

MCA # 2009-103

**MESA COUNTY & TOWN OF PALISADE
PLANNING AND ANNEXATION AGREEMENT**

THIS AGREEMENT, entered into this 13th day of October, 2009 by and between MESA COUNTY, COLORADO, a Body Politic organized under and existing by virtue of the laws of the State of Colorado (County) and the TOWN OF PALISADE, COLORADO (Town) a Body Politic organized under and existing by virtue of the laws of the State of Colorado, together referred to as the "Parties;"

WHEREAS, this agreement is entered under the authority authorized by Title 29, Article 20, Colorado Revised Statutes, as amended;

WHEREAS, the Town of Palisade and Mesa County have a long history of cooperation in many matters, including long-range planning provision of animal control services and provision of building inspection services;

WHEREAS, the Board of County Commissioners of Mesa County and the Palisade Town Board of Trustees entered an intergovernmental agreement (MCA 84-37) on March 13, 1984 addressing coordination of the review of proposed land use changes, developments and planning efforts;

WHEREAS, the Board of County Commissioners of Mesa County, the Palisade Town Board of Trustees and the City of Grand Junction, Colorado entered an intergovernmental agreement (MCA 98-10) on February 9, 1998, creating a cooperative planning area also known as a buffer area or community separator;

WHEREAS, the Board of County Commissioners of Mesa County, the Palisade Town Board of Trustees, the City of Fruita, Colorado and the City of Grand Junction, Colorado entered an intergovernmental agreement (MCA 2000-39) creating a Purchase of Development Rights Review Committee for the Cooperative Planning Area on May 15, 2000;

WHEREAS, the Mesa County Rural Master Plan includes a policy that Mesa County will coordinate planning and develop Intergovernmental Agreements for land uses and development with all municipalities to minimize conflicts and to provide predictable densities and design criteria for all development applications within urban growth boundaries and areas of influence which may be annexed by a municipality in the future;

WHEREAS, the Palisade Comprehensive Plan includes a policy of intergovernmental cooperation with Mesa County and other adjacent municipalities;

WHEREAS, the Palisade Comprehensive Plan addresses the '3 Mile Plan area' for Annexation which generally describes the proposed location, character, land use and utilities of areas which may be annexed, and is, through this IGA, presented to Mesa County for yearly review;

WHEREAS, the Parties find it is for the mutual benefit of all parties and in the interest of the public to revise and update the 1984 intergovernmental agreement regarding coordination of the review of proposed land use changes, developments and planning efforts;
NOW, THEREFORE, in consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the Parties as follows:

1. REVIEW AREAS

- 1.1 The Town shall have the opportunity to review all projects if such a project is located partly or wholly within three miles of the municipal boundary of the Town, and any project located:
 - a. within the Town's watershed;
 - b. on or adjacent to any Town owned property, including the Town's reservoirs and water pipelines, regardless of location.
- 1.2 The County shall have the opportunity to review all projects within the Town if such a project is located within 500 feet of unincorporated parts of the County or is a project of regional significance as defined on a case-by-case basis.

2. PROJECTS DEFINED

Projects subject to the review under this agreement include: subdivision proposals; conditional uses; right of way vacations; zone changes; administrative reviews; planned unit development proposals; certificates of designation for waste disposal sites, projects of regional significance, and all activities requiring County approval within the Town's watershed.

3. PLANNING COOPERATION

- 3.1. The Town will actively participate in the County's process to develop standards for the Urban Residential Reserve (URR) area west of the Town and adjacent to the Cooperative Planning Area and the County will work to actively incorporate the Town's input into these standards;
- 3.2. The County and the Town will cooperate in land use decision-making related to specific projects, transportation plans, and master plans (also known as land use plans, community plans, neighborhood plans, comprehensive plans, etc.) in general;
- 3.3. The County will provide the Town with notice of and information on any project located in the area defined in Section 1.1 at least 14 days before taking action on such project;
- 3.4. The Town shall provide the County with notice of any information on any project proposed in the area defined in Section 1.2 at least 14 days before taking final Board action on such project;

