

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 06-1110A
CHAPTER 3.07 OF THE METRO CODE (TITLE)
11, (PLANNING FOR NEW URBAN AREAS))
OF THE URBAN GROWTH MANAGEMENT)
FUNCTIONAL PLAN TO FACILITATE THE)
SITING OF CERTAIN PUBLIC USES IN NEW)
URBAN AREAS) Introduced by Council President Bragdon

WHEREAS, Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan ("UGMFP") establishes temporary limitations on land divisions in territory newly added to the urban growth boundary ("UGB") in order to avoid premature commitment of land during the time of comprehensive planning for the new territory; and

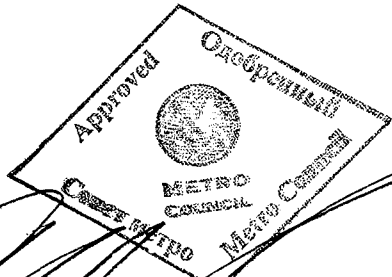
WHEREAS, given the slow pace of comprehensive planning for territory added to the UGB, this limitation can unintentionally delay and, thereby, increase the public cost of, acquisition of sites for certain needed public facilities; and

WHEREAS, this potential effect of the limitation on creation of new parcels is not the intent of Title 11, and is inconsistent with Policy 1.14.4 (School and Local Government Plan and Policy Coordination) of Metro's Regional Framework Plan ("RFP") ; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan is hereby amended, as shown in Exhibit A, attached and incorporated into this ordinance, to facilitate the siting of certain public uses in new urban territory subject to comprehensive planning under Title 11.
- 2. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, explain how this amendment to Title 11 complies with the RFP and state planning laws.

ADOPTED by the Metro Council this 23rd day of February, 2006.



[Signature]
David Bragdon, Council President

Attest:

Approved as to form:

[Signature]
Christina Billington, Recording Secretary

[Signature]
Daniel B. Cooper, Metro Attorney

Exhibit "A" to Ordinance No. 06-1110A
Amendment to Title 11 (Planning for New Urban Areas)
of the Urban Growth Management Functional Plan

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1105 Purpose and Intent

It is the purpose of Title 11 to require and guide planning for conversion from rural to urban use of areas brought into the UGB. It is the intent of Title 11 that development of areas brought into the UGB implement the Regional Framework Plan and 2040 Growth Concept.

3.07.1110 Interim Protection of Areas Brought into the Urban Growth Boundary

~~After inclusion of an area within the UGB and prior to the adoption by all local governments with jurisdiction over an area brought into the UGB~~ Until the effective date of amendments to comprehensive plans and implementing land use regulations that comply with section 3.07.1120, the city or county responsible for planning territory added to the UGB ~~local government~~ shall not approve ~~of~~:

- A. ~~Any~~ land use regulation or zoning map amendment~~s~~ specific to the territory allowing higher residential density than allowed by acknowledged provisions in effect prior to the adoption of the UGB amendment;
- B. ~~Any~~ land use regulation or zoning map amendment~~s~~ specific to the territory allowing commercial or industrial uses not allowed under acknowledged provisions in effect prior to the adoption of the UGB amendment;
- C. ~~Any~~ A land division or partition that would result in the creation of ~~any~~ a new lot or parcel ~~which would be~~ less than 20 acres in ~~total~~ size, except to create lots or parcels for public facilities and services as defined in Metro Code section 3.01.010 or a new public school;
- D. In an area identified by the Metro Council in the ordinance adding the area to the UGB as a Regionally Significant Industrial Area:
 - 1. A commercial use that is not accessory to industrial uses in the area; and
 - 2. A school, church or other institutional or community service use intended to serve people who do not work or reside in the area.

Exhibit “B” to Ordinance No. 06-1110A
Findings of Fact and Conclusions of Law

Ordinance No. 06-1110A amends Metro Code Chapter 3.07, the Urban Growth Management Functional Plan (“UGMFP”), section 3.07.1110 in order to exempt certain public uses from the 20-acre minimum size for new lots and parcels that applies during the period in which planning for territories newly added to the UGB takes place. The practical effect is that counties can allow a land division that creates lots or parcels smaller than 20 acres for public schools and other public facilities and services prior to the completion of comprehensive planning under Title 11 (Planning for New Urban Areas) of the UGMFP.

I. 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 required by ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee (“MPAC”), which sought the advice of its Metropolitan Technical Advisory Committee (“MTAC”), both of which recommended approval as written. On February 23, 2006, the Metro Council held a public hearing on the proposed ordinance. The Council concludes that 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 establishes MPAC, composed principally of representatives of local governments, special districts and school districts in the region, and requires the Metro Council to seek its advice on amendments to the Regional Framework Plan and its components, such as the UGMFP. MPAC reviewed Ordinance No. 06-1110A and recommended adoption. The Council concludes that the ordinance complies with Goal 2.

Statewide Planning Goal 3 – Agricultural Lands: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not apply to territory outside the UGB, the Council concludes that Goal 3 does not apply to the amendments.

