

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING )  
CHAPTER 3.01 OF THE METRO CODE ) Ordinance No. 05-1089A  
(URBAN GROWTH BOUNDARY AND URBAN )  
RESERVE PROCEDURES) AND TITLE 11 )  
(PLANNING FOR NEW URBAN AREAS) OF )  
THE URBAN GROWTH MANAGEMENT )  
FUNCTIONAL PLAN TO COMPLY WITH )  
CHANGES IN STATE PLANNING LAWS; AND )  
DECLARING AN EMERGENCY ) Introduced by Councilor Susan McLain

WHEREAS, the existing process for expanding the regional urban growth boundary (“UGB”) is so complicated and driven by numbers that it obscures from public understanding the important livability policies in Metro’s Regional Framework Plan and state planning laws; and

WHEREAS, the Oregon Land Conservation and Development Commission amended statewide planning Goal 14 on Urbanization on April 28, 2005, to make expansion of urban growth boundaries more understandable to the public and more efficient for local governments; and

WHEREAS, the Oregon Legislature enacted Senate Bill 1032 in the 2005 legislative session, calling for an efficient quasi-judicial process for considering applications from high growth school districts for sites for new schools; and

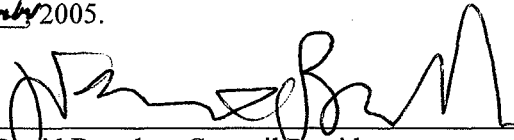
WHEREAS, minor adjustments to the regional UGB to conform to new information about the location of the 100-year floodplain should be made only after public notice and consultation with local governments; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

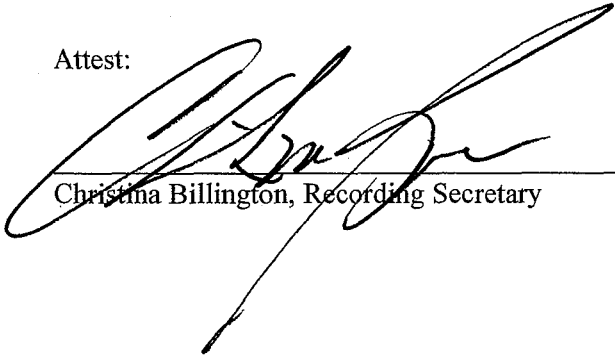
1. Metro Code Chapter 3.01, Urban Growth Boundary and Urban Reserve Procedures, is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance.
2. Title 11, Planning for New Urban Areas, of the Urban Growth Management Code is hereby amended as indicated in Exhibit B, attached and incorporated in this ordinance.
- ~~23.~~ The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit ~~B~~C, explain how the amendments to Metro Code Chapter 3.01 comply with the Regional Framework Plan and state law.
- ~~34.~~ This ordinance is necessary for the immediate preservation of public health, safety and welfare because Metro’s current process for expanding the UGB is no longer consistent with state law following LCDC’s April 28, 2005, amendments to statewide planning Goal 14. The

amendments to Goal 14 have made the UGB process simpler and more efficient, without weakening the substantive criteria for expansion. There are several possible UGB expansions now pending before the Council. The Council wants the benefits of this simpler state process available as soon as possible to save Metro and the citizens of the region time and money. An emergency is therefore declared to exist. This ordinance shall take effect immediately, pursuant to section 39(1) of the Metro Charter.

ADOPTED by the Metro Council this 17<sup>th</sup> day of November 2005.

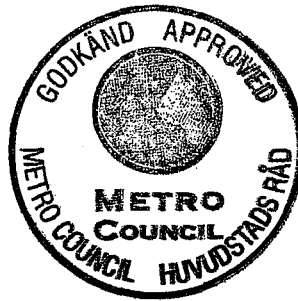
  
\_\_\_\_\_  
David Bragdon, Council President

Attest:

  
\_\_\_\_\_  
Christina Billington, Recording Secretary

Approved as to form:

  
\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney



AMENDMENTS TO CHAPTER 3.01  
URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

SECTIONS	TITLE
3.01.005	Purpose
3.01.010	Definitions
3.01.012	Urban Reserve Areas
3.01.015	Legislative Amendments - Procedures
3.01.020	Legislative Amendments - Criteria
3.01.025	Major Amendments - Procedures
3.01.030	Major Amendments - Criteria
3.01.033	Minor Adjustments - Procedures
3.01.035	Minor Adjustments - Criteria
3.01.040	Conditions of Approval
3.01.045	Fees
3.01.050	Notice Requirements
3.01.055	Regular Review of Chapter
3.01.060	Severability

3.01.005 Purpose

This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:

- (a) Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment;
- (b) Major amendments to address short-term needs that were not anticipated at the time of legislative amendments; and
- (c) Minor adjustments to make small changes to make the UGB function more efficiently and effectively.

3.01.010 Definitions

(a) "Council" has the same meaning as in Chapter 1.01 of the Metro Code.

(b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.

(c) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.

(d) "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of properties.

(e) "Property owner" means a person who owns the primary legal or equitable interest in the property.

(f) "Public facilities and services" means sewers, water service, stormwater services and transportation.

(g) "UGB" means the Urban Growth Boundary for Metro.

(h) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.

### 3.01.012 Urban Reserve Areas

(a) Purpose. This section establishes the process and criteria for designation of urban reserves areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.

(b) Designation of Urban Reserve Areas.

- (1) The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.
- (2) The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.
- (3) The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.
- (4) The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.

(c) Plans For Urban Reserve Areas. Cities and counties may plan for urban reserve areas, consistent with the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.

### 3.01.015 Legislative Amendments - Procedures

(a) The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

(b) Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.

(c) Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The Chief Operating Office shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:

- (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
- (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
- (3) The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

(e) The Council shall base its final decision on information received by the Council during the legislative process.

(f) The Council may amend the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to the land until the effective date of annexation of the land to the Metro district. A city or

county may adopt an amendment to its comprehensive plan pursuant to section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.

### 3.01.020 Legislative Amendments - Criteria

(a) The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.

(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

- (1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments;  
~~or~~ and
- (2) Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
- (3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.

(c) If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:

- (1) Efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

(d) If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:

- (1) Equitable and efficient distribution of housing and employment opportunities throughout the region;
- (2) Contribution to the purposes of Centers;
- (3) Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- (4) Avoidance of conflict with regionally significant fish and wildlife habitat; and
- (5) Clear transition between urban and rural lands, using natural and built features to mark the transition.

#### 3.01.025 Major Amendments - Procedures

(a) A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1).

(b) Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a ~~two-thirds~~ vote of five members of the full Council.

(c) With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

(d) The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends

approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

(e) The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

(f) Within 14 days after receipt of a complete application, the Chief Operating Officer will:

- (1) Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
- (2) Notify the public of the public hearing as prescribed in section 3.01.050 of this chapter.

(g) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available to the public at least seven days prior to the hearing.

(h) If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in section 3.01.015(d).

(i) An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.

(j) Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.



(k) Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.

(l) The hearings officer will provide the following information to participants at the beginning of the hearing:

- (1) The criteria applicable to major amendments and the procedures for the hearing;
- (2) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
- (3) A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.

(m) The hearing shall be conducted in the following order:

- (1) Presentation of the report and recommendation of the Chief Operating Officer;
- (2) Presentation of evidence and argument by the applicant;
- (3) Presentation of evidence and argument in support of or opposition to the application by other participants; and
- (4) Presentation of rebuttal evidence and argument by the applicant.

(n) The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

(o) If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

(p) Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

(q) A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

(r) The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.

(s) Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.

(t) Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

(u) The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

(v) The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of

the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.

### 3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other nonhousing needs.

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), ~~and~~ (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.

### 3.01.033 Minor Adjustments - Procedures

(a) A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by Section 3.01.025(d).

(b) The Chief Operating Officer will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.

(c) Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) The Chief Operating Officer shall review the application for compliance with the criteria in section 3.01.035 of this chapter and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy.

(e) The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral.

(f) Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(g) Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.

### 3.01.035 Minor Adjustments - Criteria

(a) The purpose of this section is to provide a mechanism to make small changes to the UGB to make it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and Regional Framework Plan policies applicable to minor adjustments.

(b) Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.

(c) To approve a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro shall find that:

- (1) The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;
- (2) Adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;
- (3) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (4) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (5) The adjustment will help achieve the 2040 Growth Concept;
- (6) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (7) If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.

(d) To approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall find that:

- (1) The adjustment will result in the addition of no more than two net acres to the UGB;
- (2) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;

- (3) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (4) The adjustment will help achieve the 2040 Growth Concept; and
- (5) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(e) Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

- (1) The delineation was done by a professional engineer registered by the State of Oregon;
- (2) The adjustment will result in the addition of no more than 20 net acres to the UGB;
- (3) The adjustment will help achieve the 2040 Growth Concept; and
- (4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(f) If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept designation for the area.

(g) The Chief Operating Officer shall submit a report to the Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.

### 3.01.040 Conditions of Approval

(a) Land added to the UGB by legislative amendment pursuant to Section 3.01.015 or by major amendment pursuant to Section 3.01.025 shall be subject to the requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code chapter 3.07.1105 et seq.).

(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when the Council adopts a legislative or major amendment to the UGB, the Council shall:

- (1) In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
- (2) Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.
- (3) Establish the boundaries of the area that shall be included in the planning required by Title 11. The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) Establish the time period for city or county compliance with the requirements of Title 11, which shall not be less than two years following the effective date of the ordinance adding the area to the UGB.

(c) When it adopts a legislative or major amendment to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.870 of the Urban Growth Management Functional Plan.

### 3.01.045 Fees

(a) Each application submitted by a property owner or group of property owners pursuant to this chapter shall be accompanied by a filing fee in an amount to be established by resolution of the

Council. Such fees shall not exceed the actual costs of Metro to process an application. The filing fee shall include administrative costs and the cost of a hearings officer and of public notice.

(b) The fees for costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.

(c) Before a hearing is scheduled, an applicant shall submit a fee deposit.

(d) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit, prior to final action by the Council.

(e) The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

#### 3.01.050 Notice Requirements

(a) For a proposed legislative amendment under section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;
- (2) In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and
- (3) To the general public by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

(b) For a proposed major amendment under section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:

- (1) In writing at least 45 days before the first public hearing on the proposal to:
  - (A) The applicant;



- (B) The director of the Department of Land Conservation and Development;
  - (C) The owners of property that is being considered for addition to the UGB; and
  - (D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
- (2) In writing at least 30 days before the first public hearing on the proposal to:
- (A) The local governments of the Metro area;
  - (B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and
- (3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

(c) The notice required by subsections (a) and (b) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) The time, date and place of the hearing;
- (3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference ~~can be~~ if available;
- (4) A statement that interested persons may testify and submit written comments at the hearing;
- (5) The name of the Metro staff to contact and telephone number for more information;

- (6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
- (7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings; ~~and~~
- (8) For proposed major amendments only:
  - (A) An explanation of the proposed boundary change;
  - (B) A list of the applicable criteria for ~~of~~ the proposal; and
  - (C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (9) For the owners of property described in paragraph (b)(1) ~~(iii)~~ (C) of this section, the information required by ORS 268.393(3).

(d) For a proposed minor adjustment under section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;
- (2) In writing at least 20 days before the issuance of an order on the proposal to:
  - (A) The applicant and the owners of property subject to the proposed adjustment;
  - (B) The owners of property within 500 feet of the property subject to the proposed adjustment;
  - (C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;
  - (D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed

amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and

(E) Any other person requesting notification of UGB changes.

(e) The notice required by subsection (d) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference ~~can be~~ if available;
- (3) A statement that interested persons may submit written comments and the deadline for the comments;
- (4) The name of the Metro staff to contact and telephone number for more information; and
- (5) A list of the applicable criteria for ~~of~~ the proposal.

(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.

### 3.01.055 Regular Review of Chapter

The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.

### 3.01.060 Severability

Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional, the remainder of this chapter shall continue in full force and effect.

**Exhibit B for Ordinance No. 05-1089A**

AMENDMENT TO TITLE 11 OF THE  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

**TITLE 11: PLANNING FOR NEW URBAN AREAS**

3.07.1120 Urban Growth Boundary Amendment Urban Reserve Plan Requirements

All territory added to the Urban Growth Boundary as either a major amendment or a legislative amendment pursuant to Metro Code chapter 3.01 shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. The comprehensive plan provisions shall contain an urban growth plan diagram and policies that demonstrate compliance with the RUGGO, including the Metro Council adopted 2040 Growth Concept design types. Comprehensive plan amendments shall include:

- A. Provision for annexation to the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all required urban services.
- B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or ~~lower such other densities which conform to the 2040 Growth Concept Plan design type designation for the area that the Council specifies pursuant to section 3.01.040 of the Urban Growth Boundary Functional Plan.~~
- C. Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.
- D. Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and

Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.

- E. Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.
- F. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.
- G. Identification, mapping and a funding strategy for protecting areas from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, or easement dedication to ensure that all significant natural resources are protected.
- H. A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

- I. A conceptual school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.
  
- J. An urban growth diagram for the designated planning area showing, at least, the following, when applicable:
  - 1. General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;
  - 2. Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;
  - 3. General locations for mixed use areas, commercial and industrial lands;
  - 4. General locations for single and multi-family housing;
  - 5. General locations for public open space, plazas and neighborhood centers; and
  - 6. General locations or alternative locations for any needed school, park or fire hall sites.
  
- K. The plan amendments shall be coordinated among the city, county, school district and other service districts.

**Exhibit C to Ordinance No. 05-1089A  
Findings of Fact and Conclusions of Law**

Metro Code Chapter 3.01 sets forth the process and the criteria for amendments to the urban growth boundary (“UGB”). This chapter is a functional plan that is part of - and implements policies in - the Regional Framework Plan (“RFP”). The chapter also implements state planning laws, including statewide planning Goal 14 (Urbanization), the goal that sets state policy on establishment and change of UGBs in Oregon. Ordinance No. 05-1089A revises Chapter 3.01 (Urban Growth Boundary and Urban Reserve Procedures), for reasons set forth below, and revises one provision in Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan to conform it to the changes in Chapter 3.01.

The Land Conservation and Development (“LCDC”) amended statewide planning Goal 14 on April 28, 2005. The Commission’s purpose was to simplify the process of amending UGBs, resulting in significant changes to the goal. The code revisions proposed in Ordinance No. 05-1089A (1) bring the Metro UGB code into conformance with the changes to Goal 14 and (2) simplify Metro’s own process and criteria for amendments to the UGB.

The 2005 Legislature enacted Senate Bill 1032 on school siting. HB 1032 calls upon Metro to provide an expeditious process for consideration of UGB expansion for sites for public schools during the period between Metro’s five-year UGB capacity analyses. The proposed code revisions bring the Metro UGB code into conformance with this new legislation (see description of changes to section 3.01.025).

Several Councilors have called for a more formal process for adjustments to the UGB where the boundary is intended to follow the line of the 100-year floodplain. Prior to adoption of Ordinance No. 05-1089A, the practice was to treat an adjustment to reflect new information about the floodplain as “ministerial” (no notice or hearing). Ordinance No. 05-1089A treats such adjustments as “minor adjustments” under sections 3.01.033 and 3.01.035 (notice and opportunity for hearing).

**I. SENATE BILL 1032**

Ordinance No. 05-1089A revises the procedures for “major amendments” to the UGB by establishing deadlines for completion of each part of the review process. Taken together, these deadlines allow for a final decision by the Metro Council within 125 days of receipt of a complete application. As amended, this process complies with Senate Bill 1032, enacted by the 2005 Legislature.

**II. STATEWIDE PLANNING GOALS**

**Statewide Planning Goal 1 – Citizen Involvement:** Metro provided notice of the proposed amendments to stakeholders and the general public by following the notification requirements in its acknowledged code. Metro provided notice to the Oregon Department of Land Conservation and Development Commission as provided in ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee and the Metropolitan Technical Advisory Committee, each of which recommended approval with their recommendations (incorporated). On November 10, 2005, the Metro Council held a public hearing on the proposed ordinance. These activities conform to Metro’s code and policies on citizen involvement and comply with Goal 1.

**Statewide Planning Goal 2 – Land Use Planning:** Metro sought and received comment from the local governments and special districts that comprise the metropolitan region. The Metro Charter provides for a Metropolitan Policy Advisory Committee (“MPAC”) composed principally of representatives of local governments, special districts and school districts in the region. MPAC reviewed Ordinance No. 05-1089A and recommended revisions to the draft, which the Council adopted. The ordinance complies with Goal 2.

**Statewide Planning Goal 3 – Agricultural Lands:** Ordinance No. 05-1089A protects agricultural land by requiring expansions of the UGB to comply with Goal 14, ORS 197.298 and other state planning laws.

**Statewide Planning Goal 4 – Forest Lands:** Ordinance No. 05-1089A protects forest land by requiring expansions of the UGB to comply with Goal 14, ORS 197.298 and other state planning laws.

**Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:** Ordinance No. 05-1089A protects natural and cultural resources by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

**Statewide Planning Goal 6 – Air, Land and Water Resources Quality:** Ordinance No. 05-1089A protects air, land and water resources quality by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

**Statewide Planning Goal 7 – Areas Subject to Natural Disasters and Hazards:** Ordinance No. 05-1089A reduces risk of natural disasters and hazards by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

**Statewide Planning Goal 8 – Recreational Needs:** Ordinance No. 05-1089A helps provide recreational needs in the region by requiring expansions of the UGB to comply with Goal 14 and state and regional planning laws.

**Statewide Planning Goal 9 – Economic Development:** Ordinance No. 05-1089A encourages economic development by requiring expansions of the UGB to comply with Goal 14 and other state planning laws, and by revising the “major amendment” process for expansion of the UGB to make it faster than the current process.

**Statewide Planning Goal 10 – Housing:** Ordinance No. 05-1089A provides opportunities for the full range of housing types and price/rent levels by requiring expansions of the UGB to comply with Goal 14 and state and regional planning laws and by requiring consideration of equitable distribution of housing in Section 3.01.020(d)(1).

