Use and Implementation of Urban Growth Boundaries

An Analysis Prepared by the Center for Regional and Neighborhood Action

Heidi A. Anderson
Date: February 1999
# Table of Contents

Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INTRODUCTION</strong></td>
<td>4</td>
</tr>
<tr>
<td>Scope of Assignment</td>
<td>4</td>
</tr>
<tr>
<td>UGBs— what are they and who has them:</td>
<td>4</td>
</tr>
<tr>
<td><strong>SAMPLING OF GROWTH MANAGEMENT PROGRAMS NATION-WIDE</strong></td>
<td>5</td>
</tr>
<tr>
<td>A. OREGON</td>
<td>6</td>
</tr>
<tr>
<td>Overview</td>
<td>6</td>
</tr>
<tr>
<td>Authority</td>
<td>6</td>
</tr>
<tr>
<td>State-level Involvement in Growth Management</td>
<td>7</td>
</tr>
<tr>
<td>Process of Defining the Boundary</td>
<td>7</td>
</tr>
<tr>
<td>Support/Opposition</td>
<td>7</td>
</tr>
<tr>
<td>Presumption of Buildability</td>
<td>7</td>
</tr>
<tr>
<td>Implementation</td>
<td>8</td>
</tr>
<tr>
<td>Dispute Resolution</td>
<td>8</td>
</tr>
<tr>
<td>B. WASHINGTON</td>
<td>9</td>
</tr>
<tr>
<td>Overview</td>
<td>9</td>
</tr>
<tr>
<td>Authority</td>
<td>9</td>
</tr>
<tr>
<td>State-level Involvement in Growth Management</td>
<td>10</td>
</tr>
<tr>
<td>Process of Defining the Boundary</td>
<td>10</td>
</tr>
<tr>
<td>Support/Opposition to the Boundary</td>
<td>10</td>
</tr>
<tr>
<td>Presumption of Buildability</td>
<td>11</td>
</tr>
<tr>
<td>Implementation</td>
<td>11</td>
</tr>
<tr>
<td>Dispute Resolution</td>
<td>11</td>
</tr>
<tr>
<td>C. MINNESOTA</td>
<td>11</td>
</tr>
<tr>
<td>Overview</td>
<td>11</td>
</tr>
<tr>
<td>Authority</td>
<td>12</td>
</tr>
<tr>
<td>State-level Involvement in Growth Management</td>
<td>12</td>
</tr>
<tr>
<td>Process of Defining the Boundary</td>
<td>12</td>
</tr>
<tr>
<td>Support/Opposition for the Boundary</td>
<td>13</td>
</tr>
<tr>
<td>Presumption of Buildability</td>
<td>13</td>
</tr>
<tr>
<td>Implementation</td>
<td>13</td>
</tr>
<tr>
<td>Dispute Resolution</td>
<td>14</td>
</tr>
<tr>
<td>D. MARYLAND</td>
<td>14</td>
</tr>
<tr>
<td>Overview</td>
<td>14</td>
</tr>
<tr>
<td>Authority</td>
<td>14</td>
</tr>
<tr>
<td>State-level Involvement in Growth Management</td>
<td>15</td>
</tr>
<tr>
<td>Process for Defining the Boundary</td>
<td>15</td>
</tr>
<tr>
<td>Support/Opposition</td>
<td>15</td>
</tr>
<tr>
<td>Presumption of Buildability</td>
<td>15</td>
</tr>
<tr>
<td>Implementation</td>
<td>16</td>
</tr>
<tr>
<td>Dispute Resolution</td>
<td>16</td>
</tr>
<tr>
<td>E. FLORIDA</td>
<td>16</td>
</tr>
<tr>
<td>Overview</td>
<td>16</td>
</tr>
<tr>
<td>Authority</td>
<td>17</td>
</tr>
<tr>
<td>State-level Involvement in Growth Management</td>
<td>17</td>
</tr>
<tr>
<td>Process of Defining the Boundary</td>
<td>17</td>
</tr>
<tr>
<td>Support/Opposition</td>
<td>18</td>
</tr>
<tr>
<td>Presumption of Buildability</td>
<td>18</td>
</tr>
<tr>
<td>Implementation</td>
<td>18</td>
</tr>
<tr>
<td>Dispute Resolution</td>
<td>18</td>
</tr>
</tbody>
</table>
INTRODUCTION

SCOPE OF ASSIGNMENT

In 1997, the 48 members of the Denver Regional Council of Governments, as part of its Metro Vision 2020 plan, agreed to adopt an Urban Growth Boundary (UGB) around the Denver metropolitan area. The UGB encompasses 731 square miles of land. The UGB is a voluntary cooperative effort by the DRCOG members and is not legally binding. Colorado has no legislation that either requires or encourages the use of UGBs to manage growth, though several attempts to adopt growth management legislation have been made in the last 3 years.

Implementation of a UGB by and between adjoining municipalities and counties will be challenging to say the least. To look for options and answers to implementation of the newly adopted boundary, we looked at growth management programs across the country. Some states like Oregon and Washington have very aggressive state legislation that demands the adoption of growth boundaries, while other states like California, Maryland, and Florida have mostly voluntary boundaries similar to Colorado’s. Under all the various scenarios, growth boundaries have had varying degrees of success. There is no clear distinction between the success of boundaries formed under rigid state legislation as opposed to boundaries formed under less formal systems of growth management. As a result, DRCOG should be encouraged that even without a state mandated growth management program, UGBs can be formed, implemented, and used effectively to control growth. As we will discuss, due to the very ad hoc nature of the process for defining and implementing growth boundaries, DRCOG should not be uncomfortable with breaking new ground. Thirty years ago, the state of Oregon broke new ground when it began mandating the use of UGBs. Today, Oregon is thought of as having had tremendous foresight and staying power.

UGBS—WHAT ARE THEY AND WHO HAS THEM:

The earliest documented growth boundary occurred in London, England, in the 1500’s, when the Queen of England required the City of London to create a buffer or “greenbelt” around the city to ward off plague and to keep productive farmland close to the city center. Today, London boasts a 900 square mile green belt, although some estimate that the greenbelt consists of almost 2,000 square miles. The earliest documented use of growth boundaries in the United States occurred in Lexington, Kentucky, in 1958, when the city of Lexington and Fayette County agreed to a strategy dictating where capital improvements would be made to encourage urban development. As a result of this foresight, in 1990, Fayette County was the leading agricultural production county in the state of Kentucky, producing over $130 million in agricultural products.

A UGB is loosely defined as an “officially adopted and mapped line that separates an urban area from its surrounding greenbelt of open lands, including farms, watersheds and parks, for a set period of time.” Our study revealed that growth boundaries come in several different forms. Some states create true urban growth boundaries (UGB) as we just described, other states adopt urban growth areas (UGA), urban service areas (USA), and urban demarcation lines. Despite the different official terms, they all serve the same purpose: “to contain urban development within planned urban areas where basic services, such as sewers, water facilities, and police and fire protection, can be economically provided.”

