agreements are as different as the communities that develop them, each establishing politically-acceptable approaches to managing growth. IGAs help communities work together to achieve a mutual understanding and a shared vision of the future.

Colorado IGAs

Urban Growth Boundaries

Urban Growth Boundaries

Urban growth boundaries are areas identified through public policy as appropriate areas to experience increased population and land use intensity in the future. A number of Colorado communities have established urban growth boundaries. Some municipal boundaries are self-determined as a matter of policy, some boundaries are determined through an IGA with the county, and some IGAs achieve agreed-upon boundaries between the county and a few municipalities. Two IGAs that define urban growth boundaries are highlighted here. Boulder County entered into separate agreements with its municipalities which are then brought together in the “Super IGA.” Ouray County chose to enter into separate but similar agreements with both of its municipalities.

Title: *Boulder County Countywide Coordinated Comprehensive Development Plan Intergovernmental Agreement, or the “Super IGA”*

Parties: Boulder County and the municipalities of Boulder, Erie, Jamestown, Lafayette, Longmont, Louisville, Lyons, Nederland, and Superior

Date: October 2003

Why IGA? This agreement is one of the most comprehensive found in Colorado in terms of its scope. Nine out of 10 municipalities as well as the county have signed this agreement which establishes “the planning relationship between the 10 parties in identifying what lands will likely be annexed/urbanized and which will remain largely rural under county jurisdiction.”¹² The reason the IGA is “super” is that it pulls together ten previously approved IGAs already in place. Additional responsibilities are established in the Super IGA as well.

Summary: At the heart of the underlying agreements is the concept of municipal influence areas along with a map designating their locations. These municipal influence areas are designated planning areas outside the incorporated bounds of the municipality where land can be annexed and developed at urban densities. This is the primary mechanism that creates the urban growth boundary. Outside the municipal influence areas the county has designated most of the land as “rural preservation.” Many of these IGAs stipulate that municipalities will not annex outside of the municipal influence area and the county will not rezone these unincorporated areas

Colorado IGAs

Urban Growth Boundaries

for urban development. But each of the agreements varies slightly with respect to the treatment of the unincorporated rural preservation areas.

The Super IGA takes the underlying IGAs a step further by unifying the policy toward rural preservation. All municipalities agreed not to annex designated rural preservation areas, municipal influence areas designated for other cities, or non-designated unincorporated areas. In addition, the county agreed not to allow urban uses or densities in unincorporated areas. This has created effective urban growth boundaries for nine of the ten municipalities.

The Super IGA allows for flexibility as well. Amending an agreement when 10 parties are involved could become rather unwieldy. The Super IGA allows for matters agreed to in the underlying IGA to be amended between the parties in the underlying agreement only. For example, the municipal influence boundary could be revised by this simplified process. The agreement also alludes to issues that could be included in future IGAs including revenue sharing, affordable housing and library services. The term of the agreement is 20 years although parties have the ability to opt out after 10 years.

Both sides had to give a little. Overall the IGA has been extremely effective.

-Greg Moberg,
Planning Director,
Ouray County

Title: *Intergovernmental Agreement*
Parties: Ouray County and Town of Ridgway
Date: August 2002

Why IGA? With fewer than 4,000 residents, urban growth boundaries in Ouray County may seem like a radical measure. But local governments of all sizes are experiencing pressures from growth. The county has entered into IGAs with both the City of Ouray and the Town of Ridgway in order to direct intense commercial, industrial and residential uses to the municipalities where urban services are available. The agreements are similar, so only the one between the county and Ridgway is highlighted here. This intergovernmental agreement is straightforward and concise, yet comprehensive in its scope.

Colorado IGAs

Urban Growth Boundaries

Summary: Following the necessary legal recitals, this agreement lists clearly worded goal and purpose statements that frame the intent of the IGA. The agreement establishes an urban growth management area surrounding the town, as well as an area of influence zone outside the growth management area. The county agrees to amend its official zoning map to reflect both boundaries. The urban growth management area also acts as an annexation line and the future municipal limits for Ridgway.

[The IGA] has allowed the Town to say 'no' to annexations outside the urban growth management area with much less difficulty and steer growth in a much more effective manner.