**Statewide Planning Goal 11 – Public Facilities and Services:** Ordinance No. 05-1089A helps provide efficient urban services to territory added to the UGB by requiring expansions of the UGB to comply with Goal 14, ORS 197.298 and other state and regional planning laws.

**Statewide Planning Goal 12 – Transportation:** Ordinance No. 05-1089A helps provide efficient transportation services to territory added to the UGB by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

**Statewide Planning Goal 13 – Energy Conservation:** Ordinance No. 05-1089A helps conserve energy by requiring expansions of the UGB to comply with Goal 14.



**Statewide Planning Goal 14 – Urbanization:** Ordinance No. 05-1089A ensures an orderly and efficient transition from rural to urban land use by conforming the Metro UGB code to the amendments to Goal 14 made by LCDC on April 28, 2005, and by adhering to policies in the Regional Framework Plan. The Council amended its process for “major amendments” to conform to Senate Bill 1032 by adding deadlines to ensure that such an amendment can be reviewed and decided within 125 days after receipt of a complete application. The Council retained its “minor adjustment” process for very small adjustments (up to two acres). This process does not require a demonstration of “need”, because it is available only to make the UGB coterminous with nearby property lines or natural or built features and to site roads and lines for public facilities and services. This process has been acknowledged, first by LCDC (Continuance Order, October 19, 1981), and upon revision (reducing the maximum size of a minor adjustment from 50 acres to two acres) in 2002. The “major amendment” and “minor adjustment” processes make the transition from rural to urban land use more orderly and efficient.

**Statewide Planning Goal 15 – Willamette River Greenway:** Ordinance No. 05-1089A protects the greenway by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

### **III. REGIONAL FRAMEWORK PLAN**

**Policy 1.1 – Urban Form:** This policy calls for a compact urban form and affordable housing choices. Ordinance No. 05-1089A implements this policy by requiring consideration of compact urban form in Section 3.01.020(c)(1) and (2).

**Policy 1.2 – Built Environment:** This policy seeks fair-share and equitable growth. Ordinance No. 05-1089A implements this policy by requiring consideration of equitable and efficient distribution of growth in Section 3.01.020(d)(1).

**Policy 1.3 – Affordable Housing:** This policy seeks opportunities for a wide range of housing opportunities. Ordinance No. 05-1089A implements this policy by requiring consideration of equitable distribution of housing in Section 3.01.020(d)(1).

**Policy 1.4 – Economic Opportunity:** This policy seeks equitable distribution of jobs and a mix and balance of jobs with housing. Ordinance No. 05-1089A implements this policy by requiring consideration of equitable distribution of employment in Section 3.01.020(d)(1).

**Policy 1.6 – Growth Management:** This policy calls for efficient management of urban land, among other things. Ordinance No. 05-1089A implements this policy by requiring consideration of compact urban form in Section 3.01.020(c)(1) and (2).

**Policy 1.7 – Urban/Rural Transition:** This policy calls for placement of the UGB using natural and built features to provide a clear transition from rural to urban land use. Ordinance No. 05-1089A implements this policy by requiring consideration of transition in Section 3.01.020(d)(5).

**Policy 1.9 – Urban Growth Boundary:** This policy calls for contribution by new urban development to Centers and achievement of the objectives of the 2040 Growth Concept. Ordinance No. 05-1089A implements this policy by requiring consideration of all the factors in Section 3.01.020 and, with regard to Centers in particular, Section 3.01.020(d)(2).

**Policy 1.11 – Neighbor Cities:** This policy seeks to maintain a separation between communities in the larger metropolitan region. Ordinance No. 05-1089A implements this policy by requiring consideration of clear transition in Section 3.01.020(d)(5).

**Policy 1.12 – Protection of Agriculture and Forest Resource Land:** This policy calls for conservation of agricultural and forest land outside the UGB. Ordinance No. 05-1089A implements this policy by requiring consideration of compatibility between urban use and resource use in Section 3.01.020(c)(4) and protection of the region’s most important farmland in Section 3.01.020(d)(3).

**Policy 1.13 – Participation of Citizens:** Metro provided notice of the proposed amendments to its code by following the notification requirements in its acknowledged code. Metro also provided notice to the Oregon Department of Land Conservation and Development Commission in ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee and the Metropolitan Technical Advisory Committee, each of which recommended approval with their recommendations (incorporated). On November 10, 2005, the Metro Council held a public hearing on the proposed ordinance. These activities conform to Metro’s code and Policy 1.13.

AMENDMENTS TO CHAPTER 3.01  
URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

~~SECTIONS — TITLE~~

- ~~3.01.005 Purpose~~
- ~~3.01.010 Definitions~~
- ~~3.01.012 Urban Reserve Areas~~
- ~~3.01.015 Legislative Amendment Procedures~~
- ~~3.01.020 Legislative Amendment Criteria~~
- ~~3.01.025 Major Amendment Procedures~~
- ~~3.01.030 Criteria for Major Amendment~~
- ~~3.01.033 Minor Adjustment Procedures~~
- ~~3.01.035 Criteria for Minor Adjustments~~
- ~~3.01.037 Roadway Realignment - Administrative Adjustments (repealed Ord. 01-929A §10)~~
- ~~3.01.040 Metro Conditions of Approval~~
- ~~3.01.045 Fees~~
- ~~3.01.050 Hearing Notice Requirements~~
- ~~3.01.055 Public Hearing Rules Before the Hearings Officer~~
- ~~3.01.060 Exceptions to Hearings Officer Decision~~
- ~~3.01.065 Council Action on Quasi-Judicial Amendments~~
- ~~3.01.070 Final Action Notice Requirements~~
- ~~3.01.075 Boundary Line Location Interpretation (repealed Ord. 01-929A §11)~~
- ~~3.01.080 Chapter Regulation Review~~
- ~~3.01.085 Severability~~

SECTIONS        TITLE

- 3.01.005        Purpose
- 3.01.010        Definitions
- 3.01.012        Urban Reserve Areas
- 3.01.015        Legislative Amendments - Procedures
- 3.01.020        Legislative Amendments - Criteria
- 3.01.025        Major Amendments - Procedures
- 3.01.030        Major Amendments - Criteria
- 3.01.033        Minor Adjustments - Procedures
- 3.01.035        Minor Adjustments - Criteria
- 3.01.040        Conditions of Approval
- 3.01.045        Fees
- 3.01.050        Notice Requirements
- 3.01.055        Regular Review of Chapter
- 3.01.060        Severability

~~3.01.005 Purpose~~

~~— (a) This chapter is established to provide procedures to be used by Metro in making amendments to the Metro Urban Growth Boundary (UGB) adopted pursuant to ORS 268.390(3) and 197.005 through 197.430. The chapter is intended to interpret all criteria and standards for boundary amendments pertaining to Statewide Planning Goals 2 and 14,~~

~~and the Regional Urban Growth Goals and Objectives. Unique circumstances associated with a proposed amendment may require consideration of statewide planning goals other than Goals 2 and 14. This chapter is also established to be used for the establishment and management of Urban Reserves, pursuant to OAR 660-021-000 to 660-21-0100 and RUGGO Objective 22.~~

~~(b) The objectives of the UGB are to:~~

~~(1) Provide sufficient urban land for accommodating the forecast 20-year urban land need, reevaluated at least every five years as set forth in Sections 3.01.015-3.01.020;~~

~~(2) Provide for an efficient urban growth form which reduces sprawl;~~

~~(3) Provide a clear distinction between urban and rural lands;~~

~~(4) Encourage appropriate infill and redevelopment in all parts of the urban region.~~

~~(c) The objectives of the Urban Reserves are to:~~

~~(1) Identify sufficient land suitable for urbanization sufficient to accommodate the forecast needs for a 30 to 50-year interval, reevaluated at least every 15 years;~~

~~(2) Limit the areas which are eligible to apply for inclusion to the Urban Growth Boundary consistent with ORS 197.298, and protect resource lands outside the urban reserve areas;~~

~~(3) Protect lands designated as urban reserves for their eventual urbanization, and insure their efficient urbanization consistent with the 2040 Growth Concept, the RUGGOs and the Urban Growth Management Functional Plan;~~

~~(4) Provide for coordination between cities, counties, school districts, and special districts for planning for the urban reserve areas;~~

~~(5) Ensure a smooth transition to urban development by planning for general governance, public facilities, land uses, and planning for financing the capital needs of the urban development.~~

### 3.01.005 Purpose

This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:

- (a) Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment;
- (b) Major amendments to address short-term needs that were not anticipated at the time of legislative amendments; and
- (c) Minor adjustments to make small changes to make the UGB function more efficiently and effectively.

### 3.01.010 Definitions

(a) "Council" has the same meaning as in Chapter 1.01 of the Metro Code.

(b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.

(c) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.

~~(d) "Gross developable vacant land" means the total buildable land area within the UGB, as compiled by Metro for the purpose of determining the need for changes in the urban land supply. These are lands that can be shown to lack significant barriers to development. Gross developable vacant lands include, but are not limited to, all recorded lots on file with the county assessors equal to or larger than either the minimum lot size of the zone in which the lot is located or the minimum lot size which will be applied in an urban holding zone which:~~

~~(1) Are without any structures as corroborated through examination of the most recent aerial photography at the time of inventory; or~~

~~(2) Have no improvements according to the most recent assessor records.~~

~~(e) "Gross redevelopable land" means the total area of redevelopable land and infill parcels within the UGB including:~~

~~(1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and~~

~~(2) All recorded lots on file with the county assessors that are 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment properties will be developed by Metro to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that Metro substitute that data for inclusion in the gross developable land inventory.~~

~~(f) "Gross developable land" means the total of gross developable vacant land and gross redevelopable land.~~

(gd) "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of ~~persons~~ properties.

~~(h) "Natural area" means a landscape unit substantially without any human development that is substantially in a native and unaffected state and may be composed of plant and animal communities, water bodies, soil and rock and mitigated habitat. Natural areas must be identified in a city, county or special district open space inventory or plan.~~

~~(i) "Natural feature" means any landscape unit, such as a slope greater than 25 percent, a water body, a floodplain or a forest, that acts as a barrier or transition between human activities.~~

~~(j) "Net acre" for purposes of calculating the total land area within a proposal to amend the UGB means an area measured in acres which excludes:~~

~~(1) Any developed road rights of way through or on the edge of the proposed UGB amendment; and~~

~~(2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which~~

~~the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and~~

~~(3) All publicly owned land designated for park and open space uses.~~

~~(k) "Net developable land" means the total of net developable vacant land and net redevelopable land.~~

~~(l) "Net developable vacant land" means the number of acres that are available for all types of development after the total number of developable acres within the UGB is reduced by the amount of land for the provision of roads, schools, parks, private utilities, churches, social organizations, legally buildable single family lots, and other public facilities.~~

~~(m) "Net redevelopable land" means the amount of land remaining when gross redevelopable land is reduced by the estimated land needed for the provision of additional roads, schools, parks, private utilities and other public facilities. Metro shall determine the appropriate factor to be used for each jurisdiction in consultation with the jurisdiction within which the specific redevelopable land is located.~~

~~(n) "Nonurban land" means land currently outside the UGB.~~

~~(o) "Party" means any individual, agency, or organization who participates orally or in writing in the creation of the record established at a public hearing.~~

~~(p) "Planning period" means the period covered by the most recent officially adopted Metro forecasts, which is approximately a 20 year period.~~

(~~q~~e) "Property owner" means a person who owns the primary legal or equitable interest in the property.

(~~r~~f) "Public facilities and services" means ~~sanitary sewers, water service, fire protection, parks, open space, recreation, streets and roads and mass transit~~ stormwater services and transportation.

~~(s) "Regional forecast" means a 20 year forecast of employment and population by specific areas within the region, which has been adopted by Metro.~~

~~(t) "Site" means the subject property for which an amendment or locational adjustment is being sought.~~

~~(u) "Specific land need" means a specific type of identified land needed which complies with Goal 14, Factors 1 and 2 that cannot be reasonably accommodated on urban reserve land.~~

(vg) "UGB" means the Urban Growth Boundary for Metro ~~pursuant to ORS 268.390 and 197.005 through 197.430.~~

~~(w) "Urban land" means that land inside the UGB.~~

(\*h) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.

### 3.01.012 Urban Reserve Areas

(a) Purpose. ~~The purpose of t~~This section is to comply with ORS 197.298 by identifying lands designated urban reserve land by Metro as the first priority land for inclusion in the Metro Urban Growth Boundary establishes the process and criteria for designation of urban reserves areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.

#### (b) Designation of Urban Reserve Areas.

- (1) The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.
- (2) ~~The areas designated as urban reserves shall be sufficient to accommodate expected urban development for a 30 to 50 year period, taking into account an estimate of all potential developable and redevelopable land within the current Urban Growth Boundary.~~The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.
- (3) ~~The Council shall estimate the capacity of the urban reserves consistent with the procedures for estimating capacity of the urban area set forth in Section 3.01.020.~~The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.
- (4) ~~The minimum residential density to be used in estimating the capacity of the areas designated as urban reserves shall be an average of at least 10 dwelling units per net developable acre or lower densities which conform to the 2040 Growth Concept~~



~~design type designation for the urban reserve area. The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.~~

~~(5) The Council may designate a portion of the land required for urban reserves in order to phase designation of urban reserves.~~

~~(6) Metro has designated as urban reserve areas those lands indicated on the 2040 Growth Concept map which was adopted as part of the Regional Urban Growth Goals and Objectives.~~

(c) Plans For Urban Reserve Areas. ~~Subject to applicable law, e~~Cities and counties may ~~prepare and adopt comprehensive plan amendments~~ plan for urban reserve areas, consistent with ~~all provisions of the Urban Growth Management Functional Plan prior to the inclusion of an urban reserve area within the Urban Growth Boundary. Prior to the preparation and adoption of any such comprehensive plan amendments, at the request of a city or county, the Council shall establish the 2040 Growth Concept design types and the boundaries of the area to be planned, if it has not previously done so.~~ the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.

### ~~3.01.015 Legislative Amendment Procedures~~

~~(a) The process for determination of need and location of lands for amendment of the UGB is provided in Section 3.01.020.~~

~~(b) Notice shall be provided as described in Section 3.01.050.~~

~~(c) The Council shall initiate Legislative Amendments when it determines pursuant to Goal 14 and Section 3.01.020 that there is a need to add land to the Urban Growth Boundary.~~

~~(d) Before adopting any legislative amendment, Metro shall consult with cities, counties in the Metro Area and MPAC to determine which cities and counties, if any, are prepared to initiate comprehensive plan amendments for urban reserve areas, if they are included, within the Urban Growth Boundary.~~

~~(e) Where a city or county has adopted comprehensive plan amendments for an urban reserve area pursuant to Section 3.01.012(c), the Metro Council shall rely upon the planned status of that urban reserve in considering applicable criteria.~~

~~(f) Legislative amendment decisions shall be based upon substantial evidence in the decision record which demonstrates how the amendment complies with applicable state and local law and statewide goals as interpreted by Section 3.01.020.~~

~~(g) The following public hearings process shall be followed for legislative amendments:~~

~~(1) Metro Council shall refer a proposed amendment to the appropriate Council committee at the first Council reading of the ordinance.~~

~~(2) The committee shall take public testimony at as many public hearings as necessary. At the conclusion of public testimony, the committee shall deliberate and make recommendations to the Council.~~

~~(3) The Council shall take public testimony at its second reading of the ordinance, discuss the proposed amendment, and approve the ordinance with or without revisions or conditions, or refer the proposed legislative amendment to the Council committee for additional consideration.~~

~~(4) Testimony before the Council or the committee shall be directed to Goal 14 and Goal 2 considerations interpreted at Section 3.01.020 of this chapter.~~

~~(h) The Council may approve expansion of the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to that land until Metro annexes the land to the district. A city or county may approve an amendment to its comprehensive plan pursuant to section 3.07.1120 of the Metro Code so long as the amendment does not become applicable to the subject land until Metro annexes that land to the district.~~

~~(i) At least 20 days prior to approving any amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Copies of the completed report shall be provided to all households located within one mile of the proposed amendment area and to all cities and counties within the district. The report shall address:~~

~~(1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;~~

~~(2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and~~

~~(3) The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.~~

### 3.01.015 Legislative Amendments - Procedures

(a) The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

(b) Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.

(c) Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The Chief Operating Office shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:

- (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
- (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
- (3) The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

(e) The Council shall base its final decision on information received by the Council during the legislative process.

(f) The Council may amend the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to the land until the effective

date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.

