

Washington County – Hillsboro Urban Planning Area Agreement

THIS AGREEMENT is entered into by WASHINGTON COUNTY, a political subdivision in the State of Oregon, hereinafter referred to as the “COUNTY”, and the CITY OF HILLSBORO, an incorporated municipality of the State of Oregon, hereinafter referred to as the “CITY”.

WHEREAS, ORS 190.010 provides that units of local government may enter into agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agents, have authority to perform; and

WHEREAS, Statewide Planning Goal #2 (Land Use Planning) requires that city, county, state and federal agency and special district plans and actions shall be consistent with the comprehensive plans of the cities and counties and regional plans adopted under ORS Chapter 197; and

WHEREAS, the Oregon Land Conservation and Development Commission requires each jurisdiction requesting acknowledgment of compliance to submit an agreement setting forth the means by which comprehensive planning coordination within the Regional Urban Growth Boundary (UGB) will be implemented; and

WHEREAS, the CITY and COUNTY have entered into cooperative agreements with special service districts for fire and life safety; water; parks, recreation and open space; sanitary sewer; and surface water services, consistent with ORS 195.020; and

Whereas, the CITY in accordance with Senate Bill 122 agreements and consistent with its role as a full service city, has the authority to choose to provide all public services to any newly annexed land unless the CITY agrees to have an alternative service provider; and

WHEREAS, following the Urbanization Forum process, the COUNTY through Resolution & Order 09-63, and the CITY through Resolution No. 2291, agreed that future additions to the UGB during or after 2010 must be governed and urbanized by the CITY in the COUNTY and also agreed to urge Metro to expand the UGB only to such areas as are contiguous to incorporated areas of Washington County; and

WHEREAS, the State legislature, with House Bill 4078-A in 2014 and House Bill 2047 in 2015, validated the acknowledged UGB and Urban and Rural Reserves established through the Metro Regional process involving both the COUNTY and the CITY; and

WHEREAS, the COUNTY and CITY desire to amend the Urban Planning Area Agreement (UPAA) to reflect the changes to the UGB, the CITY’s Urban Planning Area, and the need for urban planning of the new urban reserve lands; and

WHEREAS, the COUNTY and the CITY, to ensure coordinated and consistent comprehensive plans, consider it mutually advantageous to establish:

Agreement amended by
Washington County Land Use Ordinance No. 829
Adopted October 10, 2017

1. An Urban Planning Area Agreement incorporating both a site-specific Urban Planning Area within the UGB within which both the COUNTY and the CITY maintain an interest in comprehensive planning and development, and an Urban Reserve Planning Area outside the UGB where both the COUNTY and the CITY maintain an interest in concept planning; and
2. A process for coordinating comprehensive planning and development in the Urban Planning Area and concept planning in the Urban Reserve Planning Area; and
3. The status of existing comprehensive plans and implementing ordinances as they apply to the Urban Planning Area; and
4. Special policies regarding comprehensive planning and development in the Urban Planning Area and concept planning in the Urban Reserve Planning Area; and
5. A process to amend the Urban Planning Area Agreement (UPAA).

NOW THEREFORE, THE COUNTY AND THE CITY AGREE AS FOLLOWS:

I. Location of the Urban Planning Area and Urban Reserve Planning Area

The Urban Planning Area and Urban Reserve Planning Area mutually defined by the COUNTY and the CITY include the areas designated on the Washington County-Hillsboro UPAA Map “Exhibit A” to this Agreement.

II. Coordination of Comprehensive Planning and Development

A. Amendments to or Adoption of a Comprehensive Plan or Implementing Regulation

1. Definitions

Comprehensive Plan, means a generalized, coordinated, land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including, but not limited to, sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs.

"Comprehensive Plan" amendments do not include small tract comprehensive plan map changes.

Implementing Regulation means any local government zoning ordinance adopted under ORS 197, 215 or 227, a land division ordinance adopted

under ORS 92.044 or 92.046, or a similar general ordinance establishing standards for implementing a comprehensive plan.