There are many advantages and good reasons for using UGBs, including affirming a community’s identity by ensuring that it doesn’t merge with adjacent communities; promoting urban and suburban revitalization; using public facilities more efficiently resulting in taxpayer savings; encouraging the development of more affordable housing and mixed use centers; stimulating community development patterns that support more
accessible public transit; protecting farmlands, watersheds, and wildlife habitat; and most importantly, encouraging long-term strategic thinking about your community’s future.\textsuperscript{6}

Despite the great deal of support for the use of growth boundaries, there is a good deal of skepticism as well. Two of the most common concerns or complaints about UGBs are:

- **inflated housing prices:** studies have been inconclusive as to whether this is true. However, in the Portland metro area, where housing costs rose by 2.85\% from 1985 to 1995, the City defends its rising prices by showing statistics that areas of the country that do not have UGBs have experienced a more inflationary rate on housing costs over the same time period (Salt Lake City (5.58\%), Phoenix (10.66\%), and San Diego (4.81\%)).\textsuperscript{7}

- **increased densities:** according to the City of Portland, when it adopted its 2040 boundary in 1997, it applied the average density in Portland today (3,800 people per square mile) to the forecasting model. Portland claims that its density today is already much lower than many other growing metropolitan areas like Denver whose average density is 4,000 people per square mile.\textsuperscript{8}

We focused on six separate geographical locations to obtain a broad knowledge of growth management tactics used across the nation. These areas will be discussed in detail in the next section: Oregon, Washington, Minnesota, Maryland, Florida, and California. Each state program is discussed in order of the degree of formality (legal framework) involved. Other states across the country, like Arizona, Pennsylvania, New Jersey and Wisconsin, are also making strides in the growth management arena, but due to time and resource constraints, we are unable to describe their efforts to the degree we have analyzed the programs described below. Readers should be aware that other programs exist. This report does not purport to be all inclusive.

**SAMPLING OF GROWTH MANAGEMENT PROGRAMS NATION-WIDE**

This section describes six programs from coast to coast that have established growth boundaries in some form or another. Discussion of each program is broken down into seven categories:

1. **Type of Boundary**—As noted above, growth boundaries come in a variety of forms form urban rural demarcation lines to formal urban growth boundaries. This section discusses the types of boundaries that are typically used in each state.

2. **Authority**—Some of these six states have granted local governments authority to adopt growth boundaries by adopting growth management legislation or some other forms of legislation. This section describes the type of legislation if any that gave rise to adoption of growth boundaries.

3. **State-level involvement**—The level of involvement at the state level varies widely. This section discusses the extent to which state government becomes involved in promoting growth boundaries.

4. **Support**—With Oregon being the exception, growth boundaries are typically brought about by initiative of concerned citizens and sometimes local governments. This section describes who those groups are within each state that support the use of growth boundaries.

5. **Opposition**—Growth boundaries are not loved by all of course. This section describes the major opponents of the use of growth boundaries in each state.

6. **Presumption of buildability**—Whether a developer or landowner has a right to develop land is of primary concern whenever a growth boundary is established. This section discusses whether these parties are promised a right to develop land inside the boundary.

7. **Dispute resolution**—How states handle disputes over growth boundaries varies widely. This section discusses the primary mechanisms for resolving disputes.

The chart below summarizes each of these seven categories, and is followed by a detailed discussion of each factor for each of these six states we studied.
<table>
<thead>
<tr>
<th>STATE</th>
<th>Type of Boundary</th>
<th>Authority</th>
<th>State-level Involvement</th>
<th>Support</th>
<th>Opposition</th>
<th>Presumption of Buildability</th>
<th>Dispute Resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>Urban Growth Boundary</td>
<td>None.</td>
<td>Limited.</td>
<td>Conservation/Environmental Organizations; local governments</td>
<td>Home builders associations; property rights advocates.</td>
<td>Yes, but only in some cases.</td>
<td>Local government control.</td>
</tr>
</tbody>
</table>

A. Oregon

OVERVIEW

Oregon began its efforts to control or direct growth and development in the 1970s. Today it is considered by many to be the most successful example of managing growth in the nation. Oregon championed the use of urban growth boundaries by requiring every municipality in the state to adopt one. After three decades of requiring UGBs, Oregon has been both touted and lambasted for its aggressive stance on directing growth. But the State holds fast to its belief that the state has benefitted from the use of UGBs and will be a better place to live in 25 or even 50 years from now.

AUTHORITY
Oregon adopted state-wide legislation in 1973 which required every municipality with a population of over 2,500 to adopt an urban growth boundary as part of its comprehensive plan (O.R.S. § 197.712). The legislation that started the growth management craze calls for “Lands within the UGB [to] be available for urban development concurrent with the provision of key urban facilities and services in accordance with locally adopted development standards, [and] [l]ands not needed for urban uses during the planning period may be designated for agricultural forest or other non-urban uses” (O.R.S. § 197.752). The land outside the boundary eventually became known as the *urban reserve*. The ultimate objective is for these reserves to accommodate growth after the 20 year planning period has passed.

STATE-LEVEL INVOLVEMENT IN GROWTH MANAGEMENT

The state of Oregon oversees compliance with the “land use system.” This entails among other things, ensuring that all municipalities have adopted UGBs. If a municipality wants to expand its boundary, it must notify the state and hold hearings as part of the process. The state may appeal the decision by the local government to change the boundary in front of the Land Use Board of Appeals (LUBA). If the state feels that the decision to amend the boundary is arbitrary and inconsistent with the goals and objectives the municipalities comprehensive plan, it may sanction the municipality or withhold state funding for planning purposes.

The state was also responsible for establishing the Land Use Board of Appeals and the Land Conservation Development Commission for the purpose of resolving disputes between local governments regarding the UGB. See the section on dispute resolution below.

PROCESS OF DEFINING THE BOUNDARY

When the boundaries were originally created, cities and counties employed primitive methods in determining where the lines would be drawn. Planners had very little scientific data to support their assumptions, resulting in a very subjective process dictated by public input and primitive population forecasts. As a result, early UGBs were often drawn very broadly, limiting their effectiveness in preventing sprawl. Today, the process is more exacting and many cities and counties have reduced the amount of land inside the boundary. Today, most cities and counties use sophisticated mapping techniques and population forecasting models. In addition, local governments must justify the consumption of undeveloped lands, i.e., if they want to include undeveloped land inside the boundary, they must now explain why the site is ideal for urban development and why other sites inside the boundary are not ideal.

SUPPORT/Opposition

Support for the growth management legislation was originally, and continues to be garnered by a group calling itself “1000 Friends of Oregon.” Primary opposition to the boundary comes from a group calling itself “Oregonians in Action,” a group of property rights advocates.

PRESUMPTION OF BUILDABILITY
Opponents of Oregon’s UGB program contend that boundaries eliminate the ability to speculate in the real estate market, causing developers to lose their investments if their land ends up on the wrong side of the boundary. In Oregon, one solution to this problem has been the creation of a presumption of buildability for land inside the boundary. Developers desiring to speculate on real estate could be assured that if they purchased land inside the boundary, they would be able to develop it at the densities for which it is zoned. In addition, many counties and cities offer an “expedited land decision” process if the developer’s plan call for development at densities within 20% of required zoning. Under this process, land use decisions must be made within 120 days of receipt of the developer’s application for approval of their development plan. If the local government does not meet the 120-day deadline, it must refund any application fees. If the developer challenges the local government’s indecision in court, the burden of shifts to the local government to show why approval of the development should be denied.

