

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)	ORDINANCE NO. 81-105
PROCEDURES FOR LOCATIONAL)	
ADJUSTMENTS TO METRO'S URBAN)	Introduced by the Regional
GROWTH BOUNDARY)	Planning Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Purpose

(a) It is the purpose of this ordinance to establish procedures to be used by the District in making minor amendments to the District Urban Growth Boundary, (UGB) adopted pursuant to ORS 268.390 (3) and 197.005 to 197.430. Procedures for District UGB amendments that do not meet the standards provided in this ordinance will be adopted by separate ordinance.

(b) This ordinance is intended to incorporate relevant portions of Statewide Goal No. 14, and, by restricting the size and character of UGB adjustments that may be approved under this ordinance, this ordinance obviates the need to specifically apply the provisions of Goal No. 14 to UGB amendments approved hereunder.

(c) Procedural provisions of this ordinance are to be construed as directory rather than mandatory and minor procedural deviations from this ordinance shall not constitute grounds for invalidating District actions taken under this ordinance.

Section 2. Definitions

(a) "UGB" means the District Urban Growth Boundary adopted pursuant to ORS 268.390 and 197.005 to 197.430.

- (b) "District" means the Metropolitan Service District.
- (c) "Council" means the Council of the Metropolitan Service District.
- (d) "Goals" means the statewide planning Goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-15-000.
- (e) "Petition" means a petition to amend the UGB.
- (f) "Property owner" means a person who owns a legal interest in the property.
- (g) "Legal Description" means a written description which appears on the UGB map as adopted by the Council or a written description from which the adopted map was drafted or which was adopted by Metro or its predecessor CRAG to describe the mapped UGB.
- (h) "Locational Adjustment" means an amendment to the District UGB which includes an addition or deletion of 50 acres or less or a combination of an addition and deletion resulting in a net change of 10 acres of vacant land or less, and which is otherwise consistent with the standards indicated in Section 8 of this ordinance.
- (i) "Irrevocably committed to non-farm use" means, in the case of a plan acknowledged by LCDC, any land for which a Goal No. 3 exception has been approved by LCDC, or in the case of a plan that has not yet been acknowledged by LCDC, land that is not possible to preserve for farm use, within the meaning of Goal No. 2, Part II.

Section 3. Administrative Interpretation of the UGB

- (a) When the UGB map and the legal description of the UGB are found to be inconsistent, the Executive Officer is hereby authorized to determine and interpret whether the map or the legal description

correctly establishes the UGB location as adopted and to correct the map or description if necessary. In determining where the adopted UGB is located, the Executive Officer shall review the record to determine legislative intent and shall seek a legal opinion from the District General Counsel. The map location should be preferred over the legal description in absence of clear evidence to the contrary.

(b) A city, county or special district whose municipal or planning area boundary includes the property, or a property owner who would be included or excluded from the urban area depending on whether the map or legal description controls, may request that the Executive Officer render an interpretation under this section. If the request is submitted in writing, the Executive Officer shall make the requested interpretation within 60 days after the request is submitted.

(c) Within ten days of rendering the interpretation, the Executive Officer shall provide a written notice and explanation of his decision to each city or county whose municipal or planning area boundaries include the area affected, owners of property in the area affected, and the Council.

(d) Any party eligible to request an interpretation under subsection (b) may petition the Council under subsection (e) of this section for a determination of where the UGB is located if that party disagrees with the Executive Officer's interpretation or if the Executive Officer fails to render an interpretation requested under subsection (b).

(e) Petitions for a Council determination of the location of

the UGB under this section shall be treated as a petition for declaratory ruling. Petitions shall be submitted and decided in accordance with Code chapter 5.03 and not as a petition for locational adjustment under Sections 4 through 16 of this ordinance.

Section 4. Petitions Generally

(a) All petitions filed pursuant to this ordinance for locational adjustment of the UGB must include a completed petition on a form provided by the District. Petitions which do not include the appropriate completed form provided by the District will not be considered for approval. Except as provided in subsection (b) of this section, petitions for locational adjustment shall be considered by the District at one time each year beginning July 1 and petitions filed after July 1 of each year shall not be considered until July of the next calendar year. The District will determine not later than one week after the July 1 deadline for receipt of petitions whether each petition is complete and notify the petitioner. If the petitioner is notified that the petition is not complete, the petition must be completed and refiled within two weeks of notification or by July 1, whichever is later, to be considered in that calendar year.

(b) Upon request by a Councilor or the Executive Officer, the Council may, by majority vote, waive the July 1 filing deadline for a particular petition or petitions and hear such petition or petitions at any time. Such waiver shall not waive any other requirement of this ordinance.

(c) In addition, upon request by a Councilor or the Executive Officer, the Council may at any time by majority vote, initiate consideration of a locational adjustment without petition or filing fee. Such consideration shall be in accordance with all other requirements of this ordinance.

(d) No petition will be accepted under this ordinance if the proposed amendment to the UGB would result in a UGB not contiguous to the existing UGB.

(e) No petition to add or remove more than fifty acres of land in one location will be accepted under this ordinance; provided, however, that petitions which request a combination of an addition and a deletion which would result in a net change of no more than 10 acres of vacant land may be accepted notwithstanding the total acreage involved.

Section 5. Local Position on Petition

(a) Except as provided in subsection (b) of this section, a petition shall not be accepted and shall not be considered a completed petition under Section 4 unless the petition includes a written action by the governing body of each city or county with jurisdiction over the areas included in the petition which:

- (1) recommends that Metro approve the petition; or
- (2) recommends that Metro deny the petition; or
- (3) expresses no opinion on the petition.

(b) The requirement of paragraph (a) of this section shall be waived if the applicant shows that a recommendation from the governing body was requested six months or more before the petition

was filed with the District and that the governing body has not reached a decision on that request.

(c) If a city or county holds a public hearing to establish its position on a petition, the city or county should:

(1) provide notice of such hearing to the District and to any city or county whose municipal boundaries or urban planning area boundary abuts the area affected; and

(2) provide the District with a list of the names and addresses of parties testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.

Section 6. Local Action to Conform to District Boundary

(a) A city or county may, in addition to the action required in Section 5, approve a plan or zone change to implement the proposed adjustment in the area included in a petition prior to an amendment of the District UGB if:

(1) The District is given notice of the local action,

(2) The notice of the local action states that the local action is contingent upon subsequent action by the District to amend its UGB, and

(3) The local action to amend the local plan or zoning map becomes effective only if the District amends the UGB consistent with the local action.

(b) If the city or county has not contingently amended its plan or zoning map to allow the use proposed in a petition, and if the District does approve the UGB amendment, the local plan or map change shall be changed to be consistent with the UGB amendment.

That change shall be made at the next regularly scheduled plan or zoning map review or within 1 year, whichever comes first.

Section 7. Standing to Petition for Amendment

(a) A petition may be filed by a county with jurisdiction over the property, a city with a planning area that includes or is contiguous to the property, the owners of the property included in the petition or a group of property owners who own not less than 50 percent of the property in each area included in the petition.

(b) Petitions to extend the UGB to include land outside the District shall not be accepted unless accompanied by:

(1) A copy of a petition for annexation to the District to be submitted to the Portland Metropolitan Area Local Government Boundary Commission pursuant to ORS chapter 199; and

(2) A statement of intent to file the petition for annexation within ninety (90) days of Metro action to approve the petition for UGB amendment, under Section 15(d) of this ordinance.

Section 8. Standards for Petition Approval

(a) As required by subsections (b) through (d) of this section, locational adjustments shall be consistent with the following factors:

(1) Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, fire protection and schools in the adjoining areas

within the UGB; and any area to be added must be capable of being served in an orderly and economical fashion.

- (2) Maximum efficiency of land uses. Considerations shall include existing development densities on the area included within the amendment, and whether the amendment would facilitate needed development on adjacent existing urban land.
- (3) Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.
- (4) Retention of agricultural land. When a petition includes land with Class I - IV Soils that is not irrevocably committed to non-farm use, the petition shall not be approved unless the existing location of the UGB is found to have severe negative impacts on service or land-use efficiencies in the adjacent urban area and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.
- (5) Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms

of factors (1) through (4) of this subsection must clearly outweigh the adverse impact of any incompatibility.