2. The COUNTY shall provide the CITY with the appropriate opportunity to participate, review and comment on proposed amendments to or adoption of the COUNTY comprehensive plan or implementing regulations. The CITY shall provide the COUNTY with the appropriate opportunity to participate, review and comment on proposed amendments to or adoption of the CITY comprehensive plan or implementing regulations. The following procedures shall be followed by the COUNTY and the CITY to notify and involve one another in the process to amend or adopt a comprehensive plan or implementing regulation:
 - a. The CITY or the COUNTY, whichever has jurisdiction over the proposal, hereinafter the originating agency, shall notify the other agency, hereinafter the responding agency, of the proposed action at the time such planning efforts are initiated, but in no case less than 35 calendar days prior to the first hearing on adoption. For COUNTY or CITY comprehensive plan updates with the potential to affect the responding agency's land use or transportation system, the originating agency shall provide the responding agency with the opportunity to participate in the originating agency's planning process prior to the notification period, such as serving on the originating agency's advisory committee, if any.
 - b. For COUNTY or CITY comprehensive plan updates with the potential to affect the responding agency's land use or transportation system, the originating agency shall transmit the draft amendments to the responding agency for its review and comment before finalizing. The responding agency shall have ten (10) calendar days after receipt of a draft to submit comments orally or in writing. Lack of response shall be considered "no objection" to the draft.
 - c. The originating agency shall respond to the comments made by the responding agency either by a) revising the final recommendations, or b) by letter to the responding agency explaining why the comments cannot be addressed in the final draft.
 - d. Comments from the responding agency shall be given consideration as part of the public record on the proposed action. If after such consideration, the originating agency acts contrary to the position of the responding agency, the responding agency may seek appeal of the action through the appropriate appeals body and procedures.

- e. Upon final adoption of the proposed action by the originating agency, it shall transmit the adopting ordinance to the responding agency as soon as publicly available, or if not adopted by ordinance, whatever other written documentation is available to properly inform the responding agency of the final actions taken.

B. Development Actions Requiring Individual Notice to Property Owners

1. Definition

Development Action Requiring Notice means an action by a local government which requires notifying by mail the owners of property which could potentially be affected (usually specified as a distance measured in feet) by a proposed development action which directly affects and is applied to a specific parcel or parcels. Such development actions may include, but not be limited to, small tract zoning or comprehensive plan amendments, conditional or special use permits, land divisions, planned unit developments, variances, and other similar actions that require a quasi-judicial hearings process.

2. The COUNTY will provide additional coordination opportunities to the CITY on development applications requiring notice within Urban Planning Area C. Such coordination may include a Development Notification Confirmation Statement or other means of providing the CITY an opportunity to provide recommendations, identify the CITY's ability to serve the new development and address any foreseeable conflicts at the time of the application submittal to the COUNTY.
3. The COUNTY will provide the CITY with the opportunity to review and comment on proposed development actions requiring notice within the designated Urban Planning Area and Urban Reserve Planning Area. The CITY will provide the COUNTY with the opportunity to review and comment on proposed development actions requiring notice within the CITY limits that may have an effect on unincorporated portions of the designated Urban Planning Area or the COUNTY's transportation network.
4. The following procedures shall be followed by the COUNTY and the CITY to notify one another of proposed development actions:
 - a. The CITY or the COUNTY, whichever has jurisdiction over the proposal, hereinafter the originating agency, shall send by first class mail or as an attachment to electronic mail a copy of the public hearing notice or comment period notice when no public hearing is required, that identifies the proposed development action to the other agency, hereinafter the responding agency, at the

earliest opportunity, but no less than ten (10) calendar days prior to the date of the scheduled public hearing or end of the comment period. The failure of the responding agency to receive a notice shall not invalidate an action if a good faith attempt was made by the originating agency to notify the responding agency.

- b. The agency receiving the notice may respond at its discretion. Comments may be submitted in written form or an oral response may be made at the public hearing. Lack of written or oral response shall be considered “no objection” to the proposal.
- c. If received in a timely manner, the originating agency shall include or attach the comments to the written staff report and respond to any concerns addressed by the responding agency in such report or orally at the hearing.
- d. Comments from the responding agency shall be given consideration as a part of the public record on the proposed action. If, after such consideration, the originating agency acts contrary to the position of the responding agency, the responding agency may seek appeal of the action through the appropriate appeals body and procedures.

