

Proposed June 8, 2009

**Intergovernmental Agreement
for Growth Management**

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**INTERGOVERNMENTAL AGREEMENT
For Growth Management**

This Intergovernmental Agreement ("Agreement"), effective this ____ day of _____, 2009, by and between LARIMER COUNTY, COLORADO, a body politic organized under and existing by virtue of the laws of the State of Colorado, hereinafter referred to as the "County" and the TOWN OF WELLINGTON, COLORADO, a Colorado statutory town, hereinafter referred to as the "Town". The County and the Town are collectively referred to as the "Parties."

WHEREAS, the Parties have determined that it is in their mutual best interests to preserve the unique identities of communities in the northern Colorado region; and

WHEREAS, maintaining and enhancing areas of urban development in a thoughtful and deliberate way involves cooperation in land use and transportation planning, implementation of growth management policies, and the identification and preservation of open lands and natural areas; and

WHEREAS, concentrating urban development in areas designated for such development affords greater efficiency in the delivery of such services as electrical power, water, storm water, sanitary sewage disposal systems, transportation, fire and police protection and other services, and also affords a measure of predictability to landowners and residents concerning where services will, in the future, be provided and urban development will be permitted; and

WHEREAS, communication among local jurisdictions, special districts, property owners and other interested Parties is essential to accomplishing these ends; and

WHEREAS, the purposes of this Agreement are to:

- Implement the Larimer County Master Plan and Wellington Comprehensive Plan;
- Establish effective means of joint planning and management of urbanization within the unincorporated portion of Larimer County in the vicinity of the Town of Wellington;
- Establish rules for referral of development applications for consideration of annexation, for comment, and to determine development applications that will be subject to Supplementary Regulations adopted by the County for the Wellington GMA Overlay Zone;
- Assure that urban development occurs only as urban level facilities and services are able to be provided to such development;
- Assure land eligible for annexation to the Town of Wellington is annexed to the Town prior to development;
- Assure urban development that occurs in the Wellington GMA is annexed to the Town as soon as possible;

- Provide an effective means for the appropriate maintenance of public improvements intended to serve urban development;
- Discourage annexation conflicts between Wellington and other municipalities; and
- Prevent development within the jurisdiction of one party from negatively impacting infrastructure in the other Party's jurisdiction, and provide for mitigation of such impacts when they occur.

WHEREAS, pursuant to State 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; and 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 annexation of property, all in a manner consistent with constitutional rights and statutory procedures; and

WHEREAS, planning and regulation of land use within the northern Colorado region is the responsibility of individual local jurisdictions; and

WHEREAS, any provisions in this Intergovernmental Agreement may be implemented only to the extent legally permitted by State Law.

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

1.0 Definitions

As used in this Agreement, the following words and terms shall have the meanings set forth:

Annexation. Annexation means the incorporation of a land area into an existing municipality with a resulting change in the boundaries of that municipality.

Application for development/development. Any application to the County for a rezoning, special review, subdivision, planned land division, conservation development, or rural land plan for a property in the GMA .

Growth Management Area (GMA). (As defined in Section 2.1 of this Agreement)

Community Influence Area (CIA). (As defined in Section 2.2 of this Agreement.)

Growth Management Area Overlay Zone or GMA Overlay Zone. The overlay zoning district applied by Larimer County to municipal GMAs to implement the standards and requirements of Intergovernmental Agreements (Larimer County Land Use Code Chapter 4.2.1 or as amended).

Larimer County Land Use Code. The code of regulations as adopted and amended by the Larimer County Board of County Commissioners pursuant to the authority of Title 30, Article 28 of the Colorado Revised Statutes to implement the Larimer County Master Plan, as amended, and the land use regulatory authority of Larimer County, Colorado.

Larimer County Master Plan. The official policy document, and all elements, functional components or sub-area components as adopted and as it may be amended by Larimer County, Colorado, pursuant to the authority of Title 30, Article 28 of the Colorado Revised Statutes that establishes the long-range framework for decision making for the unincorporated area of the County.

Wellington Comprehensive Plan. The Town of Wellington Comprehensive Plan and all elements, functional components or sub-area components as adopted and as it may be amended by the Town, pursuant to Colorado Law including as set forth at Title 31, Article 23 and Section 31-12-105(1)(e) of the Colorado Revised Statutes, all which provide authority of the Town to make and adopt a long-range master plan for the physical development of the Town, including any areas outside its boundaries subject to the approval of the governmental body having jurisdiction thereof.

2.0 Areas Addressed in Intergovernmental Agreement

This Agreement addresses the Growth Management Area (GMA) and Community Influence Area (CIA). The Sections below describe the application of this Agreement to these areas.

