

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
CHAPTER 3.01 OF THE METROPOLITAN)
SERVICE DISTRICT CODE TO CLARIFY)
STANDARDS AND PROCEDURES FOR)
IDENTIFYING PROTECTED AGRICULTURAL)
LAND)

ORDINANCE NO. 88-261
Introduced by Rena Cusma,
Executive Officer

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That paragraph 3.01.010(i) of the Code of the Metropolitan Service District is amended to read as follows:

[(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 not possible to preserve for farm use, within the meaning of Goal No. 2, Part 2.]

(j)1 (i) "Vacant land" means:

- (1) for lots of one acre or less with a dwelling unit, not vacant land;
- (2) for lots of one acre or less with no dwelling unit, vacant land is the entire lot;
- (3) for lots in excess of one 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.

2. That paragraph 3.01.040(a)(4) of the Metro Code is amended to read as follows:

(4) Retention of Agricultural Land.

(A) When a petition includes land with Class I - IV soils [that is not irrevocably committed to non-farm use] designated in the applicable comprehensive plan for farm or forest use consistent with the requirements of LCDC Goals No. 3 or 4, the petition shall not be approved unless it is factually demonstrated that:

(i) Retention of the agricultural land would preclude urbanization of an adjacent area already inside the UGB, or

(ii) Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB, or

(iii) the property is a legal parcel or parcels 10 acres or smaller in aggregate zoned for Exclusive Farm Use under provisions of ORS chapter 215 and occupied by one or more permanent structures, including but not limited to roads and paved parking lots; and

aa the parcel(s) are not used for rural residential purposes or for agricultural production, cultivation, processing or marketing; and

bb the parcel(s) were in existence at the time Exclusive Farm Use zoning was applied to the property; and

cc all structures predate or have been built in compliance with applicable comprehensive plans and zoning regulations and now cover at least 50 percent of the aggregate parcel(s) on which they are located.

(B) Metro will issue notice to property owners within 250 feet of the boundaries of any property for which a UGB amendment is proposed consistent with the requirements of OAR 660-04-030(1).

3. Section 3.01.040(c)(1) of the Metro Code is amended to read:

(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 non-farm 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.]

(1) The requirements of paragraph
3.01.040(a)(4) of this chapter are met.

4. Section 3.01.053 of the Metro Code is established to read as follows:

Section 3.01.053 Notice of Proposed Action: For all locational adjustments to the UGB, Metro will issue notice to the Oregon Department of Land Conservation and Development, consistent with the requirements of ORS 197.610 - 197.625 and OAR 660-Division 18.

5. Section 3.01.055(C)(4) of the Metro Code is amended to read as follows:

(4) Oregon Department of Land Conservation and Development.

ADOPTED by the Council of the Metropolitan Service District
this 27th day of October, 1988.

Mike Ragsdale
Mike Ragsdale, Presiding Officer

ES/sm
0005D/554
10/14/88

Attest:

A. Marie Nelson
Clerk of the Council

I certify this ordinance was not
vetoed by the Executive Officer.

A. Marie Nelson 11/6/89
Clerk of the Council Date

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 88-261, AMENDING
CHAPTER 3.01 OF THE METROPOLITAN SERVICE DISTRICT
CODE TO CLARIFY STANDARDS AND PROCEDURES FOR
IDENTIFYING PROTECTED AGRICULTURAL LAND

Date: September 30, 1988

FACTUAL BACKGROUND AND ANALYSIS

Metro Code Chapter 3.01, which sets the standards and procedures for locational adjustments of the Urban Growth Boundary (UGB), includes rigorous requirements for including protected farmland within the UGB. As the code is now written, these requirements apply to any land designated for Exclusive Farm Use (EFU) in a county comprehensive plan. Petitioners who wish to avoid application of the standards for protection of farm land to EFU-designated land must request a plan amendment from the County to adopt an exception from the requirements of Goal No. 3 (Agricultural Land) for the property in question.

In most cases, this is the most appropriate procedure. The requirements for demonstrating that property is so committed to development as to make it impractical to try to protect it for agricultural use have probably been more extensively litigated than any aspect of the statewide planning goals, resulting in a highly specialized and complex body of case law in which county planners have necessarily become expert but with which Metro generally has no cause to familiarize itself. The Metro Code requirements, as now written, are designed to rely on County expertise on these matters.

In certain limited circumstances, however, these requirements may impose an unreasonable hardship. Certain types of non-farm uses such as churches and schools are permitted by State statute in EFU zones. Although land developed for these uses is no longer available for farm use, they cannot be included in an exception area because no exception is needed, since such uses are consistent with Goal 3 requirements.

Problems may also occur when a development occupies only a small portion of a larger exception area. Even though that smaller subarea may clearly meet the requirements for demonstrating commitment to non-farm use, county exception procedures may not allow for separate consideration of so small an area. Washington County, for example, generally does not consider exception requests for areas less than 40 acres.

The proposed changes would provide petitioners who have EFU land that they believe to be committed to non-farm use with a narrowly defined alternative to the county exceptions process for becoming exempt from the standard for the protection of agricultural land. An automatic exception from this standard would be available for parcels of 10 acres or less occupied by one or more permanent structures (including paved roads and paved parking lots) which are not used for rural residential, agricultural production, agricultural cultivation, or agricultural processing purposes, which were in existence prior to the imposition of EFU zoning, and which now cover at least 50 percent of the parcel on which they are located. These criteria for showing that a parcel is physically developed as an urban use despite being in an EFU zone are very narrowly drawn in order to recognize instances where effectively urbanized small parcels should meet the tests for a locational adjustment, while preventing development alone from being justification for waiving the retention of the agricultural lands standard.