IMPLEMENTATION

UGBs are implemented through comprehensive plans, agreements developed between local governments, and the state land use system. Under the state land use system, local governments are not allowed to make discretionary decisions effecting private property, unless prior notice and hearing are provided. The state planning office may also challenge local government decisions to expand their UGBs. Any time a local government desires to expand its boundary, it must notify the state and submit to a 2-hearing process. If the state determines that the local government’s decision was arbitrary, the local government could be sanctioned by having state planning funds withheld.

DISPUTE RESOLUTION

Oregon has established a four-tiered process of handling disputes that arise. First, any disputes arising over the boundary or related zoning, denials of development permits, etc., must be considered at the local level before a hearing officer. Second, the decision of the hearing officer may be appealed to the local government’s city council or board of county commissioners. Third, a second appeal may be made to a special review board referred to as the Land Use Board of Appeals (LUBA). (See, Oregon Revised Statutes 197.810). LUBA is a 3-member board appointed by the governor and confirmed by the state senate. LUBA as the exclusive jurisdiction to review any land use decision of a local government, special district or state agency (subject to limitations). And finally, the state’s circuit courts have jurisdiction to hear any appeals of decisions made by LUBA.

In addition to, or instead of appealing to LUBA, landowners not wishing to wade through the slow and costly process of litigation may seek alternative dispute resolution methods like mediation and arbitration. Mediation is a very common method of resolving disputes between local governments in Oregon. There are both private mediation practices and public entities like the Land Conservation and Development Commission (LCDC) that mediate disputes. The LCDC, a governmental agency, is funded through grants at the state level. It receives $200,000 every two years to pay mediators from the private sector. Typically mediators are experienced in public policy and negotiations. In most cases, the mediator is chosen by the parties. The parties select the mediator(s) from a roster of mediators provided by LCDC. The LCDC selects individuals for the roster after receiving a “request for qualifications” (RFQ) from prospective mediators. LCDC also uses mediators listed on Oregon’s Department of Justice roster of mediators. The LCDC has the added advantage of having the authority
to impose land use restrictions when parties fail to agree or settle their dispute. In most cases, these restrictions are in the form of a development moratorium. The authority of the LCDC is granted by the state legislature.

Following are two examples of where mediation was used: (1) A county and city negotiated for the city to resume control of sewer and water and land planning functions for an area that was inside the UGB, but not yet inside the city’s city limits. The two entities agreed that since the area would eventually be under the jurisdiction of the city, it made sense to allow the city to include it in its comprehensive plans and assume some degree of control over it. (2) Two cities entered into mediation because they could not agree on whether one of the cities should be allowed to expand its UGB. The other city did not want the expansion to occur because it thought that by bringing the neighboring city closer in proximity, residents of that city would rely on the other city for basic services. The non-expanding city would have to accommodate the need for increased services but would not reap the benefits of an increased tax base to pay for the services. As a result of mediation, the two cities agreed to share development costs and other associated costs of growth. Both of these scenarios were handled by private mediators. In the first scenario, negotiations took 1 year and cost only $45,000. In the second scenario, resolution took only 3 months and cost only $10,000. Under the LCDC program, the average cost to mediate a dispute is $2,000 - $5,000. The LCDC awards grants to the parties to cover a portion of the total cost to resolve the dispute. The parties must pay the remainder.

B. WASHINGTON

OVERVIEW

Washington formally entered the growth management arena in 1990 when it adopted legislation requiring urban growth areas (UGAs). At least one factor influencing the establishment of Washington’s growth management program was its neighbor to the south. Although Oregon established its growth management regime in the early 1970s, over the years it became progressively more strict. Washington began to experience growth pressures resulting from developers fleeing Oregon’s restrictions on development. In 1990, Washington decided to join the effort to control or direct growth and stop the flow of developers coming from Oregon who were looking for a more lax regulatory framework.

AUTHORITY

Following Oregon’s lead, Washington adopted state-wide legislation in 1990 which became effective in 1991. Washington’s Growth Management Act (Act), codified in the Revised Code of Washington § 36.70A, applies to any county with a population of 50,000 or more that has had its population increase by either 10% in the 10 years prior to the effective date of the legislation, or by 17% after the effective date of the legislation, and any county regardless of its population whose population has increased by more than 20% in the previous ten years. Cities within these counties are also required to comply with the Act. Some of the highlights of the Act include:

1. adoption of a comprehensive plan addressing among other things, open space, agricultural uses, public utilities, public facilities, population densities, building intensities, and estimates of future population growth;
2. coordination of comprehensive plans between the county and the cities in the county, and among neighboring cities and counties;
3. adoption of an urban growth area (UGA) whereby every city inside a county shall restrict growth to areas inside its UGA; planning for the UGA shall be projected for the succeeding 20-year period;
4. promotion of the use of innovative land use management techniques including density bonuses, clustered housing, planned unit developments and transferable development rights (TDRs);
5. public participation in the process;
6. identification of lands useful for public purposes;
7. identification of significant agricultural, forest, and mineral resource lands, critical wetland habitats;
8. adoption of county-wide planning policies that address plans for promoting contiguous and orderly development and providing urban services;
9. creation of the growth management hearings board (GMHB) to hear disputes arising over the Act.

STATE-LEVEL INVOLVEMENT IN GROWTH MANAGEMENT

At the state level, there is very little involvement in growth management issues. The State Department of Planning is responsible for approving the comprehensive plans and ensuring that the plans comply with the Growth Management Act. The Act requires that comprehensive plans have a land use element describing the location and extent of development (including population and building densities), a housing element, a capital facilities plan, growth management goals, and rural development/preservation strategies. The state also prepares the population forecasts that form the basis of the comprehensive plans. Local governments are responsible for defining and enforcing their UGAs. The Growth Management Hearings Boards (GMHB) are funded at the state level, but they are separate from any other branch of the state government. Aside from handling disputes over UGAs, the GMHBs have no influence over local land use planning.

PROCESS OF DEFINING THE BOUNDARY

A basic element to planning in each city or county begins with population projections provided by the state. Beyond that, land use planning is left to the local governments. The state does not get involved again unless a dispute over compliance with the Act arises. Armed with the information about population projections, counties then project where the most desirable location for growth would be and estimate the cost of extending water and sewer lines to these areas. Boundaries are drawn where the county determines it would be cost prohibitive to accommodate growth. In other words, the location of the line is based on service capacity.

SUPPORT/OPPOSITION TO THE BOUNDARY

Support and opposition of UGAs in the state of Washington is very similar to the support and opposition found in other parts of the country. Supporters are typically environmentalists, NIMBYs, and local governments. Opposition usually comes from property rights advocates who are left on the outside of the boundary, and home builder associations.
PRESUMPTION OF BUILDABILITY

No presumption of buildability for land located inside the UGA exists in Washington. Developers have no guarantee that land within the boundary will remain available to be developed at urban densities. However, there is a higher degree of certainty by the mere fact that the state planning office can appeal an amendment to the boundary and may sanction municipalities if the decision to amend the boundary is arbitrary and unreasonable.