2.1 Growth Management Area (GMA)

The GMA includes land that is expected by the Parties to be annexed and developed within a timeframe as anticipated by the Wellington Comprehensive Plan. For the purpose of this Agreement, the GMA boundary shall be that which is mutually agreed to by the County and the Town as shown on Exhibit 1 or as may be amended per Sections 2.3 and 2.4 of this Agreement. The GMA is that area into which urban development and annexation shall be directed and within which urban level services to support urban development will be needed. Urban level services for the GMA are anticipated to be provided by the Town, the private sector, or a special district.

2.2 Community Influence Area (CIA)

The Community Influence Area is that area beyond the GMA for which the Town has an interest in future development proposals due to the potential impact upon the Town as the result of development. The CIA may overlap the GMA and Cooperative Planning Area boundaries of other municipalities. Development applications within the CIA will be referred to the Town by the County for comment during the County's development review process as provided for under the terms of this Agreement.

2.3 Area Boundaries

2.3.1 Geographical boundaries of the GMA and CIA shall be as shown on **Exhibit 1** to this Agreement, unless modified pursuant to Sections 2.3 and 2.4 of this Agreement.

2.3.2 If the GMA Boundary, the GMA Overlay Zone or the Supplemental Regulations are amended from the form originally adopted by this Agreement the non-amending party shall be given notice of the amendment and shall submit the amendment to that party's governing board.. If the governing board fails to approve the amendment

within sixty (60) days the non-approving party shall give notice of non-approval to the amending party. If the amending party does not withdraw the amendment within ninety (90) days, the non-amending party may terminate this Agreement upon thirty (30) days notice of termination to the amending party.

2.4 Procedure for Modification of Area Boundaries

Boundaries of the GMA and CIA as shown in **Exhibit 1** may be amended, modified, and revised in the same manner as an amendment of this Agreement as provided for by Section 21.1; and as a zoning or rezoning of the GMA Overlay Zone; provided, however, that the annexation by the Town of any property within the GMA shall result in the exclusion of such annexed property from the area's boundaries without need for formal amendment of **Exhibit 1**. The Town will provide the County notice of properties that file petitions for annexation or annexation election. The Town shall, at least annually, develop and issue to the Parties a revised **Exhibit 1** in order to update and illustrate the modification of the GMA as the result of the amendment, modification, or revision of the area(s) as mutually agreed to by the Parties as an amendment to this Agreement, and as an amendment to the GMA Overlay Zone, or as the result of annexation(s) by the Town. The County will undertake to implement any agreed upon amendments to the GMA boundary as an overlay zoning district in accordance with the procedures, standards, and requirements for amendments to zoning district boundaries as provided in the Larimer County Land Use Code. Decisions regarding adoption of changes to the GMA boundary as an overlay zoning district shall be subject to the sole discretion of the County. Wellington shall provide the County Planning Department a copy of the annexation plat for all annexations within thirty (30) days of the effective date of the annexation as defined by Colorado law including §31-12-113 of the Colorado Revised Statutes.

3.0 Annexation By The Town Outside the GMA

The Town agrees that it will not annex into a growth management area, cooperative planning area, or other comparable planning area of another municipality if such area is officially recognized in an intergovernmental agreement with Larimer County, unless: (i) the Town has an intergovernmental agreement with that municipality that provides for the Town to annex into the growth management area, cooperative planning area or other comparable planning area; or (ii) the land to be annexed by the Town has been disconnected from another municipality.

4.0 Regional Coordination

4.01 The County shall use reasonable efforts to involve the Town in the development of any intergovernmental agreements with other municipalities which affect the GMA. The County shall not enter into an intergovernmental agreement with another municipality to officially recognize a growth management area or cooperative planning area or other comparable planning area of another municipality where such area encroaches into the GMA as depicted by Exhibit 1 of this Agreement. The Town will use reasonable efforts to reach intergovernmental agreements with other municipalities to such effect in order to manage conflicts concerning appropriate growth areas and municipal boundaries.

4.02 The Town will pursue intergovernmental agreements with all applicable special districts, which shall require the special districts to plan their facilities according to Wellington's adopted Comprehensive Plan.

4.03 The County shall not establish or approve any new improvement district or other form of special district within the GMA without informing the Town.

4.04 The County will encourage the location of urban development in the GMA in accordance with the Larimer County Master Plan.

5.0 Annexation of Properties within the GMA

5.0.1 The Town acknowledges that the Town's annexation of property proposed for development in the GMA that is eligible for annexation is the primary and most important consideration for the County entering into this Agreement. The phrase "eligible for annexation" shall mean any land that is eligible for annexation pursuant to the Municipal Annexation Act of the State of Colorado, §§31-12-101 through 123, C.R.S. .

