

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: April 16, 1998
DAY: Thursday
TIME: 2:00 PM
PLACE: Council Chamber

| <u>Approx. Time*</u> | | <u>Presenter</u> |
|--------------------------|--|------------------|
| 2:00 PM | CALL TO ORDER AND ROLL CALL | |
| (5 min.) | 1. INTRODUCTIONS | |
| (5 min.) | 2. CITIZEN COMMUNICATIONS | |
| (5 min.) | 3. EXECUTIVE OFFICER COMMUNICATIONS | |
| (10 min.) | 4. MPAC COMMUNICATIONS | |
| | 5. CONSENT AGENDA | |
| 2:25 PM (5 min.) | 5.1 Consideration of Minutes for the April 9, 1998 Metro Council Regular Meeting. | |
| | 6. ORDINANCES – FIRST READING | |
| 2:30 PM (5 min.) | 6.1 Ordinance No. 98-730 , For the Purpose of Amending Ordinance Nos. 96-647C and No. 97-715B, to amend Title 3 of the Urban Growth Management Functional Plan, and amend the Regional Framework Plan, Appendix A, and adopt the Title 3 Model Ordinance and Water Quality and Flood Management Maps. | |

7. ORDINANCES - SECOND READING

2:35 PM (5 min.) 7.1 **Ordinance No. 98-732**, For the Purpose of Revising Quasi-Judicial Urban Growth Boundary Amendment Procedures in Metro Code 3.01.033, 3.01.035, 3.01.055, 3.01.065 and Declaring an Emergency. McLain

8. RESOLUTIONS

2:40 PM (5 min.) 8.1 **Resolution No. 98-2626**, For the Purpose of Confirming the Appointment of Ron Fortune to the Metropolitan Exposition-Recreation Commission. Naito

2:45 PM (5 min.) 8.2 **Resolution No. 98-2627A**, For the Purpose of Approving the Selection of Hearings Officers for Contested Case Hearings for the period commencing April 1998. Naito

2:50 PM (10 min.) 9. **COUNCILOR COMMUNICATION**

ADJOURN

CABLE VIEWERS: Council Meetings, the second and fourth Thursdays of the month are shown on City Net 30 (Paragon and TCI Cablevision) the first Sunday after the meeting at 8:30 p.m. The entire meeting is also shown again on the second Monday after the meeting at 2:00 p.m. on City Net 30. The meeting is also shown on Channel 11 (Community Access Network) the first Monday after the meeting at 4:00 p.m. The first and third Thursdays of the month are shown on Channel 11 the Friday after the meeting at 2:00 p.m. and the first Sunday and Wednesday after the meeting on Channels 21 & 30 at 7:00 p.m.

PUBLIC HEARINGS: Public Hearings are held on all Ordinances second read and on Resolutions upon request of the public. All times listed on the agenda are approximate; items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 5.1

Consideration of the April 9, 1998 Metro Council Regular meeting minutes.

**Metro Council Meeting
Thursday, April 16, 1998
Council Chamber**

MINUTES OF THE METRO COUNCIL MEETING

April 9, 1998

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer) Ruth McFarland, Susan McLain, Patricia McCaig, Ed Washington, Lisa Naito, Don Morissette

Councilors Absent:

Deputy Presiding Officer McFarland convened the Regular Council Meeting at 2:03 p.m. She announced that the Presiding Officer was delayed but would be at the meeting shortly.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

Art Lewellan, LOTI Designer, 3205 SE 8th #9 Portland OR 97202 supported light rail but did not support the South North Light Rail project. He felt that there were lots of people who were opposed to the light rail and the tension would increase because some people felt their needs were not being met by Metro or Tri-Met.

Deputy Presiding Officer McFarland asked if he was against the project design or the project itself.

Mr. Lewellan said he was a strong supporter of the light rail but not of the design itself.

Deputy Presiding Officer McFarland asked where Mr. Lewellan had the light rail crossing the river.

Mr. Lewellan said his design crossed at the Rose Quarter. He said his design included a trolley, electric buses and the light rail. He noted his most current design. He summed up by saying a compromise was in order. East bank alignment would be a better route for the light rail.

Deputy Presiding Officer McFarland thanked Mr. Lewellan for his input and all the work he had done.

3. SOUTH/NORTH LIGHT RAIL UPDATE

Richard Brandman, Assistant Director of Transportation Planning Department, introduced **Leon Skiles, South North Project Manager** and said they would give a brief update on the South North Light Rail. He said the public comment period would close April 24th. He noted the hundreds of comments received concerning the proposed design. He said 80% of the comments were favorable to light rail moving forward. He said there were many comments regarding individual alignments. He shared slides with the Council.

Councilor Washington said the work session for the South/North Light Rail was on April 23, 1998 following general business of the Regular Council meeting.

Mr. Brandman continued his presentation and reviewed alignment issues such as Milwaukie, downtown, north Portland, and others. He shared concerns from citizens regarding zoning and ridership issues. He discussed the alignment issues at the westbank of I-5 and along Interstate Avenue. He extended an invitation to the upcoming workshop to the Councilors and called Mr. Skiles to the microphone.

Councilor Naito asked if the document contained all of the different alignments?

Mr. Brandman said that the document included all of the alignments as well as the costs and trade-offs in detail. He said the document would be used at the workshop.

Councilor Morissette asked Councilor Washington if when the decision was narrowed down, would Councilor Washington not expect Council to pick and choose among the choices.