~~3.01.020 Legislative Amendment Criteria~~

~~(a) The purpose of this section is to address ORS 197.298, Goals 2 and 14 of the statewide planning goals and the Regional Framework Plan. This section details a process which is intended to interpret Goals 2 and 14 for specific application to Metro UGB. Compliance with this section shall constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the Regional Framework Plan.~~

~~(b) While all of the following Goal 14 factors must be addressed, the factors cannot be evaluated without reference to each other. Rigid separation of the factors ignores obvious overlaps between them. Demonstration of compliance with one factor or subfactor may not constitute a sufficient showing of compliance with the goal, to the exclusion of the other factors when making an overall determination of compliance or conflict with the goal. For legislative amendments, if need has been addressed, Metro shall demonstrate that the priorities of ORS 197.298 have been followed and that the recommended site was better than alternative sites, balancing Factors 3 through 7.~~

~~(1) Factor 1: Demonstrated need to accommodate long range urban population growth.~~

~~(A) Metro shall develop 20 year Regional Forecasts of Population and Employment, which shall include a forecast of net developable land need, providing for coordination with cities, counties, special districts and other interested parties, and review and comment by the public. After deliberation upon all relevant facts, Metro shall adopt a forecast. This forecast shall be completed at least every five years or at the time of periodic review, whichever is sooner. Concurrent with the adoption of Metro's 20 year Regional Forecast, Metro shall complete an inventory of net developable land calculating the supply of buildable land within the Urban Growth Boundary by applying the variables set forth in Chapter 1 of the Regional Framework Plan. Metro shall provide the opportunity for review and comment by all cities and counties in the Metro Area, and by the public.~~

- ~~(i) In calculating the supply of buildable lands in the Urban Growth Boundary, Metro shall estimate the effect, based on the best information available, of changes to zoned capacity that have been adopted and implemented by local governments to comply with the Region 2040 Growth Concept and all titles of the Urban Growth Management Functional Plan.~~
- ~~(ii) Metro shall estimate the number of gross vacant buildable acres within the Urban Growth Boundary.~~
- ~~(iii) Metro shall estimate the number of net vacant buildable acres within the Urban Growth Boundary from the gross vacant buildable acres. The number of acres estimated to be unavailable for housing development shall be subtracted to estimate the net acres, including, but not limited to:
  - ~~(I) Lands in environmentally sensitive areas and lands with slopes equal to or exceeding 25 percent, provided those lands are zoned so as to be unavailable for housing development.~~
  - ~~(II) Lands for streets, schools, parks, churches and social organizations.~~
  - ~~(III) Vacant legally buildable lots zoned for single family residential use.~~~~
- ~~(iv) Metro shall estimate the number of net vacant buildable acres that are available for residential use based on current local government zoning designations. Metro shall also estimate the number of dwelling units that these residentially zoned lands can accommodate under existing zoning designations.~~
- ~~(v) Metro shall reduce the estimated number of dwelling units that can be accommodated on vacant residential lands to account for the following:
  - ~~(I) The number of dwelling units estimated to be lost when property owners do not develop to maximum residential~~~~

~~densities, taking into account zoned minimum densities; and~~

~~(II) If Metro adopts additional measures to increase residential densities inside the existing Urban Growth Boundary, the number of additional dwelling units estimated to be accommodated as the result of the new measures.~~

~~(vi) Metro shall increase the estimated number of dwelling units that may be accommodated on vacant residential lands due to changes in zoning or development patterns, including but not limited to, the following:~~

~~(I) Local adoption of mixed use zoning designations;~~

~~(II) Local adoption of increased residential densities to meet Region 2040 Growth Concept and Title 1 of the Urban Growth Management Functional Plan;~~

~~(III) The estimated number of dwelling units that may be accommodated as a result of redevelopment and infill development and accessory dwelling units;~~

~~(IV) The estimated number of dwelling units allowed on legally buildable lots in environmentally constrained areas;~~

~~(V) Development on vacant and legally buildable lots zoned for single family at a rate of one dwelling unit per lot.~~

~~(B) The forecast and inventory, along with all other appropriate data shall be considered by Metro in determining the need for net developable land. Appropriate data includes, but is not limited to, estimates of the actual density and the actual average mix of housing types of residential development that have occurred within the Urban Growth Boundary since the last periodic review of the Urban Growth Boundary or last five years, whichever is greater. The results of the inventory and forecast shall be compared, and if~~

~~the net developable land equals or is larger than the need forecast, then Metro Council shall hold a public hearing, providing the opportunity for comment. The Council may conclude that there is no need to move the UGB and set the date of the next five year review or may direct staff to address any issues or facts which are raised at the public hearing.~~

~~(C) If the inventory of net developable land is insufficient to accommodate the housing need identified in the 20 year Regional Forecast at the actual developed density that has occurred since the last periodic review of the Urban Growth Boundary, Metro shall:~~

~~(i) Conduct a further analysis of the inventory of net developable land to determine whether the identified need can reasonable be met within the Urban Growth Boundary including a consideration of whether any significant surplus of developable land in one or more land use categories could be suitable to address the unmet forecasted need;~~

~~(ii) Estimate city and county progress toward meeting the target capacities for dwelling units and employment set forth in Title 1 of the Urban Growth Management Functional Plan (Metro Code, Table 3.07 1);~~

~~(iii) Consider amendments to the Urban Growth Management Functional Plan that would increase the number of dwelling units that can be accommodated on residential and mixed-use land within the Urban Growth Boundary;~~

~~(iv) Adopt amendments to the Urban Growth Management Functional Plan that the Metro Council determines are appropriate;~~

~~(v) Estimate whether the increased number of dwelling units accommodated within the Urban Growth Boundary due to amendments to the Urban Growth Management Functional Plan will provide a sufficient number of dwelling units to satisfy the forecasted need;~~

~~(vi) The Metro Council shall hold a public hearing prior to its determination of whether any estimated deficit of net developable land is sufficient to justify an analysis of locations for a legislative amendment of the UGB.~~

~~(D) For consideration of a legislative UGB amendment, Metro Council shall review an analysis of land outside the present UGB to determine those areas best suited for expansion of the UGB to meet the identified need.~~

~~(E) Metro must find that the identified need cannot reasonably be met within the UGB, consistent with the following considerations:~~

~~(i) That there is not a suitable site with an appropriate comprehensive plan designation.~~

~~(ii) All net developable land with the appropriate plan designation within the existing UGB shall be presumed to be available for urban use during the planning period.~~

~~(iii) Market availability and level of parcelization shall not render an alternative site unsuitable unless justified by findings consistent with the following criteria:~~

~~(I) Land shall be presumed to be available for use at some time during the planning period of the UGB unless legal impediments, such as deed restrictions, make it unavailable for the use in question.~~

~~(II) A parcel with some development on it shall be considered unavailable if the market value of the improvements is not significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment will be developed by Metro to provide a means to define what is significant when comparing structure value and land values. When a city or county has~~



~~more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that Metro substitute that data in Metro gross developable land inventory.~~

~~(III) Properly designated land in more than one ownership shall be considered suitable and available unless the current pattern or level of parcelization makes land assembly during the planning period unfeasible for the use proposed.~~

~~(2) Factor 2: Need for housing, employment opportunities and livability may be addressed under either subsection (A) or (B) or both, as described below.~~

~~(A) For a proposed amendment to the UGB based upon housing or employment opportunities Metro must demonstrate that a need based upon an economic analysis can only be met through a change in the location of the UGB. For housing, the proposed amendment must meet an unmet need according to statewide planning Goal 10 and its associated administrative rules. For employment opportunities, the proposed amendment must meet an unmet long term need according to statewide planning Goal 9 and its associated administrative rules. The amendment must consider adopted comprehensive plan policies of jurisdictions adjacent to the site, when identified by a jurisdiction and must be consistent with Metro's adopted policies on urban growth management, transportation, housing, solid waste, and water quality management.~~

~~(B) To assert a need for a UGB amendment based on livability, Metro must:~~

~~(i) Factually define the livability need, including its basis in adopted local, regional, state, or federal policy;~~

~~(ii) Factually demonstrate how the livability need can best be remedied through a change in the location of the UGB;~~

~~(iii) Identify both positive and negative aspects of the proposed UGB amendment on both the~~

~~livability need and on other aspects of livability; and~~

~~(iv) Demonstrate that, on balance, the net result of addressing the livability need by amending the UGB will be positive.~~

~~(3) Factor 3: Orderly and economic provision of public facilities and services. An evaluation of this factor shall be based upon the following:~~

~~(A) For the purposes of this section, economic provision shall mean the lowest public cost provision of urban services. When comparing alternative sites with regard to Factor 3, the best site shall be that site which has the lowest net increase in the total cost for provision of all urban services. In addition, the comparison may show how the proposal minimizes the cost burden to other areas outside the subject area proposed to be brought into the boundary.~~

~~(B) For the purposes of this section, orderly shall mean the extension of services from existing serviced areas to those areas which are immediately adjacent and which are consistent with the manner of service provision. For the provision of gravity sanitary sewers, this could mean a higher rating for an area within an already served drainage basin. For the provision of transit, this would mean a higher rating for an area which could be served by the extension of an existing route rather than an area which would require an entirely new route.~~

~~(4) Factor 4: Maximum efficiency of land uses within and on the fringe of the existing urban area. An evaluation of this factor shall be based on at least the following:~~

~~(A) The subject area can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and the ability to provide for a mix of land uses to meet the needs of residents and employees. If it can be shown that the above factors of compact form can be accommodated more readily in one area than others, the area shall be more favorably considered.~~

~~(B) The proposed UGB amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with local comprehensive plan policies and regional functional plans, by assisting with achieving residential and employment densities capable of supporting transit service; supporting the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improving the likelihood of realizing a mix of land uses to meet the needs of residents and employees.~~

~~(5) Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall be based upon consideration of at least the following:~~

~~(A) If the subject property contains any resources or hazards subject to special protection identified in the local comprehensive plan and implemented by appropriate land use regulations, findings shall address how urbanization is likely to occur in a manner consistent with these regulations.~~

~~(B) Complementary and adverse economic impacts shall be identified through review of a regional economic opportunity analysis, if one has been completed. If there is no regional economic opportunity analysis, one may be completed for the subject land.~~

~~(C) The long term environmental, energy, economic, and social consequences resulting from the use at the proposed site. Adverse impacts shall not be significantly more adverse than would typically result from the needed lands being located in other areas requiring an amendment of the UGB.~~

~~(6) Factor 6: Retention of agricultural land. This factor shall be addressed through the following:~~

~~(A) Prior to the designation of urban reserves, the following hierarchy shall be used for identifying priority sites for urban expansion to meet a demonstrated need for urban land:~~

~~(i) Expansion on rural lands excepted from statewide planning Goals 3 and 4 in adopted and acknowledged county comprehensive plans. Small amounts of rural resource~~

~~land adjacent to or surrounded by those "exception lands" may be included with them to improve the efficiency of the boundary amendment. The smallest amount of resource land necessary to achieve improved efficiency shall be included;~~

~~(ii) If there is not enough land as described in (i) above to meet demonstrated need, secondary or equivalent lands, as defined by the state, should be considered;~~

~~(iii) If there is not enough land as described in either (i) or (ii) above, to meet demonstrated need, secondary agricultural resource lands, as defined by the state should be considered;~~

~~(iv) If there is not enough land as described in either (i), (ii) or (iii) above, to meet demonstrated need, primary forest resource lands, as defined by the state, should be considered;~~

~~(v) If there is not enough land as described in either (i), (ii), (iii) or (iv) above, to meet demonstrated need, primary agricultural lands, as defined by the state, may be considered.~~

~~(B) After urban reserves are designated and adopted, consideration of Factor 6 shall be considered satisfied if the proposed amendment is wholly within an area designated as an urban reserve.~~

~~(C) After urban reserves are designated and adopted, a proposed amendment for land not wholly within an urban reserve must also demonstrate that the need cannot be satisfied within urban reserves.~~

~~(7) Factor 7: Compatibility of proposed urban development with nearby agricultural activities.~~

~~The record shall include an analysis of the potential impact on nearby agricultural activities including the following:~~

~~(i) A description of the number, location and types of agricultural activities occurring within one mile of the subject site;~~

~~(ii) An analysis of the potential impacts, if any, on nearby agricultural activities taking place on lands designated for agricultural use in the applicable adopted county or city comprehensive plan, and mitigation efforts, if any impacts are identified. Impacts to be considered shall include consideration of land and water resources which may be critical to agricultural activities, consideration of the impact on the farming practices of urbanization of the subject land, as well as the impact on the local agricultural economy.~~

~~(c) The requirements of statewide planning Goal 2 will be met by addressing all of the requirements of Section 3.01.020(b), above, and by factually demonstrating that:~~

~~(1) The land need identified cannot be reasonably accommodated within the current UGB; and~~

~~(2) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts; and~~

~~(3) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas than the proposed site and requiring an exception.~~

~~(d) The proposed location for the UGB shall result in a clear transition between urban and rural lands, using natural and built features, such as roads, drainage divides, floodplains, powerlines, major topographic features, and historic patterns of land use or settlement.~~

~~(e) The Council shall determine whether adding land to the UGB contributes to the purposes of Centers.~~

~~(f) Satisfaction of the requirements of Section 3.01.020(a) and (b) does not mean that other statewide planning goals do not need to be considered. If the proposed amendment involves other statewide planning goals, they shall be addressed.~~

~~(g) Sections 3.01.020(a), (b), (c), (d) and (e) shall be considered to be consistent with and in conformance with the Regional Framework Plan.~~

~~(h) Where efficiencies in the future development of an existing urban reserve are demonstrated, the Metro Council may amend the urban reserve in the same UGB amendment process to include additional adjacent nonresource lands up to 10 percent of the total acreage. Any urban reserve amendment shall demonstrate compliance with the Urban Reserve Rule (OAR 660-021-0030).~~

### 3.01.020 Legislative Amendments - Criteria

(a) The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.

(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

- (1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; or
- (2) Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
- (3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.

(c) If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:

- (1) Efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

(d) If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:

- (1) Equitable and efficient distribution of housing and employment opportunities throughout the region;
- (2) Contribution to the purposes of Centers;
- (3) Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- (4) Avoidance of conflict with regionally significant fish and wildlife habitat; and
- (5) Clear transition between urban and rural lands, using natural and built features to mark the transition.

3.01.025 Major Amendment Procedures

~~(a) A city, a county, a special district or a property owner may file an application for a major amendment to the UGB on a form provided for that purpose. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Metro Council is completing its five year analysis of buildable land supply under ORS 197.299(1). After receipt of a complete application, the Chief Operating Officer will set the matter for a public hearing and provide notice to the public in the manner set forth in Sections 3.01.050 and 3.01.055.~~

~~(b) The Chief Operating Officer will determine whether the application is complete and notify the applicant of its determination within seven working days after the filing of an application. If the application is not complete, the applicant shall revise it to be complete within 14 days of notice of incompleteness from the Chief Operating Officer. The Chief Operating Officer will dismiss an application and return application fees if it does not receive a complete application within 14 days of its notice.~~

~~(c) Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may, by a two thirds vote of the full Council, waive the filing deadline for an application.~~

~~(d) Except for that calendar year in which the Metro Council is completing its five year analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for acceptance of applications for major amendments not less than 120 calendar days before the deadline and again 90 calendar days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro. A copy of the notice shall~~

~~be mailed not less than 90 calendar days before the deadline to anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained.~~

~~(e) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 21 calendar days before the hearing. The Chief Operating Officer shall send a copy of the report and recommendation simultaneously to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available at least seven days prior to the hearing.~~

~~(f) An applicant shall provide a list of names and addresses of property owners for notification purposes, consistent with Section 3.01.055, when submitting an application. The list shall be certified in one of the following ways:~~

~~(1) By a title company as a true and accurate list of property owners as of a specified date; or~~

~~(2) By a county assessor, or designate, pledging that the list is a true and accurate list of property owners as of a specified date; or~~

~~(3) By the applicant affirming that the list is a true and accurate list as of a specified date.~~

~~(g) An applicant may request postponement of the hearing to consider the application within 90 days after filing of the application. The Chief Operating Officer may postpone the hearing for no more than 90 days. If the Chief Operating Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer shall return the portion of the fee deposit not required for costs assessed pursuant to Section 3.01.045.~~

~~(h) Position of City or County:~~

~~(1) Except as provided in paragraph (4) of this section, an application shall not be considered complete unless it includes a written statement by the governing body of each city or county with land use jurisdiction over the area included in the application that:~~

~~(A) Recommends approval of the application;~~

~~(B) Recommends denial of the application; or~~

~~(C) Makes no recommendation on the application.~~



~~(2) Except as provided in paragraph (4) of this subsection, an application shall not be considered complete unless it includes a written statement by any special district that has an agreement with the governing body of any city or county with land use jurisdiction over the area included in the application to provide an urban service to the area that:~~

~~(A) Recommends approval of the application;~~

~~(B) Recommends denial of the application; or~~

~~(C) Makes no recommendation on the application.~~

~~(3) If a city, county or special district holds a public hearing to consider an application, it shall:~~

~~(A) Provide notice of such hearing to the Chief Operating Officer and any city or county whose municipal boundary or urban planning area boundary abuts the area; and~~

~~(B) Provide the Chief Operating Officer with a list of the names and addresses of persons testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.~~

~~(4) Upon request by an applicant, the Council may waive the requirements of subsections (1) and (2) of this section if the applicant shows that the local government has a policy not to comment on such applications or that a request for comment was filed with the local government or special district at least 120 calendar days before the request and the local government or special district has not yet adopted a position on the application. The governing body of a local government may delegate the decisions described in paragraphs (1) and (2) of this subsection to its staff.~~

~~(i) The Council may approve expansion of the UGB to include land outside the Metro Area only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.~~

~~(j) The proposed amendment to the UGB shall include the entire right-of-way of an adjacent street to ensure that public facilities~~

~~and services can be provided to the subject property by the appropriate local government or service district in a timely and efficient manner.~~

~~(k) At least 30 days prior to the first public hearing on an application to amend the UGB to include in excess of 100 acres, the applicant shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Metro shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:~~

- ~~(1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;~~
- ~~(2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and~~
- ~~(3) The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.~~

### 3.01.025 Major Amendments - Procedures

(a) A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1).

(b) Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a vote of five members of the full Council.

(c) With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

(d) The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

(e) The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

(f) Within 14 days after receipt of a complete application, the Chief Operating Officer will:

- (1) Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
- (2) Notify the public of the public hearing as prescribed in section 3.01.050 of this chapter.

(g) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available to the public at least seven days prior to the hearing.

(h) If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in section 3.01.015(d).

(i) An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.

(j) Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.

(k) Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.

(l) The hearings officer will provide the following information to participants at the beginning of the hearing:

- (1) The criteria applicable to major amendments and the procedures for the hearing;
- (2) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
- (3) A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.

(m) The hearing shall be conducted in the following order:

- (1) Presentation of the report and recommendation of the Chief Operating Officer;
- (2) Presentation of evidence and argument by the applicant;
- (3) Presentation of evidence and argument in support of or opposition to the application by other participants; and
- (4) Presentation of rebuttal evidence and argument by the applicant.

