

Leadville Urban Renewal Authority

Frequently Asked Questions

17 October 2017

Given the long history of urban renewal in Colorado (state statute adopted in 1958), there is a great deal of information about how urban renewal authorities are formed, urban renewal planning areas are identified, urban renewal plans are created, and what tax increment financing is and how it is quantified. Much of this is addressed in the following list of questions and answers. Its longevity, however, has also lent itself to a good amount of misinformation, too. A sample of misnomers are presented at the end of this document, followed by a brief statement of clarification or correction. For this reason, a project page has been created on the City's website where this, and other materials will be available for public review. *See link below.*

In an effort to avoid confusion, and maintain the integrity of the urban renewal processes, as required by state law, the Leadville Urban Renewal Authority's page on the City of Leadville website, along with Authority- or City-sponsored meetings, will be the only locations where verifiably accurate information and communications may be obtained.

Urban Renewal Authority

1. Who serves as the board of the urban renewal authority?

Under Colorado law, the city council of a municipality has two choices with regard to the make-up of the governing body of the authority. The city council may either designate itself as the authority governing board; or, the Mayor and city council may appoint a separate authority governing board. Among the 45+ active authorities in Colorado, approximately half have their town / city council acting as the authority governing board, and the balance separate appointed boards. Some of the urban renewal authorities originally established with city council as their board, eventually changed to an appointed board. Note: Switching from a council board to an appointed board is significantly easier than from an appointed board to a council board.

Examples of communities with their council serving as the authority board include Parker, Thornton, Loveland, Aurora, Longmont, Lakewood, Centennial and Fort Collins.

Communities with separate appointed authority boards include, among others, Arvada, Boulder, Brighton, Colorado Springs, Denver, Golden and Westminster. Among the smaller communities with urban renewal authorities, most of them were established with city council serving as the board, and many cited their reasoning being an inability to find sufficient numbers of people to serve in this capacity.



Several communities with their council serving as the authority board, have elected to appointed an advisory board to assist with their efforts. Individuals selected often have backgrounds in real estate, banking, architecture and other related fields.

2. Are urban renewal authorities common in Colorado?

Yes. There are more than 50 urban renewal authorities in Colorado, of which more than 45 are active. Communities that have active authorities include large cities (Denver, Colorado Springs, Aurora, Fort Collins and Pueblo), small towns (Timnath, Dillon, Lamar, and La Junta), Front Range suburban communities (Parker, Thornton, Louisville, Commerce City, Arvada, Broomfield, Northglenn, Edgewater, Lakewood, Wheat Ridge, Westminster, Federal Heights, Sheridan, Centennial, Englewood, Glendale, Erie and Littleton), other outlying communities (Boulder, Longmont, Loveland, Brighton, Golden, Greeley, Manitou Springs and Sterling), along with rural and mountain communities (Vail, Avon and Steamboat Springs).

3. What are the powers and responsibilities of the authority board compared to city council and planning commission after an urban renewal plan is adopted?

City Councils or Boards of Trustees may -- establish the authority by resolution; declare potential urban renewal areas "blighted" as defined by the law; appropriate city funds to the authority; retain staff and other experts; cause urban renewal plans to be prepared, approved and implemented; acquire real property; enter into agreements with public entities and taxing districts; and issue debt.

Planning and Zoning Commissions may - review urban renewal plans for consistency with the community's comprehensive plan; and consider (and opine on) proposed projects within an urban renewal area.

Urban Renewal Authorities may - make recommendations to city council or the board of trustees; prepare conditions surveys, urban renewal plans and financing plans for the planning area and present these to the governing body for consideration and adoption; acquire real property for preservation or restoration of historic sites; acquire, construct, reconstruct or install public improvements; enter into agreements with developers, public entities and taxing districts; and issue debt.

4. Are these powers different if city council vs. an appointed group serve as the authority board?

No.

5. Does an urban renewal authority have the ability to rezone property or make other land use decisions in an urban renewal planning area?

Per state statute, an urban renewal authority may work with the city to effectuate land use regulation matters needed to implement projects within its planning boundaries. Regardless, most defer this power to the city. However, several adopt design and development standards for properties in the planning area. When these are administered by the authority, many become eligible for urban renewal resources.



6. Can an urban renewal authority enter into agreements with other taxing entities? If “yes,” can they be amended from time-to-time?

Yes. Many, if not most, urban renewal authorities have entered into agreements with a range of taxing and other public entities. Recent legislation, however, now requires this practice, or at least discussions regarding the necessity for such agreements.

Urban Renewal Planning Process

7. What is the process for establishing an urban renewal planning area?

Generally --

1 Determine survey area boundaries; 2 Notify property owners of the survey process; 3 Verify presence and location of blighting conditions; 4 Prepare conditions survey; 5 Present conditions survey findings to urban renewal authority board and city council for acceptance*; 6 Identify opportunities within the planning area for private investment and reinvestment and estimate timing; 7 Define future role of planning area in community; 8 Prepare urban renewal plan document; 9 Complete financial analysis (Tax Increment Finance - TIF); 10 Complete impact analyses (as per legislation) and share with all impacted taxing bodies; 11 Negotiate any necessary agreements; 12 Notify property owners, as well as individuals and entities with a business interest in the proposed area about the public hearing where the plan will be considered for adoption; and 13 Present urban renewal plan to urban renewal authority and city council in a public hearing for consideration and adoption.

