

MILTON-FREEWATER PLANNING AREA
JOINT MANAGEMENT AGREEMENT

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City of Milton-Freewater Resolution No. 941
Umatilla County Board of Commissioners Resolution No. _____

This Agreement is made and entered into on this 6th day of October, 1987, by and between the City of Milton-Freewater, an Oregon Municipal Corporation, hereinafter referred to as "City", and Umatilla County, Oregon, a political subdivision of the State of Oregon, hereinafter referred to as "County".

The terms of this Joint Management Agreement shall be applicable to the City of Milton-Freewater Urban Growth Area (UGA). For the purposes of this Agreement, the UGA shall be defined as that area of land extending from the City's corporate limits to the City's Urban Growth Boundary (UGB) as referenced and mapped in the City's Comprehensive Plan adopted on May 8, 1978, and most recently amended by Ordinance #558 and acknowledged by the Land Conservation and Development Commission on March 6, 1980, and hereby incorporated into and made a part of this document (see Attachment A, Milton-Freewater Comprehensive Land Use Plan).

This JMA is entered into pursuant to ORS Chapters 190, 197, and 215 and Oregon Statewide Planning Goals for the purpose of facilitating the orderly transition from rural to urban land uses within the City's UGA.

Words and phrases used in this Joint Management Agreement shall be construed in accordance with ORS Chapters 92, 197, 215 and 227 and applicable Oregon Statewide Planning Goals unless otherwise specified. In the event two or more definitions are provided for a single word or phrase, the most restrictive definition shall be utilized in construing this Agreement.

I. Introductory Information

A. This Joint Management Agreement is the culmination of a series of actions intended, in part, to facilitate the orderly and efficient transition from urbanizable to urban land uses within the urban growth area. Such actions include the preparation of a city comprehensive plan, the cooperative establishment of an urban growth area, coordination with effected governmental units, and county review of the city comprehensive plan.

B. The City of Milton-Freewater City Council has adopted by ordinance a comprehensive plan which includes an urban growth boundary and planning goals, objectives, and policies (See Attachment A).

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II. General Comprehensive Plan Provisions

A. Umatilla County shall retain responsibility for land use decisions and actions affecting the City of Milton-Freewater Urban Growth Area for those areas that are zoned for Exclusive Farm Use by the county; and this responsibility shall not be relinquished until the land is annexed to the city. Other land use decisions and actions within the UGA but outside the city limits and not zoned for Exclusive Farm Use shall be the City's responsibility. A map attached to this agreement is hereby incorporated by reference to delineate those areas under City jurisdiction and County jurisdiction (Attachment B).

B. The City of Milton-Freewater Urban Growth Area has been identified as urbanizable and is considered to be available over time for urban expansion. In order to promote consistency between the City's planning effort and Umatilla County land use decisions and actions affecting the urban growth area, Umatilla County shall incorporate that portion of the City of Milton-Freewater Comprehensive Plan which addresses the urban growth area into the Umatilla County Comprehensive Plan.

C. After the City of Milton-Freewater Comprehensive Plan has been reviewed by the Umatilla County Board of Commissioners, and after County concurrence with and approval of the plan for the area within corporate city limits and adoption of the plan for the urban growth area, all public sector actions which fall within the scope of the City of Milton-Freewater Comprehensive Plan shall be consistent with the plan.

D. Land within the urban growth area presently zoned for Exclusive Farm Use shall remain Exclusive Farm Use until annexation is requested and approved by the City.

E. It is the policy of the City of Milton-Freewater and Umatilla County to maintain a timely exchange of information relating to their respective land use decisions which affect the City of Milton-Freewater Urban Growth Area.

III. Zoning and Land Development Code Ordinances

A. The substantive, as opposed to procedural, portions of the City of Milton-Freewater Zoning and Land Development Code shall be incorporated into and made a part of the Umatilla County Development Ordinance with exceptions as necessary and as agreed upon in writing by both parties to this Joint Management Agreement.