5.0.2 The Town's policy is to annex as expeditiously as possible all lands eligible for annexation in the GMA at such time as an annexation petition conforming to the requirements of state law is filed, all required fees and additional or supplemental information is received from the property owner(s); and the property owner(s) and the Town reach a mutual agreement on the reasonable conditions and terms of the annexation.

5.0.3 The Town's policy is to annex all enclaves (meeting the definition of an enclave eligible for involuntary annexation in C.R.S. §31-12-106), whether proposed for development or not, as expeditiously as possible. In the case of an enclave, the Town will consider annexation at such time that an annexation petition conforming to the requirements of state law, and all required fees and additional or supplemental information is received from the property owner(s) and, where deemed appropriate by the Town, the property owner(s) and the Town reach a mutual agreement on reasonable conditions and terms of the annexation. If such an annexation petition is not received, the Town shall commence the process for the involuntary annexation of such enclave within a reasonable time after the enclave is eligible for involuntary annexation in accordance with state law. including § 31-12-106, C.R.S. Notwithstanding the foregoing, any decision to annex an enclave shall be within the sole discretion of the Town Board.

5.0.4 For properties subject to a signed agreement to annex with a power of attorney in favor of the Town, the Town shall be the applicant and shall prepare and file the annexation petition. Decisions regarding annexations shall, however, be subject to the sole discretion of the Town Board.

5.0.5 Except as provided in Sec. 6 of this Agreement, the County agrees it will not accept any application for development for a property in the GMA, and will instead require the owner of such property to seek annexation to the Town, for the following:

- a. For any property which has any contiguity to the Town limits and, thus, can be made eligible for voluntary annexation, whether through a series of annexations or otherwise. This shall include cases where the parcel is separated from the Town's limits by a public or private right-of-way (street, alley or other), dedicated public or dedicated private open lands, or a lake, reservoir, stream or other natural or artificial waterway (Figure 1).