C. Additional Coordination Requirements

- I. The CITY and the COUNTY shall do the following to notify one another of proposed actions which may affect the community, but are not subject to the notification and participation requirements contained in subsections A and B above.
 - a. The CITY or the COUNTY, whichever has jurisdiction over the proposed actions, hereinafter the originating agency, shall send by first class mail or as an attachment to electronic mail a copy of all public hearings agendas which contain the proposed actions to the other agency, hereinafter the responding agency, at the earliest opportunity, but no less than three (3) calendar days prior to the date of the scheduled public hearing. The failure of the responding agency to receive an agenda shall not invalidate an action if a good faith attempt was made by the originating agency to notify the responding agency.
 - b. The agency receiving the public hearing agenda may respond at its discretion. Comments may be submitted in written form or an oral response may be made at the public hearing. Lack of written or oral response shall be considered “no objection” to the proposal.

- c. Comments from the responding agency shall be given consideration as a part of the public record on the proposed action. If, after such consideration, the originating agency acts contrary to the position of the responding agency, the responding agency may seek appeal of the action through the appropriate appeals body and procedures.

III. Concept Planning for Urban Reserve Areas

A. Definitions

1. Urban Reserve means those lands outside the UGB that have been so designated by Metro for the purpose of:
 - a. Future expansion of the UGB over a long-term period (40-50 years), and
 - b. The cost-effective provision of public facilities and services when the lands are included within the UGB.
 2. Urban Reserve Planning Area (URPA) means those Urban Reserves identified for annexation and urbanization by the CITY at such time as the UGB is amended to include the Urban Reserve Area.
 3. Urban Reserve - Planning Responsibility Undefined means those Urban Reserves that the CITY and at least one other city may have an interest in ultimately annexing and urbanizing, but for which no final agreement has been reached. These areas are not considered part of the Urban Reserve Planning Area for purposes of this Agreement.
 4. Undesignated lands are those lands that remain outside of the UGB and not designated as Urban or Rural Reserves in HB 4078-A and HB 2047, and that may not be included inside the UGB before at least 75 percent of the designated Urban Reserve land in the COUNTY has been included in the UGB and planned and zoned for urban uses. Undesignated lands are not considered part of the Urban Reserve Planning Area for purposes of this Agreement.
- B. The CITY's Urban Reserve Planning Area and the Urban Reserve - Planning Responsibility Undefined are identified on "Exhibit A" to this Agreement.
- C. The CITY shall be responsible for developing a concept plan in consultation with the COUNTY for the Urban Reserve Planning Area in coordination with Metro and appropriate service districts. The concept plan shall include the following:

1. An agreement between the COUNTY and CITY regarding expectations for road funding, jurisdictional transfer over roadways to and from the CITY and COUNTY, and access management for county roads in the Urban Reserve Planning Area. The agreement should describe any changes to the CITY and/or COUNTY Transportation System Plans, other Comprehensive Plan documents, or codes that have been adopted or will be necessary to implement this agreement.
 2. An agreement between the COUNTY and CITY that preliminarily identifies that the CITY will be the likely provider of urban services, as defined in ORS 195.065 (4), when the area is urbanized.
- D. The concept plan shall be approved by the CITY and acknowledged by the COUNTY.
- E. Upon completion and acknowledgement of the concept plan by the CITY and COUNTY, and the addition of the area into the UGB by Metro, the affected portion of the Urban Reserve Planning Area shall be designated as part of Urban Planning Area C, as described below. Inclusion in the Urban Planning Area is automatic and does not require an amendment to this agreement.
- F. In the event that Undesignated lands that are contiguous to the CITY are designated Urban Reserves, the CITY and COUNTY recognize that the CITY is interested in urbanizing these areas. An amendment to this agreement is required to move these areas into the CITY's URPA.
- IV. Comprehensive Planning and Development Policies for Urban Planning Areas

Urban Planning Areas A, B, and C together constitute the CITY's Urban Planning Area as described below and further identified on "Exhibit A" to this agreement. Each area is subject to general provisions in D, below, as well as the following specific coordination provisions for urban services, annexations and comprehensive planning.

- A. Urban Planning Area A
1. Urban Planning Area A includes a limited number of unincorporated parcels surrounded by or directly adjacent to the existing CITY boundary, as identified on "Exhibit A" as Urban Planning Area A.
 2. Specific Annexation Requirements
All land in Urban Planning Area A shall annex to the CITY prior to development. As used in this subsection, "development" includes the construction of any residential dwelling unit or structure or related accessory structures. This requirement may be waived only if documentation is provided by the CITY that expressly authorizes the COUNTY to issue the necessary development permit(s).

