

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

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September 2, 2022

MEMORANDUM

To: Board of Commissioners
Ken Huffer, County Administrator
Mark Lago, Public Works Director
Christian Burnish, County Counsel
Jodi Gollehon, Assistant County Counsel

From: Ken Friday, Planning Director

Re: **Updates to the Newberg Urban Area Growth Management Agreement**

Last year an application was made to expand the Newberg Urban Reserve Area. In reviewing the Newberg Urban Area Growth Management Agreement, (Agreement) it was unclear if NUAMC had the appropriate authority to review Urban Reserve Area Expansion applications. Historically NUMAC had reviewed these types of cases and made recommendations to the Newberg City Council and Yamhill County Board of Commissioners (1995, 2006, 2007). In order to avoid a challenge based on this lack of clarity, an update of the agreement was initiated.

The NUAMC reviewed the proposed amendments to the Agreement at their November 23, 2021, and July 27, 2022, meetings. NUAMC voted 6-0 on a motion recommending the proposed amendments be forwarded to the Newberg City Council and Yamhill County Board of Commissioners for review and consideration. One significant change our office suggested at the July 27th hearing was to make part of the agreement the transfer of roads inside the city limits. Presently there are 20¹ roads or portions of roads inside the city limits of Newberg that the city has not taken over ownership or maintenance of. These city roads are currently maintained by Yamhill County. Language in the agreement related to road jurisdiction is found in Section V. Urban Services 1.(e) and was modified to reflect that the City should assume ownership and maintenance of these roads. The City has adopted these changes as found in Resolution 2022-3807.

A summary of the updates is found in Attachment 3 "Request for Council Action."

Our office is requesting that the Board of Commissioners adopt these changes to the Agreement.

Attachment 1 is a track changes version of the proposed amendments to the NUAGMA.

Attachment 2 is a copy of Resolution 2022-3807 adopted by the City of Newberg.

Attachment 3 "Request for Council Action."

Accepted by Yamhill County
Board of Commissioners on
9/22/22 by Board Order
22-308

¹ Our office was very grateful for the assistance of Mark Lago and Bill Anderson for identifying the roads inside the city limits that are still maintained by Yamhill County.

**Newberg Urban Area
Growth Management Agreement**

Adopted by Newberg City Council on July 2, 1979 and Yamhill County Board of Commissioners on June 20, 1979; As Amended by Newberg City Council on November 2, 1998 and Yamhill County Board of Commissioners on December 3, 1998; As Further Amended by Newberg City Council on June 5, 2000 and Yamhill County Board of Commissioners on December 14, 2000; As Further Amended By Newberg City Council on August 15, 2022 and Yamhill County Board of Commissioners on _____, 2022.

Preface

Seen from above, the modern city edges imperceptibly out of its setting. There are no clear boundaries. Just now the white trace of the super highway passed through cultivated fields; now it is an asphalt image of streets and buildings. As one drives in from the airport or looks out from the train window, clumps of suburban houses, industrial complexes, and occasional green space flash by; it is hard to tell where city begins or county ends." (Oscar Handlin, "The Modern City as a Field of Historical Study" in *The Historian and the City* (Cambridge, Mass. 1963, p.1).

I. Introduction

The City of Newberg and Yamhill County recognize the need for coordination and cooperation in the management of growth in and around the Newberg Urban Area. This agreement is formulated in accordance with this principle.

This agreement establishes a process for maintaining ongoing planning efforts, designed to keep pace with growth and change. It is essential that intergovernmental coordination be maintained to assure the citizens of the City of Newberg and Yamhill County that growth occurs in an orderly and efficient manner.

To that end, this agreement sets forth the means by which a plan for management of the unincorporated areas within the Urban Growth Boundary, and Urban Reserve will be implemented, and by which the Urban Growth Boundary and Urban Reserve may be modified.

II. Definitions

Area of Influence - An area of land designated by the City of Newberg and Yamhill County that extends one mile outside Newberg's Urban Growth Boundary wherein the County will give the City an opportunity to participate in land use actions to be taken by the County.

Urban Growth Boundary - A line jointly adopted by the City of Newberg and Yamhill County that encircles the City and separates rural and urbanizable land. Newberg's Urban Growth Boundary is shown on the attached map.

Urban Reserve Area – Land outside the Urban Growth Boundary jointly designated and adopted by the City of Newberg and Yamhill County to provide for future expansion over a long-term period and the cost-effective provision of public facilities and services within the area when the lands are included within the Urban Growth Boundary.

B.O. 22-308
Exhibit A

III. General

1. Plan Map Conflicts. The ~~1979~~ Comprehensive ~~Pp~~lan Land Use Map adopted by the City of Newberg ~~on July 2, 1979~~ shall be the plan map for the area within the Urban Growth Boundary, and shall replace conflicting portions of the Yamhill County Comprehensive Plan Map (~~1974~~) pertinent to this area. -Where said maps conflict, Yamhill County shall initiate the process necessary for consideration of a map amendment. The Comprehensive Plan Land Use Map adopted by Yamhill County shall be the plan map for the area within the Urban Reserve Area.
2. Urban Growth Boundary. In accordance with the Comprehensive Plan of the City of Newberg, the jointly adopted Urban Growth Boundary shall define the geographical limits of urbanization. The City of Newberg shall prepare for the orderly extension of public facilities and services within the boundary. -Lands outside the Urban Growth Boundary ~~and Urban Reserve~~ shall be maintained in accordance with the Yamhill County Comprehensive Plan.
3. Urban Reserve Area. In accordance with the Comprehensive Plan of Yamhill County, the jointly adopted Urban Reserve Area shall provide for expansion and urbanization over a long-term period and the cost-effective provision of public facilities and services within the area. The Urban Reserve Area shall be maintained in accordance with the Yamhill County Comprehensive Plan.
4. Urbanization. The City of Newberg and Yamhill County shall encourage urbanization within the boundary to occur in an orderly and efficient manner, resulting in a compact, balanced urban center meeting long-term economic and social needs of the residents of the area regardless of political boundaries.
5. Implementation and Coordination. The very nature of planning requires continual refinement of various elements of the Comprehensive Plan. This includes the preparation of implementing ordinances, refinement plans and functional plans. As the Newberg Comprehensive Plan is implemented, the City and County will work together in a coordinated effort to achieve the goals of the Yamhill County and Newberg Comprehensive Plans.
6. Concurrence and Recommendation. The legitimate interests of the City and County overlap within the City's Urban Growth Boundary, Urban Reserve, and Area of Influence. This agreement attempts to resolve these overlapping interests by providing for concurrence of City and County governing bodies for certain decisions and by providing for recommendations of one governing body to the other for other decisions.
 - a. Concurrence. Where concurrence is required, the City and County shall agree upon a decision. If agreement cannot be reached, the City and County agree to mediate the dispute using a jointly selected mediator. ~~procedures outlined in ORS 197.300 may be invoked.~~
 - b. Recommendation. Where a recommendation is required, the City and County need not agree upon a decision. The procedures are these: The right to ~~object to comment~~ on or object to any item referred to a jurisdiction for a recommendation shall be deemed to have been waived unless the referring jurisdiction is notified otherwise within thirty days; the time limit for consideration of -items referred for

recommendation shall begin to run from the time the item is received by the jurisdiction whose recommendation is being solicited; each jurisdiction shall have standing to appeal the decision of the other governing body.

IV. Term of this Agreement; Amendment

The term of this agreement runs from July 2, 1979, to July 2, 1980, and may be extended thereafter by increments of one year. During the term of the agreement or extension, the agreement may be changed by mutual consent of the parties hereto. This agreement is automatically renewed at the end of such term or extension unless either party hereto requests revision of the agreement by so notifying the other party at least ninety days before the end of the current term or extension.

V. Urban Services

1. The City of Newberg is recognized as the ultimate provider of urban services within the Urban Growth Boundary. To this end:
 - a. Special Districts. Before Yamhill County shall create any special district for the provision of utilities, transportation, or other public facilities or services, the matter shall be referred to the City of Newberg for a recommendation. The County shall not act contrary to such recommendation.
 - b. Service Capacity. Development within the ~~Union~~Urban Growth Boundary shall not exceed the capacity of existing services.
 - c. Annexation. Annexation shall occur in accordance with the Newberg Comprehensive Plan. Before final action by the City Council on an annexation proposal, the proposal shall be ~~forwarded~~referred to the County Planning Department for the County's recommendation. ~~the Board of County Commissioners for its recommendation.~~ In order to provide the ~~board~~County with advance notice of reasoning for a proposed annexation, the findings adopted by the City Planning Commission shall be referred to the ~~board~~County Planning Department following the Commission action.
 - d. Service Expansion Plans. As the ultimate provider of urban services, the City shall prepare and from time to time update utility expansion plans. These plans shall provide a basis for the extension of services within the Urban Growth Boundary and as such shall be referred to Yamhill County for information and comment.
 - e. Roads. The County and City shall cooperatively develop an implementation policy regarding streets and roads within the Urban Growth Boundary which is consistent with the City Comprehensive Plan. Such policy shall include, but not be limited to, the following:
 - (1) The circumstances under which the City will assume ownership of and maintenance responsibility for County roads within the corporate limits.
 - (2) The conditions under which new public streets and roads will be developed within the ~~u~~Urban Growth Boundary.
 - (3) The conditions under which existing roads designated as future arterial in the City Comprehensive Plan will be improved.

(4) The conditions under which County and other roads should meet City Standards within the Urban Growth Boundary. Roads should be compatible with City street alignments and extensions. Upon annexation of property, roads adjacent to (and which serve) such property should also be annexed and the City assume ownership and maintenance responsibility.

f. The County and the City through its departments shall coordinate their planning efforts and actions that affect land use with those of special districts.

g. Transfer of Services within URA and UGB. As required by OAR 660-021-0050:

(1) Unless otherwise agreed to, designation of the local government responsible for building code administration and land use regulation in the URA shall be:

i. Prior to inclusion within the UGB: County

ii. After inclusion within the UGB : County

iii. After annexation into the city: City

(2) Service responsibility is designated as follows:

i. The local government or special district responsible for services (including wastewater , water, fire protection, parks, transportation, storm water) for areas within the URA are designated and shown on map(s) attached hereto and incorporated herein as Exhibit "1 A" and "1 B" as may be amended from time to time.

ii. The areas projected for future urban service responsibility after inclusion in the urban growth boundary are shown on map(s) attached hereto and incorporated herein as Addendum to Newberg Urban Area Growth Management Agreement Exhibit "1 A" as may be amended from time to time.

(3) The terms and conditions under which service responsibility will be transferred or expanded, for areas where the provider of service is expected to change over time, is described in Addendum to Newberg Urban Area Growth Management Agreement Exhibit "1B," attached hereto and incorporated herein.

VI. Establishment of the Newberg Urban Area Management Commission

The City of Newberg and Yamhill County do hereby establish the Newberg Urban Area Management Commission (NUAMC) as a hearing officer in accordance with ORS 215.406. The NUAMC shall be composed of the following members:

Commissioner of the Yamhill County Board of Commissioners designated by the board.

Mayor or council person of the City of Newberg designated by the Council.

Member of Newberg Planning Commission designated by the City Council.

Member of the Yamhill County Planning Commission Designated by the Board of County Commissioners.

Member of the Yamhill County Planning Commission Newberg Dundee P.A.C. designated by the Board of County Commissioners.

Member ~~of the Newberg Citizen Involvement Advisory designated by the City Council who is a citizen of the City of Newberg designated by the City Council.~~

Member-at-large chosen by the above NUAMC members and ratified by the City Council and County Board.

Duties and Responsibilities. The NUAMC shall function in accordance with by-laws to be adopted by the Newberg City Council and the Yamhill County Board of Commissioners.

It shall be the responsibility of the Newberg Urban Area Management Commission to hold hearings, make findings, and present its decision to City and County governing bodies as outlined in this agreement and the by-laws.