*Presentation of the conditions survey findings may happen at the same meeting when the urban renewal plan is considered for adoption.

8. Who decides where an urban renewal planning area will be located?

The urban renewal authority board may identify potential planning areas, or property owners may engage the authority board in considering a potential planning area. An independent study is then prepared regarding the area’s potential eligibility for an urban renewal designation. If it is deemed eligible, the authority will then commission preparation of an urban renewal plan and related impact reports. Upon their completion, and after the required public notices have been mailed and published, the city council may adopt, by resolution, the urban renewal plan and commence collection of incremental revenues in the planning area.

9. How are the boundaries of an urban renewal planning area determined?

Colorado law requires that the boundaries of an urban renewal planning area be defined “as narrowly as possible.” However, it also states that it has to be of a size and magnitude, that it can accomplish the goals of the plan and objectives for the area. To this end, planning areas may include a combination of improved, vacant and under-utilized properties.



10. Can properties located in the county, and not annexed into the city, be included in an urban renewal planning area?

Yes, but only at the expressed approval of the board of county commissioners where the proposed planning area is located.

Conditions Survey and "Blight"

11. What information is presented in a conditions survey?

A conditions survey is an independent study and reporting of conditions, primarily physical and regulatory, which qualify as "blighted" under state law. Whereas a conditions survey is prepared by an independent third party, the decision whether actual factors of blight exist (as per the law) is a determination of the governing body of the municipality.

12. What is a "blight study," and is it different than a conditions survey?

No it is not different.

13. Are properties or areas considered "blighted?"

Individual properties are not considered or designated as blighted. Rather, urban renewal planning areas are investigated for the presence of adverse conditions contributing to blight.

14. Can vacant land have "blighting conditions" on it?

Yes. As you can see in the following answer, of the 11 factors of blight identified in the Colorado statute, only three mention the presence of a building or related improvement. All of the others related to conditions of land or infrastructure.

15. How is "blight" defined?

"Blight" is a legal term that describes an array of conditions ranging from physical deterioration of buildings and the environment, to health, social and economic problems in a particular area. These include:

- (a) Slum, deteriorated, or deteriorating structures;
- (b) Predominance of defective or inadequate street layout;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Unusual topography or inadequate public improvements or utilities;
- (g) Defective or unusual conditions of title rendering the title non-marketable;
- (h) The existence of conditions that endanger life or property by fire or other causes;



- (i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities;
- (j) Environmental contamination of buildings or property;
- (k.5) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements;
- (l) If there is no objection of such property owner or owners and the tenant or tenants of such owner or owners, if and, to the inclusion of such property in an urban renewal area, "blighted area" also means an area that, in its present condition and use and, by reason of the presence of any one of the factors specified in paragraphs (a) to (k.5) of this subsection (2), substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals or welfare. For purposes of this paragraph (1), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation.

Source: Colorado Revised Statute 31-25-103(2).

16. How many factors must be present in order for an area to be considered "blighted?"
- As per the statute, a blighted area is one that in its present condition and use maintains the presence of at least four factors ...” If the urban renewal authority knowingly intends to use eminent domain for the acquisition of properties in the area, five conditions must be present. Note: Individual properties within the planning area may not have any conditions present, and still qualify for an urban renewal designation, whereas, factors contributing to blight need only be present somewhere in the area.
17. When conditions contributing to blight are found in public buildings, how is it addressed?
- Public buildings should always be built according to required codes (building, fire safety, zoning, etc.); however, if conditions arise post-construction or over time that qualify as blighting, the decision to mitigate or eliminate them lies with the urban renewal authority and will likely be heavily influenced by the availability of resources to do so.
18. Do I have to disclose a blight designation on my property when I sell it?
- No, and no such designation is entered into public records of private properties.



Urban Renewal Planning Area and Plan (Document)

19. What information is presented in the urban renewal plan document?

An urban renewal plan must address issues including potential public improvements and their costs, estimates of future incremental revenues, proposed approaches to financing projects in its boundaries, potential private investments (items or thresholds), and whether the use of eminent domain is proposed to be authorized.

20. What happens after the urban renewal plan is adopted?

The urban renewal authority, together with city council and stakeholders in the planning area will determine the appropriate approach for implementing the plan. Among their options are issuance of development requests and to wait for private sector requests for assistance. In addition, the city could request the authority to complete certain public improvements, or facilitate the preparation of supporting policy documents.

When a development or redevelopment project in the planning area requests financial assistance from the authority, the board may direct staff or retain professionals to analyze the project's economic statement in order to confirm: the presence of a financing "gap" caused by the presence of adverse conditions identified in the survey, along with the amount of revenue that will be generated by the project, and its contribution to the area.