(n) The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

(o) If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

(p) Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

(q) A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

(r) The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.

(s) Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.

(t) Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

(u) The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

(v) The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.

3.01.030 Criteria for Major Amendment

~~— (a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last five year analysis of buildable land supply and cannot wait until the next five year analysis. This section establishes criteria for major amendments to the UGB and sets forth how state law applies to these amendments. Metro intends compliance with the criteria of this section to constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the Regional Urban Growth Goals and Objectives. Land may be added to the UGB under this section only for the following purposes: public facilities, public schools, natural areas, land trades and other nonhousing needs.~~

~~— (b) The applicant shall demonstrate that the amendment will provide for an orderly and efficient transition from rural to urban use, considering the following factors:~~

~~— (1) Demonstrated need to accommodate long range urban population growth. The Metro Council will consider, based upon evidence in the record, whether the need for the subject land was accommodated at the time of the last legislative analysis of the UGB required by ORS 197.299. If the need was not accommodated in that analysis, the Metro Council will consider whether the need must be met now, rather than at the time of the next legislative amendment, in order to ensure an orderly and efficient transition from rural to urban use.~~

~~— (2) Need for employment opportunities and livability. The Metro Council will consider, based upon evidence in the record, whether the need must be met at a particular location, or in a particular part of the region, in order to secure an employment or livability opportunity that cannot await the next legislative review of the UGB required by ORS 197.299(1), or to ensure the livability of that part of the region.~~

~~— (3) Orderly and economic provision of public facilities and services. The Metro Council will consider, based upon evidence in the record, whether adding the subject land to the UGB, as compared with other land~~

~~that might be added, will result in a more logical extension of public facilities and services and reduce the overall cost of public facilities and services to land already within the UGB.~~

~~(4) Maximum efficiency of land uses within and on the fringe of the existing urban area. The Metro Council will consider, based upon evidence in the record, whether, in comparison with other land that might be added to the UGB, addition of the subject land will better achieve the residential and employment targets and transportation objectives in the 2040 Growth Concept that apply to nearby land within the UGB.~~

~~(5) Environmental, energy, economic and social consequences. The Metro Council will consider, based upon evidence in the record, whether the consequences of addition of the subject land would be, on the whole, more positive than not including the land, and more positive than including other land.~~

~~(6) Retention of agricultural and forest land. The Metro Council will consider, based upon evidence in the record, addition of land designated for agriculture or forestry pursuant to a statewide Goal 3 (Agricultural Land) or Goal 4 (Forest Land) only under the following circumstances:~~

~~(A) There is no land designated as urban reserve land pursuant to OAR 660, Division 021, as exception land pursuant to ORS 197.732(1)(a) or (b), or as marginal land pursuant to ORS 197.247 (1991 Edition) available to accommodate the subject need; or~~

~~(B) There is no land designated urban reserve available to accommodate the subject need, the subject land is not high value farmland as described in ORS 215.710, and the subject land is completely surrounded by exception land; or~~

~~(C) The application identifies a specific type of land need that cannot reasonably be accommodated on land described in (A) or (B) of this paragraph; or~~

~~(D) Future urban services could not reasonably be provided to land described in (A) or (B) of this paragraph.~~

~~(7) Compatibility of proposed urban development with nearby agricultural activities. The Metro Council~~

~~will consider, based upon evidence in the record, whether urban development on the subject land would likely cause a change in farm practices, or an increase in the cost of farm practices, on farms in areas designated for agriculture or forestry pursuant to a statewide planning goal within one mile of the subject land, based upon an inventory and analysis of those practices. The Metro Council will also consider measures that might eliminate or alleviate the potential conflicts with farm practices.~~

~~(c) The applicant shall demonstrate that:~~

~~(1) There is no land within the existing UGB that can reasonably accommodate the subject need;~~

~~(2) The long term environmental, economic, social and energy consequences of addition of the subject land would not be significantly more adverse than the consequence of adding other land;~~

~~(3) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;~~

~~(4) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB;~~

~~(5) The amendment complies with applicable statewide planning goals; and~~

~~(6) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.~~

~~(d) If the Metro Council adds land to the UGB in order to facilitate a trade and the land is available for housing, the Metro Council shall designate the land to allow an average density of at least 10 units per net developable acre or such lower density that is consistent with the 2040 Growth Concept plan designation for the area.~~

~~(e) Compliance with the criteria in subsections (b) and (c) of this section shall constitute conformance with the Regional Urban Growth Goals and Objectives.~~

### 3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this



section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other nonhousing needs.

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.

### 3.01.033 Minor Adjustments - Procedures

(a) A city, a county, a special district, Metro or a property owner may ~~file an application with Metro for initiate~~ a minor adjustment to the UGB by filing an application on a form provided ~~for that purpose~~ by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by Section 3.01.025(~~hd~~).

~~—(b) Upon receipt of a complete application, the Chief Operating Officer shall provide notice of the application to the persons specified in Sections 3.01.050(d)(1) and 3.01.050(d)(3) through (6) to owners of property within 100 feet of the land involved in the application, to the Metro Council and to any person who requests notification of applications for minor adjustments.~~

(~~eb~~) The Chief Operating Officer ~~shall~~ will determine whether ~~the an~~ application is complete and shall notify the applicant of ~~its the~~ determination within ~~seven working ten~~ days after the filing of ~~an the~~ application. If the application is not complete, the applicant shall complete it within 14 days of ~~the Chief Operating Officer's~~

notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if ~~it does not receive~~ a complete application is not received within 14 days of ~~its the~~ notice of incompleteness.

(c) Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.

(d) The Chief Operating Officer shall review the application for compliance with the criteria in Section 3.01.035 of this chapter and shall issue an order with ~~its~~ analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall send a copy of ~~its the~~ order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy ~~and to each member of the Council~~.

(e) The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by ~~the Chief Operating Officer Metro for that purpose~~ within 14 days ~~of~~ after receipt of the order. ~~In addition, any A~~ member of the Council may request in writing ~~that~~ within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral. ~~Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order on the minor adjustment. The Council shall issue an order with its analysis and conclusion and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.~~

(f) Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.

(g) Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.

### 3.01.035 ~~Criteria for~~ Minor Adjustments - Criteria

(a) The purpose of this section is to provide a mechanism to make small changes to the UGB ~~in order~~ to make it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and Regional Framework Plan policies applicable to ~~boundary~~ minor adjustments.

(b) Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.

(c) To ~~make~~ approve a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro shall find that:

- (1) The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;
- (2) Adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;
- (3) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (4) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (5) The adjustment will help achieve the 2040 Growth Concept;
- (6) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (7) If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.

(d) To ~~make~~ approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall find that:

- (1) The adjustment will result in the addition of no more than two net acres to the UGB;
- (2) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;

- (3) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (4) The adjustment will help achieve the 2040 Growth Concept; and
- (5) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(e) Where the UGB is intended to be coterminus with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

- (1) The delineation was done by a professional engineer registered by the State of Oregon;
- (2) The adjustment will result in the addition of no more than 20 net acres to the UGB;
- (3) The adjustment will help achieve the 2040 Growth Concept; and
- (4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

~~(ef) If the Metro Council adds land to the UGB in order to facilitate a trade and the land is available for housing, the~~ a minor adjustment adds more than two acres of land available for housing to the UGB, Metro ~~Council~~ shall designate the land to allow an average density of at least 10 units per net developable acre or such ~~lower other~~ density that is consistent with the 2040 Growth Concept designation for the area.

~~(fg)~~ The Chief Operating Officer shall submit a report to the Council at the end of each calendar year with an analysis of all boundary minor adjustments made during the year ~~pursuant to this section~~. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.

#### 3.01.040 ~~Metro~~ Conditions of Approval

(a) Land added to the UGB by legislative amendment pursuant to Section 3.01.015 or by major amendment pursuant to Section 3.01.025 shall be subject to the ~~Urban Growth Boundary area comprehensive plan~~

requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code Section 3.07.~~1110~~1105 et seq.).

(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when ~~it~~ the Council adopts a Legislative or major amendment ~~adding land~~ to the UGB, the Council shall ~~take the following actions~~:

- (1) ~~The Council shall consult~~ In consultation with affected ~~affected~~ local governments, ~~and MPAC to determine whether local governments have agreed, pursuant to ORS 195.065 to 195.085 or otherwise, which local government shall adopt comprehensive plan amendments for the area consistent with requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.). Where the affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate. If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.~~ designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
- (2) ~~The Council shall e~~Establish the 2040 Growth Concept design type designations applicable to the land added to the ~~Urban Growth Boundary~~, including the ~~special specific~~ land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.
- (3) ~~The Council shall e~~Establish the boundaries of the area that shall be included in the ~~conceptual level of planning required by Title 11. of the Urban Growth Management Functional Plan (Metro Code Section 3.07.1110 et seq.)~~. The boundary of the planning area may include all or part of one or more designated urban reserves.

(4) ~~The Council shall also e~~Establish the time period for city or county compliance with the requirements of ~~the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11, thereof (Metro Code Section 3.07.1110 et seq.); however, the time period shall not be less~~ which shall not be less than two (2) years from the time a local government is designated pursuant to Section 3.01.040(b)(1) above following the effective date of the ordinance adding the area to the UGB.

~~(5) The Council may adopt text interpretations of the requirements of Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.) that shall be applicable to the required City or County comprehensive plan amendments. These interpretations may address special land needs that are the basis for the amendment but otherwise such interpretations shall not impose specific locational development requirements. Text interpretations may include determinations that certain provisions of Title 11 are not applicable to specific areas because of the size or physical characteristics of land added to the Urban Growth Boundary.~~

(c) When it adopts a legislative or major amendment ~~adding land~~ to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.870 of the Urban Growth Management Functional Plan.

### 3.01.045 Fees

(a) Each application submitted by a property owner or group of property owners pursuant to this chapter shall be accompanied by a filing fee in an amount to be established by resolution of the Council. Such fees shall not exceed the actual costs of Metro to process an application. The filing fee shall include administrative costs and the cost of a hearings officer ~~and of public notice costs.~~

(b) The fees for ~~administrative~~ costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.

~~(c) An applicant also shall be charged for the costs of Metro hearings officer as billed for that case and for the costs of public notice.~~

(~~d~~c) Before a hearing is scheduled, an applicant shall submit a fee deposit.

(~~e~~d) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of ~~a~~ final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit, prior to final action by the Council.

~~—(f)— If hearings officer/public notice or administrative costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit, prior to final action by the Metro Council.~~

(~~g~~e) The ~~Metro~~ Council may, by resolution, reduce, refund or waive the ~~administrative~~ fee, or portion thereof, if it finds that ~~such~~ the fees would create an undue hardship for the applicant.

### ~~3.01.050 Hearing Notice Requirements~~

~~—(a)— 45 Day Notice. A proposal to amend the UGB by legislative amendment under Section 3.01.015 or by major amendment under Section 3.01.025 shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the matter. The notice shall be accompanied by the appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.~~

~~—(b)— Newspaper Ads. A 1/8 page advertisement in a newspaper of general circulation of Metro for all legislative amendments and major amendments. For legislative amendments and major amendments the initial newspaper advertisements shall be published at least 45 days prior to the public hearing and shall include the same information listed in subsection (a).~~

~~—(c)— 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. A street address or other easily understood geographical reference can be utilized if available.~~

- ~~(3) For major amendments:~~
- ~~(A) An explanation of the proposed action, including the nature of the application and the proposed boundary change.~~
  - ~~(B) A list of the applicable criteria for approval of the petition at issue.~~
  - ~~(C) A statement that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.~~
- ~~(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 and before the hearings officer unless that requirement is waived by the Metro Council.~~
- ~~(6) Include the name of the Metro staff to contact and telephone number for more information.~~
- ~~(7) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the final hearing, and that a copy will be made available at no cost or reasonable cost. Further that if additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing.~~
- ~~(8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~
- ~~(d) Not less than 20 calendar days before the hearing, notice shall be mailed to the following persons:~~
- ~~(1) The applicant and owners of record of property on the most recent property tax roll where the property is located.~~
  - ~~(2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from 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 owners of record.~~

~~(3) Cities and counties in Metro, or cities and counties whose jurisdictional boundaries either include or are adjacent to the subject property, and affected agencies who request regular notice.~~

~~(4) The neighborhood association, community planning organization or other citizen group, if any, which has been recognized by the city or county with land use jurisdiction for the subject property.~~

~~(5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to participate in land use planning processes by the cities and counties whose jurisdictional boundaries either include or are adjacent to the site.~~

~~(6) The regional representatives of the director of the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation.~~

~~(7) Any other person requesting notification of UGB changes.~~

~~(c) At the conclusion of the hearing, the hearings officer may continue the hearing to a time, place and date certain, without additional notice.~~

### 3.01.050 Notice Requirements

(a) For a proposed legislative amendment under section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:

(1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;

(2) In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and

(3) To the general public by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

(b) For a proposed major amendment under section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:

(1) In writing at least 45 days before the first public hearing on the proposal to:

(A) The applicant

(B) The director of the Department of Land Conservation and Development;

(C) The owners of property that is being considered for addition to the UGB; and

(D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;

(2) In writing at least 30 days before the first public hearing on the proposal to:

(A) The local governments of the Metro area;

(B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and

(3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

(c) The notice required by subsections (a) and (b) of this section shall include:

(1) A map showing the location of the area subject to the proposed amendment;

- (2) The time, date and place of the hearing;
  - (3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
  - (4) A statement that interested persons may testify and submit written comments at the hearing;
  - (5) The name of the Metro staff to contact and telephone number for more information;
  - (6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
  - (7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings.
  - (8) For proposed major amendments only:
    - (A) An explanation of the proposed boundary change;
    - (B) A list of the applicable criteria for the proposal; and
    - (C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
  - (9) For the owners of property described in paragraph (b)(1)(C) of this section, the information required by ORS 268.393(3).
- (d) For a proposed minor adjustment under section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:
- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;
  - (2) In writing at least 20 days before the issuance of an order on the proposal to:
    - (A) The applicant and the owners of property subject to the proposed adjustment;

(B) The owners of property within 500 feet of the property subject to the proposed adjustment;

(C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;

(D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and

(E) Any other person requesting notification of UGB changes.

(e) The notice required by subsection (d) of this section shall include:

(1) A map showing the location of the area subject to the proposed amendment;

(2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;

(3) A statement that interested persons may submit written comments and the deadline for the comments;

(4) The name of the Metro staff to contact and telephone number for more information; and

(5) A list of the applicable criteria for the proposal.

(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.

### ~~3.01.055 Public Hearing Rules Before the Hearings Officer~~

~~(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:~~

~~(1) Within 250 feet of the property which is the subject of the notice where the subject property is outside an~~

~~urban growth boundary and not within a farm or forest zone; or~~

~~(2) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.~~

~~(3) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.~~

~~(4) If required, the Chief Operating Officer shall also provide notice to the Department of Land Conservation and Development.~~

~~(5) The notice shall:~~

~~(A) Explain the nature of the application and the proposed use or uses which could be authorized;~~

~~(B) List the applicable criteria from the ordinance and the regional framework plan that apply to the application at issue;~~

~~(C) Set forth the street address or other easily understood geographical reference to the subject property;~~

~~(D) State the date, time and location of the hearing;~~

~~(E) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;~~

~~(F) Be mailed at least:~~

~~(i) 20 days before the evidentiary hearing; or~~

~~(ii) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;~~

~~(G) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;~~

~~(H) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are~~

~~available for inspection at no cost and will be provided at reasonable cost;~~

~~(I) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and~~

~~(J) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~

~~(6) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the Chief Operating Officer can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.~~

~~(b) All applications for a major amendment accepted under this chapter shall receive a contested case hearing according to the following rules:~~

~~(1) Hearings officers shall be selected by Metro pursuant to the provisions of Section 2.05.025(a) of the Metro Code.~~

~~(2) Parties to the case shall be defined as being any individual, agency, or organization who participates orally or in writing in the creation of the record used by the hearings officer in making a decision. If an individual represents an organization orally and/or in writing, that individual must indicate the date of the organization meeting in which the position presented was adopted. The hearings officer may request that the representative explain the method used by the organization to adopt the position presented. Parties need not be represented by an attorney at any point in the process outlined in this subsection and elsewhere in this chapter.~~

~~(3) At the time of the commencement of a hearing, the hearings officer shall provide the following information to parties:~~

~~(A) A list and statement of the applicable substantive criteria and procedures for notice and conduct of local quasi-judicial land use hearings provided that failure to provide copies~~

~~to all those present shall not constitute noncompliance with this subsection; and~~

~~(B) A statement that testimony and evidence must be directed toward the criteria or other specific criteria which the person believes apply to the decision; and~~

~~(C) A statement that the failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal.~~

~~(4) (A) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The hearing may be continued for a reasonable period as determined by the hearings officer. The hearings officer shall grant such request by continuing the public hearing pursuant to paragraph (B) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (C) of this subsection.~~

~~(B) If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.~~

~~(C) If the hearings officer leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the hearings officer for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings officer shall reopen the record pursuant to subsection (11) of this section.~~

- ~~(D) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.~~
- ~~(5) Failure of the applicant to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the application.~~
- ~~(6) The hearing shall be conducted in the following order:~~
- ~~(A) Staff report.~~
- ~~(B) Statement and evidence by the applicant in support of a petition.~~
- ~~(C) Statement and evidence of affected persons, agencies, and/or organizations opposing or supporting the petition, and/or anyone else wishing to give testimony.~~
- ~~(D) Rebuttal testimony by the applicant.~~
- ~~(7) The hearings officer shall have the right to question any participant in the hearing. Cross examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.~~
- ~~(8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.~~
- ~~(9) A verbatim audio tape or video tape, written, or other mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.~~
- ~~(10) The burden of presenting evidence in support of a fact or position in the contested case rests on the applicant. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with all applicable standards.~~
- ~~(11) The hearings officer may reopen a record to receive evidence not available or offered at the hearing. If~~



~~the record is reopened, any person may raise new issues which relate to the new evidence before the record is closed.~~

~~(12) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Metro Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.~~

~~(13) All documents or evidence relied upon by the applicant shall be submitted to the Chief Operating Officer and be made available to the public.~~

~~(14) Applications may be consolidated by the hearings officer for hearings where appropriate. Following consultation with Metro staff and prospective applicants, the hearings officer shall issue rules for the consolidation of related cases and allocation of charges. These rules shall be designed to avoid duplicative or inconsistent findings, promote an informed decision-making process, protect the due process rights of all parties, and allocate the charges on the basis of cost incurred by each party.~~

~~(c) Within 30 calendar days following the close of the record, the hearings officer shall prepare and submit a proposed order and findings, together with the record compiled in the hearing and a list of parties to the case, to the Chief Operating Officer. Within seven (7) working days of receiving the materials from the hearings officer, the Chief Operating Officer, or designate, shall furnish the proposed order and findings to all parties to the case. Accompanying the proposed order and findings shall be notification to parties which includes:~~

~~(1) The procedure for filing an exception and filing deadlines for submitting an exception to the proposed order and findings of the hearings officer. Parties filing an exception with Metro must furnish a copy of their exception to all parties to the case and the hearings officer.~~

~~(2) A copy of the form to be used for filing an exception.~~

~~(3) A description of the grounds upon which exceptions can be based.~~

~~(4) A description of the procedure to be used to file a written request to submit evidence that was not offered at the hearing, consistent with Metro Code Sections 2.05.035(c) and (d).~~

~~(5) A list of all parties to the case.~~

~~(d) Once a hearings officer has submitted the proposed order and findings to the Chief Operating Officer, the Chief Operating Officer, or designate, shall become the custodian of the record compiled in the hearing, and shall make the record available at Metro offices for review by parties.~~

### 3.01.055 Regular Review of Chapter

The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.