VII. Establishment of Land Use Review Procedures

1. Urban Growth Boundary Amendment

Amendment of the Urban Growth Boundary may be initiated by the Yamhill County Board of Commissioners, the Newberg City Council, or by a ~~n individual owners) of property~~ property owner who request(s) inclusion in or exclusion from the Urban Growth Boundary.

Amendment of the Urban Growth Boundary shall be treated as a map amendment to both the City and County Comprehensive Plan maps.

Individual amendment applicants shall pay the fees ~~The joint fee for individual amendment shall be the sum of fees~~ established from time to time by each governing body.

Each application shall include a map and sufficient information to make a decision based upon the applicable requirements of Statewide Land Use Planning Goal 14, ORS Chapter 197 or 197A, and related Oregon Administrative Rules. ~~make a decision based on the following factors:~~

- ~~a. Demonstrated need to accommodate long range urban population growth requirements consistent with LCDC goals;~~
- ~~b. Need for housing, employment opportunities, and livability;~~
- ~~c. Orderly and economic provision for public facilities and services;~~
- ~~d. Maximum efficiency of land uses within and on the fringe of the existing urban area;~~
- ~~e. Environmental, energy, economic and social consequences;~~
- ~~f. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,~~
- ~~g. Compatibility of the proposed urban uses with nearby agricultural activities.~~

~~Applications shall be filed with the Newberg Planning Department which shall collect the joint fee and forward the Yamhill County fee along with notice to the Yamhill County Department of Planning and Development. Applications must be complete prior to consideration by the Newberg Urban Area Management Commission.~~

A property owner requesting inclusion or exclusion from the Urban Growth Boundary shall file applications simultaneously with the Newberg Community Development Department, Planning Division, and the Yamhill County Planning and Development Department. The City and County shall each collect fees from the applicant. The City and County shall coordinate with each other to process the application. The City of Newberg may initiate an amendment to the Urban Growth Boundary Area by filing its completed application and required fees with the Yamhill County Planning and Development Department for processing. Yamhill County may initiate an amendment to the Urban Growth Boundary by filing its completed application and required fees with the Newberg Community Development Department, Planning Division, for processing. Applications must be complete prior to consideration by the Newberg Urban Area Management Commission.

Applications shall be accumulated and referred quarterly to the Newberg Urban Area Management Commission for a Public Hearing for which at least ten days advance public notice shall be given by publication in a newspaper of general circulation in the County (or published in the territory so concerned --ORS 215.060).

Following the Public Hearing, the NUAMC shall make and forward its findings and decision directly to the governing body of each jurisdiction. Each jurisdiction which shall then hold a public hearing (de novo) and make a determination based on the evidence and argument in the NUAMC record. ~~make a determination based upon the facts and record presented at the NUAMC hearing and shall not be required to hold a public hearing thereon.~~

Nothing included in this process requires or prohibits the City or County from referring the application to its respective Planning Commissions for information.

Each jurisdiction shall make a final decision within sixty days of NUAMC forwarding its findings and decision. If the governing bodies do not concur in their final decision within sixty days of referral of the matter to them by the NUAMC, a joint meeting shall be held to resolve differences. If agreement cannot be reached, ~~procedures for resolutions of conflict provided within ORS 197.300 may be invoked~~ the parties agree to mediate the issue using a jointly selected mediator.

2. Urban Reserve Area Expansions:

a. Procedures to establish Urban Reserve Area.

An application to amend the Urban Reserve Area may be initiated by the Yamhill County Board of Commissioners, the Newberg City Council, or by a property owner who request(s) inclusion in or exclusion from the Urban Reserve Area.

Amendment of the Urban Reserve Area shall be treated as a map amendment to both the City and County Comprehensive Plan maps.

Individual amendment applicants shall pay the fees established from time to time by each governing body.

Each application shall include a map and sufficient information to make a decision based upon the applicable requirements of Statewide Land Use Planning Goal 14, ORS Chapter 197 or 197A, and related Oregon Administrative Rules.

A property owner requesting inclusion or exclusion from the Urban Reserve Area shall file applications simultaneously with the Newberg Community Development Department, Planning Division, and the Yamhill County Planning and Development Department. The City and County shall each collect fees from the applicant. The City and County shall coordinate with each other to process the application. The City of Newberg may initiate an amendment to the Urban Growth Area by filing its completed application and required fees with the Yamhill County Planning and Development Department for processing. Yamhill County may initiate an amendment to the Urban Reserve Area by filing its completed application and required fees with the Newberg Community Development Department, Planning Division, for processing. Applications must be complete prior to consideration by the Newberg Urban Area Management Commission.

Applications shall be accumulated and referred quarterly to the Newberg Urban Area Management Commission for a Public Hearing for which at least ten days advance public notice shall be given by publication in a newspaper of general circulation in the County (or published in the territory so concerned ORS 215.060).

Following the Public Hearing, the NUAMC shall make and forward its findings and decision directly to the governing body of each jurisdiction. ~~The City shall review NUAMC's finding and decision in a public hearing (de nov) on the record, and adopt its final decision by ordinance. The City shall forward its ordinance to the County, which shall make its final decision based on the NUAMC record, and the City's ordinance, and public testimony. The County shall adopt its final decision by ordinance and issue a Board order.~~

Nothing included in this process requires or prohibits the City or County from referring the application to its respective Planning Commissions for information.

If the governing bodies do not concur in their final decision within sixty days of referral of the matter to them by the NUAMC, a joint meeting shall be held to resolve differences. If agreement cannot be reached, the parties agree to mediate the issue using a jointly selected mediator.

~~a. As required by OAR 660-021-0050(1), unless otherwise agreed to, designation of the local government responsible for building code administration and land use regulation in the URA shall be:~~

2.3. Comprehensive Plan Amendment

~~a. Inside U.G.B., the Urban Growth Boundary, but outside city limits. This amendment shall be filed with Yamhill County, and shall otherwise be subject to the same procedures as an Urban Growth Boundary Amendment under this Agreement. shall otherwise be treated as an amendment to the Urban Growth Boundary.~~

~~a. Inside city limits. The application shall be processed by the City of Newberg and shall be referred to Yamhill County for a recommendation.~~

~~b. Inside the Urban Reserve Area, but outside the City limits. This amendment shall be filed with Yamhill County, and shall otherwise be treated subject to the same procedures as an amendment to the Urban Reserve Area, with referral to the City for its recommendation. Inside the Urban Reserve Area, but outside the City limits. This amendment shall be filed with Yamhill County, and shall otherwise be treated subject to the same procedures as an amendment to the Urban Reserve Area, with referral to the City for its recommendation., as described in Exhibit.~~

~~c. Outside the Urban Growth Boundary, but within the "Area of Influence". This amendment shall be processed by Yamhill County and shall be referred to the City of Newberg for a recommendation.~~

~~d. Inside city limits. The application shall be processed by the City of Newberg and shall be referred to Yamhill County for comments.~~

3.4. Zone Changes

The City of Newberg and Yamhill County recognize that each jurisdiction has authority to zone within its legal boundaries. However, the Urban Growth Boundary recognizes the eventual assumption of authority by the City of Newberg. Therefore, the following procedures are established:

a. County zone change outside city limits but within the Urban Growth Boundary. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a

recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete. The application then shall be processed in accordance with Yamhill County ordinances, except that the application will be referred to the NUAMC for a hearing in lieu of the Yamhill County Planning Commission. Appeals of the NUAMC decision shall be heard by the Yamhill County Board of Commissioners.

- b. County zone change outside the city limits but within the Urban Reserve Area. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete. The application then shall be processed in accordance with Yamhill County ordinances, except that the application will be referred to the NUAMC for a hearing in lieu of the Yamhill County Planning Commission. Appeals of the NUAMC decision shall be heard by the Yamhill County Board of Commissioners.
- c. Zone change inside city limits. The application shall be processed by the City of Newberg and shall be referred to Yamhill County for information and/or comment.
- d. County zone change outside the Urban Growth Boundary but within the "Area of Influence". The application shall be processed by Yamhill County and shall be referred to the City of Newberg for information and/or comment.

4.5. Other Items Affecting Land Use Under Yamhill County's Jurisdiction

- a. Items having a substantial impact upon land use under the jurisdiction of Yamhill County within Newberg's Area of Influence shall be referred to the City of Newberg for ~~information and comment~~ recommendation. Items not having a substantial impact may be referred for information and comment ~~so referred~~.
- b. Items having a substantial impact upon land use under the jurisdiction of Yamhill County within Newberg's Urban Reserve area shall be reviewed by the City of Newberg for recommendation. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete.
- ~~e-~~ c. Items having a substantial impact upon land use under the jurisdiction of Yamhill County within Newberg's U-G-B- shall be reviewed by the City of Newberg for recommendation. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete.

d. Items having a substantial impact upon land use shall include but are not limited to:

- (1) Conditional Use Permits, (Excluding Temporary Hardship Dwellings)
- (2) Planned Unit Developments
- (3) Subdivisions and Partitions
- (4) Public Improvement Projects
- (5) Health Hazards
- (6) Special Exceptions
- (7) Capital Improvement Programs
- (8) Major Transportation Improvements

e. Within the U.G.B., when Yamhill County ordinances require a Planning Commission public hearing on any of the above items, either as a recommendation or as a final action, the application shall be referred to NUAMC who shall hear the matter in lieu of the Yamhill County Planning Commission. Appeals of the NUAMC decision shall be heard by the Yamhill County Board of Commissioners.

5-6. Any of the above applications which may affect an agency identified in the City of Newberg or Yamhill County referral list shall be referred to said agency for information and/or comment.

ADDENDUM TO NEWBERG URBAN AREA GROWTH MANAGEMENT AGREEMENT

This Addendum to Newberg Urban Area Growth Management Agreement pursuant to Newberg City Ordinance #1967 dated July 2, 1979 (hereinafter "Addendum") is made by agreement between Yamhill County ("County") and the City of Newberg ("City").

RECITALS

- A. The City and the County have previously entered into an intergovernmental agreement known as the Newberg Urban Area Growth Management Agreement ("NUAGMA") pursuant to Newberg City Ordinance #1967 dated July 2, 1979 and Yamhill County Ordinance 214 dated June 20, 1979, setting forth their respective rights and responsibilities with respect to the Urban Growth Boundary (UGB) and Area of Influence.
- B. The County and the City have previously adopted an Urban Reserve Area for the City of Newberg as required by OAR Chapter 660, Division 21, as shown on their comprehensive plan and zoning maps, plan policies and land use regulations, to guide the management of these areas in accordance with the requirements of OAR Chapter 660 Division 21. Newberg City Ordinance 95-2397, Yamhill County Ordinance 596 (copies attached).
- C. The Urban Reserve Area is intended over time to be incorporated into an urban growth boundary. Because full urban services are not yet available in the area, urban level development is not permitted. Very limited rural development of property can occur in the area, but only when such usage is consistent with and does not impede the future urbanization of property.
- D. The purpose of this Addendum is to clarify planning and zoning intents and add provisions to the existing intergovernmental agreement for the purpose of satisfying the requirements of OAR Chapter 660, Division 21 relating to Urban Reserve Areas.

AGREEMENT

NOW, THEREFORE, the City and County agree as follows:

Section 1 Definitions:

- (1) "Urban Reserve Area" has the same meaning as set forth in OAR 660-021-0010 (1), and means lands outside of an urban growth boundary identified as highest priority for inclusion in the urban growth boundary when additional urbanizable land is needed in accordance with the requirements of Goal 14.

Section 2. Compliance with OAR Chapter 660, Division 21. In accordance with the applicable requirements of Chapter 660, Division 21, City and County agree as follows:

- (1) As required by OAR 660-021-0040(3):
 - (a) The County shall prohibit zone amendments allowing more intensive uses, including higher residential density, than permitted at the date of this agreement.