(b) Petitions to remove land from the UGB may be approved under the following conditions:

- (1) Consideration of the factors in subsection (a) of this section demonstrate that it is appropriate that the land be excluded from the UGB.
- (2) The land is not needed to avoid short-term land shortages for the District or for the county in which the affected area is located and any long-term land shortage that may result can reasonably be expected to be alleviated through addition of land in an appropriate location elsewhere in the region.
- (3) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and arterial streets will thereby be significantly underutilized.
- (4) No petition shall remove more than 50 acres of land.

(c) A petition to both remove land from the UGB in one location and extend the UGB in another location may be approved under the following conditions:

- (1) The land removed from the UGB meets the conditions for removal in subsection (b) of this section.
- (2) Consideration of the factors in subsection (a) of this section demonstrate that it is appropriate that

the land to be added should be included within the UGB.

- (3) If, in considering factor one of subsection (a), the petitioner fails to demonstrate that existing or planned public services and facilities can adequately serve the property to be added to the UGB without upgrading or expanding the capacity of those facilities or services, the petition shall not be approved absent a showing of unusual circumstances.
- (4) Any amount of land may be added or removed as a result of a petition under this subsection but the net amount of vacant land added or removed as a result of a petition shall not exceed 10 acres. Any area in addition to a 10 acre net addition must be identified and justified under the standards for an addition under subsection (d) of this section.
- (5) The larger the total area involved, the greater must be the difference between the relative suitability of the land to be added and the land to be removed based on consideration of the factors in subsection (a).

(d) Petitions to add land to the UGB may be approved under the following conditions:

- (1) An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two

acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (a) and the adjustment includes all contiguous lots divided by the existing UGB.

- (2) For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (a). The minor addition must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors in subsection (a).
- (3) Additions shall not add more than 50 acres of land to the UGB and generally should not add more than 10 acres of vacant land to the UGB. Except as provided in subsection (4) of this subsection, the larger the proposed addition, the greater the differences shall be between the suitability of the proposed UGB and suitability of the existing UGB, based upon consideration of the factors in subsection (a) of this section.
- (4) If an addition is requested in order to remedy an alleged mistake made at the time the UGB for the area affected was adopted, the addition may be approved if all of the following conditions are met.
 - A. There is clear evidence in the record of specific legislative intent to place the UGB in

the particular location requested.

- B. The petition for an addition to remedy an alleged mistake is filed by July 1, 1982 or within two years from the time the UGB for the area affected was adopted, whichever is later.
- C. The addition is superior to the existing UGB, based on consideration of the factors in subsection (a) of this section and does not add more than 50 acres of land.

Section 9. Notice of Filing Deadline

The District shall give notice of the July 1 deadline for acceptance of petitions for UGB amendments under this ordinance not less than 90 days before the deadline and again 20 days before the deadline in a newspaper of general circulation in the District. The notice shall briefly explain the consequences of failing to file before the deadline and shall specify the District officer or employee from whom additional information may be obtained.

Section 10. Filing Fee

Each petition submitted by a property owner or group of property owners pursuant to this ordinance shall be accompanied by a filing fee in an amount to be established by resolution of the Council. Such fees shall be generally sufficient to defray the actual cost to the District of processing such petitions.

Section 11. Notice of UGB Adjustment Hearing

(a) The notice provisions established by this section shall be followed in UGB hearings on petitions for UGB adjustments. These

notice provisions shall be in addition to the District notice provisions for contested case hearings contained in the District Code Section 5.02.005.

(b) Notice of public hearing shall include:

1. The time, date and place of the hearing.
2. A description of the property reasonably calculated to give notice as to its actual location.
3. A summary of the proposed action.
4. Notice that interested persons may submit written comments at the hearing and appear and be heard.
5. Notice that the hearing will be conducted pursuant to District rules for contested cases.

(c) Not more than 20 nor less than 10 days before the hearing, notice shall be mailed to the following persons:

1. The petitioner(s).
2. All property owners of record within 250 feet of the property subject to petition. For purposes of this subsection, only those property owners of record within 250 feet of the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify record owners.
3. All cities and counties in the District and affected agencies as determined by the Executive Officer.

(c) Notice shall be published in a newspaper of general circulation in the District not more than twenty (20) nor less than ten (10) days prior to the hearing.

(d) The hearing may be continued without additional notice.

Section 12. Hearing

(a) All petitions accepted under this ordinance shall receive a contested case hearing. The hearing shall be conducted by a hearings officer pursuant to District procedures for contested cases contained in District Code chapter 5.02.

(b) Proposed UGB amendments may be consolidated by the hearings officer or presiding officer for hearings where appropriate.

(c) The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with the applicable standards in this ordinance.

Section 13. Staff Review and Report

All petitions shall be reviewed by District staff and a report and recommendation submitted to the Hearings Officer or the Council not less than five (5) days before the required hearing. A copy of the staff report and recommendation shall simultaneously be sent to the petitioner(s) and others who have requested copies.

Section 14. Council Action on Petitions

(a) Following public hearings on all petitions for UGB changes, the Council shall act to approve or deny the petitions in whole or in part or approve the petitions as modified.

(b) Final Council action following a quasi-judicial hearing shall be as provided in Code section 5.02.045. Parties shall be

notified of their right to review before the Land Use Board of Appeals pursuant to 1979 Oregon Laws, ch 772.

(c) Final Council action following a legislative hearing shall be by ordinance.

(d) When the Council acts to approve in whole or in part a petition affecting land outside the District:

(1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the District within six months of the date of adoption of the Resolution.

(2) The Council shall take final action, as provided for in paragraphs (b) and (c) of this section, within thirty (30) days of notice from the Boundary Commission that annexation to the District has been approved.

Section 15. Notice of District Action

The District shall give each county and city in the District notice of each amendment of the UGB. Such notice shall include a statement of the local action that will be required to make local plans consistent with the amended UGB and the date by which that action must be taken.

Section 16. Review of Procedures

(a) These procedures are designed for small adjustments to the UGB which generally should not, in total, result in a net addition to or removal of more than 2,000 acres of urban land over the next twenty years.

(b) If, at any time after December 31, 1983, the total net change in the size of the urban area resulting from locational

adjustments made pursuant to this ordinance since its adoption is greater than an average net addition or removal of 100 acres per year, the District shall either amend this ordinance to change the standards under which petitions may be approved or adopt findings demonstrating why such ordinance amendment is not necessary to ensure continued compliance with the Statewide Goals.

(c) The District action provided for in paragraph (b) of this section shall occur before any additional UGB amendments are approved.

Section 17. LCDC Acknowledgment

This ordinance shall be submitted upon adoption to the Land Conservation and Development Commission for acknowledgement pursuant to ORS 197.251, as an implementing measure to the District UGB.

ADOPTED by the Council of the Metropolitan Service District
this 5th day of March, 1981.



Presiding Officer

ATTEST:



Clerk of the Council

JH:gl/2216B/214

FINDINGS IN SUPPORT OF ORDINANCE 81-105,
ESTABLISHING PROCEDURES FOR LOCATIONAL ADJUSTMENTS
TO METRO'S URBAN GROWTH BOUNDARY

February, 1981

SUMMARY OF FINDINGS

For the reasons discussed in the attached report, Metro makes the following findings in support of the adoption of Ordinance 81-105, consistent with State goal requirements:

- o The goal requirements with which standards for UGB amendment must comply are:
 - (1) the seven factors listed in Goal #14 (Urbanization)
 - (2) the requirements of Goal #14 that UGB amendments follow the procedures and requirements for goal exceptions, provided in Goal #2 (Land Use Planning) including the four factors for consideration listed therein; and
 - (3) the five factors of Goal #3 (Agricultural Land) for the conversion of agricultural land to urbanizable land.
- o These goal requirements will be met if the standards allow for UGB amendment only when:
 - (1) approval is supported by a consideration of the locational factors listed as factors 3 through 7 of Goal #14;
 - (2) the benefits of the amendment, evaluated against considerations required by the goals, outweigh the costs of adding more land than is needed, or removing land assumed to be needed;
 - (3) there are compelling reasons why the amendment should be made in these circumstances based upon the unavailability of suitable alternatives to UGB amendment; and
 - (4) there are no suitable alternative locations for UGB amendment other than the one approved.
- o The standards in Ordinance 81-105 ensure that these requirements will be met whenever land is added, removed, or traded, for the reasons discussed below.