Statewide Planning Goal 4 – Forest Lands: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not apply to territory outside the UGB, the Council concludes that Goal 4 does not apply to the amendments.

Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not authorize any new uses in the territory, or change the regulations that apply to new or existing uses, the Council concludes that the amendments are consistent with Goal 5.

Statewide Planning Goal 6 – Air, Land and Water Resources Quality: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not authorize any new uses in the territory, or change the regulations that apply to new or existing uses, the Council concludes that the amendments do not affect air or water quality and are consistent with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Disasters and Hazards: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not authorize any new uses in the territory, or change the regulations that apply to new or existing uses, the Council concludes that the amendments do not affect natural disasters or hazards, and are consistent with Goal 7.

Statewide Planning Goal 8 – Recreational Needs: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not authorize any new uses in the territory, or change the regulations that apply to new or existing uses, the Council concludes that the amendments do not affect natural disasters or hazards, and are consistent with Goal 8.

Statewide Planning Goal 9 – Economic Development: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. The amendments will not affect economic development. Because the amendments do not authorize any new uses in the territory, or change the regulations that apply to new or existing uses, the Council concludes that the amendments are consistent with Goal 9.

Statewide Planning Goal 10 – Housing: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not authorize any new uses in the territory, or change the regulations that apply to new or existing uses, the Council concludes that the amendments are consistent with Goal 10.

Statewide Planning Goal 11 – Public Facilities and Services: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. The amendments will make it slightly easier to develop public facilities and services in the territory during the time comprehensive planning is being done. The Council concludes that the amendments comply with Goal 11.

Statewide Planning Goal 12 – Transportation: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. The amendments will make it slightly easier to provide efficient transportation services to territory added to the UGB. The Council concludes that the amendments comply with Goal 12.

Statewide Planning Goal 13 – Energy Conservation: Ordinance No. 06-1110A authorizes counties to allow the creation of parcels smaller than 20 acres for public schools and other public facilities and services prior to completion of comprehensive planning for territory newly added to the UGB. Because the amendments do not authorize any new uses in the territory, or change the regulations that apply to new or existing uses, the Council concludes that the amendments are consistent with Goal 13.

Statewide Planning Goal 14 – Urbanization: Goal 14 governs the establishment and change of UGBs. Ordinance No. 06-1110A does not apply outside the UGB and does not apply to changes to the UGB. Goal 14 also requires management of “urbanizable land” within UGBs “to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.” The amendments made by this ordinance will allow the creation of smaller lots and parcels. Reducing the size of lots and parcels can reduce the potential of the affected land for urbanization. However, the amendment allows creation of smaller parcels only for schools and public facilities and services. The Council anticipates there will be few occasions on which this will happen. Moreover, the Council believes that whatever small effect on urbanization potential these amendments may have will be balanced by the efficiencies and lower land costs gained by public service providers from acquiring sites for public facilities before urbanization occurs. For these reasons, the Council concludes that the amendments are consistent with Goal 14.

Statewide Planning Goal 15 – Willamette River Greenway: Ordinance No. 06-1110A governs changes to local government boundaries within the UGB. Neither the amendments nor decisions made pursuant to the amendments affect the Willamette River Greenway. The Council concludes that Goal 15 does not apply to the amendments.

II. REGIONAL FRAMEWORK PLAN

Policy 1.1 – Urban Form: This policy calls for a compact urban form and affordable housing choices. For the reasons set forth in the discussion of the application of Goal 14 to the amendments, the Council concludes that the amendments are consistent with Policy 1.1.

Policy 1.2 – Built Environment: This policy seeks fair-share and equitable growth. For the reasons set forth in the discussion of the application of Goal 14 to the amendments, the Council concludes that the amendments are consistent with Policy 1.2.

Policy 1.3 – Affordable Housing: This policy seeks opportunities for a wide range of housing opportunities. Because the amendments will not affect these opportunities, the Council concludes that the amendments are consistent with Policy 1.3.

Policy 1.4 – Economic Opportunity: The amendments will not affect economic opportunity. The Council concludes that the amendments are consistent with Policy 1.4.

Policy 1.6 – Growth Management: This policy calls for efficient management of urban land, among other things. For the reasons set forth in the discussion of the application of Goal 14 to the amendments, the Council concludes that the amendments are consistent with Policy 1.6.

Policy 1.9 – Urban Growth Boundary: Policy 1.9 sets Metro’s policy toward changes to the UGB. Ordinance No. 06-1110 does not apply outside the UGB and does not apply to changes to the UGB. Hence, the Council concludes that the amendments are consistent with Policy 1.9.