- 3.5. The Parties may from time to time adopt supplemental and additional agreements dealing with such matters as zoning, subdivisions, road and bridge construction, water improvements, and public recreation areas, sewer improvements, and extensions and service areas;
- 3.6. Representatives from the Town and County Planning Commissions, the Palisade Town Board of Trustees and the Board of County Commissioners shall meet at least once a year to review areas mentioned in Section 1 above and to review and discuss issues of mutual concern. This annual review shall constitute the annual update of the 3-Mile plan of the Town as stipulated by C.R.S. 31-12-105(e).
- 3.7. It is the long term goal of the Parties that future development within the Palisade sewer service area be serviced by the Palisade sewer system, and all new development within the Palisade sewer service area should be first annexed to the Town of Palisade (including uses requiring a Mesa County Conditional Use Permit) if and when the Town is able to provide urban services to the new development.
- 3.8. All non-residential development within the Palisade sewer service area shall be first annexed to the Town of Palisade (including uses requiring a Mesa County Conditional Use Permit) if and when the Town is able to provide urban services to the new development.
- 3.9. Mesa County shall initiate a process to revise the Mesa County Land Development Code to implement the East Orchard Mesa 10 (10 Acre minimum lot size) future land use classification in the Mesa County Master Plan, e.g., create 10 acre minimum lot sizes; properties eligible for Major Subdivision or Simple Land Division must be 20 acres or larger, etc.

4. COMPREHENSIVE AND MASTER PLANS

- 4.1. The Parties agree that the Town Comprehensive plan for Palisade is the official comprehensive plan for lands located within the Town and also contains the Town's 3-Mile Plan for areas the Town will annex.;
- 4.2. The Parties agree that the County Master Plan, is the official master plan and comprehensive plan for all lands located in the unincorporated part of Mesa County;
- 4.3. The Town and the County agree to coordinate their comprehensive planning processes to achieve consistency and compatibility for the benefit of present and future citizens of the County It is the long-term goal of the Parties to have identical plans in the area outside the current Town limits and within the Palisade Comprehensive plan area.

5. PUBLIC IMPROVEMENTS –

- 5.1. The County will assist the capital improvements programming of the Town by requiring that all arterial and major collector roads within the defined review area and which will connect to similar roads in the Town and all sewer and water lines which will connect directly to Town facilities be built to Town specifications;
- 5.2. Both the Town and the County will require that, wherever possible, no project will be allowed to discharge stormwater run—off in excess of historic discharge onto a road or into an open drainage way. Where this requirement cannot be met, the development will be responsible for improvements to the drainage way to provide increased capacity to carry the run—off.

6. OTHER COORDINATION

- 6.1. The Parties will coordinate technical and utility reviews;
- 6.2. The Parties will assist one another in policy analysis, information gathering, public presentations and mutual staff support.

7. PREVIOUS AGREEMENTS

This IGA formally replaces the intergovernmental agreement (County resolution MC 34-87) formally entered into by the Town and County on 3/13/1984. Adoption of this agreement is in no way intended to invalidate or supersede any other existing adopted agreements between the Parties.

8. AGREEMENT TERM

- 8.1. The term of this Agreement shall commence on the first date set forth above, and continue for two (2) years thereafter. At the expiration of the term, this Agreement shall automatically renew for additional two (2) year periods unless one-year prior written notice of non-renewal is given. However, either Party may terminate this Agreement, at any time and for any reason, upon ninety (90) days year's prior written notice to the other Party. This Agreement may also be terminated for cause as provided in Section 9 of this Agreement.

9. DEFAULT

- 9.1. In the event either Party materially defaults in the performance of any of the material covenants or agreements to be kept, done or performed by it under the terms of this Agreement, the non-defaulting Party may notify the defaulting Party in writing of the nature of such default. Within thirty (30) days following receipt of such notice the defaulting Party shall correct such default; or, in the event of a default not capable of being corrected within thirty (30) days, the defaulting Party shall commence correcting the default within thirty (30) days of receipt of notification thereof and thereafter correct the default with due diligence. If the defaulting Party fails to correct the default as provided above, the non-defaulting Party, without further notice, shall have the right to declare that this Agreement is terminated effective upon such date as the non-defaulting Party shall designate. There shall be no damage or other legal or equitable remedy available against the defaulting Party, it being agreed in advance that the sole remedy for a breach of this Agreement is termination by the non-defaulting Party.
- 9.2. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between persons who have authority to settle the controversy. Either Party may give to the other party written notice of any dispute not resolved in the normal course of business. Upon the giving of such notice, the provisions of Section 9.1 of this Agreement shall be temporarily suspended pending the conclusion of the Parties' efforts to reach a negotiated settlement of the dispute. Within twenty (20) days after receipt of said notice, representatives of the Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within sixty (60) days of the notice of dispute, or if the Parties fail to meet within twenty (20) days, the Parties shall have the rights and remedies provided in Section 9.1.