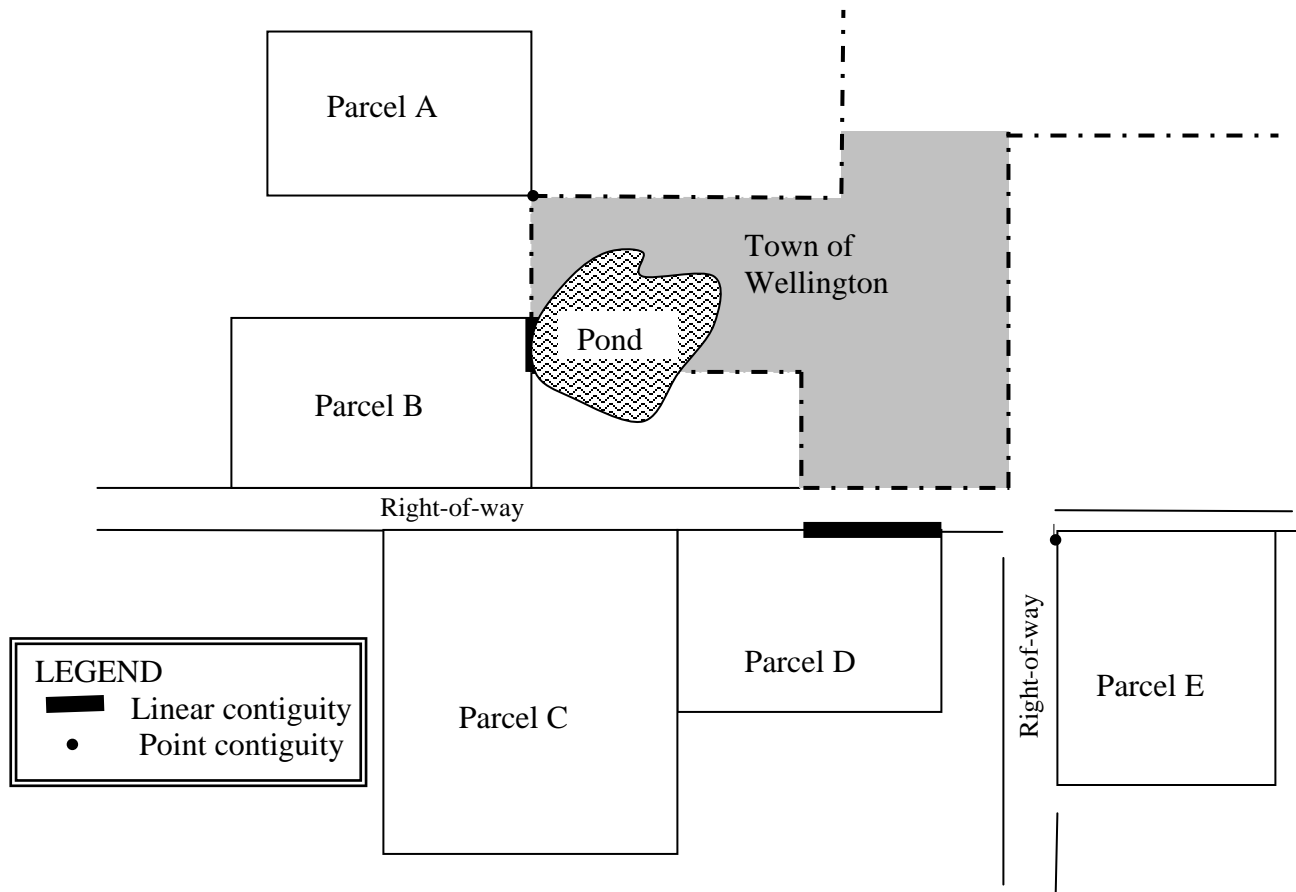


Figure 1: Parcels with and without Contiguity

Figure 1 illustrates examples of parcels with and without “any contiguity” with the Town for the purposes of this Agreement. (Note: “Any contiguity” in such instances does not need to be 1/6th contiguity as defined in Colorado Revised Statutes.)

- **Parcel A** does not have contiguity.
- **Parcel B** has contiguity along a portion of its perimeter, even though separated by a body of water.
- **Parcel C** does not have contiguity
- **Parcel D** has contiguity because existing right-of-way does not affect contiguity.
- **Parcel E** does not have contiguity.

- b. Any property in the GMA, which was part of a parcel eligible for annexation as of December 18, 2000, but which is no longer eligible because of subsequent land divisions resulting in a break in contiguity, except land divisions created by court order from probate, dissolution of marriage or eminent domain proceedings.

5.0.6 The County agrees it will not accept an application for development for a property in the GMA where the Town has denied a petition for annexation because: (1) The property owner has included conditions or requirements in the petition which the Town deemed to be unreasonable or unduly burdensome; or (2) The property owner refused to agree to conditions or requirements imposed by the Town as a condition of annexation.

5.0.7 The County or a property owner may request that the Town Administrator make a written determination whether a given property in the GMA appears to have any contiguity to the Town limits and, thus, can be made eligible for voluntary annexation to the Town whether through a series of annexations or otherwise. The Town Administrator or a designee of the Board shall notify the County and the property owner in writing of this determination within 30 days after receiving the request for determination of contiguity and the Town in providing notification will attempt to utilize forms provided by the County for this purpose.

5.0.8 The Town shall have two (2) years, or such longer time as the County and Town may agree upon, from the date of an application for annexation to approve or deny annexation of the property, during which time the County shall not act upon any development application for the same. If an annexation petition has not been approved or denied within a period of two (2) years, the County may proceed to process the development proposal according to the requirements of Section 6 of this Agreement, the County Land Use Code and the Supplementary Regulations for the GMA Overlay Zone.

5.0.9 Notwithstanding that a property is subject to annexation pursuant to section 5.0.5 or 5.0.6, the Town may determine that a property owner(s) need not apply for annexation based on a finding by the Town that (a) the Town prefers that the County accept the development application and process it in accordance with the County Land Use Code and the Supplementary Regulations, or (b) other unusual circumstances exist that suggest annexation is not desirable.

5.0.10 If the Town determines that a property owner need not apply for annexation pursuant to section 5.0.9 or the Town denies an annexation petition, the Town Administrator or Town Board, respectively, shall provide the County with a written statement within 30 days of the Town's formal action explaining why the Town determined annexation was not required or denied the annexation petition. Within 30 days, the County Commissioners must (a) determine whether the County disagrees with the Town's determination or denial and (b) provide notice of its determination to the Town. If the Town does not approve the annexation within 90 days following receipt of the County's disagreement notice, the County may amend the GMA Overlay Zone pursuant to sections 2.3 and 2.4 to exclude the subject property from the GMA or the

County may terminate this Agreement upon 30 days written notice of termination to the Town, if the Property is still annexable to the Town.

5.0.11 When undertaking any annexation of land within the GMA, the Town, to the extent the Town is legally allowed to do so based on land ownership, shall annex the entire width of any Larimer County road right of way located within or immediately adjacent to such lands. It is the intent of this Agreement that the parties will attempt to annex all Larimer County road right of way immediately adjacent to the corporate limits of the Town such that future annexations will include roads adjacent to the annexed area within the Town and those roads are included in the Town's road system. The County shall cooperate and assist the Town in facilitating the annexation of Larimer County right of way in conjunction with annexations.