### ~~3.01.060 Exceptions to Hearings Officer Decision~~

~~(a) Standing to file an exception and participate in subsequent hearings is limited to parties to the case.~~

~~(b) Parties shall have 20 calendar days from the date that the proposed order and findings are mailed to them to file an exception to the proposed order and findings of the hearings officer with Metro on forms furnished by Metro.~~

~~(c) The basis for an exception must relate directly to the interpretation made by the hearings officer of the ways in which the application satisfies the standards for approving an application for a UCB amendment. Exceptions must rely on the evidence in the record for the case. Only issues raised at the evidentiary hearing will be addressed because failure to raise an issue constitutes a waiver to the raising of such issues at any subsequent administrative or legal appeal deliberations.~~

~~(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 01-929A, Sec. 9; Ordinance No. 02-972A, Sec. 1.)~~

### 3.01.060 Severability

Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional, the remainder of this chapter shall continue in full force and effect.

### ~~3.01.065 Council Action On Quasi-Judicial Amendments~~

~~(a) The Council may act to approve, remand or deny an application in whole or in part. When the Council renders a decision that reverses or modifies the proposed order of the hearings officer,~~

~~then, in its order, it shall set forth its findings and state its reasons for taking the action.~~

~~(b) Parties to the case and the hearings officer shall be notified by mail at least 10 calendar days prior to Council consideration of the case. Such notice shall include a brief summary of the proposed action, location of the hearings officer report, and the time, date, and location for Council consideration.~~

~~(c) Final Council action following the opportunity for parties to comment orally to Council on the proposed order shall be as provided in Code Section 2.05.045. Parties shall be notified of their right to review before the Land Use Board of Appeals.~~

~~(d) Comments before the Council by parties must refer specifically to any arguments presented in exceptions filed according to the requirements of this chapter, and cannot introduce new evidence or arguments before the Council. If no party to the case has filed an exception, then the Council shall decide whether to entertain public comment at the time that it takes final action on an application.~~

~~(e) Within 20 days from the day that the proposed order and findings of the hearings officer are mailed to them, parties may file a motion to reopen the record to receive admissible evidence not available at the hearing. The motion shall show proof of service on all parties. The Council shall rule on such motions with or without oral argument at the time of its consideration of the case. An order approving such a motion to reopen the record shall remand the case to the hearings officer for evidentiary hearing. When the Council or the hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.~~

~~(f) When the Council acts to approve an application with a condition that requires annexation to a city, a service district or Tri-Met:~~

~~(1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the city, the district or Tri Met within six months of the date of adoption of the resolution.~~

~~(2) The Council shall take final action, as provided for in paragraphs (c) and (d) of this section, within 30 calendar days of notice that all required annexations have been approved.~~

~~(g) When the Council is considering an ordinance to approve an application, it shall take all public comment at its first reading of the ordinance, discuss the case, and then either pass the ordinance to second reading or remand the proposed order and findings of the~~

~~hearings officer to the Metro Attorney or the hearings officer for new or amended findings. If new or amended findings are prepared, parties to the case shall be provided a copy of the new order and findings by mail no less than seven calendar days prior to the date upon which the Council will consider the new order and findings, and parties will be given the opportunity to provide the Council with oral or written testimony regarding the new order and findings.~~

### ~~3.01.070 Final Action Notice Requirements~~

~~(a) Metro shall give each county and city in Metro notice of each amendment of the UGB. Mailing the notice required by Ballot Measure 56 (Nov. 1998) [ORS Chapter 268] or ORS 197.615 shall satisfy this subsection.~~

~~(b) For the local government designated as having the responsibility for land use planning for the area(s) added to the UGB, Metro shall provide an additional notice stating the time period for completing comprehensive plan amendments for the area.~~

### ~~3.01.080 Chapter Regulation Review~~

~~The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise. This chapter shall be submitted upon adoption to the Land Conservation and Development Commission for acknowledgment pursuant to ORS 197.251, as an implementing measure to Metro UGB. Amendments to this chapter shall be submitted to the Department of Land Conservation and Development pursuant to the requirements of OAR 660 Division 18 as appropriate.~~

### ~~3.01.085 Severability~~

~~Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall continue in full force and effect.~~

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING )  
CHAPTER 3.01 OF THE METRO CODE ) Ordinance No. 05-1089  
(URBAN GROWTH BOUNDARY AND URBAN )  
RESERVE PROCEDURES) TO COMPLY WITH )  
CHANGES IN STATE PLANNING LAWS; AND ) Introduced by Councilor Susan McLain  
DECLARING AN EMERGENCY )

WHEREAS, the existing process for expanding the regional urban growth boundary (“UGB”) is so complicated and driven by numbers that it obscures from public understanding the important livability policies in Metro’s Regional Framework Plan and state planning laws; and

WHEREAS, the Oregon Land Conservation and Development Commission amended statewide planning Goal 14 on Urbanization on April 28, 2005, to make expansion of urban growth boundaries more understandable to the public and more efficient for local governments; and

WHEREAS, the Oregon Legislature enacted Senate Bill 1032 in the 2005 legislative session, calling for an efficient quasi-judicial process for considering applications from high growth school districts for sites for new schools; and

WHEREAS, minor adjustments to the regional UGB to conform to new information about the location of the 100-year floodplain should be made only after public notice and consultation with local governments; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. Metro Code Chapter 3.01, Urban Growth Boundary and Urban Reserve Procedures, is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance.
2. The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit B, explain how the amendments to Metro Code Chapter 3.01 comply with the Regional Framework Plan and state law.
3. This ordinance is necessary for the immediate preservation of public health, safety and welfare because Metro’s current process for expanding the UGB is no longer consistent with state law following LCDC’s April 28, 2005, amendments to statewide planning Goal 14. The amendments to Goal 14 have made the UGB process simpler and more efficient, without weakening the substantive criteria for expansion. There are several possible UGB expansions now pending before the Council. The Council wants the benefits of this simpler state process available as soon as possible to save Metro and the citizens of the region time and money. An emergency is therefore declared to exist. This ordinance shall take effect immediately, pursuant to section 39(1) of the Metro Charter.

ADOPTED by the Metro Council this \_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 05-1089

AMENDMENTS TO CHAPTER 3.01  
URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

SECTIONS	TITLE
3.01.005	Purpose
3.01.010	Definitions
3.01.012	Urban Reserve Areas
3.01.015	Legislative Amendments - Procedures
3.01.020	Legislative Amendments - Criteria
3.01.025	Major Amendments - Procedures
3.01.030	Major Amendments - Criteria
3.01.033	Minor Adjustments - Procedures
3.01.035	Minor Adjustments - Criteria
3.01.040	Conditions of Approval
3.01.045	Fees
3.01.050	Notice Requirements
3.01.055	Regular Review of Chapter
3.01.060	Severability

3.01.005 Purpose

This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:

- (a) Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment;
- (b) Major amendments to address short-term needs that were not anticipated at the time of legislative amendments; and
- (c) Minor adjustments to make small changes to make the UGB function more efficiently and effectively.

3.01.010 Definitions

(a) "Council" has the same meaning as in Chapter 1.01 of the Metro Code.

(b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.

(c) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.

(d) "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of properties.

(e) "Property owner" means a person who owns the primary legal or equitable interest in the property.

(f) "Public facilities and services" means sewers, water service, stormwater services and transportation.

(g) "UGB" means the Urban Growth Boundary for Metro.

(h) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.

### 3.01.012 Urban Reserve Areas

(a) Purpose. This section establishes the process and criteria for designation of urban reserves areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.

(b) Designation of Urban Reserve Areas.

- (1) The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.
- (2) The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.
- (3) The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.
- (4) The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.

(c) Plans For Urban Reserve Areas. Cities and counties may plan for urban reserve areas, consistent with the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.

3.01.015 Legislative Amendments - Procedures

(a) The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

(b) Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.

(c) Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The Chief Operating Office shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:

- (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
- (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
- (3) The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

(e) The Council shall base its final decision on information received by the Council during the legislative process.

(f) The Council may amend the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to the land until the effective date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to



section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.

3.01.020 Legislative Amendments - Criteria

(a) The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.

(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

- (1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; or
- (2) Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
- (3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.

(c) If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:

- (1) Efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of proposed urban use with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

(d) If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:

- (1) Equitable and efficient distribution of housing and employment opportunities throughout the region;
- (2) Contribution to the purposes of Centers;
- (3) Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- (4) Avoidance of conflict with regionally significant fish and wildlife habitat; and
- (5) Clear transition between urban and rural lands, using natural and built features to mark the transition.

### 3.01.025 Major Amendments - Procedures

(a) A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1).

(b) Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a two-thirds vote of the full Council.

(c) With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

(d) The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this

requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

(e) The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

(f) Within 14 days after receipt of a complete application, the Chief Operating Officer will:

- (1) Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
- (2) Notify the public of the public hearing as prescribed in section 3.01.050 of this chapter.

(g) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available to the public at least seven days prior to the hearing.

(h) If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in section 3.01.015(d).

(i) An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.

(j) Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.

(k) Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.

(l) The hearings officer will provide the following information to participants at the beginning of the hearing:

- (1) The criteria applicable to major amendments and the procedures for the hearing;
- (2) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
- (3) A statement that failure to raise an issue in a manner sufficient to afford the hearings office and participants an opportunity to respond to the issue precludes appeal of that issue.

(m) The hearing shall be conducted in the following order:

- (1) Presentation of the report and recommendation of the Chief Operating Officer;
- (2) Presentation of evidence and argument by the applicant;
- (3) Presentation of evidence and argument in support of or opposition to the application by other participants; and
- (4) Presentation of rebuttal evidence and argument by the applicant.

(n) The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

(o) If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

(p) Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

(q) A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

(r) The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.

(s) Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.

(t) Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

(u) The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

(v) The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.

### 3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other nonhousing needs.

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b) and (c) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.

### 3.01.033 Minor Adjustments - Procedures

(a) A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by Section 3.01.025(d).

(b) The Chief Operating Officer will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The Chief Operating Officer will dismiss an application and return application

fees if a complete application is not received within 14 days of the notice of incompleteness.

(c) Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) The Chief Operating Officer shall review the application for compliance with the criteria in section 3.01.035 of this chapter and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy.

(e) The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral.

(f) Notice to the public of a Council hearing on a proposed minor adjustment to the UGB be provided as prescribed in section 3.01.050 of this chapter.

(g) Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.

### 3.01.035 Minor Adjustments - Criteria

(a) The purpose of this section is to provide a mechanism to make small changes to the UGB to make it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and Regional Framework Plan policies applicable to minor adjustments.

(b) Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.

(c) To approve a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro shall find that:

- (1) The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;
- (2) Adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;
- (3) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (4) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (5) The adjustment will help achieve the 2040 Growth Concept;
- (6) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (7) If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.

(d) To approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall find that:

- (1) The adjustment will result in the addition of no more than two net acres to the UGB;
- (2) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (3) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (4) The adjustment will help achieve the 2040 Growth Concept; and



- (5) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(e) Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

- (1) The delineation was done by a professional engineer registered by the State of Oregon;
- (2) The adjustment will result in the addition of no more than 20 net acres to the UGB;
- (3) The adjustment will help achieve the 2040 Growth Concept; and
- (4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(f) If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept designation for the area.

(g) The Chief Operating Officer shall submit a report to the Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.

#### 3.01.040 Conditions of Approval

(a) Land added to the UGB by legislative amendment pursuant to Section 3.01.015 or by major amendment pursuant to Section 3.01.025 shall be subject to the requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code chapter 3.07.1105 et seq.).

(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when the Council adopts a legislative or major amendment to the UGB, the Council shall:

- (1) In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added

to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.

- (2) Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.
- (3) Establish the boundaries of the area that shall be included in the planning required by Title 11. The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) Establish the time period for city or county compliance with the requirements of Title 11 which shall not be less than two years following the effective date of the ordinance adding the area to the UGB.

(c) When it adopts a legislative or major amendment to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.870 of the Urban Growth Management Functional Plan.

#### 3.01.045 Fees

(a) Each application submitted by a property owner or group of property owners pursuant to this chapter shall be accompanied by a filing fee in an amount to be established by resolution of the Council. Such fees shall not exceed the actual costs of Metro to process an application. The filing fee shall include administrative costs and the cost of a hearings officer and of public notice.

(b) The fees for costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.

(c) Before a hearing is scheduled, an applicant shall submit a fee deposit.

(d) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit, prior to final action by the Council.

(e) The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

### 3.01.050 Notice Requirements

(a) For a proposed legislative amendment under section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;
- (2) In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and
- (3) To the general public by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

(b) For a proposed major amendment under section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:

- (1) In writing at least 45 days before the first public hearing on the proposal to:
  - (A) The applicant;
  - (B) The director of the Department of Land Conservation and Development;
  - (C) The owners of property that is being considered for addition to the UGB; and
  - (D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;

- (2) In writing at least 30 days before the first public hearing on the proposal to:
  - (A) The local governments of the Metro area;
  - (B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and
- (3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

(c) The notice required by subsections (a) and (b) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) The time, date and place of the hearing;
- (3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference can be if available;
- (4) A statement that interested persons may testify and submit written comments at the hearing;
- (5) The name of the Metro staff to contact and telephone number for more information;
- (6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
- (7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings.
- (8) For proposed major amendments only:
  - (A) An explanation of the proposed boundary change;

- (B) A list of the applicable criteria for of the proposal; and
  - (C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (9) For the owners of property described in paragraph (b)(1)(iii) of this section, the information required by ORS 268.393(3).

(d) For a proposed minor adjustment under section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;
- (2) In writing at least 20 days before the issuance of an order on the proposal to:
  - (A) The applicant and the owners of property subject to the proposed adjustment;
  - (B) The owners of property within 500 feet of the property subject to the proposed adjustment;
  - (C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;
  - (D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and
  - (E) Any other person requesting notification of UGB changes.

(e) The notice required by subsection (d) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;

- (2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference can be if available;
- (3) A statement that interested persons may submit written comments and the deadline for the comments;
- (4) The name of the Metro staff to contact and telephone number for more information; and
- (5) A list of the applicable criteria for of the proposal.

(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.

#### 3.01.055 Regular Review of Chapter

The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.

#### 3.01.060 Severability

Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional, the remainder of this chapter shall continue in full force and effect.