B. For the purposes of this Joint Management Agreement:

1. Substantive provisions of a zoning ordinance shall be those sections of the ordinance which establish outright uses, conditional uses, and zone requirements (eg. minimum lot sizes, setback requirements, etc); and

2. Substantive provisions of a subdivision land development ordinance shall be those sections of the ordinance which establish design standards for required improvements.

C. The City Zoning Map, when adopted as part of the City Zoning Ordinance, shall include the urban growth area and shall:

1. Apply to land within the city limits upon adoption by the City;

2. Apply to land within the urban growth area upon annexation to the City;

3. Apply to those developed urban areas within the UGA adjacent to the city limits and delineated on the attached map listed as Attachment B.

D. The above mentioned incorporated ordinances shall be applied to all requests for development and land partitioning in the City of Milton-Freewater Urban Growth Area.

IV. Referred Application/Situation

A. For those areas to remain in an Exclusive Farm Use designation within the UGA, the Umatilla County Planning Department shall refer each request affecting the City's UGA to the City for its review and comment within seven (7) days of the date the request was filed with the Umatilla County Planning Department.

B. The City of Milton-Freewater shall review the request and submit its recommendation to the Umatilla County Planning Department within thirty (30) days of the date the request was received by the City of Milton-Freewater. City of Milton-Freewater staff shall initially review all referrals from the Umatilla County Planning Department for development and/or land partitioning in the urban growth area, City of Milton-Freewater. If staff determines that there is no conflict with the Comprehensive Plan, then a "no conflict" correspondence shall be made to Umatilla County within 14 days. If staff feels a conflict exists, then the City Planning Commission will review the referred development proposal and submit a recommendation to Umatilla County within 30 days of receipt of said referral.

C. It is agreed that the County will refer any proposed discretionary action back to the City for its review and comment in the event such action was not addressed in the original request for review. The same time limitations imposed by Sections IV A and B above shall be applicable.

D. The County shall retain final decision-making responsibility for all land use actions affecting the City urban growth area, but such decisions shall only be made after the receipt of timely recommendations from the City.

E. Should no recommendations be forthcoming within established response times, absent a request for an extension, the City shall be presumed to have no negative comment regarding the application.

F. After the County makes a decision on the application, the City shall be promptly informed of the action taken by the County.

G. As empowered by ORS 215.020 and 215.406, the County hereby creates a Milton-Freewater Urban Growth Area Planning Commission, which shall function in the capacity of a County Planning Commission and County Hearings Officer for the urban areas of the Milton-Freewater UGB only, and which shall operate in compliance with the written rules of the County Planning Commission and County Hearings Officer, respectfully.

H. The County appoints the City's Planning Commission as the Milton-Freewater UGA Planning Commission and appoints the City's Planning Department as the Milton-Freewater UGA Planning Department to function as the staff for the Milton-Freewater UGA Planning Commission and as the planning administrators for the UGA under the agreed upon area under jurisdiction of the City pursuant to Attachment B.

I. All applications for land use requests within the UGA, under the jurisdiction of the City, including but not limited to subdivisions, variances, conditional uses, zoning permits, minor partitions and amendments to the Comprehensive Plan, and implementing ordinances applicable to the UGA, shall be made through the City's Planning Department.

J. The County adopts the City's application fee schedule for use within the UGA under the City's jurisdiction.

K. The County empowers the City to collect, for the City's use, the application fees for all land use requests within the UGA initiated through the City's Planning Department.

L. The City Planning Department will refer to the County Planning Department for review and comment all land use requests within the UGA for which a public hearing is required. Such notice shall be sent at least ten (10) days prior to the date of the first public hearing on each request. The City shall send the County the staff reports on such requests at least one week prior to the first public hearing.

M. If adequate time is available, the County Planning Commission will review and comment on each such UGA land use request notice; otherwise the County Planning Department will review and comment on the behalf of the County Planning Commission, and will so notify them at the next Planning Commission meeting. The County will relay to the City comments on each such request by the date of the first public hearing or at said public hearing, even if the County response is "no comment".

N. The City Planning Department will refer back to the County prior to final action any such request in the UGA for which amendments by the applicant or City were made subsequent to the first or additional public hearings, together with relevant new staff comments. The same ten-day notice period will apply as referred to in (J) above.