-Greg Moberg,
Ouray County
planner

Ridgway agrees to annex and provide urban services to areas within the urban growth management area only. Unincorporated areas within the urban growth boundary shall be developed under the town's regulations. Properties within the areas of influence will be developed under the county's rules and regulations; however it will be reviewed by a joint planning commission rather than only the regular county planning commission.

The Joint Planning Board includes representatives from the Ridgway Planning Commission and the Ouray County Planning Commission. It convenes to review projects proposed outside the town but within the urban growth management area and the areas of influence. This board functions like a typical planning commission by reviewing development proposals and making recommendations to the county commission. Development of use by right is still allowed in the urban growth management area and the areas of influence without review by the Joint Planning Commission.

The agreement specifies processes for amending the urban growth boundary, the areas of influence boundary, or any portion of the IGA itself. The term of the agreement is at least five years from execution and it will be automatically renewed in five year increments unless either party notifies the other than they would like to terminate the agreement. Both parties also agree to a biennial review of the agreement to be prepared for both legislative bodies.

Colorado IGAs

Joint Land Use Planning

Joint Land Use Planning

Joint land use planning IGAs are similar to urban growth boundary IGAs in that they delineate urban areas and areas that are appropriate for urban growth. Joint planning IGAs are distinguished by their emphasis on what happens inside an urban growth area, as opposed to what will not be permitted to happen outside the boundary. In the Routt County/Steamboat Springs agreement, this planning area is bound by the “urban boundary,” while the La Plata County/Durango agreement has a “joint planning area.” The intent is similar – to ensure a predictable growth pattern.

Title: *Intergovernmental Agreement Concerning Cooperative Planning Efforts*
Parties: Routt County and City of Steamboat Springs
Date: October 15, 1996

Why IGA? The intent of the IGA between Routt County and the City of Steamboat Springs is to adequately plan for growth that is outside the city limits but within the urban growth area. Each jurisdiction has a stake – the property is unincorporated, therefore it is the county’s responsibility to plan for and review developments in the area, but both jurisdictions have determined that the entire area is destined for urban levels of development and possibly eventual annexation by the city.

Summary: This agreement has two functions: to cooperatively review development outside the city but within the urban growth area, and to develop a master plan for the “West of Steamboat Area.” The area designated for urban growth is not defined in the IGA. It was defined in the Steamboat Springs Area Community Plan and is adopted in the IGA by reference to the plan.

Development applications within the designated area can be submitted to the city or the county depending on the intention to annex. Upon receipt of a development application, both jurisdictions agree to share the applications with each other along with the proposed public hearing dates. In addition, development applications are reviewed by the Technical Advisory Committee which is comprised of staff representatives from the county and city planning departments, the regional building department, fire protection districts, and utility departments.

Colorado IGAs

Joint Land Use Planning

The parties to the IGA also agreed to cooperate in the creation of a master plan for a developing area west of Steamboat Springs. The area was unincorporated at the time of the IGA, but the county and city have planned this area for urban growth and future annexation. The West Steamboat Springs Area Plan was adopted in November 1999 and updated in 2006.

The term of the agreement is one year with automatic annual renewals unless either party gives written notice of termination.

Note: At the time of publication, this IGA was being updated.

Title: *Intergovernmental Agreement Regarding Joint Land Use Planning Between the City of Durango and La Plata County*

Parties: La Plata County and City of Durango

Date: January 2005

Why IGA? La Plata County and Durango entered into this agreement to replace three previous IGAs and two memorandums of agreement. The purpose of this new agreement is to “coordinate short term and long-range planning efforts that will guide growth in a deliberate and rational pattern” in an area designated for future urban growth, although currently unincorporated. This joint planning area has been determined based on service delivery and proximity to the current city boundaries, and is consistent with the city’s comprehensive plan.

Summary: This IGA covers a lot of ground. It delineates areas eligible for future annexation, sets up a schedule of county roads for which the city will assume responsibility, allows the county to review annexations greater than 10 acres in size, and determines responsibility and the procedure for processing development applications.