5.0.12 When any proposed annexation is located wholly within the GMA, the County agrees to waive the requirement for an Annexation Impact Report pursuant to §31-12-108.5, C.R.S. This provision shall not change the requirements for notice to the County contained elsewhere in the Municipal Annexation Act.

6.0 County Acceptance and Processing of Development Applications

6.0.1 The County may accept Applications for Development within the GMA where/when:

- a. The property has no contiguity to the Town boundary; or
- b. The Town determines that a property owner need not apply for annexation or denies a petition for annexation pursuant to Section 5.0.9 or 5.0.10; or
- c. Applicable Supplementary Regulations authorize the County to accept an Application for Development.

6.0.2 In circumstances in which the County accepts Applications for Development, Applications for Rural Land Plans in the GMA will be subject to review by the Town as provided for in this Section and the application of any conditions necessary to prevent such development from becoming an impediment to future planned urban development in the surrounding area of the GMA. Such conditions may include, but are not limited to, preservation of necessary right-of-way for road or utility extensions necessary to serve future urban development in the area.

6.0.3 If a property within the GMA is not contiguous to the Town limits per Section 5.0.5., and: (1) public sewer service is not available to the property; and (2) the owner wishes to develop the property and (3) the Supplementary Regulations (consistent with the Town's Comprehensive Plan) require a land use and/or density or intensity for which public sewer service would be required for such a development, then the County will require the owner to defer such development (1) until public sewer service becomes available, or (2) the property is annexed by the Town, whichever comes first. The owner

may also appeal the requirement for public sewer service as provided in Section 8.1.1.B.4 of the Larimer County Land Use Code. Appeals are within the discretion of the Board of County Commissioners, but require review and comment from the Town before the Board acts on them. If such appeal is granted by the County, the property shall be eligible for special review or planned land division in accordance with existing zoning, County development standards, and the development design standards, if any, in the Supplementary Regulations.

6.0.4 Prior to final approval of an application for development or site plan review within the GMA the County shall require the property owner to provide a binding agreement to annex to the Town. The Wellington Town Attorney and the Larimer County Attorney shall approve the standard form of the agreement to annex.

6.0.5 The Town and the County agree that subject to this Agreement and except as modified by the Supplementary Regulations, all County regulations, standards and procedures shall apply to applications for development within the GMA. The Parties agree that appeals, interpretations, and variances, including those applied at the building permit stage, shall be processed and decided upon by the County as provided for in County codes.

6.0.6 Although the Town may issue comments and recommendations to the County in accordance with this Section, the final authority and discretion regarding approval, disapproval, or approval with conditions of County development applications rests with the appropriate or designated decision-making body of Larimer County. The County will encourage compliance with recommendations and comments of the Town; however, the County is only obligated to require compliance with development standards in the County Land Use Code and the Supplementary Regulations for the GMA Overlay Zone. If the Town recommends against approval or conditional approval of an application and the County subsequently grants approval or elects not to impose a recommended condition, the County shall promptly provide to the Town the minutes from the meeting at which the decision was made. Additionally, any decision regarding interpretation of the Larimer County Land Use Code, including the Supplementary Regulations, shall be made by the County.

7.0 Wellington Comprehensive Plan and Larimer County Master Plan

7.01 The County acknowledges that the Town may adopt and amend planning boundaries in its Comprehensive Plan as it deems necessary. However, the Town may use the terms Growth Management Area, Cooperative Planning Area or Community Influence Area in its Comprehensive Plan only if such terms have the same meaning, boundary, and application as in this Agreement or in the County Land Use Code.

7.0.2 The Wellington Comprehensive Plan shall be the generally applicable advisory master plan for the GMA and shall be considered as the supporting basis for the Supplementary Regulations applicable within the Wellington GMA Overlay Zone. The Town acknowledges that the County will not formally adopt Wellington's Comprehensive Plan for the GMA; however, the County will recognize the land use plan depictions of the Future Land Use Plan when considering adoption of Supplementary

Regulations to the County Land Use Code for the GMA. The County agrees that upon adoption of the GMA Overlay Zone, it will use those principles of the Wellington Comprehensive Plan specifically adopted in the Supplementary Regulations to guide growth in the GMA. The Wellington Comprehensive Plan may be used by the Town in its advisory comments and recommendations to the County regarding development proposals referred to the Town pursuant to Section 6 of this Agreement. The Parties acknowledge that the following requirements and policies are applicable to the GMA:

7.0.2.1 The Town shall prepare and consider amendments to the Wellington Comprehensive Plan, if necessary, to ensure that such plan will be specific enough to give guidance, through maps and text, to the County, property owners and developers as to what types, densities and intensities of land use are recommended on any given parcel of land in the GMA.