O. The City Planning Department will notify the County Planning Department in writing of all Milton-Freewater Planning Commission actions and staff permit approvals within the UGA, including building permit approvals, within five (5) business days of such action or approval.

P. All subdivisions which are approved within the UGA by the Milton-Freewater Planning Commission shall be sent to the County Board of Commissioners for their signatures.

Q. All City Planning Department staff permit approvals, administrative interpretations, or other actions made pursuant to this Agreement may be appealed to the Milton-Freewater Planning Commission within fifteen (15) days of such actions or rulings. Such appeals shall be filed in writing with the City Planning Department and shall be accompanied by the appropriate filing fee. The UGA Planning Commission will hold a public hearing and act on the appeal within thirty (30) days of its filing unless a longer period of time is agreed upon by the Commission and the appellant in written form by the end of thirty days. Failure of the Milton-Freewater Planning Commission to hold a hearing within 30 days of the filing of the appeal shall constitute a denial of the appeal, except where parties agree in writing for a longer period of time as provided above.

R. Appeals of Milton-Freewater Planning Commission decisions shall be made to the County Board of Commissioners within fifteen (15) days of the decision. Appeals pursuant to this section shall be filed in writing with the County Board of Commissioners along with the applicable filing fee. The County Board of Commissioners will hold a de novo public hearing on the appeal within thirty (30) days of its filing. The City Planning Department shall provide staff support to the County Board of Commissioners and shall be responsible for processing such appeals. Within ten (10) days of filing such an appeal, copies of the record shall be transmitted to the County Board of Commissioners. The record shall include at least:

1. The final UGA Planning Commission decision, including the findings and conclusions.
2. All exhibits, maps, documents, or other written materials.
3. All written testimony submitted in the course of the UGA Planning Commission's proceedings.
4. The minutes of said proceedings as required by law. All such appeals shall also be referred within ten (10) days of filing to the County Planning Commission and City Council for their review and comment, along with a copy of the record.

At least ten (10) days prior to the scheduled public hearing, the UGA Planning Commission will send a report and recommendation on each appeal to the County Board of Commissioners, County Planning Commission, and City Council. The County Board of Commissioners may remand, amend, rescind, or affirm the decision of the Planning Commission. A decision not appealed within fifteen (15) days will be considered final. A decision of the UGA Planning Commission for which no hearing is held within thirty (30) days and for which no written extension has been entered into shall be considered final.

S. Amendments to the Comprehensive Plan and implementing ordinances applicable to the UGA may be initiated by the City, the County or an affected person by application through the City Planning Department. Application for such amendments shall be referred to the County within five (5) days of receipt and shall be processed by City ordinance amendment procedure. All such applications shall be reviewed first by the City Planning Commission and then by the City Council. If any proposed amendments are approved by the City Planning Commission and City Council, they shall be referred to the County Planning Commission and Board of Commissioners for adoption as amendments to the County Comprehensive Plan and Land Development Code with respect to the UGA, following required public hearings. Unless the County adopts amendments approved by the City, such amendments may not be applied in the UGA.

T. Decisions of the County Board of Commissioners regarding appeals of Milton-Freewater UGA Planning Commission decisions and amendments to the Comprehensive Plan and implementing ordinances for the UGA may be appealed to the appropriate tribunal. The applicant for a land use request or amendment bears the burden of proof regarding the request or amendment and the responsibility of defending an appeal. The applicant affected by an appeal shall be required to notify the County in writing within five (5) days of receiving notice whether he desires to undertake his own defense or will withdraw the requested land use action or amendment. In the absence of such written communication, the County may either:

1. Tender the defense to the applicant or the City; or
2. Elect to defend its decision at County expense, should the issue be determined to be of county-wide significance.

The County Board of Commissioners and/or the City of Milton-Freewater may elect to participate jointly or singularly in all or a portion of the cost of defending such an appeal, if the issues are determined to be of county-wide or city-wide significance.

If any suit or action is instituted by the applicant in connection with any controversy arising out of this request, there shall be taxed and allowed to the City and/or County as a part of the costs of the action a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and upon appeal.