This IGA is significant partly because it divides land in the joint planning area in to three tiers. Tier 1 includes properties adjacent to the city and eligible for annexation. Tier 2 properties are not immediately eligible for annexation but are within the city’s water and/or sewer service area. Although unincorporated, properties in Tier 2 must comply with the city’s development standards. Tier 3 properties are generally eligible for

Colorado IGAs

Joint Land Use Planning

municipal water and sewer and must meet some city development standards including parking, signage, landscaping, lighting, right-of-way dedication, and design guidelines.

These tiers determine how development applications are shared and processed between the city and the county. Areas outside of the joint planning area but within three miles of the city's boundary are planned for and developed by county standards after referral to the city for review and comments. Like the Ouray County/Ridgway IGA, the agreement creates a joint planning commission comprised of members from the city and county to review development applications in Tiers 2 and 3.

There is a review of the agreement after one year with the opportunity to fine-tune the agreement as necessary. Following the one-year review, the agreement will be reviewed at least every five years to discuss any changes or updates. Either party may terminate the agreement with 180 days written notice. Upon termination, pending development applications will be processed under La Plata County standards.

Colorado IGAs

Utility Delivery

Utility Delivery

For some communities, implementing an urban growth boundary might not be politically feasible. However, delineating a sewer service area might be more tenable, and have a similar effect on growth management.

Title: *Cooperative Planning Agreement*
Parties: Mesa County, Town of Palisade, and City of Grand Junction
Date: February 9, 1998

Why IGA? This agreement seeks to manage growth through infrastructure provision. By agreeing when and where to extend or not extend services, particularly water and sanitary sewer services, the parties seek to keep urban level services out of rural areas. This IGA has been referred to as the “buffer areas” or “community separators” IGA for Mesa County. The goals of the agreement include creating distinct communities within Mesa County, managing some of the development pressure and preserving a rural environment in an urbanizing area. A similar agreement exists between Mesa County, the City of Fruita and the City of Grand Junction. The IGA is a way for the county and its cities to implement goals and policies specified in the Grand Junction Growth Plan and the Mesa Countywide Land Use Plan as well as the plans and policies of neighboring Fruita and Palisade.

Summary: The agreement identifies the geographic location where the IGA is effective. The City of Grand Junction and the Town of Palisade agree not to annex any of the cooperative planning area or extend utility service without consent of all parties. In addition, Grand Junction, Palisade, and Mesa County agree not to extend sanitary sewer to the area without consent of all parties. Because the cooperative planning area is under the jurisdiction of Mesa County, the county agrees to provide the two municipalities information on proposed development activity within the area, giving them opportunity to review and comment on the proposed development, and not rezone any properties contrary to the Countywide Plan without the consent of the municipalities.

Colorado IGAs

Utility Delivery

This IGA includes strategies for implementation including goals to:

- ◆ Establish rural land use design standards for the cooperative planning area,
- ◆ Adopt traffic and engineering standards for rural areas,
- ◆ Provide assistance for voluntary rezonings in the area that furthers the goals of the agreement,
- ◆ Seek to preserve open space and the rural character of the area,
- ◆ Establish a joint open space acquisition fund.

Parties to the IGA agree to meet every five years or as needed to review the progress of the agreement. The agreement could not be amended for at least four years.

Colorado IGAs

Annexation/Three-Mile Plans

Annexation and Three-Mile Plans

Colorado municipalities are required to plan outside their municipal bounds prior to annexation (CRS 31-12-105 (e)). These plans are known as “three-mile” plans because municipalities must plan for the area within three miles of their corporate limits. The purpose of the plan is to address potential future municipal responsibilities such as infrastructure, land use, and public spaces. Some municipalities enter into intergovernmental agreements with their counties in order to clarify the vision in the area outside the municipal boundaries but within the three-mile planning area. These agreements are similar to urban growth boundary agreements and joint planning agreements because they define a planning area and discuss responsibilities for development review.