- (2) As required by OAR 660-021-0050(1), unless otherwise agreed to, designation of the local government responsible for building code administration and land use regulation in the URA shall be:
- (a) Prior to inclusion within the UGB: County
 - (b) After inclusion within the UGB : County
 - (c) After annexation into the city: City
- (3) Designation of service responsibility, as required by OAR 660-021-0050(2):
- (a) The local government or special district responsible for services (including sewer, water, fire protection, parks, transportation, storm water) for areas within the URA are designated and shown on map(s) attached hereto and incorporated herein as Exhibit "1A."
 - (b) The areas projected for future urban service responsibility after inclusion in the urban growth boundary are shown on map(s) attached hereto and incorporated herein as Exhibit "1A."
- (4) As required by OAR 660-021-0050(3), the terms and conditions under which service responsibility will be transferred or expanded, for areas where the provider of service is expected to change over time, is described in Exhibit "1B," attached hereto and incorporated herein.
- (5) As required by OAR 660-021-0050(4), procedures for notification and review of land use actions to ensure involvement by all affected local governments and special districts:
- (a) Within the Urban Reserve Area, Comprehensive Plan Amendments, zone changes, and other applications affecting land use, including conditional use, PUDs, subdivisions and partitions, public improvement projects, health hazards, capital improvement programs and major transportation improvements, shall be processed by Yamhill County. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use decision. Applications submitted without this recommendation will be deemed incomplete.
 - (b) Upon request or application for a recommendation on a requested land use decision in the URA, the City shall use the following procedures in developing a recommendation (see Exhibit 1C for criteria to be used by the City in the recommendation process):
 - (1) Applicant shall file with the City a substantially complete Yamhill County application and include a future development plan as provided in this agreement.
 - (2) The City staff or City Council may refer the application to the City Planning Commission for a recommendation to the City Council.
 - (3) The recommendation to Yamhill County shall be from the City Council.

- (4) Notice of any hearings shall be to the general public and any hearings shall be legislative in nature. Additional notice may be provided as the City deems necessary. This shall not be a quasi-judicial hearing since the City of Newberg is making a recommendation.
- (5) The City of Newberg shall furnish to the applicant its recommendation to Yamhill County within 60 days of the date that the request for recommendation is filed with the City of Newberg. City staff may request additional information from the applicant concerning the application prior to making a recommendation. Unless otherwise agreed between City and applicant, failure to furnish the recommendation within 60 days will waive the requirement to have a recommendation accompany the application.
- (6) The City reserves the right to make additional recommendations and comments concerning the application to Yamhill County during the Yamhill County process.
- (7) Nothing in this agreement limits the rights of either party in participating in the land use process before either jurisdiction.
- (8) Nothing in this agreement shall be construed as mandatory county approval criteria.

Section 3. In all other respects, the Newberg Urban Area Growth Management Agreement shall remain in full force and effect.

Section 4. Effective Date. This Addendum becomes effective on November 2, 1998.

EXHIBIT 1A
URBAN RESERVE AREA MAPS

EXHIBIT IB
URBAN SERVICE TRANSITION POLICIES

Service Responsibility in General. The following "Existing Service Provider" shall be responsible for providing public services within the Urban Reserve Areas. The "Future Urban Service Provider" is the provider projected to have responsibility after inclusion in the UGB or in the City depending on the terms and conditions identified below. The timing for changing the responsible service provider will be flexible, depending on citizen needs and location of properties.

<u>Service</u>	<u>Existing Service Provider</u>	<u>Future Urban Service Provider</u>
Sanitary Disposal Water	No Public Provider Service	City of Newberg
Fire Protection	Districts	City _____ of
Parks & Recreation	Tualatin Valley Fire & Rescue Newberg Rural Fire District	Newberg Tualatin Valley Fire & Rescue
Transportation Storm Water	Chehalem Park and Recreation District/Yamhill County Yamhill County/ODOT Yamhill County	Chehalem Park and Recreation District/Yamhill County City of Newberg/ODOT City of Newberg

Terms and Conditions under which Service Responsibility will be transferred or expanded.

- A. **Special Districts.** The City shall agree to the formation of any special district within the Urban Reserve Area prior to the approval of the formation of the district by Yamhill County. This provision shall not apply to County-wide service districts formed under ORS Chapter 451.
- B. **Annexation.** Annexation of property from the URA may be permitted if contiguous to City limits and shall occur in accordance with the Newberg Comprehensive Plan. Before final action by the City Council on an annexation proposal, the proposal shall be forwarded to the Board of County Commissioners for a recommendation. In order to provide the Board with advance notice of a proposed annexation, the findings adopted by the City Planning Commission shall be referred to the Board following the Planning Commission action.
- C. **Service Expansion Plans.** Service expansion plans shall be consistent with the Newberg Urban Area Growth Management Agreement. As the future provider of ~~wastewater~~ ~~sanitary~~ disposal, storm water and water services, the City shall prepare and from time to time update utility expansion plans. These plans shall provide a basis for the extension of services within the Urban Growth Boundary, and as such shall be referred to Yamhill County for information and comment.
- D. **Transition Policies Relating to Service Responsibility**
 - I. **Wastewater Sanitary Sewer Service** There will be no public provider of these services until City services are available, except in the case of a state mandate due to

a health hazard. At the time of annexation, the City will require hook-up to City ~~sanitary~~ wastewater sewer services. Nothing in this provision shall limit the ability of individuals to provide services on their own private property within the Urban Reserve Area.

2. **Potable Water Service** The City of Newberg shall be the sole and only public provider of water in this area, except for existing water districts, unless new districts are expanded or created through mutual agreement by the City and the County. Nothing in this provision shall limit the ability of individuals to provide services on their own private property within the Urban Reserve Area.
3. **Fire Protection** Tualatin Valley Fire & Rescue provides fire protection services to property within the Urban Reserve Area and the Urban Growth Boundary.
4. **Parks and Recreation** Chehalem Park and Recreation District and Yamhill County provide park and recreation services within the Urban Reserve Area and the Urban Growth Boundary. Chehalem Park and Recreation District and Yamhill County will remain providers of these services within the city limits unless agreed otherwise.
5. **Transportation and Street Improvements** Yamhill County provides Transportation services on county roads within the Urban Reserve Area. Yamhill County policies for transfer of jurisdiction are outlined in the Yamhill County Transportation System Plan Section 5.1, Policy 1.5, and Section 5.2.2, Goals and Policies 4, 5, 6 (See attachment Exhibit 1. B.). In summary, the policy is to transfer jurisdiction and maintenance responsibilities to the city upon annexation and improvement to City standards.

Roads in the Urban Reserve Area ultimately are to be developed to City standards. Development in the Urban Reserve Area shall provide adequate transportation facilities to serve the development as provided in Yamhill County ordinances.

The Oregon Department of Transportation provides transportation services on state highways within the Urban Reserve area. The department retains jurisdiction and maintenance responsibilities on all state highways after incorporation into the UGB and annexation except in special cases where jurisdiction is transferred to the City or County by a specific agreement.

6. **Storm Water Management** Yamhill County provides public storm water management services to property where required within the Urban Reserve Area. The City will provide storm water management services to property within the city limits. Transition of public storm water management services will follow transition of road maintenance responsibilities.

ATTACHMENT TO EXHIBIT IB

County Transportation Plan (Page 73): The Transportation System Plan (TSP) of Yamhill County provides in Section 5.1, Policy 1.5, Section 5.2.2, Goals and Policies 4, 5, and 6 as follows:

***Yamhill County TSP Policy 1.5.** The lead agency for transportation project review shall be:*

- a. Yamhill County for facilities outside the UGBs*
- b. The affected city for facilities within the UGBs*
- c. The State of Oregon. Yamhill County and affected cities on projects involving state-owned facilities.*

***Yamhill County TSP Policy 4.** It is the policy of Yamhill County to coordinate the County Transportation System Plan with the transportation plans of the ten incorporated cities within Yamhill County. The County will emphasize continuity in the classification of roads and appropriate design standards for roadways which link urban areas with rural areas outside Urban Growth Boundaries. At the time of UGB amendment Yamhill County and the City involved shall agree on classification and design standards of all County Roads within the proposed UGB area prior to finalization of the amendment.*

***Yamhill County TSP Policy 5** County policy will encourage the expeditious transfer of jurisdiction of roadways to incorporated cities in conjunction with annexation. It is the policy of Yamhill County that developers of property who propose annexation and who have frontage on a road that does not meet City road standards shall have the primary responsibility for upgrading the road to City standards. Roads shall be upgraded at the time of annexation, or the developer shall sign an agreement with the City to upgrade the road, at the time of development. Transfer of jurisdiction shall require the approval of both the County and the City, in accordance with provisions in Oregon Revised Statutes 373.270.*

***Yamhill County TSP Policy 6.** It is the policy of Yamhill County to require the transfer, or an agreement to transfer with specific time lines and milestones as part of the agreement, jurisdiction of County roadways within urban growth boundaries to their respective cities at the time of annexation.*

EXHIBIT 1C
CRITERIA AND SUBMITTALS FOR CITY RECOMMENDATION
REGARDING DEVELOPMENT IN THE URA

- A. Criteria: Generally, the following criteria will be used by the City of Newberg in developing City recommendations regarding land use development in the Urban Reserve Area. It is the City's intent to recommend that the County only allow development in the Urban Reserve Area that is limited in scope and that is consistent with the future urban development of the property.
1. Future Development Plan: The City Council shall recommend approval, recommend approval with conditions, or recommend against the future development plan in accordance with the following criteria:
 - (a) The current development shall not cause more than 10 percent of the property to be used for site improvements including buildings, parking areas, improved recreation areas, and storage areas, unless the City agrees the development intensity will not prohibit future urban development.
 - (b) The future development plan shall allow for the efficient future urban development of the remainder of the property. It shall allow for construction of future urban streets and utilities, and shall allow for required setbacks to current and future property lines.
 - (c) The plan is consistent with adopted plans and policies for the area, such as street or utility plans and policies in this agreement.
 2. The City may recommend that the application be approved with conditions, which may include, but are not limited to: an agreement to annex, a deferred improvement agreement for future public facilities; construction of necessary street improvements, storm drains, or other public facilities; dedication of right-of-way, easements for utilities; special setbacks from planned right-of-ways.
- B. Submittal Requirements
1. A future development plan shall be required for any development in the Urban Reserve Area requiring a Yamhill County Type B or Type C review, excluding any development that involves a change in use to existing buildings only. The future development plan shall be used solely to evaluate the current proposal's compatibility with potential future urban development. It does not bind or commit the applicants, property owners, review bodies, or governing bodies to approve or carry out the proposed future development.
 2. The future development plan shall show how the property could be fully developed when incorporated into the city. The plan shall be drawn to scale and shall include the following:

- (a) The location of potential future streets within and surrounding the site.
- (b) The location of potential future sewer, water, and storm drainage facilities within and surrounding the site.
- (c) The location and approximate dimensions of potential future lot lines.
- (d) Setback lines for proposed structures from current and proposed property lines.

REQUEST FOR COUNCIL ACTION



Date Action Requested: August 15, 2022

Order Ordinance Resolution Motion Information

No. 2022-3807

Subject: A Resolution approving amendments to the Newberg Urban Area Growth Management Agreement (NUAGMA)

Staff: Doug Rux, Director
Department: Community Development
File No. GEN22-0013

Business Session

Order On Agenda: New Business

Hearing Type

Recommendation:

Adopt Resolution No. 2022-3807.

Executive Summary:

The Newberg Urban Area Growth Management Agreement (NUAGMA) was last amended in 2000 to address Urban Reserve Areas. City staff in coordination with the Yamhill County Planning and Development Department have identified additional amendments to update the Agreement. These updates amend the following sections:

- II. Definitions
- III. General
- IV. Term of this Agreement; Amendment
- V. Urban Services
- VI. Establishment of the Newberg Urban Area Management Commission
- VII. Establishment of Land Use Review Procedures

The amendments bring the Agreement current with State laws and Administrative Rules and addresses current procedural issues for actions by Yamhill County and the City of Newberg. A track changes version of the proposed amendments is included as Attachment 1.

Per the existing Agreement (as amended) notification to Yamhill County was required per section IV. Term of this Agreement: Amendment. The City notified Yamhill County on October 1, 2021, on the desire to amend the NUAGMA and provided draft amendments for consideration 90 days prior to the renewable 1-year term of the Agreement of July 2, 2022.