Metro will be undertaking a comprehensive review and revision of all UGB code requirements as part of its periodic review of the UGB this fiscal year. This one change has been separated out from other needed revisions because one petition currently filed include property designated EFU which might be exempted from the onerous requirements of the current rules if the changes proposed were adopted.

Department of Land Conservation and Development requires 45 days notice of the final hearing on UGB code amendments. This notice has been given for October 11, 1988, for which the Council Intergovernmental Affairs Committee meeting is scheduled.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 88-261.

ES/sm
0005D/554
10/03/88



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item No. 6.4

Meeting Date October 27, 1988

Date: October 14, 1988

To: Metro Council

From: Councilor Jim Gardner, Chair
Council Intergovernmental Relations Committee

Regarding: OCTOBER 11, 1988 INTERGOVERNMENTAL RELATIONS COMMITTEE
REPORT ON COUNCIL MEETING AGENDA ITEM NO. 6.4,
CONSIDERATION OF ORDINANCE NO. 88-261, AMENDING METRO CODE
CHAPTER 3.01 TO CLARIFY STANDARDS & PROCEDURES FOR
IDENTIFYING PROTECTED AGRICULTURAL LAND.

Committee Recommendation: At its October 11, 1988 meeting, the Intergovernmental Relations Committee unanimously voted to recommend Council adoption of Ordinance No. 88-261 attached. All Committee members were present -- Councilors Collier, DeJardin, Knowles, Waker and myself. Councilor Kirkpatrick also attended the meeting.

Issues & Committee Discussion: Rich Carson, Planning & Development Director, and Patrick Lee, Regional Planning Supervisor, presented the ordinance. The attached department staff report provides the background and rationale for this Code amendment. The State Department of Land Conservation & Development (DLCD) worked with the department on the changes; Jim Sitzman, the local DLCD representative met with Metro staff. Ordinance No. 88-261 is intended to clarify protected agricultural land provisions regarding Urban Growth Boundary locational adjustments, but is not intended to open up agricultural land to UGB development. In compliance with the DLCD notice requirement, Metro staff sent the ordinance draft to DLCD 45 days prior to this hearing. Drafts were also sent more recently to 1000 Friends and local jurisdictions' planning agencies for comment; 1000 Friends has not forwarded any comments. Staff incorporated language suggestions from Lorna Stickel, Multnomah County Planning Director. Although an announced public hearing, no citizens testified at the meeting.

Subsequent to the Committee meeting, the Committee Chair spoke with Paul Ketcham of 1000 Friends about this ordinance. Mr. Ketcham indicated he viewed the change as a reasonable solution to the dilemma of small parcels outside the UGB which would not meet the criteria for a formal exception to agricultural land protection standards, yet are already committed to non-farm uses.

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METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

January 5, 1989

Mr. Charles D. Cameron
County Administrator
Washington County Courthouse
150 N. First Avenue
Hillsboro, OR 97123

Dear Mr. Cameron:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

- * Ordinance No. 88-261, For the Purpose of Amending Chapter 3.01 of the Metropolitan Service District Code to Clarify Standards and Procedures for Identifying Protected Agricultural Land
- * Ordinance No. 88-263, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule for the Purpose of Additional Staffing and Capital Purchases in the Transportation Department
- * Ordinance No. 88-266, For the Purpose of Adopting the Regional Solid Waste Management Plan and Rescinding Prior Solid Waste Plan Provisions
- * Ordinance No. 88-268, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-3: Blazer Homes, Inc.
- * Ordinance No. 88-270, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Legislative Expenditures and Increased National Association of Regional Council Dues
- * Ordinance No. 88-272, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Increase in Oregon Laborer's Trust Health Care Premiums

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Deputy Presiding
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Tom DeJardin
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David Knowles
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Gary Hansen
District 12

Executive Officer
Rena Cusma

Charles D. Cameron
January 5, 1989
Page 2

- * Ordinance No. 88-273, For the Purpose of Amending Ordinance No. 88-266B (Relating to the Adoption of the Solid Waste Management Plan) By Establishing Enhancement Fees for Solid Waste Facilities and Adding Land Use Goal Findings
- * Ordinance No. 88-274, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for an Analysis for a Publicly Owned Metro East Transfer & Recycling Center
- * Ordinance No. 88-276, For the Purpose of Adding Section 5.01.085 to the Metro Code Relating to Franchise Agreements
- * Ordinance No. 88-277, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Reorganize Metro's Word Processing Function
- * Ordinance No. 88-278, For the Purpose of Amending Metro Code Chapter 5.02 Relating to Solid Waste Rates
- * Ordinance No. 88-279, An Ordinance Amending Chapter 2.04 of the Metro Code Relating to Metropolitan Exposition-Recreation Commission Contract Procedures

Sincerely,



A. Marie Nelson
Clerk of the Council

AMN:gpwb

enclosure



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

January 5, 1989

Mr. John Kauffman, County Clerk
Clackamas County
8th and Main
Oregon City, OR 97045

Dear Mr. Kauffman:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

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Sincerely,



A. Marie Nelson
Clerk of the Council

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METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

January 5, 1989

Ms. Jane McGarvin
Clerk of the Board
Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, OR 97204

Dear Jane,

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

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Sincerely,



A. Marie Nelson
Clerk of the Council

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