IMPLEMENTATION

Growth boundaries are implemented through comprehensive plans created by both cities and counties. Cities must coordinate their plans with other cities in the county and with the county. See the discussion under “Authority” for more information.

DISPUTE RESOLUTION

Disputes arising over compliance with Washington’s Growth Management Act go before the state-run Growth Management Hearings Boards, three member panels of judges in each of the three regions of the state (Western and Eastern Washington, and Central Puget Sound). The subject matter jurisdiction of the hearings boards is restricted only to issues of non-compliance with the Act or an occasional dispute arising over a total-area rezoning. Any other disputes regarding density controls, rezonings, provision of urban services, etc, are handled by the local governments. In rare instances, parties in dispute over compliance with the Act may opt to have the case reviewed by a state court. Only when all parties agree to seek a judicial remedy will the state courts get involved. Recently, because the process of challenging compliance with the Act can be costly and time-consuming, the hearings boards suggest that parties try mediating the dispute before litigating it. When parties agree to mediate, a judge from a different hearings board acts as the mediator and attempts to bring the parties into agreement. One drawback to mediation, according to one source connected with the Central Puget Sound Hearings Board is that all parties must come to the table before a solution can be worked out which is often difficult to achieve.

C. MINNESOTA

OVERVIEW

In the Twin Cities of Minneapolis and St. Paul, regional planning began in 1967 when the state of Minnesota established the Metropolitan Council. The Council was created to establish policies and provide planning and technical assistance to communities in the Twin Cities region. In the early 1970s, the Council divided the region into two separate regions (urban service region and rural service area) for planning purposes and established the Metropolitan Urban Service Area boundary (MUSA). The Council considered “urban services” to be central sewer and large-volume sewage treatment, higher capacity highway improvements, highway interchanges, mass transit, and high levels of public services. Currently, the Council coordinates regional planning and guides development in the seven county area, consisting of 189 local governments, and provides regional services including
wastewater collection and treatment, transit and an affordable housing program. The Council is also nationally renowned for its success in implementing a property tax revenue sharing program to ensure that tax revenues collected will benefit the entire region, not just the district from which it was collected.

AUTHORITY

Under Minnesota law, counties may, but are not required to adopt urban growth areas. An urban growth area is defined as “an area around an urban area within which there is a sufficient supply of developable land for at least a prospective 20 year period, based on demographic forecasts and the time reasonably required to effectively provide municipal services....” (M.S.A. §462.352) A city that chooses to participate in the community-based planning program by adopting a community-based comprehensive municipal plan must recognize any growth areas established by the county and may establish its own urban growth area. In addition, the city and county must then negotiate an annexation agreement with the townships where unincorporated land exists within the urban growth area. The agreement must contain a boundary adjustment staging plan that allows for orderly growth of the city over a 20-year period based on a reasonably anticipated development pattern and the ability to extend urban services. (M.S.A. § 462.3535)

STATE-LEVEL INVOLVEMENT IN GROWTH MANAGEMENT

The Minnesota Planning department is responsible for developing a long-range plan for the state and coordinating activities among state agencies, the legislature, and local governments. The Department assists local governments with community-based planning. In 1997, the Minnesota legislature adopted statewide goals for local government planning and created a comprehensive program for providing planning-related technical assistance and funding to local governments. As part of this program, counties must prepare comprehensive plans, and these plans are encouraged to comply with the community planning goals established by the Department. The Department has review authority over those plans and if the plans fail to adequately promote the community planning goals, the Department can require the county to enter into arbitration proceedings. If the county refuses to arbitrate, the Department can withhold planning grants and loans.

The 1997 legislation also created two other new programs that are supervised by the Planning Department: the Advisory Council on Community-based Planning which provides a forum for discussion and development of the framework for community-based planning and the incentives and tools to implement the plans; and the Land Use Planning Pilot program wherein counties that elect to participate in the program must adopt urban growth areas.

PROCESS OF DEFINING THE BOUNDARY

In 1996, the Council adopted the Metro 2040 strategy, a long-term planning strategy for the revised MUSA. In addition, the Council established permanent rural and agricultural areas outside the MUSA in which the Council does not intend to extend urban services until after 2040 if ever. The Council estimates that by sticking to a strategy of compact growth, the region will save $1.6 billion on new public infrastructure. The actual location of the MUSA boundary is dictated by the comprehensive
plans of the counties and cities within the boundary. The Council has review authority over these plans. The Council’s role is to promote new development to occur adjacent to existing development, establish comprehensive land use guidelines, and make more efficient use of local and regional infrastructure by working with the local governments to increase density along transportation corridors. In determining where the MUSA should be drawn, several variables are used: the history of development in the area, the size of the population the area will need to accommodate, the condition of the transportation system, and the cost to provide housing and services to the areas where transportation corridors will be extended. This indicates a “transportation first” approach to planning.

SUPPORT/OPPOSITION FOR THE BOUNDARY

Since the adoption of the MUSA, environmental groups (of course), local governments, and even the Home Builders Association (surprisingly) have shown their support. The Home Builders Association cites reasons for its support as affordable infrastructure and certainty as to when and where growth will occur. Local governments favor the 2040 strategy because of its strong commitment to limit municipal capital investments. The boundary has not had a well organized opposition. The small amount of opposition that has occurred is typically from landowners outside the boundary who feel as though their development rights have been taken. This contingent has been very small.

The success of the boundary may also be due to the process under which it was created. The Council wanted to actively engage the citizens and local officials in the region. It created focus groups and conducted community meetings and tours of different areas. Instead of looking at development needs just in Minneapolis and St. Paul and its surrounding suburbs, the Council looked at the whole region. This strategy, in combination with an existing authority for regional planning, a capital improvements plan, and comprehensive planning mechanism for cities and counties, created a remarkably successful growth management program.

PREMPTION OF BUILDABILITY

Homebuilders have come to see the MUSA as creating a degree of certainty as to where development may occur. Although the developer must still go through the subdivision and zoning approval process, and the particular development may still be denied, the developer is reasonably assured that he or she will not be denied on the basis that the land is not suitable for development.