Title: *Three-Mile Plan/Urban Growth Boundary Intergovernmental Agreement*

Parties: Gunnison County and the City of Gunnison

Date: July 3, 2001

Why IGA? Like other IGAs that concern managing future growth in the community, Gunnison County and the City of Gunnison recognize they must coordinate their efforts in order for growth management to be effective. Two issues are addressed in this agreement: three-mile plans as required by state statute and an urban growth boundary. The urban growth boundary and the three mile plan boundary are not coterminous. The urban growth boundary is smaller in order to direct growth to the existing urbanized area and those areas most appropriate for future urban development.

Summary: The agreement incorporates the city’s “Three-Mile Plan and Urban Growth Boundary Map” as the planning area for the IGA. Within the urban growth boundary, the city and county require urban development to be connected to public utility systems. In the agreement, the county agrees to adopt “future urbanizing standards” for unincorporated areas within the urban growth boundary. This requires new development to meet the city’s improvement and design standards, or be capable of upgrading to meet the standards upon annexation.

Colorado IGAs

Annexation/Three-Mile Plans

Development applications within the three-mile planning area but outside the urban growth area are received by the county and copies are forwarded to the city for review. The agreement creates a technical review committee that convenes at the request of city or county staff. This committee is comprised of city and county planning department staff and additional review agencies as appropriate. Proposed development applications are reviewed by the city planning commission and its recommendation is forwarded to the county planning commission.

The agreement requires the county to develop locational standards in order to direct urban development to suitable areas. If the annexation is consistent with the three-mile plan and is within the urban growth boundary, (1) the annexation application will be considered more favorable by the city, and (2) the county waives the city's requirement to provide an annexation impact report.

The agreement is automatically renewed in one-year terms. Either party may decide to not renew the IGA provided they notify the other party at least 90 days before the automatic renewal. This IGA includes a dispute resolution process and termination process as well.

Colorado IGAs

Transportation

Transportation

One of the most obvious impacts of growth is traffic congestion. There are several varieties of intergovernmental agreements that address transportation. Some communities have agreements to provide a unified transit service for the benefit of multiple jurisdictions. Other areas have entered into IGAs to set design standards or jointly plan for appropriate uses on major thoroughfares. The agreement highlighted here is slightly different. It seeks to address the impact of multiple jurisdictions on one county and how those local governments can work together to coordinate transportation projects within the county.

Title: *Adams County Collaborative Transportation Planning Agreement*

Parties: Adams County and the municipalities of Arvada, Bennett, Brighton, Broomfield, Commerce City, Federal Heights, Northglenn, Thornton, and Westminster

Date: October 19, 2000

Why IGA? The purpose of the IGA is succinctly described in one recital: “the coordinated efforts of all Adams County communities is necessary to implement the Adams County Transportation Plan, and to ensure an adequate transportation infrastructure to meet the needs of Adams County residents currently and for years to come.” This agreement is an example of how a few local governments have joined together in order to be in a better position to attract limited transportation improvement dollars to their communities.

Summary: This agreement is simple in design but its purpose in coordinating the efforts of these growing municipalities is no small feat. The parties agree to act in good faith to develop a prioritized countywide project list for state highway projects. The parties agree to coordinate for the Denver Regional Council of Governments. As the agency with the authority for administering Federal transportation dollars, the Denver Regional Council of Governments has tremendous authority. By joining together, the local governments in Adams County hope to increase their chances of receiving transportation dollars by providing multi-jurisdictional support for projects.

Colorado IGAs

Transportation

Coordination efforts are led by the Adams County Transportation Coordination Committee which is comprised of staff members from each local government. The committee will report its determinations to the leadership of each local government.

The term of the agreement is four years with one automatic four year renewal. Parties may choose to withdraw from the IGA with written notice at least 90 days before the renewal date.

Colorado IGAs

Revenue Sharing

Revenue Sharing

[We] didn't want businesses to pit cities against each other in competition for sales tax revenue.

Joyce Hunt,
Assistant City
Manager, City of
Thornton

It is no secret that some cities actively recruit retail commercial businesses to locate in their jurisdictions. The quest for sales tax revenue can lead to inefficient delivery of services, costly subsidies to new development, poor planning, and disgruntled citizens. A few local governments in the front range are working toward amicable resolutions through IGAs.