I ADDITIONS

A. BALANCING THE COSTS AND BENEFITS OF SMALL ADDITIONS

- o The standards for additions allow UGB amendment only when benefits of the addition outweigh the costs of adding more land than may be needed to accommodate growth.
1. Standards for an individual addition

- a. Major public facilities
 - o No single addition of 50 acres or less will significantly affect the efficiency of major public facilities.
 - b. Site specific facilities and services
 - o It is inefficient to provide site specific facilities and services to an additional 50 acres of land when the use accommodated by that addition could be provided the same facilities at less cost on land elsewhere within the UGB.
 - c. Environmental and energy consequences
 - o The addition of 50 acres of land adds an extra increment to the energy consumed and air pollutants emitted regionwide.
 - d. Addressing identified costs
 - o The standards for additions ensure that the benefits of an individual addition outweigh the costs identified relative to site specific facilities and services, energy consumption, and air pollution, by requiring that:
 - (i) the addition must benefit land already within the UGB; and
 - (ii) the identified benefits of the addition must increase with the size of the addition.
 - e. Retention of agricultural land
 - o The standards for agricultural land ensure that agricultural land will not be converted for urban use unnecessarily.
2. Why standards adequate to ensure that one individual addition is consistent with Goal #14 are not adequate to ensure that every addition which meets those standards is consistent with Goal #14
- a. Stability
 - o Easy or frequent UGB amendment encourages speculation, which erodes the effectiveness of the UGB.
 - o The standards for additions must therefore ensure that the chances that any particular piece of land outside the UGB could be approved

for inclusion are so small that speculation along the perimeter of the UGB will be held to a minimum.

b. Major public facilities

- o The cumulative effect of a series of small additions may significantly affect the efficiency of major public facilities.
- o The rules for allowing additions to the UGB must also, therefore, provide for some mechanism to evaluate the cumulative effects of additions approved on the overall adequacy of the major public facilities that serve the urban area.

c. Land market

- o The cumulative effect of small additions may be to so increase the supply of urban land as to lower the price of land to a point where lower density development becomes more economical than the densities that the land market would have produced if that amount of land had not been added.
- o Rules for allowing small additions should consider the cumulative consequences on the regionwide density of new development as well.

3. Standards to address cumulative impacts

- o The standards for additions limit the cumulative negative effects of a series of additions by limiting the total amount of land that can be added through locational adjustment.
- o The total amount of land that can be added is limited by:
 - (i) limiting the types of additions that may be approved to cases where an adjustment of 50 acres or less is adequate to solve all identified problems; and
 - (ii) providing for a review of the rules whenever the annual average net addition exceeds 100 acres a year for three or more years.

B. ALTERNATIVE APPROACHES FOR LOCATIONAL ADJUSTMENTS

- o There are no suitable alternatives which would allow for the UGB to be "fine-tuned" through locational

adjustment without adding land that has not found to be needed to accommodate growth.

C. ALTERNATIVE LOCATIONS FOR INDIVIDUAL ADDITIONS

- o No alternative location within the UGB will produce the net benefit conferred by an addition that meets all applicable standards.
- o No alternative location outside the UGB can produce the benefit conferred to the particular location in which an addition is proposed.
- o Agricultural land will be converted to urban use only when the alternative of not amending the UGB to permit the conversion has serious negative consequences which outweigh the benefits of retaining the land for agricultural use.
- o Forest lands will be protected as needed by consideration of the environmental and economic consequences of including commercial forest lands within the UGB at the time of UGB amendment and by the application of LCDC Goals #4 and #5 to any other forest lands approved for inclusion, after the UGB has been amended.

II REMOVALS AND TRADES

A. REMOVALS

- o Allowing individual removals of up to 50 acres is unlikely to lead to any net reduction in the size of the UGB, since the number of qualified petitions to add land may reasonably be expected to exceed the number of qualified petitions to remove land.
- o If there nonetheless should be a net reduction of urban land for three or more consecutive years, the procedures for ordinance review if the net reduction exceeds an annual average of 100 acres a year ensure that the need for land to accommodate growth will be considered before the availability of land for that purpose is significantly threatened.

III PROCEDURAL GOAL REQUIREMENTS

A. CITIZEN INVOLVEMENT

- o Citizens have been provided the opportunity to participate in the development of Ordinance 81-105 and will be provided an opportunity to participate in all decisions on locational adjustments made pursuant to this ordinance.

B. INTERGOVERNMENTAL COORDINATION

- o The development of Ordinance 81-105 has been coordinated with all affected governmental agencies, and the ordinance provides for continued coordination on all decisions on locational adjustments made pursuant to it.

Metro finds, therefore, that Ordinance 81-105 complies with all applicable State goal requirements.

INTRODUCTION

Ordinance No. 81-105, establishing procedures for locational adjustment to Metro's Urban Growth Boundary (UGB) is designed to provide for certain types of small amendments to the UGB in a manner consistent with LCDC Goal requirements. These findings discuss each of the goal requirements and show how the ordinance addresses that requirement.

The applicable goal requirements for UGB amendments are as follows (1) the seven factors listed in Goal #14 (Urbanization); (2) the requirements of Goal #14 that UGB amendments follow the procedures and requirements for goal exceptions, provided in Goal #2 (Land Use Planning), including the four factors for consideration listed therein; and (3) the five factors of Goal #3 (Agricultural Land) for the conversion of agricultural land to urbanizable land.

A list of each of these factors, and their relationship to one another, is shown on Table 1 on the next page. Ordinance No. 81-105 lists factors 3 through 7 of Goal #14 and requires that all locational adjustments approved under the ordinance be based on consideration of these five factors (Section 8(a)). As Table 1 shows, consideration of factors 5, 6 and 7 of Goal #14 is also adequate to address factors 3 and 4 of the Goal #2 exception requirements and factors 1, 4 and 5 of the Goal #3 agricultural conversion requirements. The additional requirements for UGB amendments not addressed by the required consideration of factors 3 -7 of Goal #14 are as follows: (1) why the proposed use should be provided for (factor 1 of Goal No. 2), or demonstrated need consistent with LCDC Goals (factor 2 of Goal #3); (2) the unavailability of suitable alternatives (factor 2 of Goal #2 and factor 3 of Goal #3), and (3) the need for land to accommodate growth, as listed in the first two factors of Goal #14. The need for land to accommodate growth would be adequate to show why the proposed use should be provided for or to demonstrate a need for that use and for any large amendment, such a need must be shown. Metro does not believe, however, that the goals require that the need for land to accommodate growth be the only public need considered sufficient to compel UGB amendment in cases where the size of the amendment is so small that its relationship to estimates of land needs cannot be meaningfully evaluated.

Metro has not yet adopted standards and procedures for identifying when additional urban land is needed to accommodate growth. Ordinance #81-105 provides instead for certain types of UGB amendments which Metro finds may be made even when there is assumed to be no additional (or less) land needed to accommodate growth than was estimated in the UGB Findings adopted November, 1979. The current findings, then, are intended to demonstrate how the standards and requirements for locational adjustments included in Ordinance #81-105 to ensure compliance with the goals. Pursuant to the ordinance, the UGB will only be amended when the amendment is supported by consideration of factors 3-7 of Goal #14, and, in

TABLE 1: RELATIONSHIP OF GOAL REQUIREMENTS FOR UGB AMENDMENT

Goal #14(Urbanization)	Goal #3(Agricultural Land)	Goal #2(Land Use Planning) Exceptions
Change of UGBs shall be based on consideration of the following factors:	Conversion of rural agricultural to urban-izable land shall be based on consideration of the following factors:	Compelling reasons and facts for that conclusion...shall include:
1. Demonstrated need to accommodate long range urban population growth requirements consistent with LCDC goals	(2) Demonstrated need consistent with LCDC goals	(a) Why these other uses should be provided for
2. Need for housing, employment opportunities and livability		
3. Orderly and economic provision for public facilities and services		
4. Maximum efficiency of land uses within and on the fringe of the existing urban area		
5. Environmental, energy, economic and social consequences	(1) Environmental, energy, social and economic consequences	(c) What are the long-term environmental, economic, social and energy consequences to the locality, the region or the state from not applying the Goal or permitting the alternative use
6. Retention of agricultural land as defined	(5) Retention of Class I, II, III and IV soils in farm use	
7. Compatibility of the proposed urban uses with nearby agricultural activities	(4) Compatibility of the proposed use with related agricultural land	(d) A finding that the proposed uses will be compatible with other adjacent uses
	(3) Unavailability of an alternative suitable location for the requested use	(b) What alternative locations within the area could be used for the proposed uses

addition: (1) the benefits of the amendment, evaluated against considerations required by the goals, outweigh the costs of adding more land than is needed, or removing land assumed to be needed; (2) there are compelling reasons why the amendment should be made in these circumstances based upon the unavailability of suitable alternatives to UGB amendment, and (3) there are no suitable alternative locations for UGB amendment other than the one approved. Metro finds that this showing is adequate to demonstrate compliance with all applicable goal requirements.