A summary of the proposed amendments is outlined below with details in Exhibit "A" to the Resolution.

- III. General

1. Plan Map Conflicts.

These amendments clarify that the Comprehensive Plan Land Use Map adopted by Yamhill County shall be the plan map for the area within the Urban Reserve Area.

2. Urban Growth Boundary.

This amendment strikes the reference to Urban Reserve Area.

3. Urban Reserve Area.

This amendment clarifies Urban Reserve Areas.

6.a. Concurrence.

This amendment clarifies that if there is a situation where concurrence is required, and it cannot be reached between the City and County that mediation will occur.

6.b. Recommendation.

The amendment adds additional language to comment on objections to a decision by either the City or County.

V. Urban Services

1.c. Annexation.

This amendment clarifies referrals to the County on annexation applications and that they will be sent to the County Planning Department for the County's recommendation.

1.e.(4) Roads.

This amendment was proposed by County staff as it relates to transfer of jurisdiction of right-of-way at the time of annexation. The current text of the Agreement reads as follows:

- a. Roads. The County and City shall cooperatively develop an implementation policy regarding streets and roads within the Urban Growth Boundary which is consistent with the City Comprehensive Plan. Such policy shall include, but not be limited to, the following:

- (1) The circumstances under which the City will assume ownership of and maintenance responsibility for County roads within the corporate limits.
- (2) The conditions under which new public streets and roads will be developed within the Urban Growth Boundary.

- (3) The conditions under which existing roads designated as future arterial in the City Comprehensive Plan will be improved.
- (4) Roads should be compatible with City street alignments and extensions. Upon annexation of property, roads adjacent to (and which serve) such property should also be annexed.

The implementation policy referenced in this section has not been entered into based on research conducted by City staff. The City has historically consistently indicated that jurisdictional transfer of County roadways to the City could occur after the roadways are constructed to City standards that include road bed, storm drainage, curb, gutters, planter strips, street trees, street lights and sidewalks in conformance with the City's development standards and Design and Construction Standards.

The County has indicated that there are several roadways within the city limits they desire to transfer to the City. Two of these roadways, Weatherly Way, and S McKern Court are candidates to proceed through the jurisdictional transfer process between the County and City as these roadways have substantially been improved to city standards. The most recent roadway jurisdictional transfer occurred with E Crestview Drive from the N Springbrook Road round-about to the east to the city limit line adjacent to the Oxberg Lakes subdivision.

At the Newberg Urban Area Management Commission (NUAMC) meeting on July 27, 2022, Commissioner Rogers asked for additional details regarding the issue surrounding transfer of right-of-way from the County to the City. Below staff provides some additional information regarding this issue.

There is the possibility of substantial infrastructure costs if the City were to take jurisdiction of unimproved roadways that do not meet City standards at the time of annexation. This could impact the Newberg Transportation System Plan and the list of Likely funded and Aspirational projects funded through System Development Charges and other funding sources. There is also a legal question on the rough proportionality of the City taking jurisdiction of County roadways at the time of annexation and requiring the property owner to improve the roadway to City standards. One possible option at the time of annexation is an annexation agreement for future improvements to a roadway, but this does not mean the roadway gets improved immediately for a jurisdictional transfer to occur.

Annexations change the jurisdictional authority of land from the County to the City for properties to access infrastructure such as water and wastewater services. Annexations can occur for future development opportunities, but there are cases where a hardship annexation is requested because of failing wells or septic systems and the need to connect to city infrastructure. There are also historically situations where roadways have been annexed to the outer edge of the Urban Growth Boundary and where one-half of the street has been improved to city requirements by a development (examples are Gracies Landing and Kings Landing, but the other half has not been improved and does not have the constructed storm drainage system, curb, gutter, planter strip and

sidewalk. Examples of this situation are sections of NE North Valley Road, NE Chehalem Drive, NE Wynooski Road, and NE Bell Road.

The City has other situations where:

1. The right-of-way has only been annexed to the centerline of the roadway.
2. The entire roadway has been annexed into the city but not improved (Newall Road and Hadley Road).
3. The entire roadway has been annexed into the city and under County jurisdiction and is identified to be improved by the Newberg Urban Renewal Plan (S River Street from E Eleventh Street to E Fourteenth Street, S College Street from E Ninth Street to E Fourteenth Street, and NE Wynooski Road from the Bypass Bridge south to NE Dog Ridge Road).

County staff has indicated they would share a map and a list of roadways they would like to discuss jurisdictional transfer of. At the time of preparing this report that material has not been received.

Staff would suggest that the referenced policy in the NUAGMA be developed and vetted with the City Council and the Yamhill County Board of Commissioners.

1.g.(2)i. & ii. Service responsibility is designated as follows:

This amendment expands the reference to maps in the Agreement and updates the reference from sewer to wastewater. Wastewater is the terminology used in the City's Wastewater Master Plan and Development Code.

VI. Establishment of the Newberg Urban Area Management Commission

This amendment updates the reference for membership on NUAMC by deleting the Newberg-Dundee P.A.C which no longer exists and replaces it with a second Yamhill County Planning Commission member. The amendment additionally changes the reference to the Newberg Citizen Involvement Advisory Committee that no longer exists to a citizen of the City of Newberg designated by the City Council.

VII. Establishment of Land Use Review Procedures

1. Urban Growth Boundary Amendment.

This section is amended to clarify that a property owner can submit and application, is required to pay fees to the respective governing body, clarifies applicable requirements of Statewide Land Use Planning Goal 14, ORS Chapter 197 or 197A, and related Oregon Administrative Rules. The amendment also identifies that the City or County can initiate an amendment. The proposed amendment clarifies that hearings on a UGB application after the NUAMC review are de novo hearings and not on the record hearings based on input and feedback from

NUAMC during their review of the amendments. The current language indicates that these hearings would be on the record. Finally, clarification language is added that the City and County have 60 days after a NUAMC recommendation to make a decision on a UGB application and if concurrence cannot be reached after the City and County meet jointly that it would go to mediation.

2. Urban Reserve Area Expansions
 - a. Procedures to establish Urban Reserve Area.

This is a new section added to address the process for Urban Reserve Area Expansion applications. Applications can be initiated by the County, City, or a property owner. Applicable fees need to be paid by the party initiating the amendment, the amendment is a map amendment to both the City and County Comprehensive Plan maps, identifies NUAMC as the body to review the application and make decision that is forwarded to the City and County with the City reviewing the application first followed by the County, clarifies that the City and County hearings are de novo hearings and allows addition public testimony, adds language between the City and County to resolve differences and if the jurisdictions cannot agree it proceeds to mediation.

3. Comprehensive Plan Amendment

This section is amended to clarify the process for reviews and referrals based on who files an application.

4. Zone Changes

This section is amended to clarify the process for review of zone changes in an Urban Reserve Area by the County and the County referring the request to the City for comment.

5. Other Items Affecting Land Use Under Yamhill County's Jurisdiction

This amends subsection a. to clarify that changes that are substantial in the Area of Influence are referred to the City for recommendation and that items that are not substantial may be referred to the City for comment. There is a list of what is considered substantial land use activities.

EXHIBIT IB URBAN SERVICE TRANSITION POLICIES

This section was amended to refer to Tualatin Valley Fire & Rescue as they are now the service provider for the former service territory of Newberg Rural Fire District and the service provider within the city limits.

Terms and Conditions under which Service Responsibility will be transferred or expanded.

Sections C. & D. have been modified to use the term wastewater from the former sewer reference. The City's regulations use the term wastewater, and this revision provides consistency between the City's terminology and the language in the NUAGMA.

Newberg Urban Area Management Commission Recommendation

The NUAMC reviewed the proposed amendments to the Newberg Urban Area Growth Management Agreement at their November 23, 2021, and July 27, 2022, meetings. The NUAMC recommended that the revised Intergovernmental Agreement (IGA) be forwarded to the City and County for their approval with a recommendation to approve. NUAMC voted 6-0 on the motion.

Fiscal Impact:

City staffing is provided to NUAMC to conduct required meetings through 01-4110-410000 through -431000. No additional costs are anticipated beyond the necessary staff responsibilities per the Newberg Urban Area Growth Management Agreement, and Rules to Govern the Conduct of Business of the Newberg Urban Area Management Commission.

Strategic Assessment:

2020 Council Goals:

1. Change operational culture to one focused on Customer Service and act to Resolve Ongoing Legal Disputes

Not applicable.

2. Further develop an operational culture that adopts and cherishes Diversity, Equity, and Inclusion as core values.

Not applicable.

3. Promote development of housing affordability such as houselessness, transitional housing, workforce housing.

Not applicable.

4. Create and support an Urban Renewal Plan and Authority

Not applicable.

5. Collaborate with local partners and with entities like ICLEI in the development of a Sustainability program.

Not applicable.

ATTACHMENTS

Resolution No. 2022-3807 with:

Exhibit "A": Newberg Urban Area Growth Management Agreement (NUAGMA)

1. Track Changes NUAGMA

RESOLUTION NO. 2022-3807



A Resolution approving amendments to the Newberg Urban Area Growth Management Agreement (NUAGMA)

Recitals:

1. The Newberg Urban Area Growth Management Agreement (NUAGMA) was entered into in 1979.
2. The NUAGMA has been amended twice, once in 1998 and again in 2000.
3. The City of Newberg notified Yamhill County on October 1, 2022, its desire to amend the NUAGMA in compliance with Section IV. Term of this Agreement; Amendment, and provided a draft of the proposed amendments.
4. The Newberg Urban Area Management Commission reviewed the proposed amendments at their meetings on November 23, 2021, and July 27, 2022.
5. The NUAMC recommended on July 27, 2022, that the proposed amendments be forwarded to the Newberg City Council and Yamhill County Board for Commissioners for their approval with a recommendation to approve.

The City of Newberg Resolves as Follows:

1. The Newberg Urban Area Growth Management Agreement as amended and included as "Exhibit "A" is adopted.
2. The Newberg Urban Area Growth Management Agreement as amended is to be forwarded to the Yamhill County Board of Commissioners for their review, consideration, and adoption.

Effective Date of this resolution is the day after the adoption date, which is: August 16, 2022.

Adopted by the City Council of Newberg, Oregon, this 15th day of August, 2022.

Sue Ryan, City Recorder

Attest by the Mayor this 18th day of August, 2022.

Rick Rogers, Mayor

RESOLUTION NO. 2022-3807



A Resolution approving amendments to the Newberg Urban Area Growth Management Agreement (NUAGMA)

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4. The Newberg Urban Area Management Commission reviewed the proposed amendments at their meetings on November 23, 2021, and July 27, 2022.
5. The NUAMC recommended on July 27, 2022, that the proposed amendments be forwarded to the Newberg City Council and Yamhill County Board for Commissioners for their approval with a recommendation to approve.

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Adopted by the City Council of Newberg, Oregon, this 15th day of August, 2022.

Sue Ryan, City Recorder

Attest by the Mayor this 18th day of August, 2022.

Rick Rogers, Mayor

**Newberg Urban Area
Growth Management Agreement**

Adopted by Newberg City Council on July 2, 1979 and Yamhill County Board of Commissioners on June 20, 1979; As Amended by Newberg City Council on November 2, 1998 and Yamhill County Board of Commissioners on December 3, 1998; As Further Amended by Newberg City Council on June 5, 2000 and Yamhill County Board of Commissioners on December 14, 2000; As Further Amended By Newberg City Council on August 15, 2022 and Yamhill County Board of Commissioners on _____, 2022.

Preface

Seen from above, the modern city edges imperceptibly out of its setting. There are no clear boundaries. Just now the white trace of the super highway passed through cultivated fields; now it is an asphalt image of streets and buildings. As one drives in from the airport or looks out from the train window, clumps of suburban houses, industrial complexes, and occasional green space flash by; it is hard to tell where city begins or county ends." (Oscar Handlin, "The Modern City as a Field of Historical Study" in *The Historian and the City* (Cambridge, Mass. 1963, p.1).