Policy 1.13 – Participation of Citizens: The public involvement actions described above under Goal comply with Metro’s code and Policy 1.13.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING TITLE 11) ORDINANCE NO. 06-1110
(PLANNING FOR NEW URBAN AREAS) OF)
THE URBAN GROWTH MANAGEMENT)
FUNCTIONAL PLAN TO FACILITATE THE)
SITING OF CERTAIN PUBLIC USES IN NEW)
URBAN AREAS) Introduced by Council President Bragdon

WHEREAS, Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan (“UGMFP”) establishes temporary limitations on land divisions in territory newly added to the urban growth boundary (“UGB”) in order to avoid premature commitment of land during the time of comprehensive planning for the new territory; and

WHEREAS, given the slow pace of comprehensive planning for territory added to the UGB, this limitation can unintentionally delay and, thereby, increase the public cost of, acquisition of sites for certain needed public facilities; and

WHEREAS, this potential effect of the limitation on creation of new parcels is not the intent of Title 11, and is inconsistent with Policy 1.14.4 (School and Local Government Plan and Policy Coordination) of Metro’s Regional Framework Plan (“RFP”) ; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan is hereby amended, as shown in Exhibit A, attached and incorporated into this ordinance, to facilitate the siting of certain public uses in new urban territory subject to comprehensive planning under Title 11.
- 2. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, explain how this amendment to Title 11 complies with the RFP and state planning laws.

ADOPTED by the Metro Council this __ day of _____, 2006.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit "A" to Ordinance No. 06-1110
Amendment to Title 11 (Planning for New Urban Areas)
of the Urban Growth Management Functional Plan**

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1105 Purpose and Intent

It is the purpose of Title 11 to require and guide planning for conversion from rural to urban use of areas brought into the UGB. It is the intent of Title 11 that development of areas brought into the UGB implement the Regional Framework Plan and 2040 Growth Concept.

3.07.1110 Interim Protection of Areas Brought into the Urban Growth Boundary

~~After inclusion of an area within the UGB and prior to the adoption by all local governments with jurisdiction over an area brought into the UGB—Until the effective date~~ of amendments to comprehensive plans and implementing land use regulations that comply with section 3.07.1120, the city or county responsible for planning territory added to the UGB [local government] shall not approve [of]:

- A. A[ny] land use regulation or zoning map amendment[s] specific to the territory allowing higher residential density than allowed by acknowledged provisions in effect prior to the adoption of the UGB amendment;
- B. A[ny] land use regulation or zoning map amendment[s] specific to the territory allowing commercial or industrial uses not allowed under acknowledged provisions in effect prior to the adoption of the UGB amendment;
- C. [Any] A land division or partition that would result in the creation of [any] a new lot or parcel [which would be] less than 20 acres in [total] size, except to create lots or parcels for public facilities and services as defined in Metro Code section 3.01.010 or a new public school;
- D. In an area identified by the Metro Council in the ordinance adding the area to the UGB as a Regionally Significant Industrial Area:
 - 1. A commercial use that is not accessory to industrial uses in the area; and
 - 2. A school, church or other institutional or community service use intended to serve people who do not work or reside in the area.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1110 FOR THE PURPOSE OF AMENDING TITLE 11 (PLANNING FOR NEW URBAN AREAS) OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TO FACILITATE THE SITING OF CERTAIN PUBLIC USES IN NEW URBAN AREAS

Date: January 27, 2006

Prepared by: Dick Benner, Ray Valone

BACKGROUND

Urban Growth Management Functional Plan, Title 11 section 3.07.1110, Interim Protection of Areas Brought into the Urban Growth Boundary, prohibits local governments with land use jurisdiction over a new urban area from approving land divisions within the area prior to the adoption of comprehensive plan and implementing ordinances that result in new parcels less than 20 acres. The Beaverton School District's recent search for a new school site of 10 acres has not been successful. The District has found land, however, within the new Bethany expansion area that would be appropriate for a new school, but does not need a full 20 acres. Pursuant to discussions among the school district, Washington County staff and Metro staff, Metro Chief Operating Officer Jordan directed staff to draft a revision to Title 11 that would allow the division of land for public schools during the Title 11 interim period in increments less than 20 acres.

Staff drafted an ordinance amendment to resolve the school siting issue (see Attachment 1). Staff also proposes to extend relief from the 20-acre restriction to all public facility and service land use siting issues. This provision anticipates the need to allow local governments to approve land divisions less than 20 acres for uses such as sewer or water pump stations, sub-stations or fire stations. This amendment, therefore, includes language to exempt public facility and services as well as public schools from the 20-acre limit. Public facilities and services, as defined in Metro Code 3.01.010, means 'sanitary sewers, water service, fire protection, parks, open space, recreation, streets and roads and mass transit.'

This amendment would not obviate the need for the affected local governments to complete Title 11 planning for a new area before urbanization could occur. Approval of a land division does not constitute approval of a particular use, school or otherwise. Approval of the use would have to comply with local zoning

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time
2. **Legal Antecedents:** Title 11, Urban Growth Management Functional Plan, section 3.07.1110C.
3. **Anticipated Effects:** Adoption of the ordinance will allow local governments to approve land divisions that create parcels less than 20 acres within new urban areas prior to the adoption of comprehensive plan and implementing ordinances for the siting of public facilities and services and public schools.
4. **Budget Impacts:** None

RECOMMENDED ACTION

Adoption of Ordinance No. 06-1110