Each of these considerations is addressed in turn for each of three types of UGB amendments allowed as locational adjustments: additions, removals and trades. At the conclusion of this discussion, the procedural requirements of the goals relative to Citizen Involvement (Goal #1) and Intergovernmental Coordination (Goal #2) and the manner in which they have been addressed are summarized.

PART I. ADDITIONS

This part of the findings first addresses the circumstances in which the benefits of small additions outweigh any costs of adding more land than has been found to be needed and shows how the standards for additions limit approval to the appropriate circumstances. The discussion next addresses why there are compelling reasons to allow for approval of additions in these circumstances and why there are no suitable alternatives available.

Balancing the Costs and Benefits of Small Additions

To show when and how the benefits of small additions to the UGB may outweigh the costs of adding more land than has been found to be needed, it is easiest to first evaluate the considerations appropriate to the approval of one addition of 50 acres or less (i.e., assuming this addition were the only one ever to be approved). Once these considerations have been identified, it is necessary to evaluate why standards adequate to justify an addition in a single instance might not be adequate to justify additions in every instance in which those standards were met. Based on this evaluation, the additional standards needed to address cumulative as well as individual impacts of additions are identified.

STANDARDS FOR AN INDIVIDUAL ADDITION

The first two factors of Goal #14 require that the need for land to accommodate growth be considered when an UGB is established or amended in order to keep the UGB as compact as practicable. An ideally compact UGB - one that includes no more land than is needed to accommodate growth - is preferred because:

1. it promotes maximum efficiency of major public facilities;
2. it promotes maximum efficiency of site-specific public facilities and services;
3. it minimizes the energy consumption and air pollution associated with travel within the urban area; and
4. it protects agricultural lands not needed for urban use.

MAXIMUM EFFICIENCY OF MAJOR FACILITIES: The efficiencies achieved for major public facilities and services may be described by saying that limiting the size of the urban area to the amount of land needed for growth ensures that the facilities designed to serve the urban area are no bigger than they need be. A choice between building a sewerage system that serves only a sub-basin of a larger drainage basin or building one to serve the entire basin provides an example of this principle. It is preferable to build the smaller system if the population expected to reside in that sewerage treatment area can be entirely accommodated within the sub-basin, and the if UGB is drawn accordingly to limit the growth to that area rather than to allow it to sprawl throughout the entire basin.

In the Metro urban area, the capacity of all major facilities and services is generally such that 50 acres of development more or less will have no impact on system efficiencies in one way or another. For example, sewerage treatment plants are generally built on an error margin of 10 percent. That is, they can efficiently serve a population 10 percent lower or 10 percent higher than the "design population."

The average population capacity of the sewage treatment areas identified in Metro's "208" Sewage Treatment Plan is about 80,000 people. The roughly 500 people that might be accommodated on 50 acres of land represent just over one-half of 1 percent of the capacity of the smallest system. No one addition would be likely to require any change in system design to accommodate its development. Conversely, the failure of any 50 acres of land already in the UGB to develop would not require any modification in systems design or any inefficiencies in the system as originally designed. The criteria for approval of additions (Section 8, subsections (a) and (d) of the ordinance) ensure that the land added won't necessitate improvements to major public facilities.

Metro finds, therefore, that adding 50 more acres than found to be needed will have no significant effect on the efficiency of major public facilities.

MAXIMUM EFFICIENCY OF SITE-SPECIFIC FACILITIES AND SERVICES: Somewhat more problematical are the site-specific facilities and services needed to serve the property which might be added. This includes the sewer and water lines and roads that will serve the proposed development, as well as police and fire protection for the property.

In general, it is assumed that land added to the UGB will be developed and, all else being equal, some property of comparable size already in the UGB which would otherwise have been needed for urban use will remain undeveloped by the year 2000 in consequence.

In the following discussion the 50 acres being added will be referred to as Parcel A, the unknown land within the UGB for which it is substituting will be referred to as Parcel X.

If it were certain or likely that Parcel X would be located somewhere on the periphery of the urban area, then the only standards necessary to approve the inclusion of Parcel A within the UGB would be those which, hypothetically, justified the inclusion of Parcel X in the first place. In other words, it need only be shown that Parcel A can be efficiently developed and efficiently provided within site-specific public facilities and services. Then even if Parcel X could be developed and served as efficiently, there are no costs to the region if those services are provided to Parcel A instead of Parcel X. The inclusion of factors 3 and 4 from Goal #14 (Section 8(a) (1) and (2) in the ordinance) is adequate to ensure that this is the case.

Since it is impossible to predict meaningfully where Parcel X would be located, however, it is more appropriate to assume the "worst case" - i.e., that Parcel X will be one or a series of passed over properties in the interior of the UGB. In this there are a dual set of costs associated with preferring Parcel A for development over Parcel X. The first is the cost of providing services to Parcel X which remain unused. For example, the sewers, water lines and roads will be run by the property but not used. The second is the set of costs associated with providing services to Parcel A which could be provided more cheaply to Parcel X. For example, a police car or fire engine would need to travel an extra distance to provide service to the development on Parcel A as opposed to the development on Parcel B.

For just one 50-acre addition these costs are small, but they are not entirely insignificant. There must, therefore, be a reason for trading development of Parcel X for development of Parcel A sufficient to outweigh the identified costs to the efficiency of provision of site-specific facilities and services.

ENVIRONMENTAL AND ENERGY CONSEQUENCES: The same is true for the energy and environmental costs of allowing Parcel A to be added. Development of Parcel A over Parcel X (if Parcel X is assumed to be in the interior of the UGB) means an extra increment of distance traveled from or to that development which translates to a very small but at least theoretically measurable increase in energy consumed and pollutants released.

ADDRESSING IDENTIFIED COSTS: It is because of these costs, however small, that Ordinance No. 81-105 establishes additional standards for the approval of additions beyond those provided by consideration of factors 3 and 4 of Goal #14. These additional standards are designed to address factors 1 and 2 of Goal #14 by insuring that the benefits of adding Parcel A outweigh the costs of leaving Parcel X undeveloped if (as is assumed) both are not needed to accommodate growth.

The first set of additional requirements are those that provide that, in considering the maximum efficiency of land use and service efficiency, there must be an identified benefit to land already within the UGB. Section 8(a)(1) requires that the adjustment must improve "facilities and service efficiency in the adjoining areas within the UGB." Section 8(a)(2) provides that the extent to which the adjustment "facilitate(s) needed development on adjacent urban land" must also be considered.

Metro finds that where an addition confers a benefit to land already within the UGB, the increase in the efficiency of the development of that land which results can outweigh the costs of leaving land elsewhere within the UGB undeveloped in consequence.

These standards alone would not ensure consistency with Goal #14, however, if the benefits conferred to adjacent urban land were nonetheless smaller than the costs of developing Parcel A in preference

to Parcel X. It is both conceptually and technically impossible actually to measure these relative benefits and costs. Section 8(d)(3) does, however, establish the additional requirement that, with the exception of additions to remedy mistakes, the larger the size of the parcel to be added, the greater must be the identified benefit.

Additions of 10 acres or less are assumed to entail a cost so small that any identified benefit to the efficiency or effectiveness of the UGB is sufficient to overcome it. But as the size of the addition increases, so must the benefit, in order to ensure that these benefits do indeed outweigh the costs.

RETENTION OF AGRICULTURAL LAND: The fourth major objective of the first two factors of Goal #14 is the preservation of agricultural land. To address this objective, Section 8(a)(4) adds, to the general requirement of factor 6 of Goal #14 that agricultural land be retained, further standards for approval designed to ensure that any addition that would convert agricultural land for urban use is approved only in the most compelling circumstances.

