

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE) ORDINANCE NO. 82-133
NO. 81-105, ESTABLISHING PROCEDURES) Introduced by
FOR LOCATIONAL ADJUSTMENT OF THE)
METROPOLITAN SERVICE DISTRICT'S)
(METRO) URBAN GROWTH BOUNDARY)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Ordinance No. 81-105 is hereby amended to add the language underlined and delete the language in brackets in the "Amendments to Ordinance No. 81-105" attached as Exhibit A and incorporated herein by this reference.

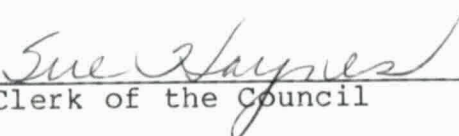
Section 2. The amendments adopted in Section 1 of this Ordinance shall become effective immediately and shall apply to all petitions filed following the date of adoption.

ADOPTED by the Council of the Metropolitan Service District
this 22nd day of July, 1982.



Presiding Officer

ATTEST:



Clerk of the Council

JH/srb
5843B/107
06/18/82

EXHIBIT A

AMENDMENTS TO ORDINANCE NO. 81-105

AMEND SECTION 4(d) TO READ:

(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.] an island of urban land outside the contiguous UGB or would create an island of non-urban land within the UGB.

Explanation: The current language precludes only urban islands outside the UGB; the intent was to preclude non-urban islands within the UGB as well. The proposed amendment to subsection 4(d) would provide for this.

AMEND SECTION 7 TO READ:

(a) A petition may be filed by:

(1) a county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or

(2) the owners of the property included in the petition or a group of more than 50 percent of the property owners who own [not less than] more than 50 percent of the [property] land area in each area included in the petition.

(b) A petition from a city or county pursuant to subsection (a)(1) of this section shall be accepted only if:

(1) the city or county is co-petitioner with a property owner or group of property owners meeting the requirements of subsection (a)(2) of this section; or

(2) the city or county has held a public hearing on its action to initiate a petition, for which notice has been mailed to all property owners in and within 250 feet of the area affected, and has adopted findings that the petition satisfies all applicable standards in Section 8 of this ordinance.

(c) 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] 14(d) of this ordinance.

Adopted as
Part of Ord. 82-133

ATTACHMENT B

1. Delete the proposed new Section 7(b), retaining the existing Section 7(b) without renumbering.
2. Delete the proposed amendments to Section 8(c)(2) and 8(c)(4), and replace all of the existing Section 8(c) with the following language:

(c) A petition to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:

- (1) Petitions proposing to add any Class I to IV soils not irrevocably committed to nonfarm use shall not be approved unless:
 - (a) the addition is needed to remedy severe service provision or land use efficiency problems in the adjacent urban area; and
 - (b) there are no practical alternatives to the proposed boundary change to solve such problems.
- (2) The net amount of vacant land proposed to be added may not exceed 10 acres; nor may the net amount of vacant land removed exceed 50 acres.
- (3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors (1), (2), (3) and (5) of Section (8)(a).



METROPOLITAN SERVICE DISTRICT

527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

M E M O R A N D U M

Date: June 30, 1982

To: Metro Council

From: Joe Cortright, Planner

Regarding: Staff Proposed Amendments to Ordinance 82-133

Following the instructions of the Regional Development Committee, staff met with interested parties to discuss Ordinance 82-133, which modifies Metro's standards for approving locational adjustments of the Urban Growth Boundary. This meeting produced several comments on the Ordinance which are summarized on the attached chart. Based on these comments, staff recommends two changes to Ordinance 82-133.

First, staff proposes that the requirement that local governments submitting petitions to amend the UGB not be required to follow Metro-specified notice and hearing requirements. Local planners pointed out that planning commissions and governing bodies already go through locally required procedures before undertaking such land use actions. Any Metro requirements would, therefore, duplicate local practice.

Second, 1000 Friends of Oregon objected to the revised "trade" provisions, maintaining that they inadequately protected agricultural land. Staff proposes to change the Ordinance to provide that land added in trades generally be required to be "committed to non-farm use." The balancing test then applies to the remaining criteria: land use efficiency, service provision, economic, social and environmental consequences and compatibility with farm use. 1000 Friends is satisfied that the proposed language is consistent with LCDC goals. The changes are spelled out in Attachment B.

Attachments

JC:lz

ATTACHMENT A

SUMMARY OF COMMENTS AND STAFF RESPONSE
MEETING OF JUNE 23, 1982

<u>ISSUE RAISED BY COMMENTER</u>	<u>STAFF RESPONSE</u>
"Islands" of rural land within the UGB may make good planning sense in some circumstances. (Section 4(d))	Existing policy precludes "islands"; the new language simply clarifies this provision. If necessary, the "islands" policy should be re-examined in a legislative, rather than a quasi-judicial process.
Vacant land is not defined in the ordinance. This could lead to some confusion (Section 8)	Staff is preparing a definition and a method for calculating "vacant" land to be included in the ordinance.
Party status should be automatic for counties affected by proposed UGB amendments. (Sections 5 and 7)	Metro notified all affected local governments of UGB adjustment petitions. It is their responsibility to participate in the process.
Metro's ordinance is poorly organized and could benefit from renumbering. (General)	Clearer organization and renumbering will be considered when the ordinance is codified.
The provision for trades does not meet Goal 2. (Section 8(d))	See attached amendment. Goal 2 requirement for assessment of alternatives is obviated by the general requirement that land added to the UGB be found to be "committed to non-farm use."
Local governments should not have to meet strict hearing and notice requirements when they sponsor petitions. Such requirements duplicate usual local practice, and are unnecessary. (Section 7(b))	This provision has been deleted from the proposed amendments.

