

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE)
SECTIONS 3.07.120, 3.07.130 AND 3.07.1120;) Ordinance No. 06-1124
ADDING METRO CODE SECTION 3.07.450 TO)
ESTABLISH A PROCESS AND CRITERIA FOR) Introduced by Chief Operating Officer
CHANGES TO THE EMPLOYMENT AND) Michael J. Jordan, with the concurrence of
INDUSTRIAL AREAS MAP; AND DECLARING AN) Council President David Bragdon
EMERGENCY)

WHEREAS, Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (“UGMFP”) prescribes limitations on certain uses in Industrial Areas, Regionally Significant Industrial Areas and Employment Areas and makes reference to an “Employment and Industrial Areas Map,” which depicts the boundaries of these areas for regulatory purposes; and

WHEREAS, the Metro Council wishes to provide a process and criteria for making changes to the designations of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas on the Title 4 Employment and Industrial Areas Map; and

WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the proposed amendments and recommends their approval; and

WHEREAS, the Council held a public hearing on the proposed amendments on October 12, 2006, and considered public comment on the amendments; now, therefore,

THE METRO COUNCIL ORDAINS as follows:

SECTION 1. Metro Code Sections 3.07.120 and 3.07.130 are amended to read as follows: Sections 3.07.120 and 3.07.130 of Title 1 (Requirements for Housing and Employment Accommodation) of the UGMFP are hereby amended as shown in Exhibit A, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

SECTION 2. Metro Code Section 3.07.450 is amended to read as follows: Section 3.07.450 is hereby added to Title 4 (Industrial and Other Employment Areas) of the UGMFP as shown in Exhibit B, attached and incorporated into this ordinance, to prescribe a process and criteria for amendments to the Employment and Industrial Areas Map.

SECTION 3. Metro Code Section 3.07.1120 is amended to read as follows: Section 3.07.1120 of Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended as shown in Exhibit C, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

SECTION 4. The Findings of Fact and Conclusions of Law in Exhibit D, attached and incorporated into this ordinance, explain how these amendments comply with Metro’s Regional Framework Plan and state land use planning laws.

SECTION 5. This ordinance is necessary for the immediate preservation of public health, safety and welfare because, without this ordinance, there is no clear process for amending the Employment and Industrial Areas Map in Title 4 of the UGMFP and no specific criteria for such amendments. Metro has received a number of requests from local governments for amendments that involve economic development and need immediate attention. This ordinance provides a process and criteria for amendments to the map. Therefore, a emergency is 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 _____, 2006.

WITHDRAWN

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 06-1124
Amendments to Title 1 of the Urban Growth Management Functional Plan

TITLE 1: REQUIREMENTS FOR HOUSING AND EMPLOYMENT ACCOMMODATION

3.07.120 Housing and Employment Capacity

- A. Each city and county shall determine its capacity for housing and employment in order to ensure that it provides and continues to provide at least the capacity for the city or county specified in Table ~~3.01-7~~ 3.07-1, supplemented by capacity resulting from addition of territory to the UGB. Local governments shall use data provided by Metro unless the Metro Council or the Chief Operating Officer determines that data preferred by a city or county is more accurate.
- B. A city or county shall determine its capacity for dwelling units by cumulating the minimum number of dwelling units authorized in each zoning district in which dwelling units are authorized. A city or county may use a higher number of dwellings than the minimum density for a zoning district if development in the five years prior to the determination has actually occurred at the higher number.
- C. If a city annexes county territory, the city shall ensure that there is no net loss in regional housing or employment capacity, as shown on Table 3.07-1, as a result of amendments of comprehensive plan or land use regulations that apply to the annexed territory.
- D. After completion of its initial determination of capacity, each city or county shall report changes in its capacity by April 15 of the first calendar year following completion of its initial determination and by April 15 of every following year.

3.07.130 Design Type Boundaries Requirement

For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map or on maps adopted by ordinances adding territory to the UGB:

Central City--Downtown Portland is the Central City which serves as the major regional center, an employment and cultural center for the metropolitan area.

Regional Centers--Seven regional centers will become the focus of compact development, redevelopment and high-quality transit service and multimodal street networks.

Station Communities--Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature a high-quality pedestrian environment.

Town Centers--Local retail and services will be provided in town centers with compact development and transit service.

Main Streets--Neighborhoods will be served by main streets with retail and service developments served by transit.

Corridors--Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities.

Employment Areas--Various types of employment and some residential development are encouraged in employment areas with limited commercial uses.

Industrial Areas--Industrial areas are set aside primarily for industrial activities with limited supporting uses.

Regionally Significant Industrial Areas--Industrial areas with site characteristics that are relatively rare in the region that render them especially suitable for industrial use.

Inner Neighborhoods--Residential areas accessible to jobs and neighborhood businesses with smaller lot sizes are inner neighborhoods.