I. Introduction

The City of Newberg and Yamhill County recognize the need for coordination and cooperation in the management of growth in and around the Newberg Urban Area. This agreement is formulated in accordance with this principle.

This agreement establishes a process for maintaining ongoing planning efforts, designed to keep pace with growth and change. It is essential that intergovernmental coordination be maintained to assure the citizens of the City of Newberg and Yamhill County that growth occurs in an orderly and efficient manner.

To that end, this agreement sets forth the means by which a plan for management of the unincorporated areas within the Urban Growth Boundary, and Urban Reserve will be implemented, and by which the Urban Growth Boundary and Urban Reserve may be modified.

II. Definitions

Area of Influence - An area of land designated by the City of Newberg and Yamhill County that extends one mile outside Newberg's Urban Growth Boundary wherein the County will give the City an opportunity to participate in land use actions to be taken by the County.

Urban Growth Boundary - A line jointly adopted by the City of Newberg and Yamhill County that encircles the City and separates rural and urbanizable land. Newberg's Urban Growth Boundary is shown on the attached map.

Urban Reserve Area – Land outside the Urban Growth Boundary jointly designated and adopted by

the City of Newberg and Yamhill County to provide for future expansion over a long-term period and the cost-effective provision of public facilities and services within the area when the lands are included within the Urban Growth Boundary.

III. General

1. Plan Map Conflicts. The Comprehensive Plan Land Use Map adopted by the City of Newberg shall be the plan map for the area within the Urban Growth Boundary, and shall replace conflicting portions of the Yamhill County Comprehensive Plan Map pertinent to this area. Where said maps conflict, Yamhill County shall initiate the process necessary for consideration of a map amendment. The Comprehensive Plan Land Use Map adopted by Yamhill County shall be the plan map for the area within the Urban Reserve Area.
2. Urban Growth Boundary. In accordance with the Comprehensive Plan of the City of Newberg, the jointly adopted Urban Growth Boundary shall define the geographical limits of urbanization. The City of Newberg shall prepare for the orderly extension of public facilities and services within the boundary. Lands outside the Urban Growth Boundary shall be maintained in accordance with the Yamhill County Comprehensive Plan.
3. Urban Reserve Area. In accordance with the Comprehensive Plan of Yamhill County, the jointly adopted Urban Reserve Area shall provide for expansion and urbanization over a long-term period and the cost-effective provision of public facilities and services within the area. The Urban Reserve Area shall be maintained in accordance with the Yamhill County Comprehensive Plan.
4. Urbanization. The City of Newberg and Yamhill County shall encourage urbanization within the boundary to occur in an orderly and efficient manner, resulting in a compact, balanced urban center meeting long-term economic and social needs of the residents of the area regardless of political boundaries.
5. Implementation and Coordination. The very nature of planning requires continual refinement of various elements of the Comprehensive Plan. This includes the preparation of implementing ordinances, refinement plans and functional plans. As the Newberg Comprehensive Plan is implemented, the City and County will work together in a coordinated effort to achieve the goals of the Yamhill County and Newberg Comprehensive Plans.
6. Concurrence and Recommendation. The legitimate interests of the City and County overlap within the City's Urban Growth Boundary, Urban Reserve, and Area of Influence. This agreement attempts to resolve these overlapping interests by providing for concurrence of City and County governing bodies for certain decisions and by providing for recommendations of one governing body to the other for other decisions.
 - a. Concurrence. Where concurrence is required, the City and County shall agree upon a decision. If agreement cannot be reached, the City and County agree to mediate the dispute using a jointly selected mediator.

- b. Recommendation. Where a recommendation is required, the City and County need not agree upon a decision. The procedures are these: The right to comment on or object to any item referred to a jurisdiction for a recommendation shall be deemed to have been waived unless the referring jurisdiction is notified otherwise within thirty days; the time limit for consideration of items referred for recommendation shall begin to run from the time the item is received by the jurisdiction whose recommendation is being solicited; each jurisdiction shall have standing to appeal the decision of the other governing body.

IV. Term of this Agreement; Amendment

The term of this agreement runs from July 2, 1979, to July 2, 1980, and may be extended thereafter by increments of one year. During the term of the agreement or extension, the agreement may be changed by mutual consent of the parties hereto. This agreement is automatically renewed at the end of such term or extension unless either party hereto requests revision of the agreement by so notifying the other party at least ninety days before the end of the current term or extension.

V. Urban Services

- 1. The City of Newberg is recognized as the ultimate provider of urban services within the Urban Growth Boundary. To this end:
 - a. Special Districts. Before Yamhill County shall create any special district for the provision of utilities, transportation, or other public facilities or services, the matter shall be referred to the City of Newberg for a recommendation. The County shall not act contrary to such recommendation.
 - b. Service Capacity. Development within the Urban Growth Boundary shall not exceed the capacity of existing services.
 - c. Annexation. Annexation shall occur in accordance with the Newberg Comprehensive Plan. Before final action by the City Council on an annexation proposal, the proposal shall be referred to the County Planning Department for the County's recommendation. In order to provide the County with advance notice of reasoning for a proposed annexation, the findings adopted by the City Planning Commission shall be referred to the County Planning Department following the Commission action.
 - d. Service Expansion Plans. As the ultimate provider of urban services, the City shall prepare and from time to time update utility expansion plans. These plans shall provide a basis for the extension of services within the Urban Growth Boundary and as such shall be referred to Yamhill County for information and comment.
 - e. Roads. The County and City shall cooperatively develop an implementation policy regarding streets and roads within the Urban Growth Boundary which is consistent with the City Comprehensive Plan. Such policy shall include, but not be limited to, the following:

- (1) The circumstances under which the City will assume ownership of and maintenance responsibility for County roads within the corporate limits.
 - (2) The conditions under which new public streets and roads will be developed within the Urban Growth Boundary.
 - (3) The conditions under which existing roads designated as future arterial in the City Comprehensive Plan will be improved.
 - (4) The conditions under which County and other roads should meet City Standards within the Urban Growth Boundary. Roads should be compatible with City street alignments and extensions. Upon annexation of property, roads adjacent to (and which serve) such property should also be annexed, and the City assume ownership and maintenance responsibility.
- f. The County and the City through its departments shall coordinate their planning efforts and actions that affect land use with those of special districts.
- g. Transfer of Services within URA and UGB. As required by OAR 660-021-0050:
- (1) Unless otherwise agreed to, designation of the local government responsible for building code administration and land use regulation in the URA shall be:
 - i. Prior to inclusion within the UGB: County
 - ii. After inclusion within the UGB : County
 - iii. After annexation into the city: City
 - (2) Service responsibility is designated as follows:
 - i. The local government or special district responsible for services (including wastewater, water, fire protection, parks, transportation, storm water) for areas within the URA are designated and shown on map(s) attached hereto and incorporated herein as Exhibit "1A" and "1B" as may be amended from time to time.
 - ii. The areas projected for future urban service responsibility after inclusion in the urban growth boundary are shown on map(s) attached hereto and incorporated herein as Addendum to Newberg Urban Area Growth Management Agreement Exhibit "1A" as may be amended from time to time.
 - (3) The terms and conditions under which service responsibility will be transferred or expanded, for areas where the provider of service is expected to change over time, is described in Addendum to Newberg Urban Area Growth Management Agreement Exhibit "1B," attached hereto and incorporated herein.

VI. Establishment of the Newberg Urban Area Management Commission

The City of Newberg and Yamhill County do hereby establish the Newberg Urban Area Management Commission (NUAMC) as a hearings officer in accordance with ORS 215.406. The NUAMC shall be composed of the following members:

Commissioner of the Yamhill County Board of Commissioners designated by the board.

Mayor or council person of the City of Newberg designated by the Council.

Member of Newberg Planning Commission designated by the City Council.

Member of the Yamhill County Planning Commission Designated by the Board of County Commissioners.

Member of the Yamhill County Planning Commission designated by the Board of County Commissioners.

Member who is a citizen of the City of Newberg designated by the City Council.

Member-at-large chosen by the above NUAMC members and ratified by the City Council and County Board.

Duties and Responsibilities. The NUAMC shall function in accordance with bylaws to be adopted by the Newberg City Council and the Yamhill County Board of Commissioners.

It shall be the responsibility of the Newberg Urban Area Management Commission to hold hearings, make findings, and present its decision to City and County governing bodies in this agreement and the bylaws.

VII. Establishment of Land Use Review Procedures

1. Urban Growth Boundary Amendment

Amendment of the Urban Growth Boundary may be initiated by the Yamhill County Board of Commissioners, the Newberg City Council, or by a property owner who request(s) inclusion in or exclusion from the Urban Growth Boundary.

Amendment of the Urban Growth Boundary shall be treated as a map amendment to both the City and County Comprehensive Plan maps.

Individual amendment applicants shall pay the fees established from time to time by each governing body.

Each application shall include a map and sufficient information to make a decision based upon the applicable requirements of Statewide Land Use Planning Goal 14, ORS Chapter 197 or 197A, and related Oregon Administrative Rules.

A property owner requesting inclusion or exclusion from the Urban Growth Boundary shall file applications simultaneously with the Newberg Community Development Department, Planning Division, and the Yamhill County Planning and Development Department. The City and County shall each collect fees from the applicant. The City and County shall coordinate with each other to process the application. The City of Newberg may initiate an amendment to the Urban Growth Boundary by filing its completed application and required fees with the Yamhill County Planning and Development Department for processing. Yamhill County may initiate an amendment to the Urban Growth Boundary by filing its completed application and required fees with the Newberg Community Development Department, Planning Division, for processing. Applications must be complete prior to consideration by the Newberg Urban Area Management Commission.

Applications shall be accumulated and referred quarterly to the Newberg Urban Area Management Commission for a Public Hearing for which at least ten days advance notice shall be given by publication in a newspaper of general circulation in the County (or published in the territory so concerned—ORS 215.060).

Following the Public Hearing, the NUAMC shall make and forward its findings and decision directly to the governing body of each jurisdiction. Each jurisdiction shall hold a public hearing (de novo) and make a determination based on the evidence and argument in the NUAMC record.

Nothing included in this process requires or prohibits the City or County from referring the application to its respective Planning Commissions for information.

Each jurisdiction shall make a final decision within sixty days of NUAMC forwarding its findings and decision. If the governing bodies do not concur in their final decision within sixty days, a joint meeting shall be held to resolve differences. If agreement cannot be reached, the parties agree to mediate the issue using a jointly selected mediator.

2. Urban Reserve Area Expansions

a. Procedures to establish Urban Reserve Area.

An application to amend the Urban Reserve Area may be initiated by the Yamhill County Board of Commissioners, the Newberg City Council, or by a property owner who requests inclusion in or exclusion from the Urban Reserve Area.

Amendment of the Urban Reserve Area shall be treated as a map amendment to both the City and County Comprehensive Plan maps.

Individual amendment applicants shall pay the fees established from time to time by each governing body.

Each application shall include a map and sufficient information to make a decision based upon the applicable requirements of Statewide Land Use Planning Goal 14, ORS Chapter 197 or 197A, and related Oregon Administrative Rules.

A property owner requesting inclusion or exclusion from the Urban Reserve Area shall file applications simultaneously with the Newberg Community Development Department, Planning Division, and the Yamhill County Planning and Development Department. The City and County shall each collect fees from the applicant. The City and County shall coordinate with each other to process the application. The City of Newberg may initiate an amendment to the Urban Growth Area by filing its completed application and required fees with the Yamhill County Planning and Development Department for processing. Yamhill County may initiate an amendment to the Urban Reserve Area by filing its completed application and required fees with the Newberg Community Development Department, Planning Division, for processing. Applications must be complete prior to consideration by the Newberg Urban Area Management Commission.

Applications shall be accumulated and referred quarterly to the Newberg Urban Area Management Commission for a Public Hearing for which at least ten days advance public notice shall be given by publication in a newspaper of general circulation in the County (or published in the territory so concerned ORS 215.060).