WHY STANDARDS ADEQUATE TO ENSURE THAT ONE INDIVIDUAL ADDITION IS CONSISTENT WITH GOAL #14 ARE NOT ADEQUATE TO ENSURE THAT EVERY ADDITION WHICH MEETS THOSE STANDARDS IS CONSISTENT WITH GOAL #14

The conclusion of the preceding discussion is that Metro finds the standards for approval of the addition of some Parcel A adequate to ensure that (1) there are no costs to major public facilities of that addition, and (2) that the benefits to land use and service efficiencies in that location outweigh the identified costs of leaving some comparable amount of land in some unknown Parcel X within the UGB undeveloped in consequence.

For several reasons this finding is not adequate to ensure that all additions approved subject to the standards already discussed will be consistent with Goal #14. First, there are certain reasons for keeping the UGB unchanged which are independent of the objectives relating to factors 1 and 2 of the goal as discussed above. These objectives would not be jeopardized by one 50-acre addition, but could be jeopardized by a series of such additions. Second, the fact that one 50-acre addition does not affect the efficiency of major public facilities in any way is not sufficient to ensure that a series of such amendments would not. Third, a series of small additions might, cumulatively, effect the land market in such a way that the assumption that the addition of a certain amount of land to the UGB results in a comparable amount of land remaining undeveloped elsewhere within the UGB may no longer hold true.

STABILITY: The importance of keeping the UGB fixed, independent of whether or not additional land is needed, is indicated by the requirement in Goal #14 that all amendments proposed, for whatever reason, only be approved when the procedures and requirements for goal exceptions are followed. The purpose and success of the UGB

hinges on separating urban from non-urban uses. The UGB functions effectively because it creates some certainty about what will and will not be developed. Prices play a key role here. Inside the UGB prices rise, encouraging urban use. Outside the UGB prices drop, allowing and encouraging non-urban uses.

The ability of the UGB to perpetuate this effect on land prices depends on the degree to which it effectively discourages land speculation on land just outside the UGB but otherwise suitable for urban use. If the UGB can be easily amended, for whatever reason, speculation on lands outside the UGB is unavoidable. Developers will purchase the land at non-urban prices in hopes of receiving UGB amendment that will allow it to be sold at urban prices. Such speculation may erode the needed price distinctions between urban and non-urban land to the point where the UGB can no longer operate effectively.

The standards for UGB amendment must, therefore, do more than ensure that each individual addition is justified by a balanced consideration of the seven factors of Goal #14. They must also ensure that the chances that any particular piece of land outside the UGB could be approved for inclusion are so small that speculation along the perimeter of the UGB will be held to a minimum.

IMPACT ON MAJOR PUBLIC FACILITIES: The second important difference between the individual and cumulative impact of small additions is that although 50 acres of land may never affect the adequacy or efficiency of major public facilities, a series of 50-acre additions well may. Obviously, if one hundred 50-acre additions were added in one sewerage treatment area, the 50,000 additional people accommodated would have a significant impact on that sewage treatment plant's capacity. Similarly, if, in consequence, 5,000 acres of land remained undeveloped within a second sewerage treatment area, that system's efficiency would be significantly affected as well. The rules for allowing additions to the UGB must also, therefore, provide for some mechanism to evaluate the cumulative effects of additions approved on the overall adequacy of the major public facilities that serve the urban area.

IMPACT ON THE LAND MARKET: Finally, the effect on the land market of the addition of a substantial amount of land through a series of small additions must also be considered. The discussion above assumed that the effect of adding a certain amount of land in Parcel A would be to leave a comparable amount of land in Parcel X undeveloped elsewhere within the UGB. This assumption holds true only so long as the amount added, whether individually or cumulatively, does not significantly affect the land market. The density of development within the UGB is affected by the cost of land: the more land costs, the greater the incentive to develop it at as high a density as possible. Very small fluctuations in land prices will fall below a threshold of significance in terms of the economics of density decisions. But once this threshold is crossed, a decrease in the price of land will lead to an increase in the amount of land consumed per unit. At this point, it is no longer true that the

addition of land on the periphery of the UGB leaves a comparable amount of land undeveloped in the interior. Instead, some or all of the land in "Parcel X" may be still be developed, but the density of development on that land, and on other properties that will be developed within the UGB, will be lower than if the addition had not been made. Rules for allowing small additions should, therefore, also protect against adding so much land, in total, that the density of new development regionwide would be adversely affected.

STANDARDS TO ADDRESS CUMULATIVE IMPACTS

Ordinance #81-105 addresses the cumulative impacts of additions to the UGB in two ways: (1) by making the standards for individual additions more stringent than would be necessary for any individual addition evaluated in isolation; and (2) by providing a "checkpoint" for a review of cumulative impacts if the amount of land added over time through individual additions exceeds the amount judged tolerable in light of the above considerations.

The additional limits placed on individual additions are: (1) that the addition may not be larger than 50 acres under any circumstances (Section 8(d)(3)), and (2) that the addition proposed must include "all similarly situated contiguous property" Section 8(d)(2)).

If any one proposed addition is evaluated in isolation, there is no reason why the size need be limited to 50 acres nor why the addition need include all land which might appropriately be included in that area. However much land is proposed for addition (and however much might be justified for addition at a later date), the increasing burden of proof ensures that the benefits to the UGB outweigh the costs of leaving land elsewhere undeveloped. These two additional standards together, however, preclude larger additions, whether in one large request or several smaller ones totalling more than the 50 acres, regardless of the benefits of that addition when considered in isolation. The purpose of these additional requirements is to limit both the amount of land in total that can be added through locational adjustment and the extent to which any particular property on the perimeter of the UGB might appear eligible for amendment and so attractive for speculation. This approach thus balances the benefits of individual additions against the costs of adding so much land in total that the efficiency and effectiveness of the UGB is impaired.

Since, however, it is impossible to know how many parcels of land along the perimeter of the UGB may still meet these fairly strict requirements, it was judged to be desirable to add a further safeguard in the event that the number proves larger than anticipated. Thus Section 16 of the ordinance requires that at any time when the average annual net addition is greater than 100 acres for three or more years, the rules will be reviewed to evaluate the impacts of these additions and decide whether and how the ordinance need be revised to ensure the continued approval of additions consistent with the standards does not threaten the broader regional interests

identified in the preceding section. One hundred acres a year is assumed to be a small enough amount to have an insignificant effect on the land market in any one year as well as an insignificant effect on the adequacy or efficiency of major public facilities over 20 years.

Metro finds, therefore, that the standards for adding land as locational adjustments are adequate to ensure that the benefits to the efficiency or effectiveness of the UGB will outweigh both the incremental and cumulative costs of such additions. Approval of additions which meet these standards is, therefore, consistent with a balanced consideration of the seven factors of Goal #14.

Alternative Approaches to Locational Adjustment

Because Goal #14 requires that the requirements for goal exceptions be met whenever the UGB is amended, it is necessary not only to show that an amendment is consistent with Goal #14, but to demonstrate compelling reasons why the amendment should be provided for. Metro finds that the accrual of a net benefit to the efficiency of a the UGB, as required by the standards, is itself a compelling reason for allowing such amendments in the absence of the need for more land, provided there are no suitable alternatives which would allow the benefits of the locational adjustments to be enjoyed without the costs of adding more land than has been found to be needed.

The justification for adding land through locational adjustments is based on the following assumptions:

1. Because the UGB has a 200-mile land perimeter, it was neither possible nor desirable at the time of adoption to ensure that the UGB was placed in the best possible location at every point. There are, therefore, adjustments to the location of the UGB which could be made to increase the efficiency or effectiveness of the UGB at particular points;
2. Because of intrinsic uncertainties in the estimates of land needed to accommodate long-term growth and of the amount of land currently available within the UGB to meet that need, it will never be possible to demonstrate an isolated need for 50 acres or less of additional urban land;
3. Adjustments which would add 50 acres of land or less can, therefore, only be made:
 - a. When a need is found for substantially more land than would be added in any one adjustment of 50 acres or less (e.g., for 1,000 acres or more);
 - or
 - b. In the absence of a demonstrated need for more land.

The UGB may continue to be adequate to meet identified needs for the next 20 years, it would be inappropriate to postpone locational adjustments until more land is found to be needed. In addition, the type of land which is most suitable for addition to meet any needs that may be identified in the future may differ from the type of land appropriate for addition as locational adjustments. Metro finds, therefore, that it is appropriate to make adjustments in the absence of a demonstrated need for more land.