21. Is an urban renewal planning area in place forever?

An urban renewal authority can be in place in perpetuity, unless disbanded by city council; and an urban renewal plan may also exist in perpetuity, unless all of its objectives have been achieved and this is so noted by the authority board; but the funding mechanism (TIF) can only be in place for a maximum term of 25 years, and may be terminated earlier.

22. Can properties in an historic district, also be in an urban renewal area?

Yes, and many times are. The Colorado State Historic Society is an advocate of the use of urban renewal districts to preserve, protect and retain historically-designated and significant properties.

23. If "yes," how can the city or authority ensure new development will be context sensitive?

Development and design character can be ensured through the preparation and adoption of standards and guidelines for properties in the planning area.

Tax Increment Financing and Potential Impacts

24. What information is presented in an impact report?

The state law provides limited guidance regarding the format of impact reports prepared in association with urban renewal plans, however, does require that they document estimates



of potential future revenues and expenses resulting from net new investment in the planning area over the life of the TIF (not to exceed 25 years). In addition, they must include a discussion regarding potential impacts (if any) to the requisite taxing entity. Recent legislation now requires that in addition to quantifying potential impacts, urban renewal authorities must negotiate with these entities, in good faith, approaches to mitigate these impacts.

25. Are taxing entities such as school districts, the county, and others impacted when a community creates an urban renewal planning area?

A fundamental construct of urban renewal is that development and redevelopment in areas where physical, social and economic conditions are present to a degree that renders projects infeasible without assistance from multiple sources. This circumstance is referred to as the "but for" argument for urban renewal. In other words, the assumption is that without these resources, desired investment (as expressed in adopted community plans) will not occur. Therefore, the question of "impact" to other taxing entities is a difficult one to answer since it can reasonably be concluded that future investment within the planning area would not have occurred, "but for" the resources made available through urban renewal. Some professionals have concluded that a more accurate way to pose the question is to ask "what portion of future income resulting from new investment in an urban renewal area will not flow to existing taxing entities," and "will the net new benefit of the investment outweigh any related circumstance?"

Any taxing entity within an urban renewal planning area will continue to receive all revenues flowing to them prior to creation of the area, as well as all inflationary increases in value following bi-annual reassessments. Further, they capture 100% of the inflationary increase in properties that are adjacent to or benefitting from development within the urban renewal area, but located outside of its boundaries.

With regard to counties that have a sales tax, none of their sales tax may be used in the planning area, unless they voluntarily elect to do so. In the case of school districts, because of the Public School Finance Act of 1994, any action which effectively lowers their available per pupil funds will be "backfilled" or provided by the state. Lastly, taxable revenue sources such as those resulting from the collection of use, lodging, real estate transfer, or others may, but do not need to be captured for reinvestment in the area.

26. What is Tax Increment Financing (TIF)?

Tax Increment Financing (TIF) is a unique mechanism generated by projects within a designated urban renewal area after adoption of the urban renewal plan, and used to help finance future public improvements and private investment projects. TIF is a new source of tax revenue, not an additional tax, that is only available if investment and reinvestment in properties within the planning area occurs.

When a project is being planned in the area, the authority will analyze how much additional property and other municipal taxes will be generated. That amount of net new incremental resources can be used by the urban renewal entity either to either finance the



issuance of bonds, or reimburse the project owner for certain eligible expenses. In either case, the new tax revenue that is created must be used for improvements that have a public benefit and that support the redevelopment effort. Examples of eligible expenses include: costs related to site clearance, street improvements, completion of utilities, development of parks, removal of hazardous materials, and acquisition of properties for public facilities. In the case of a developer reimbursement, the amount reimbursed depends on the success of the project and only available if the project creates new taxable revenue for the community.

27. Do all projects in an urban renewal planning area need to use TIF financing?

No. TIF is used only when the urban renewal authority deems it necessary to bridge the financing gap of projects considered meritorious and for the public good.

28. Can urban renewal resources be used to improve public infrastructure?

TIF dollars may be used to fund the "undertakings and activities of the authority for the elimination and / or prevention of the spread of blight, including the redevelopment, rehabilitation, or conservation, or any combination or part therefore, of improvements, in accordance with an urban renewal plan."

General Questions

29. Why would a property and / or business owner want to be in an urban renewal area?

By initiating the process of designating an area for urban renewal, a community is sending the message that they are interested in assisting with its revitalization. Through the planning process, market opportunities are identified and the private sector is engaged in understanding these opportunities, as well as the tools which are available to assist with project implementation. Property owners and businesses benefit from both the public and private commitments and investment through association and proximity. (Also see "impacts to property values.")

Additional Information

Additional information and links regarding urban renewal, along with specific reports and public documents regarding urban renewal planning efforts in Leadville are available on the City's website, <https://www.colorado.gov/leadville>. Once there, click on the "About" drop-down and then Leadville Urban Renewal Authority.

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