3. Specific Urban Service Coordination Requirements
 - a. The CITY shall regulate the conversion of vacant land to urban uses in Urban Planning Area A through the extension of water and sewer service, land partitioning requirements, provision of transportation facilities and annexations within the area. Land within Urban Planning Area A shall not be converted to urban uses prior to annexation to the CITY.
 - b. The COUNTY shall not approve a development proposal or action in Urban Planning Area A if the proposal would require urban services or would not facilitate redevelopment to an urban level of development upon annexation to the CITY.
4. Land Divisions in Urban Planning Area A that would create lots less than 10 acres in size shall not be approved by the COUNTY.

B. Urban Planning Area B

1. Urban Planning Area B includes the territory designated through the Hillsboro Urban Service Agreement dated April 15, 2003, and includes only those unincorporated areas within the UGB, as identified on “Exhibit A” as Urban Planning Area B.
2. Specific Urban Service Coordination Requirements
The CITY shall consider Urban Planning Area B in all public facility plans and park and recreation plans.

C. Urban Planning Area C

1. Urban Planning Area C includes the unincorporated areas contiguous to the CITY and included within the UGB since 2004 and future areas brought into the UGB per Section III of this Agreement (Concept Planning for Urban Reserve Areas) for which the CITY conducts comprehensive planning. Urban Planning Area C is designated on “Exhibit A” to this Agreement.
2. Specific Comprehensive Planning Responsibilities
 - a. The CITY shall be responsible for comprehensive planning within Urban Planning Area C.
 - b. For areas within Urban Planning Area C brought into the UGB between 2004 and 2017, the COUNTY and CITY shall enter into an agreement regarding the expectations for road funding, jurisdictional transfer over roadways to and from the CITY and

COUNTY, and access management for county roads. The agreement should describe any changes to the CITY and/or COUNTY Transportation System Plans, other Comprehensive Plan documents, or codes that have been adopted or will be necessary to implement this agreement.

- c. For areas brought into the UGB after 2017, the CITY and COUNTY will implement the applicable Urban Reserve concept plan and related agreements. The CITY will amend the CITY comprehensive plan to include this area, consistent with the original concept plan. If modifications to the original concept plan are made during the comprehensive planning process, the parties will update the related agreements to reflect these changes, which may include transportation, access and funding.

3. The COUNTY shall not approve a land division within the unincorporated areas of Urban Planning Area C that is inconsistent with the provisions of the Future Development 20-Acre District (FD-20).

D. General Comprehensive Planning and Development Policies in All Urban Planning Areas

1. The CITY is responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660, Division 11 for the Urban Planning Areas and Urban Reserve Planning Areas.
2. As required by OAR 660-011-0010, the CITY is identified as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the Urban Planning Area. Exceptions may include facilities provided by other service providers subject to the terms of any intergovernmental agreement the CITY may have with other service providers; facilities under the jurisdiction of other service providers not covered by an intergovernmental agreement; and future facilities that are more appropriately provided by an agency other than the CITY.

V. Annexations

- A. The COUNTY and CITY recognize the CITY as the ultimate service provider of urban services to the Hillsboro Urban Service Area as specified in the Hillsboro Urban Service Agreement. The COUNTY also recognizes the CITY as the ultimate local governance provider to all of the territory in the Hillsboro Urban Service Area, including unincorporated properties. As properties are annexed to the CITY, the CITY will provide services to them as specified in the Hillsboro Urban Service Agreement.