Outer Neighborhoods--Residential neighborhoods farther away from large employment centers with larger lot sizes and lower densities are outer neighborhoods.

Amendments to Title 4 of the Urban Growth Management Functional Plan

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

Add the following section:

3.07.450 Employment and Industrial Areas Map

- A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.
- B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Council will amend the map to be consistent with the boundaries established by the city or county. When the Council amends the map, it will also conform the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of the UGMFP, to the amendment to ensure implementation of Title 13.
- C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the map in order to allow uses not allowed by Title 4 upon a demonstration that:
 1. The property subject to the amendment is five acres or less;
 2. The property is not surrounded by land designated on the map as Industrial Area or Regionally Significant Industrial Area;
 3. The amendment will not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan or the lost capacity is replaced by separate and concurrent measures;
 4. If the map designates the property as Industrial Area or Regionally Significant Industrial Area, the existing uses of the property, or the uses of surrounding properties on the map, are non-industrial uses that are unlikely to convert to industrial use over the next ten years; and
 5. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight transport facilities, such as trans-shipment facilities.

- D. For amendments to the map other than those described in subsection C, a city, a county or a property owner may apply to the Metro Council between September 1 and October 15 of each calendar year except a year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1) or is considering expansion of the UGB following the analysis. A property owner may propose an amendment only if the city or county with land use responsibility for the property has approved a corresponding amendment to its comprehensive plan or zoning designation contingent upon approval of a map amendment by the Metro Council. Upon a request by a Metro Councilor and a finding of good cause, the Council may consider an application to amend the map at another time by a vote of five members of the Council. The Chief Operating Officer shall give notice to cities and counties of the timelines for applications at least 60 days prior to September 1 of the appropriate years.
- E. Upon receipt of a qualifying application filed under subsection D, the Chief Operating Officer shall notify the Department of Land Conservation and Development at least 45 days prior, and owners of property within 100 feet of the subject property at least 20 days prior to the first hearing on the application. The Chief Operating Officer shall set the matter for a hearing before the Council and prepare a report with a recommendation to be sent to the Council, the applicant and any person who requests a copy, at least 15 days prior to the hearing. The report shall address the potential cumulative effects upon the ability of the region to accomplish the purposes of Title 4 from all of the map amendment applications filed within the same application period as the subject application. Following the close of the hearing, the Council shall issue an order with its analysis, findings and conclusions and send it to the applicant, DLCDC and any person who participated in the proceeding.
- F. To approve an application under subsection D, the Council must conclude that the amendment:
1. Would not reduce the employment capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the UGMFP;
 2. Would not reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan, or exceed volume-to-capacity ratios on Table 7 of the 1999 Oregon Highway Plan for state highways, and would not require added road capacity to stay within the standards or ratios;

3. Would not diminish the intended function of Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
 4. Would not reduce the integrity or viability of a traded sector cluster of industries;
 5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and
 6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.
- G. The Metro Council may initiate an amendment to the map at any time to better achieve the policies of the Regional Framework Plan.
- H. Amendments to the map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.
- I. The Council or the Chief Operating Officer may establish conditions upon approval of an amendment to the map under subsections D or E to ensure that the amendment complies with the RFP and state land use planning laws.

Exhibit C to Ordinance No. 06-1124
Amendments 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~~ Planning for Territory Added to the UGB

All territory added to the ~~Urban Growth Boundary~~ UGB 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. Specific plan designation boundaries derived from the general boundaries of design type designations assigned by the Council in the ordinance adding the territory to the UGB.
- ~~AB.~~ 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.
- ~~BC.~~ Provision for average residential densities of at least 10 dwelling units per net developable residential acre or such other densities that the Council specifies pursuant to section 3.01.040 of the Urban Growth Management Functional Plan.
- ~~CD.~~ 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.
- ~~DE.~~ 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.

- EF. 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.
- FG. 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.
- EH. Identification and mapping of areas to be protected from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation, including, without limitation, all Habitat Conservation Areas, Water Quality Resource Areas, and Flood Management Areas. 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 zoning strategies to avoid and minimize the conflicts between planned future development and the protection of Habitat Conservation Areas, Water Quality Resource Areas, Flood Management Areas, and other natural hazard areas. The plan shall also include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, and easement dedication to ensure that all significant natural resources are protected.
- HI. 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.

ⓂJ. 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.

ⓂK. 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. Location of Habitat Conservation Areas;
4. General locations for mixed use areas, commercial and industrial lands;
5. General locations for single and multi-family housing;
6. General locations for public open space, plazas and neighborhood centers; and
7. General locations or alternative locations for any needed school, park or fire hall sites.