Title: *Interstate 25 Corridor Growth Area Intergovernmental Agreement*
Parties: City of Thornton, City of Westminster, Thornton Development Authority, and Westminster Economic Development Authority
Date: November 10, 2004

Why IGA? While this agreement is in the “revenue sharing” portion of the handbook, it covers a number of topics that help manage growth including cooperative planning, utility extensions, and annexation.

Summary: Thornton and Westminster first entered into an IGA in January 1986. The agreement focused on a specified geographic area and called for cooperation in land use planning, annexation, and revenue sharing within that area. It also determined which city would provide water and sewer service to the different areas based on topography. In May 1986, the agreement was amended to allow debt payments to be made prior to the sharing of revenues. A new IGA was approved in July 2000 that superseded the 1986 agreement. The geographic area under the agreement was modified to reflect revised annexation boundaries and certain taxes were removed from the revenue sharing calculation.

The “corridor area,” as it is called, straddles Interstate 25 in a growing section of Adams County, Colorado. The cities agreed to annex and to extend water and sewer services only on their respective sides of I-25. The corridor area was cooperatively planned for and both cities agreed to approve development consistent with their respective comprehensive plans. The corridor area is designated as a center for future commercial activity which may include multi-family residential

Colorado IGAs

Revenue Sharing

projects but is predominantly commercial in character on both sides of I-25.

The agreement states that each city will retain two-thirds of the sales tax collected in their jurisdiction of the corridor area and remit the remaining one-third to their partner in the agreement. The cities have different sales tax rates, so the agreement states they will use the same percentage to share (3.0%) and can keep additional revenues above the determined rate. In other words, each city sends 1% of the sales tax collected in the corridor to the other city. The agreement terminates on February 1, 2026.

Title: *Intergovernmental Agreement*
Parties: City of Louisville, Town of Superior
Date: July 21, 1997; amended February 15, 2005

Why IGA? Like the Thornton-Westminster revenue sharing agreement, this agreement between Louisville and Superior also recognizes that city finance decisions sometimes take priority over good planning decisions. This agreement stopped escalating annexations and competitive behavior between neighbors to achieve a friendly solution with positive results for both parties.

Summary: When Superior and Louisville entered into this agreement in 1997, some damage had to be undone. The majority of the city of Louisville was situated to the north and east of U.S. Highway 36, while the majority of the town of Superior was located to the south and west of U.S. 36. However, both municipalities had annexed across the informal dividing line. This agreement stipulates methods for both municipalities to de-annex these areas (known as the North and South areas) and then share sales tax revenues upon annexation to the other jurisdiction.

Louisville and Superior agree to split tax revenue 50/50 in the identified North and South areas. The sales tax rate at the time of the agreement was the same for both municipalities. Should one jurisdiction's sales tax increase, the shared rate would remain. If a jurisdiction's rate should decrease, the rate shared will be reduced. The agreement also stipulates how the areas should be developed. For the North area, residential uses

Colorado IGAs

Revenue Sharing

are not permitted. For the South area, residential uses were permitted on a limited basis. The 2005 amendment allowed mixed use development in the South area.

Both parties agree that U.S. 36 is the annexation boundary between the two municipalities. The agreement also provides for the joint funding and oversight of reconstruction of the interchange at U.S. 36 which allows residents and shoppers to easily enter these new retail areas.

This agreement is unique because it was approved by the city council and town board as well as the voters of both municipalities, and because it does not have a predetermined term like many IGAs. Instead, it states that the agreement shall remain in effect until terminated by mutual consent or “for the longest period of time permitted by law.”

Colorado IGAs

School Siting

School Siting

Growing areas pressure local governments in a variety of ways. Schools are acutely impacted, particularly in communities desirable to young families. Although they are a community asset, public schools are not required to be involved in the public planning process in the same way as commercial, residential or industrial developments.

Title: *Intergovernmental Agreement Concerning Land Dedications or Payments in Lieu For School Purposes*

Parties: Town of Windsor and Weld County School District RE-4

Date: August 16, 1999

Why IGA? The Town of Windsor and Weld County School District RE-4 have used an IGA as a way to define the relationship between new development and planning for new schools. This agreement is unique because it gives the school district the ability to review development applications.