This finding is independent of any previous decisions made at the time of initial UGB adoption since the only other theoretical alternatives for locational adjustment are as follows:

1. To "fine tune" the location of the UGB at every point at the time of initial adoption;
 2. To adopt a UGB that contained less land than was estimated to be needed to accommodate growth in order to allow some "give" for fine tuning through the UGB amendment process;
- or
3. To adopt and maintain without amendment a boundary that addressed the first two factors of Goal #14 by including as much land as was projected to be needed, but that did not address the next three factors in sufficient detail to ensure that the UGB was placed in the most efficient and effective location at every point.

The first alternative would not be practicable for a UGB with a 200-mile land perimeter. In general, legislative actions involving broad policy issues affecting countless individuals are appropriately handled in a different manner from quasi-judicial action involving discrete decisions affecting individual parties. The adoption of a UGB is intended to effect a broad statement of policy as to how much land should be available for urbanization over the next 20 years, and generally where that new growth should occur. If, in addition, it is also intended to represent a set of specific judgments as to whether each piece of property on each side of the line should be included or excluded, then hearings on each area affected, with notice to all affected property owners, would be essential not only from an equity standpoint (and possibly a legal one), but in order to ensure that all relevant facts had been identified and considered. If such hearings were held on every half-mile increment of the UGB, and if each hearing required 20 hours of staff time and \$500 for a hearings officer, it would take four person-years of staff time and cost \$200,000 for hearings officer time to make all needed adjustments to the UGB prior to its adoption. If the governing body met once a week for a year and did nothing but hear UGB adjustment cases for 3 out of every 4 meetings, and if it were able to hear and act on 10 cases a meeting, it would take a year for the governing body to make decisions on all adjustment cases.

Of course, in many of these cases, the proposed location of the UGB would be clearly the most sensible and might be uncontested by any of the affected parties. Nonetheless, if the opportunity for a hearing on that location were not to be allowed at any time in the future, it would still be necessary to hold the hearing at the time of adoption.

Such an approach would not only be inefficient administratively relative to considering adjustments on a by-request basis, it would be technically difficult, if not impossible, to balance need factors against locational factors when the amount of land within the urban area had not yet been fixed by adoption of a UGB.

The second alternative would be no more appropriate. If a UGB were adopted containing less urban land than was estimated to be needed in order to be able to justify appropriate locational adjustments in the future, this solution would have its own costs. Including less land than needed has negative consequences resulting from excessive market constraint and intrinsic uncertainties relative to efficient service planning. A UGB adopted on that basis would not satisfactorily address the need factors. Instead, it would entail a balancing of the negative impact of including less land than was projected to be needed against the positive impact of maintaining flexibility for adjustments to address locational factors. This approach would thus be no different conceptually from one which provided for a balancing of the negative impacts of including more land than was needed against the positive benefits of making adjustments to increase the UGB's efficiency or effectiveness.

Finally, the third alternative, of avoiding locational adjustments both before and after UGB adoption, is equally unsatisfactory. One of the main objectives of the need factors is to keep the UGB as compact as possible relative to urban development needs in order to encourage more efficient land use and service provision. To require compact development at the possible expense of efficient land use and service provision and particular locations would not be consistent with a balanced consideration of all seven factors of the goal. Indeed, in its acknowledgment of Metro's UGB, LCDC found that certain locational considerations were adequate to counterbalance what the State considered to be the inclusion of more land than was needed to accommodate projected growth (LCDC Compliance Acknowledgment Order of January 1980).

Metro finds, therefore, that there are no suitable alternatives for achieving the benefits of locational adjustment without incurring the costs of adding more land than is needed.

Alternative locations for individual additions

The four considerations for exceptions listed in Goal #2, which Goal #14 requires be addressed whenever a UGB is amended, include consideration of "other alternative locations suitable for the

purposed use." In addition, Goal #3 requires that if agricultural land will be affected, there be no other suitable locations for the proposed use available.

The discussion above addresses why Metro finds that there are generally no suitable alternatives to amending the UGB to add more land than was estimated to be needed at the time the UGB was adopted in cases where the addition confers a net benefit to UGB efficiency. This section addresses if, when and how alternative locations for a particular addition should be considered in order to meet the goal requirements relating to alternatives.

For any UGB amendment under consideration, there can only be two types of alternative locations for the urban use that would be allowed by that amendment: (a) a location already within the UGB; or (b) a location outside the UGB that could accommodate the use if the UGB were amended in that location rather than the one proposed. The purpose of locational adjustments is to solve site-specific problems with the location of the UGB rather than to supply additional land needed to accommodate needed urban uses. Thus, it is assumed that there is an alternative location within the UGB where the development that will be allowed by approval of the amendment would otherwise have occurred--the "Parcel X" in the above discussion. However, for the reasons discussed above, Metro finds that for an amendment which meets the standards for approval, the alternative of developing the unidentified and unidentifiable Parcel X instead of the area to be added is not a suitable alternative because the standards are designed to establish that the benefits of the addition are greater than the benefits of developing Parcel X instead.

Consideration of other possible alternative locations outside the existing UGB where urban use could be provided is unnecessary and inappropriate for two reasons. First, locational adjustments are designed to remedy site-specific problems with the location of the UGB. The only possible alternative UGB amendment which could remedy the identified problems would be one that affected the same area but included more land than had been included in the proposed addition. The standards rule out this possibility by requiring that the proposed addition include all similarly situated contiguous property--i.e., all land that is subject to the same conditions that the addition is intended to address.

Secondly, unlike the situation that occurs with actual goal exceptions, UGB amendments must always meet exception requirements, irrespective of the character of the area affected. In other words, it is not as though amending the UGB in a particular location entails a failure to apply an applicable goal which could be avoided if there were an alternative location for amendment which was consistent with all applicable goals. Thus, even if it were possible to identify an alternative location for the proposed addition, the goals would in no way be better served if the UGB was amended in the second location rather than the first. The application of exception requirements to UGB amendments is not intended to

protect certain locations over others but to ensure that the UGB is not amended at all unless there are compelling reasons to justify doing so. If these reasons justify amendment in the location proposed, the availability of an alternative location for amendment is irrelevant.

In general, then, the only factor that distinguishes any one possible location for UGB amendment from any other, is the presence of locational considerations that demonstrate that the amendment will confer a net benefit to the efficiency of the UGB in a particular location. The only basis for any further distinction is the presence of a natural resource protected by the goals. If agricultural land is included in a proposed addition, then both Goal #3 and Goal #14 require that the need to retain the land for agricultural land be considered before the UGB is amended. In the case of UGB amendments for the purpose of providing additional land to accommodate growth, it is clear what this consideration entails: before agricultural land is used to meet this need, it must be shown that there are no alternative locations where the need for additional land could be met without sacrifice of agricultural land. For locational adjustments, where the need for amendment arises from site-specific considerations inseparable from the proposed location of the addition, it is less clear how the need to retain agricultural land is best balanced against the need for the amendment.

Metro has defined what it believes to be the appropriate tests in Section 8(a)(4) of the ordinance. The standards provided therein are intended to ensure that agricultural land be converted for urban use only in the most extraordinary and compelling circumstances.

The goals do not provide for protection of forest lands comparable to that provided for agricultural lands. Neither Goal #4 nor Goal #14 requires that the need to retain forest lands be considered when a UGB is amended. The probable reason for this apparent inconsistency is that, unlike agricultural land, forest lands can and should be protected even inside a UGB. In other words, even if the UGB were amended to include forest lands, those lands would still be protected by Goal #4 in the manner provided for "urban forest uses." This protection may not be sufficient to ensure that forest lands needed for timber harvesting are protected for this purpose, but any consequences of taking such land out of timber production would be weighed in terms of the environmental and economic consequences, which the ordinance requires be considered (Section 8(a)(3)).

Metro finds, therefore, that the standards for approval of additions are adequate to address the exception requirements of Goal #2, without any further requirement that alternative locations be explicitly considered each time the UGB is amended consistent with those standards.

PART II: REMOVALS AND TRADES

Removals

In general, it is appropriate that there be a somewhat lower burden of proof for the removal of land from the UGB than there is for additions. The removal of land cannot directly threaten the retention of agricultural land. Furthermore, the amount of land removed, if subsequently found to be needed, can be fairly easily replaced through a subsequent addition in the same location or elsewhere. In contrast, it is more difficult to remove while the converse is not true for additions.