IMPLEMENTATION

Implementation of the MUSA is accomplished through the use of three mediums: first, the comprehensive plans are commitments to provide regional and local service; second, comprehensive plan review agreements between the Council, counties, and cities; and third, special agreements or compacts between cities and counties outlining the respective roles, responsibilities and commitments regarding service or timing of urban development. These are similar to Colorado’s version of Intergovernmental Agreements. These special compacts are used for services (sewers, utilities, water) and for sharing other infrastructure costs.
In resolving disputes over the MUSA, mediation is the primary tool employed. Under Minnesota law, in the event of a dispute between a county and the state Planning Department, or between a county and a city, regarding the development, content or approval of a community-based comprehensive land use plan, an aggrieved party may file a written request for mediation with the state bureau of mediation services. The parties select a mediator and attempt to negotiate a settlement. (M.S.A. § 572A.01)

If no settlement is reached through mediation, the dispute shall be submitted to binding arbitration. The arbitrators hold a hearing on the matter and make a decision. Unless the decision is appealed to the district court, the state Planning Department or the municipal board issues an order consistent with the decision of the arbitrator. (M.S.A. § 572A.02) If the arbitrators find that the city’s projected estimates in its comprehensive municipal plan are reasonable with respect to an identified urban growth area, the arbitrators may order approval of the city’s plan. (M.S.A. § 572A.03)

**D. MARYLAND**

**OVERVIEW**

Montgomery County, located just outside Washington D.C., has been leading the growth management movement in the state of Maryland. The county has had a regional planning commission in place in at least a portion of the county since 1927. Montgomery county is also home to one of the most successful transferable development rights (TDR) programs in the nation. Aside from Montgomery County, two other counties in Maryland have dabbled in the growth management arena. Prince George’s County (also adjacent to Washington D.C.) has adopted a “water and sewer planned service area boundary.” The boundary is defined by the drainage basin. According to the county planners, 80% of the county can be served by the basin, so the boundary has done little to control or direct growth, but at least county planners are cognizant of the need to manage growth. Baltimore County has had an “urban/rural demarcation line” in place since the 1970s. The line defines the areas where sewer and water can be provided. Within the boundary, growth areas are identified and growth is encouraged to occur in these growth areas. The County’s master plan is currently being revised to create a 2010 planning strategy for the area inside the line.

**AUTHORITY**

In 1996, the State of Maryland adopted legislation to promote managed growth. The legislation, called the Smart Growth Act, establishes priority growth areas and preserves some rural areas but it does not mandate a regional approach to planning nor does it mention the use of growth boundaries to control growth. The priority growth area designation is used to help guide the distribution of state government resources. Maryland is unique in that counties have all the authority to manage growth and cities have no authority to dictate where growth may occur. Most cities have no annexing powers, and city limits are permanent and immovable. In a few counties, councils of governments have been established whereby counties and cities work together to address regional issues. However, these councils of governments have no authority either. Counties often form councils of governments with other counties as well. One example is the Washington Council of Government which address regional...
planning in Maryland, Virginia, and Washington D.C. The COG addresses regional issues like air quality and transportation but again, it acts in an advisory capacity only.

STATE-LEVEL INVOLVEMENT IN GROWTH MANAGEMENT

State level involvement in planning is limited, but it dates back to 1927 when the state created the Maryland-National Capital Park and Planning Commission to protect open space and control development in parts of the Maryland suburbs adjoining the District of Columbia. The early law gave the Commission authority to plan for the physical development of the bi-county area of Montgomery and Prince George’s Counties. In later years, the Commission’s authority has subsided. The 10-member Commission, comprised of 5 members from Montgomery County and 5 from Prince George’s County meets monthly to address only those issues that affect both counties. For the most part, the planning commissions from both counties plan for their respective counties and the Commission merely acts as a coordinator of the joint planning area.

The State Planning Office is trying to play a more active role in growth management. It produces a series of publications on growth management issues to help counties learn more about the techniques available for managing growth. Under the Smart Growth Act, the state has designated “growth areas” and developed regional planning programs for some counties, particularly those counties in close proximity to Washington D.C. and Baltimore. To encourage growth to occur in these designated growth areas, the state provides monetary incentives for development inside the growth area, and may withhold funding if developers desiring to develop outside the growth area. The more rural counties are less enthusiastic about the state’s level of involvement because the focus of the state’s program is only larger, more urbanized counties.

PROCESS FOR DEFINING THE BOUNDARY

Most counties in Maryland that have established some form of growth or service boundary have defined the boundary based on the ability to extend urban services like sewer and water. A few larger counties have incorporated a few more variables into the process like population and housing unit forecast and resulting land demand calculations; farm ownership patterns, and population holding capacity based on existing zoning.

SUPPORT/OPPOSITION

In Maryland, the primary supporters of the Smart Growth Act that gives local governments the authority to adopt urban growth boundaries are environmental and conservation organizations like 1000 Friends of Maryland and the Chesapeake Bay Foundation. Local governments that fear the loss of control over land use decisions and citizen groups in support of private property rights make up the opposition to the legislation.

PRESUMPTION OF BUILDABILITY
Counties in Maryland that have urban growth boundaries do not offer developers a presumption of buildability. The comprehensive plans put developers on notice of the desired type of development and density, but developers must go through the zoning process to change density or change the allowed use.

IMPLEMENTATION

Growth management efforts are for the most part confined to the local (county) level. In Montgomery County Maryland, one of the largest counties in Maryland, “growth corridors” are employed as a planning tool. Growth corridors call for development to be concentrated along major transportation spines radiating out from the District of Columbia. In between the corridors, there are planning areas referred to as “wedges.” These areas are planned for predominately low density and rural-type development. Montgomery County also uses “master plans” and an “annual growth policy” as part of its planning process. The master plan indicates in broad terms those areas suitable for residential purposes, business or industry, agriculture, open space, transportation, recreation and community facilities. The master plan consists of smaller “area plans” for each of the 27 planning regions in the county. The boundaries of these planning areas are determined by legislative action of the County Council. Master plans are advisory only, similar to Colorado’s comprehensive plans. The County has an Annual Growth Policy which helps county officials match the timing of private development with availability of public facilities. It has two components: (1) identifying the need for public facilities to support private development, and (2) constraining the amount of private subdivision approvals to those which can be accommodated by the existing and planned public facilities that the County and other levels of government can produce in a given time frame. The program is designed to affect the timing of development, but it does not address the location, amount, type or mix of development.

DISPUTE RESOLUTION

The primary method of enforcing any of the growth management tools employed in Maryland is the local zoning process. In Baltimore County, some challenges to the placement of the demarcation line have arisen, but none of the challenges have been successful. Disputes that often arise are the typical zoning disputes like downzoning and NIMBYism-related issues. Because the court process is very slow, most disputes settle during the litigation process. Our sources were unaware of any formal mediation or arbitration programs for handling these types of disputes. Litigation at the local level is the most common form of dispute resolution. In addition, there are few if any disputes among local governments over placement of the line, so no program has been established to handle such disputes.

E. FLORIDA

OVERVIEW

In 1990, the state of Florida adopted its first state-wide legislation to control growth. UGBs are not mandated, and as a result, they have been slow to catch on. Typically, counties adopt UGBs as opposed to municipalities because municipal boundaries are not expandable (for the most part).
Florida’s growth management act, also known as the Local Government Comprehensive Planning and Land Development Regulation Act, requires every county and city to establish a local planning agency to be responsible for preparing, monitoring and carrying out the comprehensive plan. Section 163.3177 of the Florida Annotated Statutes contains a detailed list of items that must be included in a comprehensive plan. The list includes:

1. A capital improvements plan that outlines the construction, extension, or increase in capacity of public facilities over a 5 year period.
2. Coordination of the comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties (or the region), and with the state-wide comprehensive plan.
3. Designation of future locations, and extent of uses of land for residential, commercial, industrial, agricultural, and recreational uses.
4. Standards to be followed in the control and distribution of population densities and building and structure intensities.
5. Five and ten year plans that address transportation, urban services (sewer, solid waste, drainage, potable water, groundwater), conservation, recreation and open space, and housing.
6. Procedures to identify and implement joint planning areas for the purpose of annexation, municipal incorporation, and joint infrastructure service areas.