7.0.2.2 The Town acknowledges that any amendment to its Comprehensive Plan applicable to the GMA shall have no effect within the GMA Overlay Zone without an amendment, as needed, to this Agreement the GMA Overlay Zone, and the Supplementary Regulations for the GMA Overlay District.

8.0 Modifications to development standards required by Supplementary Regulations

8.0.1 Development standards in Supplementary Regulations to the GMA Overlay Zone may be modified if agreed upon in writing by the developer, Board of County Commissioners and the Town. The term modification includes requests that any standard be varied or waived. For proposed modifications not agreed to by the Town, the Board may grant such modifications only in exceptional circumstances and only if the Board finds that granting the modification will not be detrimental to the public good and that:

- a. 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 such difficulties or hardship are not caused by the act or omission of the applicant; or
- b. The proposed modification will advance or protect the public interests and purposes of the standard for which modification is requested, equally well or better than a plan that complies with the standards for which modification is requested. In ascertaining the "public interests and purposes of the standards" the county commissioners shall give great weight to:
 - i. The recommendation of the Town;

- ii. The specific language of the standard, taken in the context of the regulation in which the standard is contained and in the context of the applicable provisions of the Town's comprehensive plan; and
- iii. The willingness and agreement of the Town to annex the subject area.

8.0.2 A modification shall be processed and reviewed concurrently with the development application to which it applies. A modification may be processed separately from such development application only if the County Planning Director in his/her sole discretion determines there is adequate information to allow the modification to be evaluated separately from the development application.

8.0.3 Applicants seeking a modification shall file a written request with the County Planning Director. The County Planning Director shall refer the application to the Town Administrator. The Town shall provide a recommendation to the County within 21 days of receipt of the request. The Larimer County Planning Commission or other recommending board, per the applicable intergovernmental agreement, and the County Commissioners shall hear the request in the public hearings set for the development application. If the County Planning Director has authorized the modification request to be processed separately from the development application, the applicable recommending board shall hear the request at the next available public hearing as determined by the Planning Director after receipt of the recommendation of the Town, and the County Commissioners shall hear the request at a public hearing no later than 21 days after receipt of the recommendation from the applicable recommending board.

8.0.4 At the hearing, the County Commissioners shall consider relevant information presented by the applicant, the Town and interested members of the public. Based on the information, the County Commissioners may grant the modification or grant the modification with conditions in accordance with the criteria contained in this section or deny the modification.

8.0.5 If a modification is approved it shall be controlling for the successively, timely filed, development applications for that particular development proposal only to the extent that it modified the standard pertaining to such plan. All modifications which apply to a development plan which has not been filed at the time of the granting of the modification shall be valid for a period of time not to exceed one year following the determination of the County Commissioners of the request for the proposed modification.

8.1 Amendments to Supplementary Regulations

8.1.1 The following procedures shall apply to proposed text amendments or revisions to the map of land use types, intensities or densities included in the Supplementary Regulations for the GMA Overlay Zone:

- a. The County shall receive written notice at least 30 days in advance of any proposed text amendment or revision to the map depicting land use type,

density and intensity of land uses (“the map”) in the Supplementary Regulations;

- b. The proposed text or map amendment shall be forwarded to the County after approval by the Town;
- c. The County will initiate the amendment of the Supplementary Regulations to include the amended text or map within thirty (30) days of receiving the proposed amendment from the Town;

8.1.2 If the amended text or map is adopted by the County as an amendment to the Supplementary Regulations, the new map shall be used as the guide for land uses within the GMA Overlay Zone and the amended standards shall be applied to proposed development as provided for by this Agreement.

9.0 Town Review and Comment on development in the GMA

9.0.1 The County shall submit to the Town for review and comment, all proposals for rezoning, special review, minor land division, planned land division and rural land plan within the applicable GMA district.

9.0.2 The Town shall provide its comments to the County in writing within the time required for County referrals established by state law. The County shall make the final determination of whether the proposed development complies with the Supplementary Regulations for the Wellington GMA Overlay District. If the Town provides no comments to the County, the County may assume that the proposed development complies with all applicable standards.