The standards for approval of removals (Section 8(b)) ensure that there will be a net benefit to the efficiency or effectiveness of the UGB in the particular location affected. Because no more than 50 acres may be removed in any one amendment, and because 50 acres constitutes no more than a tiny fraction of the "market surplus" land estimated in the UGB Findings to be needed to allow for market flexibility, no individual removal could have any negative consequences on the land market. Nor, for the same reasons discussed for additions, could any individual removal have any negative impacts on the efficiency of the major public facilities that would have served it.

In general, the number of additions are expected to outnumber removals to the extent that a net loss over a period of three or more years is extremely unlikely. If, however, there were a consistent net loss, there would be no negative consequences from that loss unless so much land were removed that the flexibility of the land market were impaired. Although the point at which this may occur, or should be addressed if it does occur has been a source of disagreement between Metro and LCDC, Metro finds that the net removal of 100 acres a year, or 2000 acres over 20 years, is not likely to have a significant effect on land market flexibility. Should the amount of land removed in net exceed this amount, Section 16 of the ordinance requires Metro to re-evaluate the relative cost and benefits of any further removals.

Trades

Trades are nothing more than the removal of land in one location and the net addition of no more than ten acres elsewhere. No individual trade can, therefore, have any significant impact on the total amount of land in the UGB.

Any cumulative increase or decrease in the size of the UGB resulting from trades is addressed in the same manner as any cumulative increase or decrease resulting from additions or removals respectively through the review requirements of Section 16. The standards in Section 8(c) address the locational factors that must be considered to ensure that the efficiency or effectiveness of the UGB is improved by the trade.

PART IV: PROCEDURAL GOAL REQUIREMENTS

Goal #1: Citizen Involvement

The public review process employed in developing the rules for locational adjustments is summarized in the agenda materials listed in Part V of these findings. These materials also include the explanations for each of the decisions made as the ordinance was developed, providing the "feedback mechanism" required by this goal.

The ordinance itself provides for on-going citizen involvement in the UGB amendment process through general notification and public hearings. The required recommendation from the affected jurisdiction allows for citizen participation on a local as well as regional scale.

Metro finds, therefore, that Ordinance 81-105 complies with Goal #1.

Goal #2: Land-Use Planning Coordination

Sections 5 and 6 of the ordinance establish a process for the coordination of a proposed adjustment with all affected local jurisdictions. Section 11 of the ordinance provides for notice to all local jurisdictions and affected agencies to ensure an opportunity for their concerns to be addressed at the Metro hearings.

Metro finds, therefore, that Ordinance 81-105 complies with the coordination requirements of Goal #2.

JH:ga:s
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PART IV: LIST OF EXHIBITS

- A. Urban Growth Boundary Findings, Metro, November, 1979
- B. Compliance Acknowledgment Order for Metro's Urban Growth Boundary, LCDC, January, 1980
- C. Areawide Waste Treatment Management Study, Volume 1: Proposed Plan, CRAG, 1977
- D. May 14, 1980 Letter from Wes Kvarsten to Jim Owens, Coordinator, Polk County Department of County Development
- E. Findings, Conclusions and Recommendations of Hearings Officer on Clackamas County's Request for Urban Growth Boundary change West of Marylhurst, in the Southern Subarea, Metro, October, 1980 (See especially pp. 6-7, Conclusion 2(1))
- F. October 31, 1980 memo from Jim Sitzman to Regional Planning Committee regarding Adoption of Rules for Locational Adjustments to Urban Growth Boundary (UGB), with attachments:
 - 1. Schedule for Review and Adoption of Rules for Minor UGB Amendments
 - 2. Task Force on Rules for Locational Adjustments to the UGB
 - 3. Discussion Draft: Rules for Locational Adjustments to Metro's Urban Growth Boundary (UGB), November 3, 1980
- G. Agenda Management Summary from Executive Officer to Regional Planning Committee regarding Procedures for Locational Adjustments to Metro's UGB in December 8, 1980 agenda, with attachments:
 - 1. November 25, 1980 draft of ordinance Establishing Procedures for Locational Adjustments to Metro's Urban Growth Boundary
 - 2. Summary of Response and Recommendations on the Discussion Draft of Proposed Rules for Locational Adjustments to the Urban Growth Boundary, December 1, 1980
 - 3. Appendix A: Survey of Local Jurisdictions: Procedures for Hearing UGB Amendments
 - 4. Appendix B: Written testimony
- H. Minutes of Regional Planning Committee meeting December 9, 1980, public hearing on Rules for Locational Adjustments to the UGB
- I. Agenda Management Summary from Executive Officer to Metro Council regarding Procedures for Locational Adjustments to Metro's Urban Growth Boundary (UGB), for January 8, 1981 agenda, with attachments:
 - 1. Ordinance 81-105

2. Proposed Rules for Locational Adjustments to Metro's UGB, December 29, 1980 staff report
- J. Minutes from January 8, 1981 Council meeting, public hearing on Ordinance 81-105
- K. Agenda Management Summary from Executive Officer to Regional Planning Committee regarding Procedures for Locational Adjustments to Metro's UGB, for January 12, 1981 agenda
- L. Minutes of January 12, 1981 meeting of Regional Planning Committee work session on Ordinance 81-105
- M. Agenda Management Summary from Executive Officer to Regional Planning Committee regarding Procedures for Locational Adjustments to Metro's UGB, for February 12, 1981 agenda, with attachments:
 1. Ordinance 81-105, with additions and deletions recommended by staff
 2. Explanation of recommended amendments to Ordinance 81-105, January 26, 1981
- N. Minutes of February 12, 1981 meeting of Regional Planning Committee, discussion of Ordinance 81-105
- O. Minutes of February 26, 1981 meeting of Metro Council, second reading of Ordinance 81-105
- P. Meeting and correspondence file: Record of public contacts for development of Ordinance 81-105

RECEIVED

OCT 21 1981

CERTIFICATE OF SERVICE

METRO SERVICE DISTRICT

I hereby certify that on Tuesday, October 20th, 1981, I served a correct and true copy of Commission Acknowledged Order for the Metropolitan Service District by mailing, first class postage, to the following persons:

Rick Daniels, Director
Washington County Planning Dept.
Washington County Courthouse
150 N. First
Hillsboro, OR 97123

Rick Gustafson
Executive Director
Metropolitan Service District
527 SW Hall
Portland, OR 97201

Robert Baldwin, Director
Multnomah County Planning
2115 SE Morrison
Portland, OR 97204

Dominic Mancini, Director
Clackamas County Planning
902 Abernethy Road
Oregon City, OR 97045

Bruce Halperan
City of Portland
621 SW Alder Street
Portland, OR 97205

Jill Hinkley, Coordinator
Washington/Clackamas/Multnomah
Metro
527 SW Hall
Portland, OR 97204

Dick Wilson
Real Estate Division
Commerce Department
158 12th Street NE
Salem, OR 97310

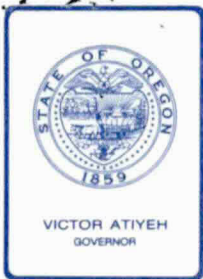
J. U. Congrats

Andy J.

Dated this Tuesday, October 20th, 1981.

Signed: Marie Hamilton

DZ:cp
6963A/p12



Department of Land Conservation and Development

1175 COURT STREET N.E., SALEM, OREGON 97310 PHONE (503) 378-4926

October 19, 1981

Rick Gustafson, Executive Director
Metropolitan Service District
527 SW Hall
Portland, OR 97201

Dear Mr. Gustafson: *Rick,*

It gives me a great deal of pleasure to confirm that the Land Conservation and Development Commission, on September 24, 1981, officially acknowledged the METRO's UGB amendment procedures (Ord. No. 81-105) as being in compliance with the Statewide Planning Goals.

I would like to commend the officials, staff, and citizens of your District for their work on this important contribution to the regional growth management program.