In addition to regulations, the Act contains several policy statements addressing the need to control growth. For instance, in section 163.3177(11)(b), the legislature encourages cities and counties to create a planning process which allows for land use efficiencies within existing urban areas and also allows for the conversion of rural lands to other uses where appropriate. The policy statement goes on to encourage the use of innovative and flexible planning and development strategies. Nowhere does the policy address urban growth boundaries, though the rest of the Act clearly contains elements that would be employed in an urban growth boundary scenario. For example, the Act strongly encourages urban infill and redevelopment, along with concurrency (development abutting already urbanized areas) and conservation of open space and natural resources. Our sources indicated that counties may adopt urban growth boundaries, citing this policy statement in 163.3177(11)(b) as authority to do so.

State-Level Involvement in Growth Management

The State Planning Department prepares a state-wide comprehensive plan. Local governments are then required to prepare comprehensive plans that are consistent with the state-wide plan. The State Planning Department has review authority over the local government plans. The Department may sanction a local government and withhold planning funds if the local government refuses to comply with the state-wide plan.

The state also has established a dispute resolution program through the Department of Community Affairs.

Process of Defining the Boundary

In Martin County, Florida, the most progressive and aggressive counties in Florida in the growth management arena, the UGB was established in 1980. The boundary was originally established by
including all land that was currently zoned for urban density (1 unit per 2 acres) inside the boundary. The county eventually realized that the boundary was too large to serve any useful purpose. Through a negotiation process with the state, the boundary was amended. The new boundary included two different regions—the primary service area and the secondary service area. The secondary service area is essentially an urban reserve. This area was rezoned at such a low density, that developers are not interested in developing it, i.e., it is self-regulating. In the primary service area, the county created a staging program to further dictate when and where development may occur.

The county recently staved off a challenge to its UGB. The developer wanted to have the boundary expanded and the county refused. After the developer sought advice from the State Planning Office as to the validity of the boundary, he decided that it was not worth challenging the boundary at an administrative hearing or in court.

SUPPORT/OPPosition

Like most of the other states we surveyed, the primary supporters of the growth boundaries are local conservation and environmental organizations. Home builders and citizens who support private property rights are the primary opponents.

PRESUMPTION OF BUILdABILITY

In at least one instance, developers have some degree of certainty that they will be able to build on land within a UGB. In Martin County, all land in the primary service area is zoned for urban densities. This provides some assurance that the land can be developed. However, the developer must still comply with zoning, subdivision, and building permit requirements.

IMPLEMENTATION

Martin County has adopted an urban growth boundary, and is considered to be the most progressive county in the state when it comes to growth management. When UGBs are adopted, they become part of the city or county’s comprehensive plan. Because they are part of this plan, and comprehensive plans are mandated by the Growth Management Act, any amendments to the boundary can be challenged by the State Department of Planning (SDP). The SDP can not stop the amendment from occurring, but it can challenge the decision of the local government as being inconsistent with the entity’s own comprehensive plan or inconsistent with the state-wide comprehensive plan.

Counties also may restrict where they will provide utilities, water and sewer services in an effort to direct growth. Even though counties do not typically control all water services (service districts exist), the county has the authority to prohibit a district from providing services to an area outside the primary service area.

DISPUTE RESOLUTION
The most important aspect of the Act from a legal standpoint is that the comprehensive plans are binding on the governments that created them and the citizens whose property is governed by them. Once a comprehensive plan is in place, all land development regulations must be in conformity with the plan. If a landowner disputes an aspect of the plan as it is applied to his or her property, or requests an amendment to the plan, the local government must afford the landowner an opportunity to informally mediate or seek some other form of alternative dispute resolution. Costs for the mediation or alternative dispute resolution are generally split between the parties. Florida has an organization called the Florida Conflict Resolution Consortium. The program is run through the state university system. The Consortium handles a variety of public policy problems and community disputes, not just those involving UGBs and land use issues. Mediation is one of the many services the Consortium provides. It also provides training in mediation and facilitation to help communities resolve their disputes without the aid of the Consortium.

If the landowner does not wish to pursue mediation, they may seek judicial review in the courts of the local government, and ultimately in state courts.

F. CALIFORNIA

OVERVIEW

California has been using the concept of growth boundaries since the early 1990s when reports began to surface about the devastation that low-density suburban sprawl had created throughout much of the state. Northern California, specifically in the Bay Area and Sonoma wine country region, has become a hotbed for the implementation of UGBs. In 1998, UGBs and smart growth ballot measures made a clean sweep in Northern California. Three new communities in Sonoma County adopted UGBs, bringing the number of communities with UGBs in the Bay Area to 15. Twelve other California communities also adopted UGBs and another six communities are expected to adopt UGBs in 1999.21

AUTHORITY

California does not have growth management legislation that either mandates or encourages the adoption of urban growth boundaries. California did adopt legislation requiring municipalities to adopt “spheres of influence”, but these areas do not equate to growth boundaries or service areas and they are not used to control or direct growth.

California’s legal environment, when it comes to the establishment of various types of growth boundaries, is very much like Colorado’s. Both cities and counties have authority to define their boundaries, and annexation is a common tool for expanding municipal boundaries. California counties have more control over annexation than Colorado counties through legislation creating Local Agency Formation Commissions (LAFCO) which must approve development outside designated spheres of influence (ultimate probable boundaries of urban development). The downfall of the spheres of influence is that originally they were drawn too generously, LAFCOs have been quick to approve development outside the area, and voter approval for expansion of the area is not required.22
STATE-LEVEL INVOLVEMENT IN GROWTH MANAGEMENT

There is very little influence by the state in the creation or implementation of growth boundaries. Although the state can define a municipality’s sphere of influence, it does not get involved in defining urban growth boundaries. The state does not get involved in disputes arising over growth boundaries either.

PROCESS FOR DEFINING THE BOUNDARY

In many instances where UGBs are formally adopted, cities and counties will simply take the informally acknowledged service area (an area where urban services have already been extended) and expand the area to include “urban reserves” to create the new UGB. Urban reserves are those areas the city and county believes will be the most suitable for urbanization due to proximity to already urbanized areas. Urban reserves are not anticipated to be developed in the near future, but rather have a 10 to 20 year planning horizon.

SUPPORT/OPPOSITION

Support and opposition contingencies for growth boundaries in the state of California are the same as seen by most other states. Environmentalists and local governments favor them and the homebuilders associations and property owners who end up on the outside of the boundary oppose them.

PRESUMPTION OF BUILDABILITY

Some counties that have adopted growth boundaries offer some presumption of buildability. In San Jose and Santa Clara County for example, land within the boundary is given an “urban density” designation. Developers are on notice that land within the boundary may be developed with urban densities, although they must still go through the development approval process to obtain the necessary plan approval.