10. DEFENSE OF CLAIMS

- 10.1. If any person, other than the Parties, allegedly aggrieved by any provision of this Agreement should sue the County or the Town concerning this Agreement, the named Party in such suit shall, and the other Party, if not named, may, defend such claim upon receiving timely and appropriate notice of pendency of such claim. Each Party shall bear its own costs.
- 10.2. Nothing in this Agreement shall constitute any waiver by the County or City of the provisions of the Colorado Governmental Immunity Act or other applicable immunity defenses afforded to one or both of the Parties. This provision shall survive termination of this Agreement, and be enforceable until all claims are precluded by statutes of limitation.

11. NOTICE

- 11.1. Any notice required by this Agreement shall be in writing. If such notice is hand delivered or personally served, it shall be effective immediately upon such delivery or service. If given by mail, it shall be effective 3 days following the date of mailing, and addressed as follows:

Mesa County Commissioners
544 Rood Avenue
Box 20,000
Grand Junction, CO 81502

Town of Palisade, Board of Trustees
P.O. Box 128
Palisade, CO 81526

12. MISCELLANEOUS PROVISIONS

- 12.1. Amendments. This Agreement may be amended only by mutual agreement of the Parties and shall be evidenced by a written instrument authorized and executed with the same formality as accorded this Agreement.
- 12.2. Headings for Convenience. All headings, captions and titles are for convenience and reference only and are of no meaning in the interpretation or effect of this Agreement.
- 12.3. Governing Law and Venue. This Agreement, and the rights and obligations of the Parties hereto, shall be interpreted and construed according to the laws of the State of Colorado. Venue shall be proper and exclusive in the District Court for the County of Mesa, Colorado.
- 12.4. Alternative Dispute Resolution. If a dispute arises between Parties as to the interpretation or implementation of any part of this Agreement, Parties may agree to mediate or enter non-binding arbitration to attempt to resolve such dispute, so long as Parties agree to the location, rules and mediator/arbitrator.
- 12.5. Severability. In case one or more of the provisions contained in this Agreement, or any application hereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement and the application hereof shall not in any way be affected or impaired thereby.
- 12.6. Provisions Construed as to Fair Meaning. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any language attributed to such party or the source of the language in question.
- 12.7. Compliance with Ordinances and Regulations. This Agreement shall be administered consistent with all current and future laws, rules, regulations, charters and ordinances of the State of Colorado, the County and the Town.

- 12.8. No Third Party Beneficiaries. No term, condition or covenant herein shall give or allow any claim, benefit, or right of action by any person not a party hereto. Any person other than the County or City receiving services or benefits under this Agreement shall only be an incidental beneficiary.
- 12.9. Integrated Agreement and Amendments. This Agreement is an integration of the entire understanding of the Parties with respect to the matters stated herein.
- 12.10. Financial Obligations. This Agreement shall not be deemed a pledge of credit of the County or City. Nothing herein shall be construed to create a multiple-fiscal year direct or indirect debt, or financial obligation.
- 12.11. Waiver. No waiver or any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.
- 12.12. Approval By Governing Boards or Other Authority. In accordance with § 29-1-203, C.R.S., this Agreement shall not become effective unless and until it has been approved by the governing body of the County and the governing body of the Town.

Board of County Commissioners,
County of Mesa, State of Colorado

By: 

Steven Acquafresca, Chair 10-26-2009

Attest:


Janice Rich, Clerk and Recorder



Town of Palisade, Colorado

By: 

Mayor, David R. Walker

Attest:


Town Clerk, Carolyn Speakman