Explanation: The main changes to this section are: (1) to require a higher proportion of property owner support for petitions; or (2) to add some additional requirements for petitions from local governments. Both changes are generally designed to recognize that Metro has made a commitment, in the form of UGB adoption, on which property owners both inside and outside the UGB are encouraged to rely and that this commitment should be modified, in the form of UGB amendment, only with substantial support from affected property owners or in circumstances sufficiently compelling to warrant a local government decision to override the wishes of affected property owners.

AMEND SUBSECTION 8(c)(2) TO READ:

not adopted
(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] is more suitable for urbanization than the land to be removed. In making this evaluation, the requirements of subsection (a)(4) of this section may be waived if the land proposed for removal contains an equal or greater amount of Class I-IV soils and is found to have an equal or greater suitability for agricultural use.

AMEND SUBSECTION 8(c)(4) TO READ:

not adopted
(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 nor shall the total net amount removed exceed 50 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.

Explanation: Trades were intended to recognize that UGB amendments that would not negatively impact the overall efficiency or effectiveness of the boundary by adding to the size of urban area should be reviewed under different and less stringent standards than those that would. As the ordinance is now written, this is accomplished only by: (1) allowing for consideration of additions of more than fifty acres when proposed as part of a trade; and (2) requiring only that, for trades, consideration of the same standards as used to evaluate additions must demonstrate that it is "appropriate that the land to be added should be included within the UGB" while for additions this consideration must demonstrate that "the proposed UGB [is] superior to the UGB as presently located." This last nuance of difference and the slightly lighter burden of proof it provides, does not make it significantly easier to add less than fifty acres when proposed as part of a trade than when proposed simply as an addition. The change recommended addresses this problem by revising the standards for trades to place less emphasis on the effect of the proposed addition on the efficiency of development of adjacent urban lands and more

emphasis on the effect on overall efficiency resulting from development of the area proposed for addition instead of the area proposed for removal.

AMEND THE LAST SENTENCE OF SUBSECTION 11(a) TO READ:

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 and to the notice requirements of OAR 660-18-000.

AMEND SUBSECTION 11(c) TO READ:

(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.

Explanation: These changes achieve consistency with the requirements of OAR 660-18-000 regarding 45-day notice to DLCD of proposed amendments of the Urban Growth Boundary.

AMEND SECTION 14 TO READ AS FOLLOWS:

(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] in whole or in part subject to conditions consistent with the applicable standards in sections 8 through 10 of this ordinance.

(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.]

(c) [(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.

Explanation: The addition to section (a) is designed to recognize and provide for past Council practice regarding conditions. The deletion of the phrase "as modified" is intended to preclude Council action to modify a petition other than through denial in part and approval in part (i.e., to preclude acting on land not included in the original petition). The remaining deletions remove unnecessary language.

JH/gl
5318B/87
4/30/82

*adopted as
part of #2 62-133*



METRO

METROPOLITAN SERVICE DISTRICT

527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

MEMORANDUM

Date: July 7, 1982
To: Metro Council
From: Joe Cortright, Development Services Department
Regarding: Amendment to UGB Locational Adjustment Ordinance

Add a new subsection (j) to Section 2, to read as follows:

(j) "Vacant land" means:

- (1) for lots of 1 acre or less with a dwelling unit, no vacant land;
- (2) for lots of 1 acre or less with no dwelling unit, vacant land is the entire lot;
- (3) for lots in excess of 1 acre, vacant land is the gross area of a lot, less one acre multiplied by the number of dwelling units on the lot, but not less than zero.

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Regional Development Committee
SUBJECT: An Ordinance Amending Ordinance No. 81-105, Establishing
Procedures for Locational Adjustment of Metro's Urban
Growth Boundary (UGB)

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Approval of release of Ordinance No. 82-133, an ordinance amending Ordinance No. 81-105, for public hearing and first reading by the Metro Council.
- B. POLICY IMPACT: Release of the ordinance for hearing will authorize staff to issue the 45-day notice required for land use actions post-acknowledgment. The amendments recommended are designed to make minor changes necessary in the locational adjustment process, rather than to undertake any significant change in UGB amendment policy or procedure.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: Since adoption of Metro's UGB locational adjustment ordinance, experience has demonstrated a need for alteration of certain procedures and standards contained in the ordinance. Though a comprehensive revision of the ordinance has been discussed, the staff recommends a more limited revision to resolve particular problems. In addition, staff intends to provide the Council and petitioners with a written explanation of the standards and procedures in the ordinance. This explanation should serve to simplify the process as well as a comprehensive revision to the ordinance. Staff will also be proposing changes to the fee schedule and contested case rules which apply to locational adjustments.