IMPLEMENTATION

Although no legislation addressing UGBs exists, California has created an effective program for adopting them. UGBs are typically adopted by municipalities as opposed to counties, and they have three primary procedural options to employ in creating the boundary: (1) adoption by a vote of the people coupled with a joint agreement with neighboring jurisdictions, (2) adoption of a resolution of the city council, and (3) adoption of a joint policy statement. Option number one, “by voter approval” is the optimal method because is provides a higher degree of permanence to the boundary- - any boundary approved by the vote of the people can only be removed by a vote of the people. The drawback to a boundary created by resolution of a city council is that it may be revoked in the same manner. The final option, joint policy statements (a form of intergovernmental agreement), are generally limited to
situations where neighboring jurisdictions desire to create open-space buffers between the jurisdictions.26

In addition to UGBs, some California communities are experimenting with ballot initiatives that lock in growth boundaries for 20 to 30 years, requiring any development proposed outside the boundary be approved by a majority of the voters. This second type of ballot initiative referred to as Save Our Open Space and Agricultural Resources (SOAR) are opposed by the California Association of Realtors. They claim these initiatives completely shut down the housing market.27

DISPUTE RESOLUTION

In many instances, UGBs are regulated by joint polices that are created through a collaborative effort between the city(s) and county. These joint policies require that local entities have review authority of other local entities’ general plans. All parties to these joint policies agree not to act unilaterally. Although the joint policies are contractual agreements, they are not legally binding. California law does not authorize the use of legally binding agreements between local governments. As a result, when disputes arise, public hearings are held to resolve the concerns.

ADDITIONAL TOOLS FOR MANAGING GROWTH

A. INTERGOVERNMENTAL AGREEMENTS

Just as growth boundaries come in a variety of forms such as UGBs, UGAs, USAs, urban rural demarcation lines, etc., there are as many ways to implement them. Implementation programs can be very formal, structured and legislated like those programs employed in Oregon and Washington, or they can be as simple as implementation of an intergovernmental agreement (IGA) like some of the UGBs in California. See Appendix A for a summary of the types of implementation and legislation creating the various types of growth boundaries in the states analyzed above. Since Colorado does not currently have any growth management legislation, the implementation programs used in Oregon and Washington are of little relevance at this particular time. Instead, Colorado should consider using IGAs which have been shown to be an effective method of enforcing growth boundaries when there is no state legislation. The Colorado General Assembly has already authorized and encourages the use of IGAs to facilitate cooperation and coordination of planning efforts between counties and municipalities. In fact, many communities in Colorado, Fort Collins, Boulder, Gunnison, and Berthoud, to name a few have already adopted IGAs to implement growth boundaries.

There is no Colorado case law documenting litigation of disputes arising between parties to IGAs, leaving the enforceability of the agreements open for interpretation. One interpretation is that IGAs represent binding agreements between the parties, creating a contractual obligation to comply with them. Any breach of the conditions set forth in the agreement could result in the breaching party being held responsible for damages caused by the breach as determined in a court of law or subject to specific performance enforced by the court. In drafting the IGA, parties should provide for the available remedies in the event of a breach.
To assist in the facilitation of creating acceptable IGAs, the appendix contains several samples of IGAs used across the country to implement growth boundaries. Many of the examples are from Colorado.

B. TRANSFERABLE DEVELOPMENT RIGHTS

The use of transferable development rights (TDR) to control the location of development is a growing phenomenon. Several books have been written on the subject. Many local governments have adopted TDR programs but only about 25 programs are really producing a measurable number of transfers. See Appendix B for a listing of the more active programs. The reasons for using TDRs also varies. TDRs have been used to protect historic buildings and environmentally sensitive areas including wetlands and wildlife habitat; create open space; reduce the intensity of development; reduce the potential for natural disasters like landslides and fires; and preserve America’s diminishing supply of productive farm land.

The basic concept behind the use of TDRs is that density is transferred from one location (the sending site) to another location (the receiving site) in an attempt to reduce the density on the sending site and increasing the density on the receiving site. One advantage of using TDRs in the growth management context is to protect local governments for taking claims. Taking claims are common in connection with the implementation of an urban growth boundary, because inevitably, some land will be outside the boundary, thereby restricting its use and reducing its speculative value. The United States Supreme Court has upheld the validity of transferable development rights as a viable method for compensating landowners whose use rights have been restricted.

TYPICAL BOUNDARY DISPUTES

Taking claims account for a majority of the disputes that are arise between landowners and local governments when UGBs are in place. However, in some areas of the country where UGBs have been in affect for long periods of time taking claims have subsided. For example, Oregon asserts that taking claims no longer exist in that state because the boundaries have been in existence for almost 30 years in some cases. Landowners are effectively on notice when they buy land outside the boundary that their use rights are restricted. In locales like Florida and Maryland where UGBs are implemented through comprehensive plans, landowners often challenge the validity of the plan. Finally, disputes between local governing entities typically involve boundary disputes, i.e., quarrels about where the line has been drawn, and disputes over whether the boundary should be amended.

CONCLUSION

The creation and implementation of urban growth boundaries is not an exact science, and as such, there is room for trial and error. Cities and counties all across the nation are experimenting with various forms of growth boundaries in an attempt to stop the tide of suburban sprawl. Some attempts have been very successful, others mildly successful, and others have succumbed to varying degrees of failure. But the important thing is that attempts are being made and from these attempts we can learn more about what works and what doesn’t. The tragedy would be in waiting until it is too late to do any good. Oregon is a good example of the good that can come from persevering. When the state first adopted its growth management legislation nearly 30 years ago, it met with strong opposition. Today however, the positive aspects seem to far outweigh the negative aspects.
As DRCOG embarks on this endeavor of implementing the urban growth boundary, it should expect opposition from property rights advocates and developers. There will be takings claims, boundary disputes, and quarreling among local government entities. But hopefully, like in the Oregon example, there will be rewards, and in time, a chance to reflect on the successes achieved.
APPENDIX A

SAMPLE INTERGOVERNMENTAL AGREEMENTS

7. Holding Our Ground (Publication)
This is a blank IGA that may be used by governmental entities as a guide to facilitate an urban growth boundary. It addresses such issues as annexation, responsibility for providing urban services both inside and outside the boundary, and termination of the agreement.

8. IGA in Bend, Oregon
Since state legislation mandates the creation of an urban growth boundary and requires that the boundary be established through a cooperative effort between the city and county, this IGA, though it is called a “joint management agreement”, between the City of Bend and Deschutes County facilitates that process. The agreement contains the following provisions:
- annexation,
- coordination of comprehensive plans,
- jurisdiction over zoning,
- responsibility for providing urban services (including sewer and water),
- construction and maintenance of road and other public works,
- special district coordination,
- responsibility for enforcement of land use ordinances,
- the review processes that the parties agree to when any action is taken regarding either land inside the UGB or the urban reserve areas, and
- conditions for the renewal or termination of the agreement.

In addition to the joint management agreement, the 2 entities have entered an second agreement regarding the transfer of building and land use responsibility within the boundary. This agreement delegates the responsibilities for enforcing land use codes and regulations and policy implementation between the City and County. This agreement also addresses dispute resolution policies and procedures.