AMENDMENTS TO CHAPTER 3.01  
URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

~~SECTIONS — TITLE~~

- ~~3.01.005 Purpose~~
- ~~3.01.010 Definitions~~
- ~~3.01.012 Urban Reserve Areas~~
- ~~3.01.015 Legislative Amendment Procedures~~
- ~~3.01.020 Legislative Amendment Criteria~~
- ~~3.01.025 Major Amendment Procedures~~
- ~~3.01.030 Criteria for Major Amendment~~
- ~~3.01.033 Minor Adjustment Procedures~~
- ~~3.01.035 Criteria for Minor Adjustments~~
- ~~3.01.037 Roadway Realignment - Administrative Adjustments (repealed Ord. 01-929A §10)~~
- ~~3.01.040 Metro Conditions of Approval~~
- ~~3.01.045 Fees~~
- ~~3.01.050 Hearing Notice Requirements~~
- ~~3.01.055 Public Hearing Rules Before the Hearings Officer~~
- ~~3.01.060 Exceptions to Hearings Officer Decision~~
- ~~3.01.065 Council Action on Quasi-Judicial Amendments~~
- ~~3.01.070 Final Action Notice Requirements~~
- ~~3.01.075 Boundary Line Location Interpretation (repealed Ord. 01-929A §11)~~
- ~~3.01.080 Chapter Regulation Review~~
- ~~3.01.085 Severability~~

SECTIONS        TITLE

- 3.01.005        Purpose
- 3.01.010        Definitions
- 3.01.012        Urban Reserve Areas
- 3.01.015        Legislative Amendments - Procedures
- 3.01.020        Legislative Amendments - Criteria
- 3.01.025        Major Amendments - Procedures
- 3.01.030        Major Amendments - Criteria
- 3.01.033        Minor Adjustments - Procedures
- 3.01.035        Minor Adjustments - Criteria
- 3.01.040        Conditions of Approval
- 3.01.045        Fees
- 3.01.050        Notice Requirements
- 3.01.055        Regular Review of Chapter
- 3.01.060        Severability

~~3.01.005 Purpose~~

~~— (a) This chapter is established to provide procedures to be used by Metro in making amendments to the Metro Urban Growth Boundary (UGB) adopted pursuant to ORS 268.390(3) and 197.005 through 197.430. The chapter is intended to interpret all criteria and standards for boundary amendments pertaining to Statewide Planning Goals 2 and 14,~~

~~and the Regional Urban Growth Goals and Objectives. Unique circumstances associated with a proposed amendment may require consideration of statewide planning goals other than Goals 2 and 14. This chapter is also established to be used for the establishment and management of Urban Reserves, pursuant to OAR 660-021-000 to 660-21-0100 and RUGGO Objective 22.~~

~~(b) The objectives of the UGB are to:~~

~~(1) Provide sufficient urban land for accommodating the forecast 20-year urban land need, reevaluated at least every five years as set forth in Sections 3.01.015-3.01.020;~~

~~(2) Provide for an efficient urban growth form which reduces sprawl;~~

~~(3) Provide a clear distinction between urban and rural lands;~~

~~(4) Encourage appropriate infill and redevelopment in all parts of the urban region.~~

~~(c) The objectives of the Urban Reserves are to:~~

~~(1) Identify sufficient land suitable for urbanization sufficient to accommodate the forecast needs for a 30 to 50-year interval, reevaluated at least every 15 years;~~

~~(2) Limit the areas which are eligible to apply for inclusion to the Urban Growth Boundary consistent with ORS 197.298, and protect resource lands outside the urban reserve areas;~~

~~(3) Protect lands designated as urban reserves for their eventual urbanization, and insure their efficient urbanization consistent with the 2040 Growth Concept, the RUGGOs and the Urban Growth Management Functional Plan;~~

~~(4) Provide for coordination between cities, counties, school districts, and special districts for planning for the urban reserve areas;~~

~~(5) Ensure a smooth transition to urban development by planning for general governance, public facilities, land uses, and planning for financing the capital needs of the urban development.~~



### 3.01.005 Purpose

This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:

- (a) Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment;
- (b) Major amendments to address short-term needs that were not anticipated at the time of legislative amendments; and
- (c) Minor adjustments to make small changes to make the UGB function more efficiently and effectively.

### 3.01.010 Definitions

(a) "Council" has the same meaning as in Chapter 1.01 of the Metro Code.

(b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.

(c) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.

~~(d) "Gross developable vacant land" means the total buildable land area within the UGB, as compiled by Metro for the purpose of determining the need for changes in the urban land supply. These are lands that can be shown to lack significant barriers to development. Gross developable vacant lands include, but are not limited to, all recorded lots on file with the county assessors equal to or larger than either the minimum lot size of the zone in which the lot is located or the minimum lot size which will be applied in an urban holding zone which:~~

~~(1) Are without any structures as corroborated through examination of the most recent aerial photography at the time of inventory; or~~

~~(2) Have no improvements according to the most recent assessor records.~~

~~(e) "Gross redevelopable land" means the total area of redevelopable land and infill parcels within the UGB including:~~

~~(1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and~~

~~(2) All recorded lots on file with the county assessors that are 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment properties will be developed by Metro to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that Metro substitute that data for inclusion in the gross developable land inventory.~~

~~(f) "Gross developable land" means the total of gross developable vacant land and gross redevelopable land.~~

(gd) "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of ~~persons~~ properties.

~~(h) "Natural area" means a landscape unit substantially without any human development that is substantially in a native and unaffected state and may be composed of plant and animal communities, water bodies, soil and rock and mitigated habitat. Natural areas must be identified in a city, county or special district open space inventory or plan.~~

~~(i) "Natural feature" means any landscape unit, such as a slope greater than 25 percent, a water body, a floodplain or a forest, that acts as a barrier or transition between human activities.~~

~~(j) "Net acre" for purposes of calculating the total land area within a proposal to amend the UGB means an area measured in acres which excludes:~~

~~(1) Any developed road rights of way through or on the edge of the proposed UGB amendment; and~~

~~(2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which~~

~~the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and~~

~~(3) All publicly owned land designated for park and open space uses.~~

~~(k) "Net developable land" means the total of net developable vacant land and net redevelopable land.~~

~~(l) "Net developable vacant land" means the number of acres that are available for all types of development after the total number of developable acres within the UGB is reduced by the amount of land for the provision of roads, schools, parks, private utilities, churches, social organizations, legally buildable single family lots, and other public facilities.~~

~~(m) "Net redevelopable land" means the amount of land remaining when gross redevelopable land is reduced by the estimated land needed for the provision of additional roads, schools, parks, private utilities and other public facilities. Metro shall determine the appropriate factor to be used for each jurisdiction in consultation with the jurisdiction within which the specific redevelopable land is located.~~

~~(n) "Nonurban land" means land currently outside the UGB.~~

~~(o) "Party" means any individual, agency, or organization who participates orally or in writing in the creation of the record established at a public hearing.~~

~~(p) "Planning period" means the period covered by the most recent officially adopted Metro forecasts, which is approximately a 20 year period.~~

(~~q~~e) "Property owner" means a person who owns the primary legal or equitable interest in the property.

(~~r~~f) "Public facilities and services" means ~~sanitary sewers, water service, fire protection, parks, open space, recreation, streets and roads and mass transit~~ stormwater services and transportation.

~~(s) "Regional forecast" means a 20 year forecast of employment and population by specific areas within the region, which has been adopted by Metro.~~

~~(t) "Site" means the subject property for which an amendment or locational adjustment is being sought.~~

~~(u) "Specific land need" means a specific type of identified land needed which complies with Goal 14, Factors 1 and 2 that cannot be reasonably accommodated on urban reserve land.~~

~~(v) "UGB" means the Urban Growth Boundary for Metro pursuant to ORS 268.390 and 197.005 through 197.430.~~

~~(w) "Urban land" means that land inside the UGB.~~

~~(x) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.~~

### 3.01.012 Urban Reserve Areas

(a) Purpose. ~~The purpose of t~~This section is to comply with ORS 197.298 by identifying lands designated urban reserve land by Metro as the first priority land for inclusion in the Metro Urban Growth Boundary establishes the process and criteria for designation of urban reserves areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.

#### (b) Designation of Urban Reserve Areas.

- (1) The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.
- (2) ~~The areas designated as urban reserves shall be sufficient to accommodate expected urban development for a 30 to 50 year period, taking into account an estimate of all potential developable and redevelopable land within the current Urban Growth Boundary.~~The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.
- (3) ~~The Council shall estimate the capacity of the urban reserves consistent with the procedures for estimating capacity of the urban area set forth in Section 3.01.020.~~The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.
- (4) ~~The minimum residential density to be used in estimating the capacity of the areas designated as urban reserves shall be an average of at least 10 dwelling units per net developable acre or lower densities which conform to the 2040 Growth Concept~~

~~design type designation for the urban reserve area. The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.~~

~~(5) The Council may designate a portion of the land required for urban reserves in order to phase designation of urban reserves.~~

~~(6) Metro has designated as urban reserve areas those lands indicated on the 2040 Growth Concept map which was adopted as part of the Regional Urban Growth Goals and Objectives.~~

(c) Plans For Urban Reserve Areas. ~~Subject to applicable law, e~~Cities and counties may ~~prepare and adopt comprehensive plan amendments~~ plan for urban reserve areas, consistent with ~~all provisions of the Urban Growth Management Functional Plan prior to the inclusion of an urban reserve area within the Urban Growth Boundary. Prior to the preparation and adoption of any such comprehensive plan amendments, at the request of a city or county, the Council shall establish the 2040 Growth Concept design types and the boundaries of the area to be planned, if it has not previously done so.~~ the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.

### ~~3.01.015 Legislative Amendment Procedures~~

~~(a) The process for determination of need and location of lands for amendment of the UGB is provided in Section 3.01.020.~~

~~(b) Notice shall be provided as described in Section 3.01.050.~~

~~(c) The Council shall initiate Legislative Amendments when it determines pursuant to Goal 14 and Section 3.01.020 that there is a need to add land to the Urban Growth Boundary.~~

~~(d) Before adopting any legislative amendment, Metro shall consult with cities, counties in the Metro Area and MPAC to determine which cities and counties, if any, are prepared to initiate comprehensive plan amendments for urban reserve areas, if they are included, within the Urban Growth Boundary.~~

~~(e) Where a city or county has adopted comprehensive plan amendments for an urban reserve area pursuant to Section 3.01.012(c), the Metro Council shall rely upon the planned status of that urban reserve in considering applicable criteria.~~

~~(f) Legislative amendment decisions shall be based upon substantial evidence in the decision record which demonstrates how the amendment complies with applicable state and local law and statewide goals as interpreted by Section 3.01.020.~~

~~(g) The following public hearings process shall be followed for legislative amendments:~~

~~(1) Metro Council shall refer a proposed amendment to the appropriate Council committee at the first Council reading of the ordinance.~~

~~(2) The committee shall take public testimony at as many public hearings as necessary. At the conclusion of public testimony, the committee shall deliberate and make recommendations to the Council.~~

~~(3) The Council shall take public testimony at its second reading of the ordinance, discuss the proposed amendment, and approve the ordinance with or without revisions or conditions, or refer the proposed legislative amendment to the Council committee for additional consideration.~~

~~(4) Testimony before the Council or the committee shall be directed to Goal 14 and Goal 2 considerations interpreted at Section 3.01.020 of this chapter.~~

~~(h) The Council may approve expansion of the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to that land until Metro annexes the land to the district. A city or county may approve an amendment to its comprehensive plan pursuant to section 3.07.1120 of the Metro Code so long as the amendment does not become applicable to the subject land until Metro annexes that land to the district.~~

~~(i) At least 20 days prior to approving any amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Copies of the completed report shall be provided to all households located within one mile of the proposed amendment area and to all cities and counties within the district. The report shall address:~~

~~(1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;~~

~~(2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and~~

~~(3) The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.~~

### 3.01.015 Legislative Amendments - Procedures

(a) The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

(b) Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.

(c) Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The Chief Operating Office shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:

- (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
- (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
- (3) The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

(e) The Council shall base its final decision on information received by the Council during the legislative process.

(f) The Council may amend the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to the land until the effective

date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.

~~3.01.020 Legislative Amendment Criteria~~

~~(a) The purpose of this section is to address ORS 197.298, Goals 2 and 14 of the statewide planning goals and the Regional Framework Plan. This section details a process which is intended to interpret Goals 2 and 14 for specific application to Metro UGB. Compliance with this section shall constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the Regional Framework Plan.~~

~~(b) While all of the following Goal 14 factors must be addressed, the factors cannot be evaluated without reference to each other. Rigid separation of the factors ignores obvious overlaps between them. Demonstration of compliance with one factor or subfactor may not constitute a sufficient showing of compliance with the goal, to the exclusion of the other factors when making an overall determination of compliance or conflict with the goal. For legislative amendments, if need has been addressed, Metro shall demonstrate that the priorities of ORS 197.298 have been followed and that the recommended site was better than alternative sites, balancing Factors 3 through 7.~~

~~(1) Factor 1: Demonstrated need to accommodate long range urban population growth.~~

~~(A) Metro shall develop 20 year Regional Forecasts of Population and Employment, which shall include a forecast of net developable land need, providing for coordination with cities, counties, special districts and other interested parties, and review and comment by the public. After deliberation upon all relevant facts, Metro shall adopt a forecast. This forecast shall be completed at least every five years or at the time of periodic review, whichever is sooner. Concurrent with the adoption of Metro's 20 year Regional Forecast, Metro shall complete an inventory of net developable land calculating the supply of buildable land within the Urban Growth Boundary by applying the variables set forth in Chapter 1 of the Regional Framework Plan. Metro shall provide the opportunity for review and comment by all cities and counties in the Metro Area, and by the public.~~



- ~~(i) In calculating the supply of buildable lands in the Urban Growth Boundary, Metro shall estimate the effect, based on the best information available, of changes to zoned capacity that have been adopted and implemented by local governments to comply with the Region 2040 Growth Concept and all titles of the Urban Growth Management Functional Plan.~~
- ~~(ii) Metro shall estimate the number of gross vacant buildable acres within the Urban Growth Boundary.~~
- ~~(iii) Metro shall estimate the number of net vacant buildable acres within the Urban Growth Boundary from the gross vacant buildable acres. The number of acres estimated to be unavailable for housing development shall be subtracted to estimate the net acres, including, but not limited to:
  - ~~(I) Lands in environmentally sensitive areas and lands with slopes equal to or exceeding 25 percent, provided those lands are zoned so as to be unavailable for housing development.~~
  - ~~(II) Lands for streets, schools, parks, churches and social organizations.~~
  - ~~(III) Vacant legally buildable lots zoned for single family residential use.~~~~
- ~~(iv) Metro shall estimate the number of net vacant buildable acres that are available for residential use based on current local government zoning designations. Metro shall also estimate the number of dwelling units that these residentially zoned lands can accommodate under existing zoning designations.~~
- ~~(v) Metro shall reduce the estimated number of dwelling units that can be accommodated on vacant residential lands to account for the following:
  - ~~(I) The number of dwelling units estimated to be lost when property owners do not develop to maximum residential~~~~

~~densities, taking into account zoned minimum densities; and~~

~~(II) If Metro adopts additional measures to increase residential densities inside the existing Urban Growth Boundary, the number of additional dwelling units estimated to be accommodated as the result of the new measures.~~

~~(vi) Metro shall increase the estimated number of dwelling units that may be accommodated on vacant residential lands due to changes in zoning or development patterns, including but not limited to, the following:~~

~~(I) Local adoption of mixed use zoning designations;~~

~~(II) Local adoption of increased residential densities to meet Region 2040 Growth Concept and Title 1 of the Urban Growth Management Functional Plan;~~

~~(III) The estimated number of dwelling units that may be accommodated as a result of redevelopment and infill development and accessory dwelling units;~~

~~(IV) The estimated number of dwelling units allowed on legally buildable lots in environmentally constrained areas;~~

~~(V) Development on vacant and legally buildable lots zoned for single family at a rate of one dwelling unit per lot.~~

~~(B) The forecast and inventory, along with all other appropriate data shall be considered by Metro in determining the need for net developable land. Appropriate data includes, but is not limited to, estimates of the actual density and the actual average mix of housing types of residential development that have occurred within the Urban Growth Boundary since the last periodic review of the Urban Growth Boundary or last five years, whichever is greater. The results of the inventory and forecast shall be compared, and if~~

~~the net developable land equals or is larger than the need forecast, then Metro Council shall hold a public hearing, providing the opportunity for comment. The Council may conclude that there is no need to move the UGB and set the date of the next five year review or may direct staff to address any issues or facts which are raised at the public hearing.~~

~~(C) If the inventory of net developable land is insufficient to accommodate the housing need identified in the 20 year Regional Forecast at the actual developed density that has occurred since the last periodic review of the Urban Growth Boundary, Metro shall:~~

~~(i) Conduct a further analysis of the inventory of net developable land to determine whether the identified need can reasonable be met within the Urban Growth Boundary including a consideration of whether any significant surplus of developable land in one or more land use categories could be suitable to address the unmet forecasted need;~~

~~(ii) Estimate city and county progress toward meeting the target capacities for dwelling units and employment set forth in Title 1 of the Urban Growth Management Functional Plan (Metro Code, Table 3.07 1);~~

~~(iii) Consider amendments to the Urban Growth Management Functional Plan that would increase the number of dwelling units that can be accommodated on residential and mixed-use land within the Urban Growth Boundary;~~

~~(iv) Adopt amendments to the Urban Growth Management Functional Plan that the Metro Council determines are appropriate;~~

~~(v) Estimate whether the increased number of dwelling units accommodated within the Urban Growth Boundary due to amendments to the Urban Growth Management Functional Plan will provide a sufficient number of dwelling units to satisfy the forecasted need;~~

~~(vi) The Metro Council shall hold a public hearing prior to its determination of whether any estimated deficit of net developable land is sufficient to justify an analysis of locations for a legislative amendment of the UGB.~~

~~(D) For consideration of a legislative UGB amendment, Metro Council shall review an analysis of land outside the present UGB to determine those areas best suited for expansion of the UGB to meet the identified need.~~

~~(E) Metro must find that the identified need cannot reasonably be met within the UGB, consistent with the following considerations:~~

~~(i) That there is not a suitable site with an appropriate comprehensive plan designation.~~

~~(ii) All net developable land with the appropriate plan designation within the existing UGB shall be presumed to be available for urban use during the planning period.~~

~~(iii) Market availability and level of parcelization shall not render an alternative site unsuitable unless justified by findings consistent with the following criteria:~~

~~(I) Land shall be presumed to be available for use at some time during the planning period of the UGB unless legal impediments, such as deed restrictions, make it unavailable for the use in question.~~

~~(II) A parcel with some development on it shall be considered unavailable if the market value of the improvements is not significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment will be developed by Metro to provide a means to define what is significant when comparing structure value and land values. When a city or county has~~

~~more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that Metro substitute that data in Metro gross developable land inventory.~~

~~(III) Properly designated land in more than one ownership shall be considered suitable and available unless the current pattern or level of parcelization makes land assembly during the planning period unfeasible for the use proposed.~~

~~(2) Factor 2: Need for housing, employment opportunities and livability may be addressed under either subsection (A) or (B) or both, as described below.~~

~~(A) For a proposed amendment to the UGB based upon housing or employment opportunities Metro must demonstrate that a need based upon an economic analysis can only be met through a change in the location of the UGB. For housing, the proposed amendment must meet an unmet need according to statewide planning Goal 10 and its associated administrative rules. For employment opportunities, the proposed amendment must meet an unmet long term need according to statewide planning Goal 9 and its associated administrative rules. The amendment must consider adopted comprehensive plan policies of jurisdictions adjacent to the site, when identified by a jurisdiction and must be consistent with Metro's adopted policies on urban growth management, transportation, housing, solid waste, and water quality management.~~