The amendments proposed are changes to the procedural requirements, plus a revision of the trade standards to allow more flexibility in comparing the area to be added with the area to be removed.

Exhibit A of the attached ordinance, containing the recommended amendments, also includes for Committee and public reference a brief explanation of each proposed changes. This explanation will be deleted from this Exhibit prior to its adoption.

- B. ALTERNATIVES CONSIDERED: As indicated above, a more comprehensive revision of the locational adjustment ordinance is deemed by the staff to be impractical at this time. Satisfactory results should be achieved from minor alterations in the ordinance and contested case rules plus a narrative description of the standards and procedures.
- C. CONCLUSION: A narrative explanation of the standards, together with the changes proposed in the attached ordinance, appears the most practical and least confusing way to achieve immediate improvement to the locational adjustment process.

JH/srb
5848B/107
06/18/82

A vote on the previous motion to adopt Ordinance No. 82-135, as amended, (Williamson/Kirkpatrick) indicated that the motion passed by the following roll call vote:

Yeas: Banzer, Bonner, Burton, Etlinger, Kirkpatrick,
Rhodes, Schedeen and Williamson.
Nays: Kafoury.
Absent: Berkman, Deines and Oleson.

Coun. Kafoury stated she voted in opposition to the RTP since she feels inadequate consideration has been given to energy supplies, telecommunications, and funding of the elements of the Plan.

6.1 Public Hearing on Ordinance No. 82-133, An Ordinance Amending Ordinance No. 81-105, Establishing Procedures for Locational Adjustments of the Metropolitan Service District's Urban Growth Boundary. (First Reading)

Motion to adopt Ordinance No. 82-133. (Bonner/Etlinger)

Motion to adopt amendments to Ordinance No. 82-133, as outlined in memo from staff dated June 30, 1982; carried unanimously. (Bonner/Kirkpatrick)

Mark Greenfield of 1000 Friends of Oregon stated his organization's concern with land speculation created with the provision for trades of property outside the UGB for property inside the UGB. Mr. Greenfield also stated that Metro should consider adopting standards for major amendments to the UGB.

Coun. Kafoury stated it has been the policy of the Council not to increase the size of the UGB and if standards for major amendments are adopted, the Council will not be limiting the UGB size.

Kevin Hanway, attorney representing the Homebuilders' Association, stated that Metro should consider doing away with trades altogether, because of additional expenses incurred for developing properties.

General discussion.

6.3 Ordinance No. 82-137, An Ordinance Relating to Contested Case Procedures and Amending Metro Code Chapter 5.02. (Second Reading)

Andy Jordan reviewed his memo relating the proposed amendments allowing Council to accept new testimony at its discretion.

Motion to adopt the amendments to Ordinance No. 82-137, as stated in memo from General Counsel dated June 25, 1982 (Williamson/Kirkpatrick); carried by the following vote:

Motion to adopt Resolution No. 82-344; carried unanimously. (Williamson/Kirkpatrick)

6.1 Public Hearing on Ordinance No. 82-136, An Ordinance Relating to Solid Waste Disposal and Amending Ordinance No. 81-111. (First Reading)

Motion to adopt Ordinance No. 82-136. (Rhodes/Deines)

There was no one present who wished to speak during the public hearing.

6.2 Public Hearing on Ordinance No. 82-139, An Ordinance Relating to Personnel and Amending Ordinance No. 81-116. (First Reading)

Motion to adopt Ordinance No. 82-139. (Deines/Williamson)

There was no one present who wished to speak during the public hearing.

6.3 Public Hearing on Ordinance No. 82-140, An Ordinance Relating to the Fiscal Year 1982-83 Budget and Appropriations Schedule; and Amending Ordinance No. 82-132. (First Reading)

Motion to adopt Ordinance No. 82-140. (Deines/Kirkpatrick)

General discussion of Metro's recycling efforts by the Council, Bob Breihof, John Trout, and Pat Stryker.

Presiding Officer stated that the recycling effort and waste reduction program would be discussed thoroughly at the next Council meeting, prior to the adoption of the ordinance, and requested staff to provide additional information on each.

6.4 Ordinance No. 82-133, An Ordinance Amending Ordinance No. 81-105, Establishing Procedures for Locational Adjustment of the Metropolitan Service District's Urban Growth Boundary. (Second Reading)

Geraldine Ball stated her objections to the ordinance's reference to adding or subtracting land from the UGB; she was under the impression that this would permit local governments to annex or de-annex property without notifying property owners.

General Counsel Jordan explained that this ordinance did not dictate how cities and counties conducted annexation proceedings; those procedures are established by state statute.

General discussion of the amendments.

A vote on the previous motion to adopt Ordinance No. 82-133, as amended, (Bonner/Etlinger) indicated that the motion carried unanimously.