9. IGA in Fort Collins, Colorado
This IGA between the City of Fort Collins and Larimer County facilitates the City’s UGB. Like the IGA in Bend Oregon, this IGA also addresses such issues as annexation, responsibility of constructing and maintaining roads, and policies and procedures for amending and enforcing the UGA. It also delegates responsibility for approving development, creates the UGA Review Board, and requires the adoption of a comprehensive plan for the area inside the boundary (joint plan).

Note: Similar agreements exists between Loveland, Colorado and Larimer County and Berthoud, Colorado and Larimer County.

10. IGA in Boulder County, Colorado
This agreement embodies a cooperative effort of two cities (Lafayette and Erie) and the County to minimize the negative impacts of land use. The agreement calls for the adoption of a joint comprehensive development plan that would be mutually binding and enforceable. Part of that development plan involved the creation of buffer zones between
the municipalities that were parties to the agreement. The agreement provides for the allocation of the costs of providing government services and utilities, and sets forth polices on annexation practices. This agreement does not create or facilitate an urban growth boundary, but it does describe in detail the areas that are appropriate for urban development and those that are not.

11. IGA in **Gunnison County, Colorado**
   This is a model agreement between the City of Gunnison and the Gunnison County. It sets forth the polices for joint review of projects inside the urban growth boundary, locational standards calling for development inside the boundary, future urbanizing standards that require future development to be consistent with the city’s design standards, utility extension and other public services, and annexation.

12. Memorandum of Understanding (MOU) in Montgomery County, MD
   The Maryland Office of Planning prints a publication entitled “Urban Growth Boundaries”. Contained in this publication is a complete copy of the MOU between Montgomery County and Rockville and Gaithersburg, Maryland. The agreement is simply a statement that each entity agrees to work together to address such issues as land use, capital investments, annexation, and the providing of public services.
## APPENDIX B

### ACTIVE TDR PROGRAMS (June 1998)

<table>
<thead>
<tr>
<th>Location</th>
<th>Purpose</th>
<th># of Transfers</th>
<th># of Acres Transferred</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belmont, California</td>
<td>Encourage clustering and density transfer to reduce impacts associated with steep slopes, and preserve natural terrain and views.</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Monterey County, CA</td>
<td>Preserve the unique environment of Big Sur.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morgan Hill, CA</td>
<td>Preserve steep hillsides.</td>
<td>unknown</td>
<td>111</td>
</tr>
<tr>
<td>Pismo Beach, CA</td>
<td>Protect scenic resources, preserve open space, reduce hazard potential, and provide public access.</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>San Luis Obispo County, CA</td>
<td>Reduce the intensity of development on substandard lots on steep, highly erodible coastal slopes; reduce impacts on Cambria Pine habitat. The current program uses TDCs (not TDRs), but the county hopes to expand the program this year to implement TDRs.</td>
<td>200</td>
<td>4</td>
</tr>
<tr>
<td>San Mateo County, CA</td>
<td>Protect agricultural land and the business of agriculture.</td>
<td>1 or 2</td>
<td>unknown</td>
</tr>
<tr>
<td>Santa Monica Mnts, CA</td>
<td>Reduce potential landslides and fire hazards, minimize impact on public service systems, and avoid environmental degradation.</td>
<td>unknown</td>
<td>unknown</td>
</tr>
<tr>
<td>Boulder County, Colorado</td>
<td>Preserve farmland and open space.</td>
<td>6</td>
<td>2,100-2,600</td>
</tr>
<tr>
<td>Collier County, FL</td>
<td>Preserve environmentally sensitive land.</td>
<td>1</td>
<td>325</td>
</tr>
<tr>
<td>Maitland, Florida</td>
<td>Preserve open space.</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Palm Beach County, FL</td>
<td>Preserve environmentally sensitive land.</td>
<td>7</td>
<td>13,000-14,000</td>
</tr>
<tr>
<td>Calvert County, MD</td>
<td>Preserve farmland.</td>
<td>unknown</td>
<td>7,000</td>
</tr>
<tr>
<td>Charles County, MD</td>
<td>Preserve farmland.</td>
<td>3</td>
<td>300</td>
</tr>
<tr>
<td>Montgomery County, MD</td>
<td>Preserve farmland.</td>
<td>6,629</td>
<td>43,993</td>
</tr>
<tr>
<td>Queen Anne’s County, MD (Centreville, MD)</td>
<td>Preserve farmland.</td>
<td>40</td>
<td>2,377</td>
</tr>
<tr>
<td>County</td>
<td>Contact</td>
<td>Goals</td>
<td># of Transfers</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>--------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>St. Mary's County, MD (Leonardtown, MD)</td>
<td>Sue Veith, Envtl Planner (301) 475-4449</td>
<td>Preserve open space and environmentally sensitive land.</td>
<td>2</td>
</tr>
<tr>
<td>Talbot County, MD</td>
<td>Dan Cowee (770-8030)</td>
<td>Preserve farmland and prevent erosion of shoreline.</td>
<td>2</td>
</tr>
<tr>
<td>Burlington County, NJ</td>
<td>Susan Kraft, Planner (609) 265-5787</td>
<td>Preserve farmland</td>
<td>3</td>
</tr>
<tr>
<td>Pinelands, NJ</td>
<td>Terrance (Terry) Moore Pinelands Planning Comm’n (609) 894-9342</td>
<td>Preserve environmentally sensitive land.</td>
<td>171 completed transfers</td>
</tr>
<tr>
<td>Lancaster County, PA Manheim Township</td>
<td>Jeff Butler, Dir. of Planning (717) 569-6408</td>
<td>Preserve farmland.</td>
<td>4</td>
</tr>
<tr>
<td>Blacksburg, VA</td>
<td>Adele Schermer, Planner (540) 961-1126</td>
<td>Preserve open space, farmland, and forest.</td>
<td>2</td>
</tr>
<tr>
<td><strong>Totals:</strong></td>
<td></td>
<td></td>
<td>7154-7158</td>
</tr>
</tbody>
</table>
Endnotes

1 Bound for Success: A Citizen’s Guide to Using Urban Growth Boundaries for More Livable Communities and Open Space Protection in California, Greenbelt Alliance, People for Open Space, pg. 37 (199?).
2 Holding Our Ground: Protecting America’s Farms and Farmland, Daniels, Tom and Deborah Bowers, Island Press 1997, pg. 139.
3 Id.
4 Bound for Success, pg. 1.
5 Holding Our Ground, pg. 136.
6 Bound for Success, pg. 2.
8 Id.
10 Metropolitan Council Regional Blueprint, pg. 5 (December 1996).
11 Metro 2040: Updated.
13 Metropolitan Council Regional Blueprint, pg. 54.
14 Metro 2040: Updated.
15 Metropolitan Council Regional Blueprint, pg. 50-51.
18 Id, at pg. 7.
19 Id, at 7-9 and 15.
22 Bound for Success, pg. 7.
23 Id, at 16.
24 Id, at 31.
25 Id.
26 Id, at 32.
28 Saved by Development: Preserving Environmental Areas, Farmland and Historic landmarks with Transfer of Development Rights, Rick Puretz, AICP, (September 1997).