10.0 County Review and Comment on development in the Town

10.0.1 The Town shall submit to the County for review and comment all proposed developments in the Town that are expected to (a) necessitate physical modification to a County road or intersection; (b) generate traffic that will require an intermediate level of traffic study per the Larimer County Urban Area Street Standards; (c) cause roads within the County jurisdiction to drop to lower level of service standards; or (d) contribute storm water run off above historic rates or alter a point of discharge to downstream property in Larimer County. For purposes of this paragraph, “development” in the Town includes applications for rezoning, major or minor subdivision, Planned Unit Development or conditional use. Additionally, the Town shall honor specific requests by the County to review and comment on specific development proposals.

10.0.2 The County shall provide its comments to the Town in writing within the time required for Town referrals established by state law. Although the County may issue comments and recommendations to the Town in accordance with this section, the final authority and discretion regarding approval, disapproval, or approval with conditions rests with the appropriate or designated decision-making body of the Town.

11.0 Trails, Park Fees and Coordination

11.1 Trails

Prior to annexation of land, the Town and the Larimer County Natural Resources Department shall meet to discuss potential regional trail opportunities within the area of annexation. If such opportunities exist, the Town shall consider securing trail easements upon annexation. The Larimer County Natural Resources Department shall be involved with the negotiations to secure the trail easements as a condition of annexation that are a part of one of the County's regional trails.

11.2 Open Space and Parks

The Parties also agree to cooperate in coordinating open space and parks, compatible design standards, and the exchange of information about opportunities for securing trail right-of-way easements and open space adjacencies.

11.3 Community Park Land Dedication/In-Lieu Fee

In order to maintain or expand the existing level of service standard for neighborhood and community parks, the County will collect a Community Park Land Dedication/In-Lieu Fee, pursuant to Section 9.3 of the Larimer County Land Use Code. These fees will be paid in-lieu of the dedication of land for neighborhood or community parks and must be paid prior to the issuance of a residential building permit for development of any portion of the land division. Larimer County will work with Wellington to develop an in-lieu fee amount and a public process will be developed to incorporate the fees into the Larimer County Land Use Code. Implementation would result in a process by which all Community Park Land Dedication/In-Lieu Fees collected will be remitted to the Town for expenditure on its neighborhood/community park acquisition program. The County may add an administrative fee to the park fee for its collection services to the Town.

12.0 Maintenance of Subdivision Roads within the GMA

The Parties acknowledge that the County does not maintain certain subdivision roads pursuant to a policy adopted by the Board of County Commissioners at an open meeting on February 2, 1994. As a condition of development approval, the County requires the creation of a Homeowners Association or equivalent mechanism with the necessary financial mechanism to ensure the proper maintenance of subdivision roads.

13.0 Storm Water Master Plans & Capital Fees

To the extent they may legally do so, the Parties agree to consider a coordinated storm water capital fee program for the Wellington GMA, subject to necessary study and analysis to create such a program, provided that both parties agree to such a program.

14.0 Transportation Master Plan and Capital Fees

14.1 To the extent they may legally do so, the Parties agree to consider a coordinated transportation capital fee program for the Wellington GMA, subject to the necessary study and analysis to create such a program, provided that both Parties agree to such a program.

14.2 To the extent they may legally do so, the Parties agree to condition development approvals within their jurisdictions to require mitigation of impacts to roads outside their jurisdiction in accordance with level of service standards in the Larimer County Urban Area Street Standards.

15.0 Referral of Development Applications in the CIA

15.1 The County shall refer the following development applications within the CIA to the Town for review and comment and the Town shall provide its comments to the County in writing within the time required for County referrals established by State Law:

- a. Rezoning;
- b. Special Review (including gravel extraction);
- c. Conservation Development;
- d. Special Exceptions; and
- e. Subdivision Plat.

15.2 Although the Town may submit comments and recommendations to the County in accordance with Section 6, the final authority and discretion regarding approval, denial, or approval with conditions rests with the appropriate or designated decision-making body of Larimer County. If the Town recommends against approval or conditional approval of an application and the County subsequently grants approval or elects not to impose a recommended condition(s), the County shall promptly provide to the Town the minutes from the meeting at which the decision was made.

15.3 The Parties shall cooperate in the process of reviewing development proposals to clearly identify the impacts of the proposed development on infrastructure in the Town and in the County, and particularly, on existing road and storm drainage systems.

16.0 Legislative Authority or Discretion

16.0.1 Nothing in this Agreement shall be construed or applied to limit the County's legislative authority or discretion in adopting or amending its land use regulations.

16.0.2 Nothing in this Agreement shall be construed or applied to limit the Town's legislative authority or discretion in adopting or amending its land use regulations.

17.0 Implementation of Intergovernmental Agreement

17.1 Amendment of Codes

Each party shall initiate amendments to their respective plans, policies, procedures and codes necessary to implement the terms and provisions of this Agreement.