Following the Public Hearing, the NUAMC shall make and forward its findings and decision directly to the governing body of each jurisdiction. The City shall review NUAMC's finding and decision in a public hearing (de novo), and adopt its final decision by ordinance. The City shall forward its ordinance to the County, which shall make its final decision based on the NUAMC record, the City's ordinance, and public testimony. The County shall adopt its final decision by ordinance and issue a Board order.

Nothing included in this process requires or prohibits the City or County from referring the application to its respective Planning Commissions for information.

If the governing bodies do not concur in their final decision within sixty days of referral of the matter to them by the NUAMC, a joint meeting shall be held to resolve differences. If agreement cannot be reached, the parties agree to mediate the issue using a jointly selected mediator.

3. Comprehensive Plan Amendment

- a. Inside the Urban Growth Boundary, but outside the city limits. The amendment shall be filed with Yamhill County, and shall otherwise be subject to the same procedures as an Urban Growth Boundary Amendment under this Agreement.
- b. Inside the Urban Reserve Area, but outside the City limits. This amendment shall be filed with Yamhill County, and shall otherwise be treated subject to the same procedures as an amendment to the Urban Reserve Area, with referral to the City for its recommendation.

- c. Outside the Urban Growth Boundary, but within the "Area of Influence". This amendment shall be processed by Yamhill County and shall be referred to the City of Newberg for a recommendation.
- d. Inside city limits. The application shall be processed by the City of Newberg and shall be referred to Yamhill County for comments.

4. Zone Changes

The City of Newberg and Yamhill County recognize that each jurisdiction has authority to zone within its legal boundaries. However, the Urban Growth Boundary recognizes the eventual assumption of authority by the City of Newberg. Therefore, the following procedures are established:

- a. County zone change outside city limits but within the Urban Growth Boundary. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete. The application then be processed in accordance with Yamhill County ordinances, except that the application will be referred to the NUAMC for a hearing in lieu of the Yamhill County Planning Commission. Appeals of the NUAMC decision shall be heard by the Yamhill County Board of Commissioners.
- b. County zone change outside the city limits but within the Urban Reserve Area. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete. The application then shall be processed in accordance with Yamhill County ordinances, except that the application will be referred to the NUAMC for a hearing in lieu of the Yamhill County Planning Commission. Appeals of the NUAMC decision shall be heard by the Yamhill County Board of Commissioners.
- c. Zone change inside city limits. The application shall be processed by the City of Newberg and shall be referred to Yamhill County for information and/or comment.
- d. County zone change outside the Urban Growth Boundary but within the "Area of Influence". The application shall be processed by Yamhill County and shall be referred to the City of Newberg for information and/or comment.

5. Other Items Affecting Land Use Under Yamhill County's Jurisdiction

- a. Items having a substantial impact upon land use under the jurisdiction of Yamhill County within Newberg's Area of Influence shall be referred to the City of Newberg

for recommendation. Items not having a substantial impact may be referred for information and comment.

- b. Items having a substantial impact upon land use under the jurisdiction of Yamhill County within Newberg's Urban Reserve area shall be reviewed by the City of Newberg for recommendation. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete.
 - c. Items having a substantial impact upon land use under the jurisdiction of Yamhill County within Newberg's UGB shall be reviewed by the City of Newberg for recommendation. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use action. Requests shall be processed following the procedures outlined in the Addendum to this agreement, Section 2, item 5 (b). No fee shall be charged for processing a recommendation from the City of Newberg. Applications submitted without this recommendation will be deemed incomplete.
 - d. Items having a substantial impact upon land use shall include but are not limited to:
 - (1) Conditional Use Permits, (Excluding Temporary Hardship Dwellings)
 - (2) Planned Unit Developments
 - (3) Subdivisions and Partitions
 - (4) Public Improvement Projects
 - (5) Health Hazards
 - (6) Special Exceptions
 - (7) Capital Improvement Programs
 - (8) Major Transportation Improvements
 - e. Within the U.G.B., when Yamhill County ordinances require a Planning Commission public hearing on any of the above items, either as a recommendation or as a final action, the application shall be referred to NUAMC who shall hear the matter in lieu of the Yamhill County Planning Commission. Appeals of the NUAMC decision shall be heard by the Yamhill County Board of Commissioners.
6. Any of the above applications which may affect an agency identified in the City of Newberg or Yamhill County referral list shall be referred to said agency for information and/or comment.

ADDENDUM TO NEWBERG URBAN AREA GROWTH MANAGEMENT AGREEMENT

This Addendum to Newberg Urban Area Growth Management Agreement pursuant to Newberg City Ordinance #1967 dated July 2, 1979 (hereinafter "Addendum") is made by agreement between Yamhill County ("County") and the City of Newberg ("City").

RECITALS

- A. The City and the County have previously entered into an intergovernmental agreement known as the Newberg Urban Area Growth Management Agreement ("NUAGMA") pursuant to Newberg City Ordinance #1967 dated July 2, 1979 and Yamhill County Ordinance 214 dated June 20, 1979, setting forth their respective rights and responsibilities with respect to the Urban Growth Boundary (UGB) and Area of Influence.
- B. The County and the City have previously adopted an Urban Reserve Area for the City of Newberg as required by OAR Chapter 660, Division 21, as shown on their comprehensive plan and zoning maps, plan policies and land use regulations, to guide the management of these areas in accordance with the requirements of OAR Chapter 660 Division 21. Newberg City Ordinance 95-2397, Yamhill County Ordinance 596 (copies attached).
- C. The Urban Reserve Area is intended over time to be incorporated into an urban growth boundary. Because full urban services are not yet available in the area, urban level development is not permitted. Very limited rural development of property can occur in the area, but only when such usage is consistent with and does not impede the future urbanization of property.
- D. The purpose of this Addendum is to clarify planning and zoning intents and add provisions to the existing intergovernmental agreement for the purpose of satisfying the requirements of OAR Chapter 660, Division 21 relating to Urban Reserve Areas.

AGREEMENT

NOW, THEREFORE, the City and County agree as follows:

Section 1 Definitions:

- (1) "Urban Reserve Area" has the same meaning as set forth in OAR 660-021-0010 (1), and means lands outside of an urban growth boundary identified as highest priority for inclusion in the urban growth boundary when additional urbanizable land is needed in accordance with the requirements of Goal 14.

Section 2. Compliance with OAR Chapter 660, Division 21. In accordance with the applicable requirements of Chapter 660, Division 21, City and County agree as follows:

- (1) As required by OAR 660-021-0040(3):

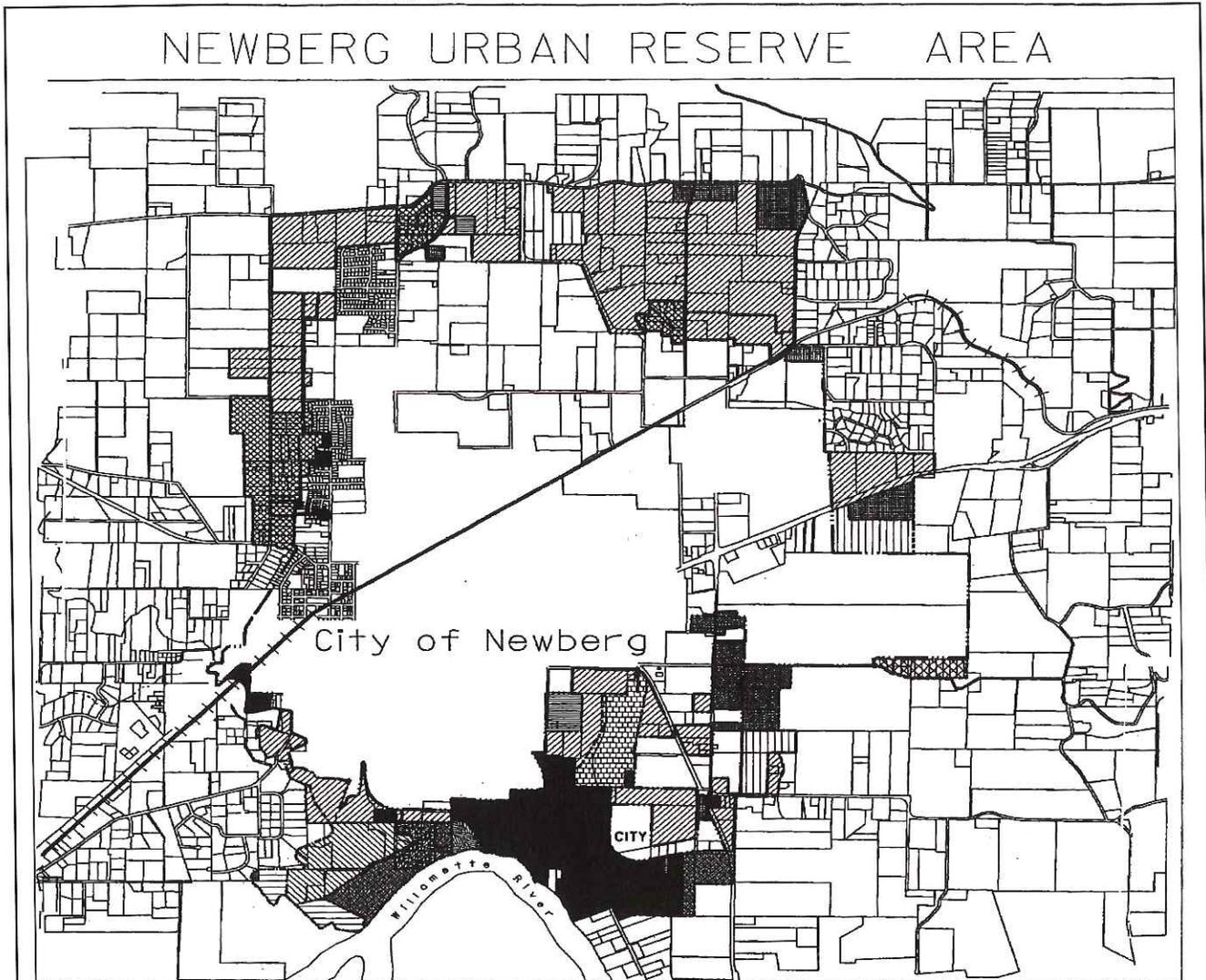
- (a) The County shall prohibit zone amendments allowing more intensive uses, including higher residential density, than permitted at the date of this agreement.
- (2) As required by OAR 660-021-0050(1), unless otherwise agreed to, designation of the local government responsible for building code administration and land use regulation in the URA shall be:
- (a) Prior to inclusion within the UGB: County
 - (b) After inclusion within the UGB : County
 - (c) After annexation into the city: City
- (3) Designation of service responsibility, as required by OAR 660-021-0050(2):
- (a) The local government or special district responsible for services (including sewer, water, fire protection, parks, transportation, storm water) for areas within the URA are designated and shown on map(s) attached hereto and incorporated herein as Exhibit "1A."
 - (b) The areas projected for future urban service responsibility after inclusion in the urban growth boundary are shown on map(s) attached hereto and incorporated herein as Exhibit "1A."
- (4) As required by OAR 660-021-0050(3), the terms and conditions under which service responsibility will be transferred or expanded, for areas where the provider of service is expected to change over time, is described in Exhibit "1B," attached hereto and incorporated herein.
- (5) As required by OAR 660-021-0050(4), procedures for notification and review of land use actions to ensure involvement by all affected local governments and special districts:
- (a) Within the Urban Reserve Area, Comprehensive Plan Amendments, zone changes, and other applications affecting land use, including conditional use, PUDs, subdivisions and partitions, public improvement projects, health hazards, capital improvement programs and major transportation improvements, shall be processed by Yamhill County. Prior to filing an application with Yamhill County, the applicant shall apply for and receive a recommendation from the City of Newberg concerning the requested land use decision. Applications submitted without this recommendation will be deemed incomplete.
 - (b) Upon request or application for a recommendation on a requested land use decision in the URA, the City shall use the following procedures in developing a recommendation (see Exhibit 1C for criteria to be used by the City in the recommendation process):

- (1) Applicant shall file with the City a substantially complete Yamhill County application and include a future development plan as provided in this agreement.
- (2) The City staff or City Council may refer the application to the City Planning Commission for a recommendation to the City Council.
- (3) The recommendation to Yamhill County shall be from the City Council.
- (4) Notice of any hearings shall be to the general public and any hearings shall be legislative in nature. Additional notice may be provided as the City deems necessary. This shall not be a quasi-judicial hearing since the City of Newberg is making a recommendation.
- (5) The City of Newberg shall furnish to the applicant its recommendation to Yamhill County within 60 days of the date that the request for recommendation is filed with the City of Newberg. City staff may request additional information from the applicant concerning the application prior to making a recommendation. Unless otherwise agreed between City and applicant, failure to furnish the recommendation within 60 days will waive the requirement to have a recommendation accompany the application.
- (6) The City reserves the right to make additional recommendations and comments concerning the application to Yamhill County during the Yamhill County process.
- (7) Nothing in this agreement limits the rights of either party in participating in the land use process before either jurisdiction.
- (8) Nothing in this agreement shall be construed as mandatory county approval criteria.