~~(B) To assert a need for a UGB amendment based on livability, Metro must:~~

~~(i) Factually define the livability need, including its basis in adopted local, regional, state, or federal policy;~~

~~(ii) Factually demonstrate how the livability need can best be remedied through a change in the location of the UGB;~~

~~(iii) Identify both positive and negative aspects of the proposed UGB amendment on both the~~

~~livability need and on other aspects of livability; and~~

~~(iv) Demonstrate that, on balance, the net result of addressing the livability need by amending the UGB will be positive.~~

~~(3) Factor 3: Orderly and economic provision of public facilities and services. An evaluation of this factor shall be based upon the following:~~

~~(A) For the purposes of this section, economic provision shall mean the lowest public cost provision of urban services. When comparing alternative sites with regard to Factor 3, the best site shall be that site which has the lowest net increase in the total cost for provision of all urban services. In addition, the comparison may show how the proposal minimizes the cost burden to other areas outside the subject area proposed to be brought into the boundary.~~

~~(B) For the purposes of this section, orderly shall mean the extension of services from existing serviced areas to those areas which are immediately adjacent and which are consistent with the manner of service provision. For the provision of gravity sanitary sewers, this could mean a higher rating for an area within an already served drainage basin. For the provision of transit, this would mean a higher rating for an area which could be served by the extension of an existing route rather than an area which would require an entirely new route.~~

~~(4) Factor 4: Maximum efficiency of land uses within and on the fringe of the existing urban area. An evaluation of this factor shall be based on at least the following:~~

~~(A) The subject area can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and the ability to provide for a mix of land uses to meet the needs of residents and employees. If it can be shown that the above factors of compact form can be accommodated more readily in one area than others, the area shall be more favorably considered.~~

~~(B) The proposed UGB amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with local comprehensive plan policies and regional functional plans, by assisting with achieving residential and employment densities capable of supporting transit service; supporting the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improving the likelihood of realizing a mix of land uses to meet the needs of residents and employees.~~

~~(5) Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall be based upon consideration of at least the following:~~

~~(A) If the subject property contains any resources or hazards subject to special protection identified in the local comprehensive plan and implemented by appropriate land use regulations, findings shall address how urbanization is likely to occur in a manner consistent with these regulations.~~

~~(B) Complementary and adverse economic impacts shall be identified through review of a regional economic opportunity analysis, if one has been completed. If there is no regional economic opportunity analysis, one may be completed for the subject land.~~

~~(C) The long term environmental, energy, economic, and social consequences resulting from the use at the proposed site. Adverse impacts shall not be significantly more adverse than would typically result from the needed lands being located in other areas requiring an amendment of the UGB.~~

~~(6) Factor 6: Retention of agricultural land. This factor shall be addressed through the following:~~

~~(A) Prior to the designation of urban reserves, the following hierarchy shall be used for identifying priority sites for urban expansion to meet a demonstrated need for urban land:~~

~~(i) Expansion on rural lands excepted from statewide planning Goals 3 and 4 in adopted and acknowledged county comprehensive plans. Small amounts of rural resource~~

~~land adjacent to or surrounded by those "exception lands" may be included with them to improve the efficiency of the boundary amendment. The smallest amount of resource land necessary to achieve improved efficiency shall be included;~~

~~(ii) If there is not enough land as described in (i) above to meet demonstrated need, secondary or equivalent lands, as defined by the state, should be considered;~~

~~(iii) If there is not enough land as described in either (i) or (ii) above, to meet demonstrated need, secondary agricultural resource lands, as defined by the state should be considered;~~

~~(iv) If there is not enough land as described in either (i), (ii) or (iii) above, to meet demonstrated need, primary forest resource lands, as defined by the state, should be considered;~~

~~(v) If there is not enough land as described in either (i), (ii), (iii) or (iv) above, to meet demonstrated need, primary agricultural lands, as defined by the state, may be considered.~~

~~(B) After urban reserves are designated and adopted, consideration of Factor 6 shall be considered satisfied if the proposed amendment is wholly within an area designated as an urban reserve.~~

~~(C) After urban reserves are designated and adopted, a proposed amendment for land not wholly within an urban reserve must also demonstrate that the need cannot be satisfied within urban reserves.~~

~~(7) Factor 7: Compatibility of proposed urban development with nearby agricultural activities.~~

~~The record shall include an analysis of the potential impact on nearby agricultural activities including the following:~~

~~(i) A description of the number, location and types of agricultural activities occurring within one mile of the subject site;~~



~~(ii) An analysis of the potential impacts, if any, on nearby agricultural activities taking place on lands designated for agricultural use in the applicable adopted county or city comprehensive plan, and mitigation efforts, if any impacts are identified. Impacts to be considered shall include consideration of land and water resources which may be critical to agricultural activities, consideration of the impact on the farming practices of urbanization of the subject land, as well as the impact on the local agricultural economy.~~

~~(c) The requirements of statewide planning Goal 2 will be met by addressing all of the requirements of Section 3.01.020(b), above, and by factually demonstrating that:~~

~~(1) The land need identified cannot be reasonably accommodated within the current UGB; and~~

~~(2) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts; and~~

~~(3) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas than the proposed site and requiring an exception.~~

~~(d) The proposed location for the UGB shall result in a clear transition between urban and rural lands, using natural and built features, such as roads, drainage divides, floodplains, powerlines, major topographic features, and historic patterns of land use or settlement.~~

~~(e) The Council shall determine whether adding land to the UGB contributes to the purposes of Centers.~~

~~(f) Satisfaction of the requirements of Section 3.01.020(a) and (b) does not mean that other statewide planning goals do not need to be considered. If the proposed amendment involves other statewide planning goals, they shall be addressed.~~

~~(g) Sections 3.01.020(a), (b), (c), (d) and (e) shall be considered to be consistent with and in conformance with the Regional Framework Plan.~~

~~(h) Where efficiencies in the future development of an existing urban reserve are demonstrated, the Metro Council may amend the urban reserve in the same UGB amendment process to include additional adjacent nonresource lands up to 10 percent of the total acreage. Any urban reserve amendment shall demonstrate compliance with the Urban Reserve Rule (OAR 660-021-0030).~~

### 3.01.020 Legislative Amendments - Criteria

(a) The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.

(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

- (1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; or
- (2) Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
- (3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.

(c) If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:

- (1) Efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of proposed urban use with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

(d) If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:

- (1) Equitable and efficient distribution of housing and employment opportunities throughout the region;
- (2) Contribution to the purposes of Centers;
- (3) Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- (4) Avoidance of conflict with regionally significant fish and wildlife habitat; and
- (5) Clear transition between urban and rural lands, using natural and built features to mark the transition.

3.01.025 Major Amendment Procedures

~~(a) A city, a county, a special district or a property owner may file an application for a major amendment to the UGB on a form provided for that purpose. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Metro Council is completing its five year analysis of buildable land supply under ORS 197.299(1). After receipt of a complete application, the Chief Operating Officer will set the matter for a public hearing and provide notice to the public in the manner set forth in Sections 3.01.050 and 3.01.055.~~

~~(b) The Chief Operating Officer will determine whether the application is complete and notify the applicant of its determination within seven working days after the filing of an application. If the application is not complete, the applicant shall revise it to be complete within 14 days of notice of incompleteness from the Chief Operating Officer. The Chief Operating Officer will dismiss an application and return application fees if it does not receive a complete application within 14 days of its notice.~~

~~(c) Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may, by a two thirds vote of the full Council, waive the filing deadline for an application.~~

~~(d) Except for that calendar year in which the Metro Council is completing its five year analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for acceptance of applications for major amendments not less than 120 calendar days before the deadline and again 90 calendar days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro. A copy of the notice shall~~

~~be mailed not less than 90 calendar days before the deadline to anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained.~~

~~(e) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 21 calendar days before the hearing. The Chief Operating Officer shall send a copy of the report and recommendation simultaneously to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available at least seven days prior to the hearing.~~

~~(f) An applicant shall provide a list of names and addresses of property owners for notification purposes, consistent with Section 3.01.055, when submitting an application. The list shall be certified in one of the following ways:~~

~~(1) By a title company as a true and accurate list of property owners as of a specified date; or~~

~~(2) By a county assessor, or designate, pledging that the list is a true and accurate list of property owners as of a specified date; or~~

~~(3) By the applicant affirming that the list is a true and accurate list as of a specified date.~~

~~(g) An applicant may request postponement of the hearing to consider the application within 90 days after filing of the application. The Chief Operating Officer may postpone the hearing for no more than 90 days. If the Chief Operating Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer shall return the portion of the fee deposit not required for costs assessed pursuant to Section 3.01.045.~~

~~(h) Position of City or County:~~

~~(1) Except as provided in paragraph (4) of this section, an application shall not be considered complete unless it includes a written statement by the governing body of each city or county with land use jurisdiction over the area included in the application that:~~

~~(A) Recommends approval of the application;~~

~~(B) Recommends denial of the application; or~~

~~(C) Makes no recommendation on the application.~~

~~(2) Except as provided in paragraph (4) of this subsection, an application shall not be considered complete unless it includes a written statement by any special district that has an agreement with the governing body of any city or county with land use jurisdiction over the area included in the application to provide an urban service to the area that:~~

~~(A) Recommends approval of the application;~~

~~(B) Recommends denial of the application; or~~

~~(C) Makes no recommendation on the application.~~

~~(3) If a city, county or special district holds a public hearing to consider an application, it shall:~~

~~(A) Provide notice of such hearing to the Chief Operating Officer and any city or county whose municipal boundary or urban planning area boundary abuts the area; and~~

~~(B) Provide the Chief Operating Officer with a list of the names and addresses of persons testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.~~

~~(4) Upon request by an applicant, the Council may waive the requirements of subsections (1) and (2) of this section if the applicant shows that the local government has a policy not to comment on such applications or that a request for comment was filed with the local government or special district at least 120 calendar days before the request and the local government or special district has not yet adopted a position on the application. The governing body of a local government may delegate the decisions described in paragraphs (1) and (2) of this subsection to its staff.~~

~~(i) The Council may approve expansion of the UGB to include land outside the Metro Area only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.~~

~~(j) The proposed amendment to the UGB shall include the entire right-of-way of an adjacent street to ensure that public facilities~~

~~and services can be provided to the subject property by the appropriate local government or service district in a timely and efficient manner.~~

~~— (k) At least 30 days prior to the first public hearing on an application to amend the UGB to include in excess of 100 acres, the applicant shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Metro shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:~~

- ~~(1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;~~
- ~~(2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and~~
- ~~(3) The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.~~

### 3.01.025 Major Amendments - Procedures

(a) A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1).

(b) Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a two-thirds vote of the full Council.

(c) With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and

accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

(d) The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

(e) The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

(f) Within 14 days after receipt of a complete application, the Chief Operating Officer will:

- (1) Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
- (2) Notify the public of the public hearing as prescribed in section 3.01.050 of this chapter.

(g) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available to the public at least seven days prior to the hearing.

(h) If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in section 3.01.015(d).

(i) An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.

(j) Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.

(k) Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.

(l) The hearings officer will provide the following information to participants at the beginning of the hearing:

- (1) The criteria applicable to major amendments and the procedures for the hearing;
- (2) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
- (3) A statement that failure to raise an issue in a manner sufficient to afford the hearings office and participants an opportunity to respond to the issue precludes appeal of that issue.

(m) The hearing shall be conducted in the following order:

- (1) Presentation of the report and recommendation of the Chief Operating Officer;
- (2) Presentation of evidence and argument by the applicant;
- (3) Presentation of evidence and argument in support of or opposition to the application by other participants; and
- (4) Presentation of rebuttal evidence and argument by the applicant.

(n) The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.



(o) If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

(p) Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

(q) A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

(r) The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.

(s) Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.

(t) Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

(u) The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

(v) The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary only upon a written

agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.

~~3.01.030 Criteria for Major Amendment~~

~~(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last five-year analysis of buildable land supply and cannot wait until the next five year analysis. This section establishes criteria for major amendments to the UGB and sets forth how state law applies to these amendments. Metro intends compliance with the criteria of this section to constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the Regional Urban Growth Goals and Objectives. Land may be added to the UGB under this section only for the following purposes: public facilities, public schools, natural areas, land trades and other nonhousing needs.~~

~~(b) The applicant shall demonstrate that the amendment will provide for an orderly and efficient transition from rural to urban use, considering the following factors:~~

~~(1) Demonstrated need to accommodate long range urban population growth. The Metro Council will consider, based upon evidence in the record, whether the need for the subject land was accommodated at the time of the last legislative analysis of the UGB required by ORS 197.299. If the need was not accommodated in that analysis, the Metro Council will consider whether the need must be met now, rather than at the time of the next legislative amendment, in order to ensure an orderly and efficient transition from rural to urban use.~~

~~(2) Need for employment opportunities and livability. The Metro Council will consider, based upon evidence in the record, whether the need must be met at a particular location, or in a particular part of the region, in order to secure an employment or livability opportunity that cannot await the next legislative review of the UGB required by ORS 197.299(1), or to ensure the livability of that part of the region.~~

~~(3) Orderly and economic provision of public facilities and services. The Metro Council will consider, based upon evidence in the record, whether adding the subject land to the UGB, as compared with other land that might be added, will result in a more logical extension of public facilities and services and reduce~~

~~the overall cost of public facilities and services to land already within the UGB.~~

~~(4) Maximum efficiency of land uses within and on the fringe of the existing urban area. The Metro Council will consider, based upon evidence in the record, whether, in comparison with other land that might be added to the UGB, addition of the subject land will better achieve the residential and employment targets and transportation objectives in the 2040 Growth Concept that apply to nearby land within the UGB.~~

~~(5) Environmental, energy, economic and social consequences. The Metro Council will consider, based upon evidence in the record, whether the consequences of addition of the subject land would be, on the whole, more positive than not including the land, and more positive than including other land.~~

~~(6) Retention of agricultural and forest land. The Metro Council will consider, based upon evidence in the record, addition of land designated for agriculture or forestry pursuant to a statewide Goal 3 (Agricultural Land) or Goal 4 (Forest Land) only under the following circumstances:~~

~~(A) There is no land designated as urban reserve land pursuant to OAR 660, Division 021, as exception land pursuant to ORS 197.732(1)(a) or (b), or as marginal land pursuant to ORS 197.247 (1991 Edition) available to accommodate the subject need; or~~

~~(B) There is no land designated urban reserve available to accommodate the subject need, the subject land is not high value farmland as described in ORS 215.710, and the subject land is completely surrounded by exception land; or~~

~~(C) The application identifies a specific type of land need that cannot reasonably be accommodated on land described in (A) or (B) of this paragraph; or~~

~~(D) Future urban services could not reasonably be provided to land described in (A) or (B) of this paragraph.~~

~~(7) Compatibility of proposed urban development with nearby agricultural activities. The Metro Council will consider, based upon evidence in the record, whether urban development on the subject land would~~

~~likely cause a change in farm practices, or an increase in the cost of farm practices, on farms in areas designated for agriculture or forestry pursuant to a statewide planning goal within one mile of the subject land, based upon an inventory and analysis of those practices. The Metro Council will also consider measures that might eliminate or alleviate the potential conflicts with farm practices.~~

~~(c) The applicant shall demonstrate that:~~

~~(1) There is no land within the existing UGB that can reasonably accommodate the subject need;~~

~~(2) The long term environmental, economic, social and energy consequences of addition of the subject land would not be significantly more adverse than the consequence of adding other land;~~

~~(3) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;~~

~~(4) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB;~~

~~(5) The amendment complies with applicable statewide planning goals; and~~

~~(6) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.~~

~~(d) If the Metro Council adds land to the UGB in order to facilitate a trade and the land is available for housing, the Metro Council shall designate the land to allow an average density of at least 10 units per net developable acre or such lower density that is consistent with the 2040 Growth Concept plan designation for the area.~~

~~(e) Compliance with the criteria in subsections (b) and (c) of this section shall constitute conformance with the Regional Urban Growth Goals and Objectives.~~

### 3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and

services, public schools, natural areas, land trades and other nonhousing needs.

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b) and (c) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.

### 3.01.033 Minor Adjustments - Procedures

(a) A city, a county, a special district, Metro or a property owner may ~~file an application with Metro for initiate~~ a minor adjustment to the UGB by filing an application on a form provided ~~for that purpose~~ by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by Section 3.01.025(h).

~~—(b) Upon receipt of a complete application, the Chief Operating Officer shall provide notice of the application to the persons specified in Sections 3.01.050(d)(1) and 3.01.050(d)(3) through (6) to owners of property within 100 feet of the land involved in the application, to the Metro Council and to any person who requests notification of applications for minor adjustments.~~

~~(eb)~~ The Chief Operating Officer ~~shall~~ will determine whether ~~the an~~ application is complete and shall notify the applicant of ~~its the~~ determination within ~~seven working ten~~ days after the filing of ~~an the~~ application. If the application is not complete, the applicant shall complete it within 14 days of ~~the Chief Operating Officer's~~ notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if ~~it does not receive~~ a

complete application is not received within 14 days of ~~its~~ the notice of incompleteness.

(c) Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.

(d) The Chief Operating Officer shall review the application for compliance with the criteria in Section 3.01.035 of this chapter and shall issue an order with ~~its~~ analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall send a copy of ~~its~~ the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy ~~and to each member of the Council~~.

(e) The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by ~~the Chief Operating Officer Metro for that purpose~~ within 14 days ~~of~~ after receipt of the order. ~~In addition, any A~~ member of the Council may request in writing ~~that~~ within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral. ~~Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order on the minor adjustment. The Council shall issue an order with its analysis and conclusion and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.~~

(f) Notice to the public of a Council hearing on a proposed minor adjustment to the UGB be provided as prescribed in Section 3.01.050 of this chapter.