Summary: The purpose of the town/school district agreement is to adequately provide for new school facilities in growing areas of Windsor. This can be done in one of two ways: a new development can set aside property for the district to build a new school, or a payment can be made proportional to the impact of a new development to the district (in-lieu payments).

The town shares applications for annexations or land development projects with the school district so the district can make recommendations to the town as to the impact of the potential development. “Land development project” is defined as the subdivision of land or a change in a previously approved subdivision that would increase the population in the development area. The school district agrees to discuss with the developer impacts of the proposed development before a formal application to the town is made. Together, the school district and developer determine whether land dedication or an in-lieu payment is the most appropriate way for managing the impacts of growth. Once the annexation or development project is formally submitted to the town, the town agrees to share the application with the school district for formal comments and recommendations. It is the town’s responsibility to assure either the land is dedicated or the in-lieu payment is made to the school—this is done at final approval of the subdivision plat or annexation.

Colorado IGAs

School Siting

Exhibit A of the agreement is a detailed table describing the method for calculating the acreage of land to be dedicated or the in-lieu payments. For the in-lieu payments, the IGA specifies where and why the payments are to be made. Payments are deposited into separate interest bearing accounts and funds are used for site acquisition, site development, and capital facilities planning for the area in which the payment was collected. If the funds are not needed within 10 years of payment, they are to be returned (with interest) to the owner of the property from which it was collected. This 10-year time period may be increased after a discussion and decision at a public hearing.

Endnotes

- 1 *Mosgrove v. Town of Federal Heights*, 543 P.2d 715 (Colo. 1975)
- 2 *Colorado Postal Telegraph Co. v. Colorado Springs* 158 P. 816 (Colo. 1916)
- 3 *Crossroads West Ltd. V. Town of Parker*, 929 P.2d 62, 65 (Colo. App. 1996). Also see “Cooperative Management of Urban Growth Areas Through IGAs,” Stephen J. Roy, *The Colorado Lawyer*, P. 85, November 2000, Vol. 29, No. 10, 1985.
- 4 “Cooperative Management of Urban Growth Areas Through IGAs,” Stephen J. Roy, *The Colorado Lawyer*, P. 86, November 2000, Vol. 29, No. 10, 1985.
- 5 *Karsh v. City & County of Denver*, 490 P.2d 936 (Colo. 1971).
- 6 “Cooperative Management of Urban Growth Areas Through IGAs,” Stephen J. Roy, *The Colorado Lawyer*, P. 85, November 2000, Vol. 29, No. 10, 1985. Also see the Land Use Control Enabling Act, CRS 29-20-105(2)(a).
- 7 *Keeling v. City of Grand Junction*, 689 P.2d 679, 680 (Colo. App. 1984); *Colorado Springs Firefighters Association Local 5 v. City of Colorado Springs*, 784 P.2d 766 (Colo. 1989). For more details in summary form, see “Cooperative Management of Urban Growth Areas Through IGAs,” Stephen J. Roy, *The Colorado Lawyer*, November 2000, Vol. 29, No. 10, 1985.
- 8 17B C.J.S., *Contracts*, “Remedy Stipulated by Contract,” § 605 (1999). For more discussion, see, “Cooperative Management of Urban Growth Areas Through IGAs,” Stephen J. Roy, *The Colorado Lawyer*, P. 86 and 88, November 2000, Vol. 29, No. 10, 1985.
- 9 *City & County Of Denver v. Denver Firefighters*, 663 P.2d 1037; *Greeley Police Union v. City Council of Greeley*, 553 P.2d 790 (Colo. 1976).
- 10 *Geralnes B.V. v. City of Greenwood Village*, Colo., 583 F. Supp. 830, (1984)
- 11 For a brief discussion of how to draft an IGA that is enforceable on future boards, see “Cooperative Management of Urban Growth Areas Through IGAs,” Stephen J. Roy, *The Colorado Lawyer*, P.86 November 2000, Vol. 29, No. 10, 1985.
- 12 Case, Dale, H. Lawrence Hoyt, and Samuel J. Light. “What’s In and What’s Out in Intergovernmental Agreements.” Rocky Mountain Land Use Institute Conference. Denver, 2004