L. A determination of the zoned dwelling unit capacity of zoning districts that allow housing.

ⓂM. The plan amendments shall be coordinated among the city, county, school district and other service districts.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1124 FOR AMENDING METRO CODE SECTIONS 3.07.120, 3.07.130 AND 3.07.1120; AND ADDING METRO CODE SECTION 3.07.450 TO ESTABLISH A PROCESS AND CRITERIA FOR CHANGES TO THE EMPLOYMENT AND INDUSTRIAL AREAS MAP AND DECLARING AN EMERGENCY

Date: September 20, 2006

Prepared by: Dick Benner and Ray Valone

BACKGROUND

Title 4 of the Urban Growth Management Functional Plan (UGMFP) seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses within Regionally Significant Industrial Areas, Industrial Areas and Employment Areas. Title 4 sets the boundaries for these design type designations and determines which land in the region is subject to the title 's limitations. Local governments rely upon the Title 4 map (Employment and Industrial Areas map) to bring their comprehensive plans and zoning ordinances into compliance with the provisions of this title. From time to time, a city or county wants to change its plan and zone designations within a Title 4 design type. To remain in compliance with the UGMFP, these changes usually require an amendment to the Title 4 map.

Currently, there is no specific process or specific criteria in place in Title 4 against which to judge Title 4 map change requests. In recent months, several local governments have requested changes to this map. In the absence of specific criteria, the Metro Council would apply the policies of the Regional Framework Plan (RFP). In the absence of a specific process, the Metro Council would follow its customary ordinance process, regardless how large or small the map change request. Because the RFP does not specify which policies apply to Title 4 map changes, and because most RFP policies are general in nature, local governments - and the Metro Council when asked to approve or reject a proposed map change - face a large degree of uncertainty concerning Title 4 change requests.

Metro staff brought this issue to the May 23 and August 1, 2006, Metro Council work sessions. During the first session, the Metro Council directed staff to recommend a process and criteria after consultation with advisory committees. After discussion sessions on June 21, July 5 and July 19, 2006, with the Metropolitan Technical Advisory Committee (MTAC), staff brought the results back to the Metro Council on August 1, 2006. MTAC again discussed this issue on August 16, 2006. The proposed amendments to the UGMFP, shown in Exhibits A, B and C to this ordinance, is the result of the above discussions. In general, the approach contemplates:

- Basing the decision criteria on existing adopted Metro Council policy
- Treating minor and major requests differently
- Allowing local governments to process and decide on the minor amendment requests
- Requiring major requests to be heard and decided by the Metro Council only with prior approval by the affected local government
- Limiting the application period for major amendment requests between September 1 and October 15, except in years in which the Metro Council is completing its buildable lands analysis or considering expansion of the UGB.

Metro staff presented this package of amendments to MPAC on September 13, 2006. Members made no recommendations (will happen at MPAC's October 11 meeting), but discussed the relative roles of the Metro Council and cities and counties in the Title 4 map amendment process. MPAC members also

questioned the need for and timing of the “window” for applications, intended to allow Metro to consider cumulative impacts of multiple map amendments.

MTAC took up the package of amendments once again on September 20. Members agreed that MTAC wanted to develop an alternative to the package that would allow cities and counties to make map changes involving land on Metro’s Title 4 map, subject to criteria specified by Metro in Title 4. Members were split on the need for and the value of a “window” for applications. MTAC decided to delay a recommendation to MPAC until its October 4 meeting in order to give the committee time to draft and discuss an alternative process.

Next steps: The first reading at Metro Council is scheduled for September 28, 2006. MTAC will make its recommendation to MPAC on October 4. MPAC is scheduled to make its recommendation to the Council on October 11. The Council will hold a hearing on, and possibly adopt, the amendments on October 12, 2006.

ANALYSIS/INFORMATION

Known Opposition: No known opposition to the need for a process and criteria for amendments to the Title 4 map. Some opposition to some of the elements of the current package of proposed Title 4 map amendments.

Legal Antecedents: Ordinance No. 97-715B, Ordinance No. 02-969B and Ordinance No. 04-1040B.

Anticipated Effects: By adopting Ordinance 06-1124, the Council is amending three sections and adding a new section to Title 4 of the Urban Growth Management Functional Plan to establish a process and specific criteria for changing the Employment and Industrial Areas map of Title 4. If there is no successful appeal to the Land Use Board of Appeals, the Metro Council’s decision is final.

Budget Impacts: The cost for processing amendments to Title 4 is included in the current budget.

RECOMMENDED ACTION

Staff recommends the adoption of Ordinance No. 06-1124, but may be suggesting revisions at the Council’s September 26 workshop.

M E M O R A N D U M

DATE: December 29, 2006

TO: Metro Council

FROM: Becky Shoemaker, Metro Records Officer

RE: Ordinance No. 06-1124

TITLE: For the Purpose of Amending Metro Code Sections 3.07.120, 2.07.130 and 3.07.1120; Adding Metro Code Section 3.07.450 to Establish a Process and Criteria For Changes to the Employment and Industrial Areas Map; and Declaring an Emergency.

This ordinance was withdrawn and reassigned a new number. See Ordinance No. 07-1137.