U. The City shall refer all annexation proposals submitted to the UGA to the County for review and comment at least ten (10) days prior to

the first public hearing on the annexation. The City will allow additional County review and comment changes to be made in the annexation proposal following initial or subsequent hearings.

V. City Services

A. The City of Milton-Freewater may extend city services to any site located within the City of Milton-Freewater Urban Growth Area at the affected property owner's request and expense. Such extension of the city services to sites not contiguous to the City of Milton-Freewater shall be conditioned upon an unlimited agreement signed by the affected property owner that the site may be annexed by Milton-Freewater City Council action as soon as the site becomes contiguous to the City of Milton-Freewater.

B. For the purposes of this Joint Management Agreement, city services shall be limited to city sewer and water.

C. For the purposes of this Joint Management Agreement, contiguous shall be defined as touching or adjoining.

D. Service and hook-on charges shall be established by the City of Milton-Freewater Council.

E. The City has responsibility for preparation of the public facilities plan.

VI. Annexation

Annexation of sites within the City of Milton-Freewater Urban Growth Area shall be in accordance with relevant annexation procedures contained in the Oregon Revised Statutes, Oregon case law, and Milton-Freewater city ordinances relative to annexation procedures, and shall not occur until such sites become contiguous to the City of Milton-Freewater as required by the Oregon Revised Statutes.

VII. Roads

A. Any adjacent county road rights-of-way will be included within the boundaries of all annexations.

B. The City will neither accept nor maintain any county road within any annexed area or elsewhere in the UGA unless and until it meets city standards in effect at the time and is acceptable to the City's Public Works Department. The County will not relinquish control and responsibility for any such improved county road and will continue to maintain all existing county roads unless so approved by the County Board of Commissioners.

C. As a condition of annexation, the City will require the applicant to agree to improve to city standards any included or impacted portions of county roads by:

1. Irrevocable consent to participate in a Local Improvement

District to improve to city standards by all affected property owners;

2. Improve to city standards prior to any development on any of the said property.

D. Streets platted after the effective date of the agreement shall be designed and constructed to city standards.

E. A map of existing county roads within the city limits and UGA is attached and incorporated into this agreement.

VIII. Enforcement

The City, through its planning staff and city attorney, shall have the authority to enforce all ordinances applicable within the urban growth boundary, except that only the County may authorize suit in Circuit Court on its behalf upon the recommendation of the city planning staff or city attorney. Suits filed by the County in Circuit Court shall be at County expense.

IX. Comprehensive Plan and Implementation Measure Review and Amendment

A. The City of Milton-Freewater Comprehensive Plan, including this Joint Management Agreement, and the zoning, subdivision, and other implementation ordinances or measures shall be reviewed at least every five years to determine conformity with changes in:

1. The Oregon Revised Statutes;
2. Oregon case law;
3. Oregon Statewide Planning Goals;
4. Requirements of the City of Milton-Freewater; and
5. Needs of residents or landowners within the city urban growth area;
6. Concerns of affected governmental units; and
7. County administration of land use regulations within urban growth areas.

B. If the City of Milton-Freewater Comprehensive Plan, implementation measures, or both fail to conform to any or all of the above-mentioned criteria, the non-conforming document shall be amended as soon as practicable. Such amendments shall be adopted by a majority of both the full Milton-Freewater City Council and the Umatilla County Board of Commissioners, after recommendations have been received from the planning commissions of Umatilla County and the City of Milton-Freewater.

X. Severability

The provisions of this Joint Management Agreement are severable. If an article, sentence, clause, or phrase shall be adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Agreement.

Approved on behalf of the City of Milton-Freewater this 27th day of April, 1987.

L. Dale Courtney
Dale Courtney, Mayor

ATTESTED:

R. L. Tomlinson
R. L. Tomlinson, City Recorder

Approved on behalf of Umatilla County this 6 day of October, 1987.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Glenn Youngman
Glenn Youngman, Chairman

Jeanne Hughes
Jeanne Hughes, Vice Chairman

William S. Hansell
William S. Hansell

ATTESTED:

J. Dean Fouquette, Sr.
J. Dean Fouquette, Sr.
County Clerk