Section 3. In all other respects, the Newberg Urban Area Growth Management Agreement shall remain in full force and effect.

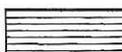
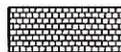
Section 4. Effective Date. This Addendum becomes effective on November 2, 1998.

EXHIBIT 1A URBAN RESERVE AREA MAPS

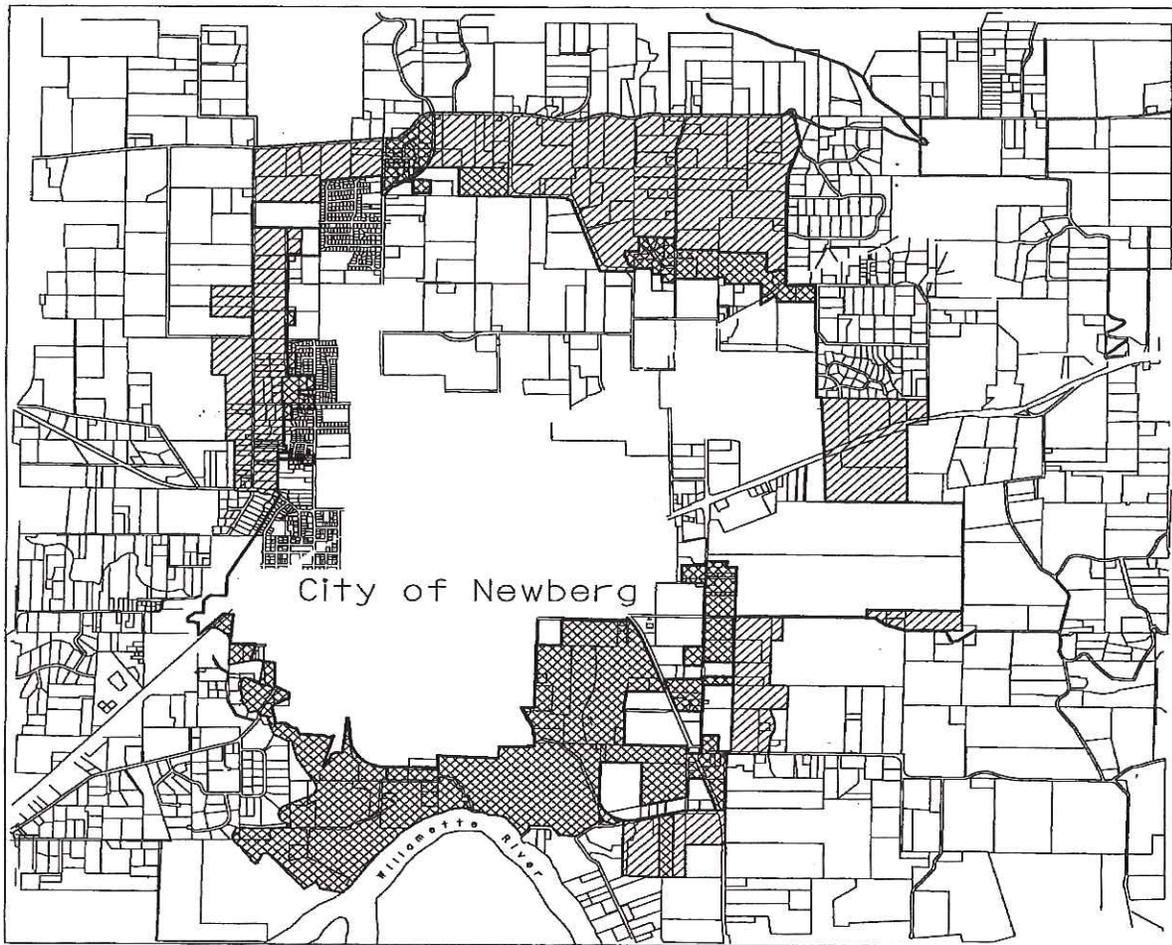


COUNTY ZONING/COMPREHENSIVE PLAN DESIGNATIONS:
(Newberg Comprehensive Plan designations apply inside the city's UGB.)

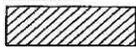


	EF-80/AFLH		AF-10/VLDR		LDR/VLDR		PALF/PUBLIC
	EF-40/VLDR		VLDR-5/VLDR		HI/INDUSTRIAL		PAI/PUBLIC
	EF-20/AFLH		VLDR-2.5/VLDR		L1/INDUSTRIAL		PWS/PUBLIC
	AF-20/IND		VLDR-1/VLDR		HC/COMMERCIAL		MR-2/CURRY

NEWBERG URBAN RESERVE AREA



LEGEND:



Urban Reserve Area



Urban Growth Boundary

————— City Boundary Line

————— Urban Reserve Area

————— Urban Growth Boundary



- Special Districts:** Yamhill County Extension Service
 Yamhill County Soil and Water Conservation Service
 School District 29J, Newberg
 Yamhill Educational Service District
 Newberg Fire Protection District
 Chehalem Park and Recreation District
 Portland Community College

EXHIBIT IB
URBAN SERVICE TRANSITION POLICIES

Service Responsibility in General. The following "Existing Service Provider" shall be responsible for providing public services within the Urban Reserve Areas. The "Future Urban Service Provider" is the provider projected to have responsibility after inclusion in the UGB or in the City depending on the terms and conditions identified below. The timing for changing the responsible service provider will be flexible, depending on citizen needs and location of properties.

<u>Service</u>	<u>Existing Service Provider</u>	<u>Future Urban Service Provider</u>
Sanitary Disposal	No Public Provider	City of Newberg
Water	Service Districts	City of Newberg
Fire Protection	Tualatin Valley Fire & Rescue	Tualatin Valley Fire & Rescue
Parks & Recreation	Chehalem Park and Recreation District/Yamhill County	Chehalem Park and District/Yamhill County
Transportation	Yamhill County/ODOT	City of Newberg/ODOT
Storm Water	Yamhill County	City of Newberg

Terms and Conditions under which Service Responsibility will be transferred or expanded.

- A. Special Districts. The City shall agree to the formation of any special district within the Urban Reserve Area prior to the approval of the formation of the district by Yamhill County. This provision shall not apply to County-wide service districts formed under ORS Chapter 451.
- B. Annexation. Annexation of property from the URA may be permitted if contiguous to City limits and shall occur in accordance with the Newberg Comprehensive Plan. Before final action by the City Council on an annexation proposal, the proposal shall be forwarded to the Board of County Commissioners for a recommendation. In order to provide the Board with advance notice of a proposed annexation, the findings adopted by the City Planning Commission shall be referred to the Board following the Planning Commission action.
- C. Service Expansion Plans. Service expansion plans shall be consistent with the Newberg Urban Area Growth Management Agreement. As the future provider of wastewater disposal, storm water and water services, the City shall prepare and from time to time update utility expansion plans. These plans shall provide a basis for the extension of services within the Urban Growth Boundary, and as such shall be referred to Yamhill County for information and comment.
- D. Transition Policies Relating to Service Responsibility
 - 1. Wastewater Service. There will be no public provider of these services until City

services are available, except in the case of a state mandate due to a health hazard. At the time of annexation, the City will require hook-up to City wastewater sewer services. Nothing in this provision shall limit the ability of individuals to provide services on their own private property within the Urban Reserve Area.

2. Potable Water Service The City of Newberg shall be the sole and only public provider of water in this area, except for existing water districts, unless new districts are expanded or created through mutual agreement by the City and the County. Nothing in this provision shall limit the ability of individuals to provide services on their own private property within the Urban Reserve Area.
3. Fire Protection Tualatin Valley Fire & Rescue provides fire protection services to property within the Urban Reserve Area and the Urban Growth Boundary.
4. Parks and Recreation Chehalem Park and Recreation District and Yamhill County provide park and recreation services within the Urban Reserve Area and the Urban Growth Boundary. Chehalem Park and Recreation District and Yamhill County will remain providers of these services within the city limits unless agreed otherwise.
5. Transportation and Street Improvements Yamhill County provides Transportation services on county roads within the Urban Reserve Area. Yamhill County policies for transfer of jurisdiction are outlined in the Yamhill County Transportation System Plan Section 5.1, Policy 1.5, and Section 5.2.2, Goals and Policies 4, 5, 6 (See attachment Exhibit 1. B.). In summary, the policy is to transfer jurisdiction and maintenance responsibilities to the city upon annexation and improvement to City standards.

Roads in the Urban Reserve Area ultimately are to be developed to City standards. Development in the Urban Reserve Area shall provide adequate transportation facilities to serve the development as provided in Yamhill County ordinances.

The Oregon Department of Transportation provides transportation services on state highways within the Urban Reserve area. The department retains jurisdiction and maintenance responsibilities on all state highways after incorporation into the UGB and annexation except in special cases where jurisdiction is transferred to the City or County by a specific agreement.

6. Storm Water Management Yamhill County provides public storm water management services to property where required within the Urban Reserve Area. The City will provide storm water management services to property within the city limits. Transition of public storm water management services will follow transition of road maintenance responsibilities.

ATTACHMENT TO EXHIBIT IB

County Transportation Plan (Page 73): The Transportation System Plan (TSP) of Yamhill County provides in Section 5.1, Policy 1.5, Section 5.2.2, Goals and Policies 4, 5, and 6 as follows:

- Yamhill County TSP Policy 1.5. The lead agency for transportation project review shall be:*
- a. Yamhill County for facilities outside the UGBs*
 - b. The affected city for facilities within the UGBs*
 - c. The State of Oregon. Yamhill County and affected cities on projects involving state-owned facilities.*

Yamhill County TSP Policy 4. It is the policy of Yamhill County to coordinate the County Transportation System Plan with the transportation plans of the ten incorporated cities within Yamhill County. The County will emphasize continuity in the classification of roads and appropriate design standards for roadways which link urban areas with rural areas outside Urban Growth Boundaries. At the time of UGB amendment Yamhill County and the City involved shall agree on classification and design standards of all County Roads within the proposed UGB area prior to finalization of the amendment.

Yamhill County TSP Policy 5 County policy will encourage the expeditious transfer of jurisdiction of roadways to incorporated cities in conjunction with annexation. It is the policy of Yamhill County that developers of property who propose annexation and who have frontage on a road that does not meet City road standards shall have the primary responsibility for upgrading the road to City standards. Roads shall be upgraded at the time of annexation, or the developer shall sign an agreement with the City to upgrade the road, at the time of development. Transfer of jurisdiction shall require the approval of both the County and the City, in accordance with provisions in Oregon Revised Statutes 373.270.

Yamhill County TSP Policy 6. It is the policy of Yamhill County to require the transfer, or an agreement to transfer with specific time lines and milestones as part of the agreement, jurisdiction of County roadways within urban growth boundaries to their respective cities at the time of annexation.