- B. So that all properties within the Hillsboro Urban Service Area will be served by the CITY, the COUNTY and CITY will be supportive of annexations to the CITY that are consistent with the Hillsboro Urban Service Agreement.
- C. The COUNTY expressly consents to the annexation of COUNTY right-of-way in all CITY Urban Planning Areas that are annexed under ORS 222.125 or 222.175, provided that an agreement is in place regarding the expectations for road funding, jurisdictional transfer over roadways to and from the CITY and COUNTY, and access management for County roads.
- D. The CITY shall notify the COUNTY of proposed annexations once initiated, but in no case less than 35 calendar days prior to the first hearing on the matter.
- E. Upon annexation within Urban Planning Area A or B, the CITY will initiate Comprehensive Plan Land Use and Transportation Map changes on those recently annexed properties to CITY land use designations and functional street classifications corresponding as closely as possible to those designations and classifications already adopted by Washington County for those properties and streets.
- F. The CITY and COUNTY desire to transfer COUNTY services to the CITY in an orderly and efficient manner upon annexation so that service provision to residents and businesses will not be interrupted or diminished.
- G. So that there will be an orderly and efficient transfer of services to the CITY, the COUNTY and CITY commit to:
 - 1. Develop a long-term annexation strategy to bring unincorporated properties in the Hillsboro Urban Service Area into the CITY; and
 - 2. The CITY will provide all services to Urban Reserve Areas upon annexation and the COUNTY will withdraw these areas from any/all COUNTY service districts, unless otherwise provided through an Inter-Governmental Agreement; and
 - 3. Consult with other service providers, property owners, businesses, the Washington County Committee for Citizen Involvement, and affected County Community Participation Organizations and any appropriate CITY citizen participation groups to develop this strategy.

VI. Amendments to the Urban Planning Area Agreement

- A. The following procedures shall be followed by the CITY and the COUNTY to amend the language of this Agreement or the Urban Planning Area Boundary:

1. The CITY or COUNTY, whichever jurisdiction originates the proposal, shall submit a formal request for amendment to the responding agency. In addition, the CITY or the COUNTY shall send a copy of the Request for Amendment to affected Community Participation Organizations (CPOs).
 2. The formal request shall contain the following:
 - a. A statement describing the amendment.
 - b. A statement of findings indicating why the proposed amendment is necessary.
 - c. If the request is to amend the planning area boundary, a map which clearly indicates the proposed change and surrounding area.
 3. Upon receipt of a request for amendment from the originating agency, the responding agency shall schedule a review of the request before the appropriate reviewing body, with said review to be held within 45 calendar days of the date the request is received.
 4. The CITY and COUNTY shall make good faith efforts to resolve requests to amend this agreement. Upon completion of the review, the reviewing body may approve the request, deny the request, or make a determination that the proposed amendment warrants additional review. If it is determined that additional review is necessary, the following procedures shall be followed by the CITY and COUNTY:
 - a. If inconsistencies noted by both parties cannot be resolved in the review process as outlined in Section VI.A. (3), the CITY and the COUNTY may agree to initiate a joint study. Such a study shall commence within thirty (30) calendar days of the date it is determined that a proposed amendment creates a disagreement, and shall be completed within ninety (90) calendar days of said date. Methodologies and procedures regulating the conduct of the joint study shall be mutually agreed upon by the CITY and the COUNTY prior to commencing the study.
 - b. Upon completion of the joint study, the study and the recommendations drawn from it shall be included within the record of the review. The agency considering the proposed amendment shall give careful consideration to the study prior to making a final decision.
- B. The parties will jointly review this Agreement periodically to evaluate the effectiveness of the processes set forth herein and to make any amendments. The review process shall be completed in a timely manner mutually agreed to by both

parties. Both parties shall make a good faith effort to resolve inconsistencies that may have developed since the previous review. If inconsistencies still remain at the conclusion of the review period, either party may terminate this Agreement.

- C. Any change to the CITY boundary due to annexation or any change to the UGB boundary within the CITY's Urban Planning Area automatically amends "Exhibit A" without further amendment to this Agreement.
- VII. This Agreement shall become effective upon full execution by the COUNTY and the CITY and shall then repeal and replace the Washington County – Hillsboro Urban Planning Area Agreement dated September 13, 2006. The effective date of this agreement shall be the last date of signature on the signature pages.


IN WITNESS WHEREOF the parties have executed this Urban Planning Area Agreement on the date set opposite their signatures.

CITY OF HILLSBORO

By  Date 11/22/17
City Manager

Approved as to Form:

By  Date 11/22/17
City Attorney

By  Date 11/22/17
City Recorder

WASHINGTON COUNTY

By  Andy Duyck Date 1-16-18
Chair, Board of Commissioners

Approved as to Form:

By  Date 1/4/18
County Counsel

By  Date _____
Recording Secretary

APPROVED WASHINGTON COUNTY
BOARD OF COMMISSIONERS

MINUTE ORDER # 17-102

DATE 10-10-17

BY 
CLERK OF THE BOARD