Congratulations,

W. J. Kvarsten
Director

WJK:DZ
6885A/10B-4

Enclosure

cc: Jill Hinckley, METRO
Linda Macpherson, Field Representative
Dick Wilson, Real Estate Division
Greg Winterowd, Lead Reviewer
Jim Knight, DLCD
DLCD Library
Portland Field Office
Objectors and Commentors

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF
METRO'S UGB
ORDINANCE NO. 81-105

)
) COMPLIANCE ACKNOWLEDGMENT
) ORDER

The Metropolitan Service District (METRO), pursuant to ORS 197.251 (1) (1977 Replacement Part), requested that METRO's UGB Ordinance 81-105 be acknowledged by the Land Conservation and Development Commission to be in compliance with the Statewide Planning Goals.

The Commission reviewed the written report of the staff of the Department of Land Conservation and Development on September 24, 1981, regarding the compliance of the aforementioned ordinance with the Statewide Planning Goals. Section IV of this report constitutes the findings of the Commission.

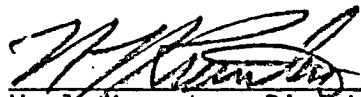
Based on its review, the Commission finds that METRO'S UGB Ordinance 81-105 complies with the Statewide Planning Goals adopted by this Commission pursuant to ORS 197.225 and 197.245.

THEREFORE, IT IS HEREBY ORDERED THAT:

The Land Conservation and Development Commission acknowledges that the aforementioned UGB Ordinance of the Metropolitan Service District (METRO) is in compliance with the Statewide Planning Goals.

DATED THIS 19TH DAY OF OCTOBER, 1981.

FOR THE COMMISSION:



W. J. Kvarsten, Director
Department of Land
Conservation and Development

Your are entitled to Judicial Review of this Order. Judicial Review is governed by the provisions of Section 10, Chapter 748, Or Law 1981.

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garbage so he could proceed with construction of a solid waste energy plant in Forest Grove or Troutdale.

It was suggested that Mr. Spencer pursue this matter with staff and then, if appropriate, with the Regional Services Committee.

3. CONSENT AGENDA

Coun. Kafoury moved, seconded by Coun. Kirkpatrick, that the Consent Agenda be adopted. A vote was taken on the motion. All Councilors present voting aye, the motion carried.

4. ORDINANCES

4.1 PUBLIC HEARING on Ordinance No. 81-105, For the Purpose of Establishing Procedures for Locational Adjustments to Metro's Urban Growth Boundary

Presiding Officer Deines announced that though the public hearing would be held as scheduled, the Ordinance would probably be referred back to the Regional Planning Committee for further work.

Coun. Banzer moved, seconded by Coun. Kafoury, that Ord. No. 81-105 be adopted.

Coun. Banzer presented the Committee report, explaining that they were still in the process of receiving comment. She announced that it would receive further consideration at the Jan. 12 meeting of the Regional Services Committee, with a decision to be reached by Council on Feb. 26.

It having been ascertained that it was the consensus of the Council to do so, the Clerk read Ord. No. 81-105 for the first time by title only.

The public hearing was opened.

Mr. Ryan O'Brien, 11134 SE 23rd, Hillsboro, expressed his satisfaction with the Ordinance.

There being no others present who wished to testify on this matter, the public hearing was closed.

Without objection, the Ordinance was referred back to the Regional Planning Committee for further consideration.

5. RESOLUTIONS

5.1 Resolution No. 81-212, For the Purpose of Establishing a Comprehensive Waste Reduction Plan

Coun. Kirkpatrick summarized the contents of the Plan, outlining the four main elements of the program, and moved, seconded by Coun.

5.2 Ordinance No. 81-105, For the Purpose of Establishing
Procedures for Locational Adjustments to Metro's Urban
Growth Boundary (Second Reading)

In order to give Councilors time to review the proposed changes in this ordinance, Coun. Bonner moved, seconded by Vice Presiding Officer Schedeen, that action be taken at the March 5, 1981 Council meeting. All Councilors present voting aye, the motion carried.

6. REPORTS

6.1 CH₂M Hill Report on Wildwood Feasibility Study

Mr. Mike Kennedy, consulting engineer with the firm of CH₂M Hill, gave a presentation illustrating the feasibility of siting a new landfill at the proposed Wildwood location. Councilors asked questions of Mr. Kennedy after the presentation.

Coun. Banzer asked why native wildlife would migrate from the site if it were to be used as a landfill. Mr. Kennedy replied the activity of the operation and loss of natural ground cover would cause migration to nearby locations. Coun. Banzer also asked how long first phase landscaping would take once a section of the fill was complete. Each terrace would require about two to four years to complete, Mr. Kennedy said.

Coun. Bonner inquired which nearby residents would receive the greatest impact of noise generated by the operation. Mr. Kennedy said that residents living in the seven homes along the access road would be subject to the most noise. Those living on Morgan and King roads would be the second highest impacted.

Coun. Bonner also asked Mr. Kennedy to further explain the landfill's drainage plan. Mr. Kennedy said the natural slope and geological makeup of the area would direct leachate to a barrier system. If the monitoring wells should indicate leachate was escaping past these barriers, a second barrier system could be installed.

Coun. Etlinger questioned the amount of total traffic increase in the adjacent area due to the operation's activities. Mr. Kennedy replied that a one to two percent increase in traffic was anticipated.

Denton Kent asked of what archeological importance was the proposed site. Mr. Kennedy said the site was once an old homestead and salt mine.

6.2 Executive Officer's Report

The Executive Officer had nothing to report at this meeting.

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Minutes of March 5, 1981

2.2 Ordinance No. 80-105, For the Purpose of Establishing Procedures
for Locational Adjustments to Metro's Urban Growth Boundary
(Second Reading)

Two motions were introduced by Coun. Rhodes and seconded by Coun. Kafoury:
1) to amend Ordinance No. 80-105 as recommended on the pink sheets distributed
March 5, 1981; and 2) to adopt Ordinance No. 80-105 as amended. Mr. Jim Sitzman
then explained that the material on the pink sheets was identical to that
material submitted to the Council on February 26, 1981 with the exception of
the correction of one typographical error. Mr. Sitzman and Coun. Bonner
proceeded to explain the amendments in the ordinance. They reported the
intention of these amendments was to introduce more affirmative language into
the ordinance, thus making it a stronger document.

Presiding Officer Deines expressed dissatisfaction with the proposed amendments
being presented to Council without first being reviewed by the Council
Committee. Coun. Rhodes explained the amended material was identical in
intent to the draft recommended by the Council Committee and she requested the
Council act on the motions to amend and adopt the ordinance.

Presiding Officer Deines then opened the public hearing on Ordinance No. 80-105
as amended. Mr. Bob Stacey of 1000 Friends of Oregon testified that Metro
staff had accurately represented the Friends' concerns in the amended ordinance
and that it would be consistent with LCDC's goals. There being no further
testimony from the public, Presiding Officer Deines closed the public hearing.

A vote was taken on the motion to approve the amendments, as recommended, to
Ordinance No. 80-105. All Councilors present voting aye, the motion was
carried.

A vote was taken on the motion to adopt Ordinance No. 80-105. Mr. Andrew
Jordan reported that at the February 26, 1981, Council meeting the findings in
support of the ordinance, dated February 19, 1981, were distributed to the
Council. These findings should be sent to LCDC and should be made part of the
public record, he said.

Presiding Officer Deines called a vote on the motion to adopt Ordinance No.
80-105 as amended. Voting aye were Couns. Williamson, Kirkpatrick, Rhodes,
Schedeen, Bonner, Banzer, Etlinger, Kafoury, Burton, Oleson and Deines.

Coun. Kirkpatrick moved, seconded by Coun. Kafoury, that the findings in support
of the ordinance, dated February 19, 1981, be made part of the record. A vote
was taken on the motion and the motion carried unanimously.

3. GENERAL DISCUSSION

3.1 Legislative Program Update

Mr. Isaac Regenstreif said he would present material of an information nature
at tonight's meeting. Legislative items requiring a formal position would be

ORDINANCE NO. 81-105

TITLE For the Purpose of Establishing
Procedures for Locational Adjustments to
Metro's Urban Growth Boundary

DATE INTRODUCED _____

FIRST READING _____

SECOND READING 3/5/81

DATE ADOPTED 3/5/81

DATE EFFECTIVE _____

ROLLCALL

	Yes	No	Abst.
Burton	✓		
Oleson	✓		
Williamson	✓		
Berkman			
Kirkpatrick	✓		
Deines	✓		
Rhodes	✓		
Schedeen	✓		
Miller	✓		
Banzer			✓
Etlinger	✓		
Kafoury	✓		