(g) Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.

### 3.01.035 ~~Criteria for~~ Minor Adjustments - Criteria

(a) The purpose of this section is to provide a mechanism to make small changes to the UGB ~~in order~~ to make it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and Regional Framework Plan policies applicable to ~~boundary~~ minor adjustments.

(b) Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.

(c) To ~~make~~ approve a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro shall find that:

- (1) The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;
- (2) Adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;
- (3) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (4) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (5) The adjustment will help achieve the 2040 Growth Concept;
- (6) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (7) If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.

(d) To ~~make~~ approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall find that:

- (1) The adjustment will result in the addition of no more than two net acres to the UGB;
- (2) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;

- (3) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (4) The adjustment will help achieve the 2040 Growth Concept; and
- (5) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(e) Where the UGB is intended to be coterminus with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

- (1) The delineation was done by a professional engineer registered by the State of Oregon;
- (2) The adjustment will result in the addition of no more than 20 net acres to the UGB;
- (3) The adjustment will help achieve the 2040 Growth Concept; and
- (4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

~~(ef) If the Metro Council adds land to the UGB in order to facilitate a trade and the land is available for housing, the~~ a minor adjustment adds more than two acres of land available for housing to the UGB, Metro ~~Council~~ shall designate the land to allow an average density of at least 10 units per net developable acre or such ~~lower~~ other density that is consistent with the 2040 Growth Concept designation for the area.

~~(fg)~~ The Chief Operating Officer shall submit a report to the Council at the end of each calendar year with an analysis of all boundary minor adjustments made during the year ~~pursuant to this section~~. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.

### 3.01.040 ~~Metro~~ Conditions of Approval

(a) Land added to the UGB by legislative amendment pursuant to Section 3.01.015 or by major amendment pursuant to Section 3.01.025 shall be subject to the ~~Urban Growth Boundary area comprehensive plan~~ requirements of Title 11, Planning for New Urban Areas, of the Urban



Growth Management Functional Plan (Metro Code Section 3.07.1110 et seq.).

(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when ~~it the~~ Council adopts a legislative or major amendment ~~adding land~~ to the UGB, the Council shall ~~take the following actions~~:

- (1) ~~The Council shall consult~~ In consultation with ~~affected affected~~ local governments, ~~and MPAC to determine whether local governments have agreed, pursuant to ORS 195.065 to 195.085 or otherwise, which local government shall adopt comprehensive plan amendments for the area consistent with requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.). Where the affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate. If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.~~ designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
- (2) ~~The Council shall e~~Establish the 2040 Growth Concept design type designations applicable to the land added to the ~~Urban Growth Boundary~~, including the ~~special specific~~ land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.
- (3) ~~The Council shall e~~Establish the boundaries of the area that shall be included in the ~~conceptual level of planning required by Title 11. of the Urban Growth Management Functional Plan (Metro Code Section 3.07.1110 et seq.)~~. The boundary of the planning area may include all or part of one or more designated urban reserves.

(4) ~~The Council shall also e~~Establish the time period for city or county compliance with the requirements of ~~the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.); however, the time period shall not be less~~ which shall not be less than two (2) years from the time a local government is designated pursuant to Section 3.01.040(b)(1) above following the effective date of the ordinance adding the area to the UGB.

~~(5) The Council may adopt text interpretations of the requirements of Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.) that shall be applicable to the required City or County comprehensive plan amendments. These interpretations may address special land needs that are the basis for the amendment but otherwise such interpretations shall not impose specific locational development requirements. Text interpretations may include determinations that certain provisions of Title 11 are not applicable to specific areas because of the size or physical characteristics of land added to the Urban Growth Boundary.~~

(c) When it adopts a legislative or major amendment ~~adding land~~ to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.870 of the Urban Growth Management Functional Plan.

### 3.01.045 Fees

(a) Each application submitted by a property owner or group of property owners pursuant to this chapter shall be accompanied by a filing fee in an amount to be established by resolution of the Council. Such fees shall not exceed the actual costs of Metro to process an application. The filing fee shall include administrative costs and the cost of a hearings officer ~~and of public notice costs~~.

(b) The fees for ~~administrative~~ costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.

~~(c) An applicant also shall be charged for the costs of Metro hearings officer as billed for that case and for the costs of public notice.~~

(~~dc~~) Before a hearing is scheduled, an applicant shall submit a fee deposit.

(~~ed~~) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of ~~a~~ final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit, prior to final action by the Council.

~~(f) If hearings officer/public notice or administrative costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit, prior to final action by the Metro Council.~~

(~~ge~~) The ~~Metro~~ Council may, by resolution, reduce, refund or waive the ~~administrative~~ fee, or portion thereof, if it finds that ~~such~~ the fees would create an undue hardship for the applicant.

### ~~3.01.050 Hearing Notice Requirements~~

~~(a) 45-Day Notice. A proposal to amend the UCB by legislative amendment under Section 3.01.015 or by major amendment under Section 3.01.025 shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the matter. The notice shall be accompanied by the appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.~~

~~(b) Newspaper Ads. A 1/8 page advertisement in a newspaper of general circulation of Metro for all legislative amendments and major amendments. For legislative amendments and major amendments the initial newspaper advertisements shall be published at least 45 days prior to the public hearing and shall include the same information listed in subsection (a).~~

~~(c) 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. A street address or other easily understood geographical reference can be utilized if available.~~

~~(3) For major amendments:~~

- ~~(A) An explanation of the proposed action, including the nature of the application and the proposed boundary change.~~
- ~~(B) A list of the applicable criteria for approval of the petition at issue.~~
- ~~(C) A statement that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.~~
- ~~(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 and before the hearings officer unless that requirement is waived by the Metro Council.~~
- ~~(6) Include the name of the Metro staff to contact and telephone number for more information.~~
- ~~(7) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the final hearing, and that a copy will be made available at no cost or reasonable cost. Further that if additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing.~~
- ~~(8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~
- ~~(d) Not less than 20 calendar days before the hearing, notice shall be mailed to the following persons:~~
- ~~(1) The applicant and owners of record of property on the most recent property tax roll where the property is located.~~
- ~~(2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from 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 owners of record.~~

~~(3) Cities and counties in Metro, or cities and counties whose jurisdictional boundaries either include or are adjacent to the subject property, and affected agencies who request regular notice.~~

~~(4) The neighborhood association, community planning organization or other citizen group, if any, which has been recognized by the city or county with land use jurisdiction for the subject property.~~

~~(5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to participate in land use planning processes by the cities and counties whose jurisdictional boundaries either include or are adjacent to the site.~~

~~(6) The regional representatives of the director of the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation.~~

~~(7) Any other person requesting notification of UGB changes.~~

~~(c) At the conclusion of the hearing, the hearings officer may continue the hearing to a time, place and date certain, without additional notice.~~

### 3.01.050 Notice Requirements

(a) For a proposed legislative amendment under section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:

(1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;

(2) In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and

(3) To the general public by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

(b) For a proposed major amendment under section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:

- (1) In writing at least 45 days before the first public hearing on the proposal to:
  - (A) The applicant
  - (B) The director of the Department of Land Conservation and Development;
  - (C) The owners of property that is being considered for addition to the UGB; and
  - (D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
- (2) In writing at least 30 days before the first public hearing on the proposal to:
  - (A) The local governments of the Metro area;
  - (B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and
- (3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

(c) The notice required by subsections (a) and (b) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) The time, date and place of the hearing;

- (3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference can be if available;
- (4) A statement that interested persons may testify and submit written comments at the hearing;
- (5) The name of the Metro staff to contact and telephone number for more information;
- (6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
- (7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings.
- (8) For proposed major amendments only:
  - (A) An explanation of the proposed boundary change;
  - (B) A list of the applicable criteria for of the proposal; and
  - (C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (9) For the owners of property described in paragraph (b)(1)(iii) of this section, the information required by ORS 268.393(3).
  - (d) For a proposed minor adjustment under section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:
    - (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;
    - (2) In writing at least 20 days before the issuance of an order on the proposal to:
      - (A) The applicant and the owners of property subject to the proposed adjustment;
      - (B) The owners of property within 500 feet of the property subject to the proposed adjustment;

(C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;

(D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and

(E) Any other person requesting notification of UGB changes.

(e) The notice required by subsection (d) of this section shall include:

(1) A map showing the location of the area subject to the proposed amendment;

(2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference can be if available;

(3) A statement that interested persons may submit written comments and the deadline for the comments;

(4) The name of the Metro staff to contact and telephone number for more information; and

(5) A list of the applicable criteria for of the proposal.

(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.

### ~~3.01.055 Public Hearing Rules Before the Hearings Officer~~

~~(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:~~

~~(1) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or~~



- ~~(2) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.~~
- ~~(3) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.~~
- ~~(4) If required, the Chief Operating Officer shall also provide notice to the Department of Land Conservation and Development.~~
- ~~(5) The notice shall:~~
  - ~~(A) Explain the nature of the application and the proposed use or uses which could be authorized;~~
  - ~~(B) List the applicable criteria from the ordinance and the regional framework plan that apply to the application at issue;~~
  - ~~(C) Set forth the street address or other easily understood geographical reference to the subject property;~~
  - ~~(D) State the date, time and location of the hearing;~~
  - ~~(E) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;~~
  - ~~(F) Be mailed at least:
    - ~~(i) 20 days before the evidentiary hearing; or~~
    - ~~(ii) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;~~~~
  - ~~(G) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;~~
  - ~~(H) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;~~

- ~~(I) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and~~
- ~~(J) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~
- ~~(6) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the Chief Operating Officer can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.~~
- ~~(b) All applications for a major amendment accepted under this chapter shall receive a contested case hearing according to the following rules:~~
- ~~(1) Hearings officers shall be selected by Metro pursuant to the provisions of Section 2.05.025(a) of the Metro Code.~~
- ~~(2) Parties to the case shall be defined as being any individual, agency, or organization who participates orally or in writing in the creation of the record used by the hearings officer in making a decision. If an individual represents an organization orally and/or in writing, that individual must indicate the date of the organization meeting in which the position presented was adopted. The hearings officer may request that the representative explain the method used by the organization to adopt the position presented. Parties need not be represented by an attorney at any point in the process outlined in this subsection and elsewhere in this chapter.~~
- ~~(3) At the time of the commencement of a hearing, the hearings officer shall provide the following information to parties:~~
- ~~(A) A list and statement of the applicable substantive criteria and procedures for notice and conduct of local quasi-judicial land use hearings provided that failure to provide copies to all those present shall not constitute noncompliance with this subsection; and~~

- ~~(B) A statement that testimony and evidence must be directed toward the criteria or other specific criteria which the person believes apply to the decision; and~~
- ~~(C) A statement that the failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal.~~
- ~~(4) (A) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The hearing may be continued for a reasonable period as determined by the hearings officer. The hearings officer shall grant such request by continuing the public hearing pursuant to paragraph (B) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (C) of this subsection.~~
- ~~(B) If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.~~
- ~~(C) If the hearings officer leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the hearings officer for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings officer shall reopen the record pursuant to subsection (11) of this section.~~
- ~~(D) Unless waived by the applicant, the local government shall allow the applicant at least~~

~~seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.~~

~~(5) Failure of the applicant to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the application.~~

~~(6) The hearing shall be conducted in the following order:~~

~~(A) Staff report.~~

~~(B) Statement and evidence by the applicant in support of a petition.~~

~~(C) Statement and evidence of affected persons, agencies, and/or organizations opposing or supporting the petition, and/or anyone else wishing to give testimony.~~

~~(D) Rebuttal testimony by the applicant.~~

~~(7) The hearings officer shall have the right to question any participant in the hearing. Cross examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.~~

~~(8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.~~

~~(9) A verbatim audio tape or video tape, written, or other mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.~~

~~(10) The burden of presenting evidence in support of a fact or position in the contested case rests on the applicant. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with all applicable standards.~~

~~(11) The hearings officer may reopen a record to receive evidence not available or offered at the hearing. If the record is reopened, any person may raise new issues which relate to the new evidence before the record is closed.~~

~~(12) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Metro Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.~~

~~(13) All documents or evidence relied upon by the applicant shall be submitted to the Chief Operating Officer and be made available to the public.~~

~~(14) Applications may be consolidated by the hearings officer for hearings where appropriate. Following consultation with Metro staff and prospective applicants, the hearings officer shall issue rules for the consolidation of related cases and allocation of charges. These rules shall be designed to avoid duplicative or inconsistent findings, promote an informed decision making process, protect the due process rights of all parties, and allocate the charges on the basis of cost incurred by each party.~~

~~(c) Within 30 calendar days following the close of the record, the hearings officer shall prepare and submit a proposed order and findings, together with the record compiled in the hearing and a list of parties to the case, to the Chief Operating Officer. Within seven (7) working days of receiving the materials from the hearings officer, the Chief Operating Officer, or designate, shall furnish the proposed order and findings to all parties to the case. Accompanying the proposed order and findings shall be notification to parties which includes:~~

~~(1) The procedure for filing an exception and filing deadlines for submitting an exception to the proposed order and findings of the hearings officer. Parties filing an exception with Metro must furnish a copy of their exception to all parties to the case and the hearings officer.~~

~~(2) A copy of the form to be used for filing an exception.~~

~~(3) A description of the grounds upon which exceptions can be based.~~

~~(4) A description of the procedure to be used to file a written request to submit evidence that was not offered at the hearing, consistent with Metro Code Sections 2.05.035(c) and (d).~~

~~(5) A list of all parties to the case.~~

~~(d) Once a hearings officer has submitted the proposed order and findings to the Chief Operating Officer, the Chief Operating Officer, or designate, shall become the custodian of the record compiled in the hearing, and shall make the record available at Metro offices for review by parties.~~

### 3.01.055 Regular Review of Chapter

The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.

### ~~3.01.060 Exceptions to Hearings Officer Decision~~

~~(a) Standing to file an exception and participate in subsequent hearings is limited to parties to the case.~~

~~(b) Parties shall have 20 calendar days from the date that the proposed order and findings are mailed to them to file an exception to the proposed order and findings of the hearings officer with Metro on forms furnished by Metro.~~

~~(c) The basis for an exception must relate directly to the interpretation made by the hearings officer of the ways in which the application satisfies the standards for approving an application for a UGB amendment. Exceptions must rely on the evidence in the record for the case. Only issues raised at the evidentiary hearing will be addressed because failure to raise an issue constitutes a waiver to the raising of such issues at any subsequent administrative or legal appeal deliberations.~~

~~(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 01-929A, Sec. 9; Ordinance No. 02-972A, Sec. 1.)~~

### 3.01.060 Severability

Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional, the remainder of this chapter shall continue in full force and effect.

### ~~3.01.065 Council Action On Quasi Judicial Amendments~~

~~(a) The Council may act to approve, remand or deny an application in whole or in part. When the Council renders a decision that reverses or modifies the proposed order of the hearings officer, then, in its order, it shall set forth its findings and state its reasons for taking the action.~~

~~(b) Parties to the case and the hearings officer shall be notified by mail at least 10 calendar days prior to Council~~

~~consideration of the case. Such notice shall include a brief summary of the proposed action, location of the hearings officer report, and the time, date, and location for Council consideration.~~

~~(c) Final Council action following the opportunity for parties to comment orally to Council on the proposed order shall be as provided in Code Section 2.05.045. Parties shall be notified of their right to review before the Land Use Board of Appeals.~~

~~(d) Comments before the Council by parties must refer specifically to any arguments presented in exceptions filed according to the requirements of this chapter, and cannot introduce new evidence or arguments before the Council. If no party to the case has filed an exception, then the Council shall decide whether to entertain public comment at the time that it takes final action on an application.~~

~~(e) Within 20 days from the day that the proposed order and findings of the hearings officer are mailed to them, parties may file a motion to reopen the record to receive admissible evidence not available at the hearing. The motion shall show proof of service on all parties. The Council shall rule on such motions with or without oral argument at the time of its consideration of the case. An order approving such a motion to reopen the record shall remand the case to the hearings officer for evidentiary hearing. When the Council or the hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.~~

~~(f) When the Council acts to approve an application with a condition that requires annexation to a city, a service district or Tri-Met:~~

~~(1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the city, the district or Tri-Met within six months of the date of adoption of the resolution.~~

~~(2) The Council shall take final action, as provided for in paragraphs (c) and (d) of this section, within 30 calendar days of notice that all required annexations have been approved.~~

~~(g) When the Council is considering an ordinance to approve an application, it shall take all public comment at its first reading of the ordinance, discuss the case, and then either pass the ordinance to second reading or remand the proposed order and findings of the hearings officer to the Metro Attorney or the hearings officer for new or amended findings. If new or amended findings are prepared, parties to the case shall be provided a copy of the new order and findings by mail no less than seven calendar days prior to the date upon which the Council will consider the new order and findings, and parties will be~~

~~given the opportunity to provide the Council with oral or written testimony regarding the new order and findings.~~

### ~~3.01.070 Final Action Notice Requirements~~

~~(a) Metro shall give each county and city in Metro notice of each amendment of the UGB. Mailing the notice required by Ballot Measure 56 (Nov. 1998) [ORS Chapter 268] or ORS 197.615 shall satisfy this subsection.~~

~~(b) For the local government designated as having the responsibility for land use planning for the area(s) added to the UGB, Metro shall provide an additional notice stating the time period for completing comprehensive plan amendments for the area.~~

### ~~3.01.080 Chapter Regulation Review~~

~~The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise. This chapter shall be submitted upon adoption to the Land Conservation and Development Commission for acknowledgment pursuant to ORS 197.251, as an implementing measure to Metro UGB. Amendments to this chapter shall be submitted to the Department of Land Conservation and Development pursuant to the requirements of OAR 660 Division 18 as appropriate.~~

### ~~3.01.085 Severability~~

~~Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall continue in full force and effect.~~