17.2 Inform and Train

The Parties will (a) notify newly-elected officials, new managers, and key staff of the existence of this Intergovernmental Agreement; and (b) on an as-needed basis, conduct training sessions on the procedures which are necessary to implement this Intergovernmental Agreement.

In the interest of achieving the broader intent and purposes of this Agreement, the Parties will participate in the collaborative planning efforts among local jurisdictions.

18.0 Enforcement

The laws of the State of Colorado shall govern this Agreement. The venue for any action for the enforcement of this Agreement shall be in the appropriate court for Larimer County, Colorado. Any judgment shall be limited to specific performance and/or injunctive relief and neither Party shall have any claim or remedy for monetary damages arising from an alleged breach of this Intergovernmental Agreement against the other party, nor shall this Intergovernmental Agreement confer upon either Party standing to contest a land use decision or action of the other except as a breach of this Intergovernmental Agreement. Notwithstanding the foregoing, the prevailing party in any judicial action to enforce this Intergovernmental Agreement shall be entitled to reasonable attorneys' fees and cost. This Intergovernmental Agreement is not intended to modify or eliminate the standing the Parties may possess independent of this Intergovernmental Agreement.

19.0 Termination

Either Party may terminate this Agreement upon three hundred sixty-five (365) days written notice to the other party. Prior to exercising any termination permitted by this Intergovernmental Agreement, the governing body of party seeking termination shall meet, in good faith, with governing body of non-terminating party in attempt to resolve or explain the reasons for termination.

20.0 Term of Intergovernmental Agreement

This Agreement shall remain in force and effect for a period of ten (10) years from the effective date, subject to any earlier termination as may be provided for herein. The parties shall use their best efforts to negotiate extensions to this agreement in advance of the Agreement's expiration. At the end of five years from the effective date, and on each five year anniversary thereafter, the term of the Agreement shall be automatically extended for five years beyond its then stated expiration date, unless at least sixty days (60) days prior to any five year anniversary, either party notifies the other in writing of its intention that the Agreement shall not be extended beyond its then stated expiration date.

21.0 General Provisions

21.1 Amendment of Agreement

Either Party may request an amendment of this Agreement at any time. Such request shall be in writing to the other Party, and shall be considered without unreasonable delay and within no more than sixty (60) days of receipt.

21.2 Notice

Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail, return receipt requested, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing, to the other party or Parties. Such notice shall be given when deposited in the United States mail.

FOR TOWN OF WELLINGTON, COLORADO:

Town Administrator
3735 Cleveland Avenue
PO Box 127
Wellington, CO 80549

With a copy to the Wellington Town Attorney
110 E. Oak St
Fort Collins, CO 80524

FOR LARIMER COUNTY, COLORADO:

County Manager
200 West Oak Street
PO Box 1190
Ft. Collins, CO 80522-1190

22.0 Application and Interpretation of Other Provisions

Whenever a provision of the Wellington Zoning Code or the Larimer County Land Use Code are inconsistent with a specific provision of this Agreement, the party with the inconsistent code shall evaluate its regulations and initiate the process to amend its codes to be consistent with this

Agreement, and/or negotiate in good faith with the other party to amend this Agreement to be consistent with the applicable code and/or any amendment to the code.

23.0 Exhibits

Exhibits referred to in this Agreement are incorporated herein for all purposes.

24.0 Paragraph Captions

The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

25.0 Additional Documents or Action

The Parties may execute any additional documents or take any additional action reasonably necessary to carry out this Agreement.

26.0 Severability

If any provision of this Agreement is held invalid or unenforceable for any reason, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

27.0 Waiver of Breach

A waiver of any party to this Agreement of the breach of any term or provision of the Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

28.0 No Third Party Beneficiaries

Any enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and the County, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the express intention of the Parties that any person other than the Town and the County receiving services or benefits under this Agreement, shall be deemed to be an individual beneficiary only.

29.0 List of Exhibits attached.

Growth Management Area (GMA) boundary mutually agreed to by the County and the Town.

Community Influence Area (CMA) mutually agreed to by the County and the Town.

Future Land Use Map/Plan with Supplemental Regulations

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

TOWN OF WELLINGTON

Attest:

By: _____
Mayor

Town Clerk

Date

APPROVED AS TO LEGAL FORM:

APPROVED AS TO CONTENT:

Town Attorney

Town Administrator

THE COUNTY OF LARIMER,
COLORADO

Attest:

By: _____
Chair, Board of Commissioners

Secretary

Date

APPROVED AS TO LEGAL FORM:

APPROVED AS TO CONTENT:

County Attorney

County Manager