EXHIBIT 1C
CRITERIA AND SUBMITTALS FOR CITY RECOMMENDATION
REGARDING DEVELOPMENT IN THE URA

- A. Criteria: Generally, the following criteria will be used by the City of Newberg in developing City recommendations regarding land use development in the Urban Reserve Area. It is the City's intent to recommend that the County only allow development in the Urban Reserve Area that is limited in scope and that is consistent with the future urban development of the property.
1. Future Development Plan: The City Council shall recommend approval, recommend approval with conditions, or recommend against the future development plan in accordance with the following criteria:
 - (a) The current development shall not cause more than 10 percent of the property to be used for site improvements including buildings, parking areas, improved recreation areas, and storage areas, unless the City agrees the development intensity will not prohibit future urban development.
 - (b) The future development plan shall allow for the efficient future urban development of the remainder of the property. It shall allow for construction of future urban streets and utilities, and shall allow for required setbacks to current and future property lines.
 - (c) The plan is consistent with adopted plans and policies for the area, such as street or utility plans and policies in this agreement.
 2. The City may recommend that the application be approved with conditions, which may include, but are not limited to: an agreement to annex, a deferred improvement agreement for future public facilities; construction of necessary street improvements, storm drains, or other public facilities; dedication of right-of-way, easements for utilities; special setbacks from planned right-of-ways.
- B. Submittal Requirements
1. A future development plan shall be required for any development in the Urban Reserve Area requiring a Yamhill County Type B or Type C review, excluding any development that involves a change in use to existing buildings only. The future development plan shall be used solely to evaluate the current proposal's compatibility with potential future urban development. It does not bind or commit the applicants, property owners, review bodies, or governing bodies to approve or carry out the proposed future development.
 2. The future development plan shall show how the property could be fully developed when incorporated into the city. The plan shall be drawn to scale and shall include the following:

- (a) The location of potential future streets within and surrounding the site.
- (b) The location of potential future sewer, water, and storm drainage facilities within and surrounding the site.
- (c) The location and approximate dimensions of potential future lot lines.
- (d) Setback lines for proposed structures from current and proposed property lines.

REQUEST FOR COUNCIL ACTION



Date Action Requested: August 15, 2022

Order Ordinance Resolution Motion Information
No. 2022-3807

Subject: A Resolution approving amendments to the Newberg Urban Area Growth Management Agreement (NUAGMA)

Staff: Doug Rux, Director
Department: Community Development
File No. GEN22-0013

Business Session

Order On Agenda: New Business

Hearing Type

Recommendation:

Adopt Resolution No. 2022-3807.

Executive Summary:

The Newberg Urban Area Growth Management Agreement (NUAGMA) was last amended in 2000 to address Urban Reserve Areas. City staff in coordination with the Yamhill County Planning and Development Department have identified additional amendments to update the Agreement. These updates amend the following sections:

- II. Definitions
- III. General
- IV. Term of this Agreement; Amendment
- V. Urban Services
- VI. Establishment of the Newberg Urban Area Management Commission
- VII. Establishment of Land Use Review Procedures

The amendments bring the Agreement current with State laws and Administrative Rules and addresses current procedural issues for actions by Yamhill County and the City of Newberg. A track changes version of the proposed amendments is included as Attachment 1.

Per the existing Agreement (as amended) notification to Yamhill County was required per section IV. Term of this Agreement: Amendment. The City notified Yamhill County on October 1, 2021, on the desire to amend the NUAGMA and provided draft amendments for consideration 90 days prior to the renewable 1-year term of the Agreement of July 2, 2022.

A summary of the proposed amendments is outlined below with details in Exhibit "A" to the Resolution.

- III. General

1. Plan Map Conflicts.

These amendments clarify that the Comprehensive Plan Land Use Map adopted by Yamhill County shall be the plan map for the area within the Urban Reserve Area.

2. Urban Growth Boundary.

This amendment strikes the reference to Urban Reserve Area.

3. Urban Reserve Area.

This amendment clarifies Urban Reserve Areas.

6.a. Concurrence.

This amendment clarifies that if there is a situation where concurrence is required, and it cannot be reached between the City and County that mediation will occur.

6.b. Recommendation.

The amendment adds additional language to comment on objections to a decision by either the City or County.

V. Urban Services

1.c. Annexation.

This amendment clarifies referrals to the County on annexation applications and that they will be sent to the County Planning Department for the County's recommendation.

1.e.(4) Roads.

This amendment was proposed by County staff as it relates to transfer of jurisdiction of right-of-way at the time of annexation. The current text of the Agreement reads as follows:

- a. Roads. The County and City shall cooperatively develop an implementation policy regarding streets and roads within the Urban Growth Boundary which is consistent with the City Comprehensive Plan. Such policy shall include, but not be limited to, the following:

- (1) The circumstances under which the City will assume ownership of and maintenance responsibility for County roads within the corporate limits.
- (2) The conditions under which new public streets and roads will be developed within the Urban Growth Boundary.

- (3) The conditions under which existing roads designated as future arterial in the City Comprehensive Plan will be improved.
- (4) Roads should be compatible with City street alignments and extensions. Upon annexation of property, roads adjacent to (and which serve) such property should also be annexed.

The implementation policy referenced in this section has not been entered into based on research conducted by City staff. The City has historically consistently indicated that jurisdictional transfer of County roadways to the City could occur after the roadways are constructed to City standards that include road bed, storm drainage, curb, gutters, planter strips, street trees, street lights and sidewalks in conformance with the City's development standards and Design and Construction Standards.

The County has indicated that there are several roadways within the city limits they desire to transfer to the City. Two of these roadways, Weatherly Way, and S McKern Court are candidates to proceed through the jurisdictional transfer process between the County and City as these roadways have substantially been improved to city standards. The most recent roadway jurisdictional transfer occurred with E Crestview Drive from the N Springbrook Road round-about to the east to the city limit line adjacent to the Oxberg Lakes subdivision.

At the Newberg Urban Area Management Commission (NUAMC) meeting on July 27, 2022, Commissioner Rogers asked for additional details regarding the issue surrounding transfer of right-of-way from the County to the City. Below staff provides some additional information regarding this issue.

There is the possibility of substantial infrastructure costs if the City were to take jurisdiction of unimproved roadways that do not meet City standards at the time of annexation. This could impact the Newberg Transportation System Plan and the list of Likely funded and Aspirational projects funded through System Development Charges and other funding sources. There is also a legal question on the rough proportionality of the City taking jurisdiction of County roadways at the time of annexation and requiring the property owner to improve the roadway to City standards. One possible option at the time of annexation is an annexation agreement for future improvements to a roadway, but this does not mean the roadway gets improved immediately for a jurisdictional transfer to occur.

Annexations change the jurisdictional authority of land from the County to the City for properties to access infrastructure such as water and wastewater services. Annexations can occur for future development opportunities, but there are cases where a hardship annexation is requested because of failing wells or septic systems and the need to connect to city infrastructure. There are also historically situations where roadways have been annexed to the outer edge of the Urban Growth Boundary and where one-half of the street has been improved to city requirements by a development (examples are Gracies Landing and Kings Landing, but the other half has not been improved and does not have the constructed storm drainage system, curb, gutter, planter strip and

sidewalk. Examples of this situation are sections of NE North Valley Road, NE Chehalem Drive, NE Wynooski Road, and NE Bell Road.

The City has other situations where:

1. The right-of-way has only been annexed to the centerline of the roadway.
2. The entire roadway has been annexed into the city but not improved (Newall Road and Hadley Road).
3. The entire roadway has been annexed into the city and under County jurisdiction and is identified to be improved by the Newberg Urban Renewal Plan (S River Street from E Eleventh Street to E Fourteenth Street, S College Street from E Ninth Street to E Fourteenth Street, and NE Wynooski Road from the Bypass Bridge south to NE Dog Ridge Road).

County staff has indicated they would share a map and a list of roadways they would like to discuss jurisdictional transfer of. At the time of preparing this report that material has not been received.

Staff would suggest that the referenced policy in the NUAGMA be developed and vetted with the City Council and the Yamhill County Board of Commissioners.

1.g.(2)i. & ii. Service responsibility is designated as follows:

This amendment expands the reference to maps in the Agreement and updates the reference from sewer to wastewater. Wastewater is the terminology used in the City's Wastewater Master Plan and Development Code.

VI. Establishment of the Newberg Urban Area Management Commission

This amendment updates the reference for membership on NUAMC by deleting the Newberg-Dundee P.A.C which no longer exists and replaces it with a second Yamhill County Planning Commission member. The amendment additionally changes the reference to the Newberg Citizen Involvement Advisory Committee that no longer exists to a citizen of the City of Newberg designated by the City Council.

VII. Establishment of Land Use Review Procedures

1. Urban Growth Boundary Amendment.

This section is amended to clarify that a property owner can submit an application, is required to pay fees to the respective governing body, clarifies applicable requirements of Statewide Land Use Planning Goal 14, ORS Chapter 197 or 197A, and related Oregon Administrative Rules. The amendment also identifies that the City or County can initiate an amendment. The proposed amendment clarifies that hearings on a UGB application after the NUAMC review are de novo hearings and not on the record hearings based on input and feedback from

NUAMC during their review of the amendments. The current language indicates that these hearings would be on the record. Finally, clarification language is added that the City and County have 60 days after a NUAMC recommendation to make a decision on a UGB application and if concurrence cannot be reached after the City and County meet jointly that it would go to mediation.

2. Urban Reserve Area Expansions
 - a. Procedures to establish Urban Reserve Area.

This is a new section added to address the process for Urban Reserve Area Expansion applications. Applications can be initiated by the County, City, or a property owner. Applicable fees need to be paid by the party initiating the amendment, the amendment is a map amendment to both the City and County Comprehensive Plan maps, identifies NUAMC as the body to review the application and make decision that is forwarded to the City and County with the City reviewing the application first followed by the County, clarifies that the City and County hearings are de novo hearings and allows addition public testimony, adds language between the City and County to resolve differences and if the jurisdictions cannot agree it proceeds to mediation.

3. Comprehensive Plan Amendment

This section is amended to clarify the process for reviews and referrals based on who files an application.

4. Zone Changes

This section is amended to clarify the process for review of zone changes in an Urban Reserve Area by the County and the County referring the request to the City for comment.

5. Other Items Affecting Land Use Under Yamhill County's Jurisdiction

This amends subsection a. to clarify that changes that are substantial in the Area of Influence are referred to the City for recommendation and that items that are not substantial may be referred to the City for comment. There is a list of what is considered substantial land use activities.

EXHIBIT IB URBAN SERVICE TRANSITION POLICIES

This section was amended to refer to Tualatin Valley Fire & Rescue as they are now the service provider for the former service territory of Newberg Rural Fire District and the service provider within the city limits.

Terms and Conditions under which Service Responsibility will be transferred or expanded.

Sections C. & D. have been modified to use the term wastewater from the former sewer reference. The City's regulations use the term wastewater, and this revision provides consistency between the City's terminology and the language in the NUAGMA.

Newberg Urban Area Management Commission Recommendation

The NUAMC reviewed the proposed amendments to the Newberg Urban Area Growth Management Agreement at their November 23, 2021, and July 27, 2022, meetings. The NUAMC recommended that the revised Intergovernmental Agreement (IGA) be forwarded to the City and County for their approval with a recommendation to approve. NUAMC voted 6-0 on the motion.

Fiscal Impact:

City staffing is provided to NUAMC to conduct required meetings through 01-4110-410000 through -431000. No additional costs are anticipated beyond the necessary staff responsibilities per the Newberg Urban Area Growth Management Agreement, and Rules to Govern the Conduct of Business of the Newberg Urban Area Management Commission.

Strategic Assessment:

2020 Council Goals:

1. Change operational culture to one focused on Customer Service and act to Resolve Ongoing Legal Disputes

Not applicable.

2. Further develop an operational culture that adopts and cherishes Diversity, Equity, and Inclusion as core values.

Not applicable.

3. Promote development of housing affordability such as houselessness, transitional housing, workforce housing.

Not applicable.

4. Create and support an Urban Renewal Plan and Authority

Not applicable.

5. Collaborate with local partners and with entities like ICLEI in the development of a Sustainability program.

Not applicable.

ATTACHMENTS

Resolution No. 2022-3807 with:

Exhibit "A": Newberg Urban Area Growth Management Agreement (NUAGMA)

1. Track Changes NUAGMA