Mr. Brandman said the final determination by Metro Council would come on July 23rd and, prior to that, on June 4, 1998, the Steering Committee would make a recommendation.

Councilor Morissette told Councilor Washington that it would work best for him if he had before him the options available regarding any controversies along the entire line in advance of the Steering Committee decision.

Councilor Washington asked for clarification from Councilor Morissette regarding the request.

Councilor Morissette suggested a chart that showed the different line designs options and asked for an "exploratory" vote of the Council to poll the general consensus of each item.

Councilor Washington asked council and Councilor Morissette if they had a timeline for this process and said he would try to work something out.

Councilor Morissette suggested rather than more briefings he would like to review the issues and give input.

Councilor Washington said the purpose of the briefings was to make sure Council would hear about everything that was happening.

Councilor McCaig said the briefings have been very valuable. She thought the question that was being raised was when would it be best and most productive for Council to give preliminary advice and/or discussion about the way Councilors were leaning on some of the decisions rather than have all of the advisory groups go forward without ever having discussion with the Council about what their opinion was for issues in their districts.

Councilor Washington said that was the intent of the work session on April 23, 1998.

Mr. Brandman suggested that after the public comment closed April 24th and before June 4th that council have a work session around the second week of May for this kind of discussion.

Deputy Presiding Officer McFarland said that specifics of that meeting needed to be discussed.

Councilor McLain said that her understanding from the Transportation Planning Committee meeting was that was what the meeting was to do. She had a concern about the May 7 night due to Title 3 and Budget hearings. April 23 or some other date would offer a better opportunity for discussion of the light rail.

Councilor Naito said that May 7th was a Title III Public Hearing at 2:00 p.m., not at night, but the agenda would be very full.

Councilor Washington said he did not want to choose the date for the council. He asked for messages from the council which suggested dates to be left for him so the date could be chosen.

Councilor Morissette suggested the week after May 7th at their regularly schedule meeting, May 14th.

Councilor Washington said he would start with that date and query Councilors.

Leon Skiles talked about the land use final order for the South North Light Rail project required by state law. He talked about seeking the approval of Council for the intergovernmental agreement between the Oregon parties that made up the Steering Committee. He mentioned that there would be a hearing for some special rules and adoption of the land use final order. He said details of what the land use final order meant would be discussed at the next meeting.

Councilor Washington thanked Mr. Skiles, Mr. Brandman and the Council for their indulgence in working through the date issue.

4. EXECUTIVE OFFICER COMMUNICATIONS

Randy Ealy, Analyst to the Executive Officer, said one of the first items he developed since he came on board was writing a resolution that Council adopted asking Governor Kitzhaber to take a look at the alternative site for the jail in Wilsonville. He explained some of the outcome of that resolution and that discussions were taking place regarding the issue.

Councilor Naito said if the governor chose to go with the other site, would he have very broad supersiting authority so no action would be needed from Council.

Dan Cooper, Legal Counsel, said the governor had decided on a site under his broad statutory authority but the alternative site raised some questions from the governor that would be explored.

Presiding Officer Kvistad commended the Executive Officer and Mr. Cooper as well as the Governor for the tremendous positive working relationship they have had for something that had been so controversial.

Mary Weber, Growth Management, said there would be an ad coming out in the paper, as required, regarding changes to the Urban Reserves as well as a general public notice that would be in Tuesday's paper concerning the alternative site.

Mr. Ealy noted the attachment from Larry Shaw with today's packet regarding the specific timelines.

Mr. Cooper said the Governor had targeted June 12 as the day he would have as much certainty as he could about the questions he had asked. He said that was based in part on this timeline. This did not commit Council to do anything.

5. AUDITOR'S REPORT ON EXPO CENTER EXPANSION: CONSTRUCTION COST MANAGEMENT.

Alexis Dow, Metro Auditor, and **Mr. Doug U'ren,** reviewed the Expo Expansion. Their audit focused on the construction costs which were about 85% of the total project budget. They determined that the construction budget was reasonable and MERC managed the costs efficiently. She felt it was very important to have good construction costs management. The overall budget was reasonable. They hired a construction consultant who had a computerized cost estimating model and they came within 1% of what was actually budgeted. MERC did management the cost of the project sufficiently. She said as auditors they had to consider better ways to do things. Areas of improvement included improving procedures for documenting construction decisions. The processes should be better defined. She said they also felt that a better job could be done to make sure the indirect costs were competitively priced.

Mr. Doug U'ren, Senior Auditor, added that indirect costs included rented equipment costs and that sort of thing. He said they were suggesting to set a threshold and benchmark any costs over \$10,000 to go to outside vendors to see if the price was competitive.

Ms. Dow said another recommendation had to do with the costs reimbursed. She said 32 out of 40 of the items reviewed had adequate documentation and 8 of them were not documented as completely as they should have been. She concluded that their goal in coming up with these recommendations was not only to look at this particular project, but to take the recommendations and build on them to ensure success with other projects in the future, such as the Oregon Project.

6. MPAC COMMUNICATION

None.

7. CONSENT AGENDA

7.1 Consideration meeting minutes of the March 26, 1998 Regular Council Meeting.

Motion: **Councilor Morissette** moved to adopt the meeting minutes of March 26, 1998 Regular Council Meeting.

Seconded: **Councilor Washington** seconded the motion.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8. ORDINANCES - FIRST READING

8.1 Ordinance No. 98-735, For the Purpose of lowering the minimum for group discount classification from 25 to 20 persons and granting complimentary admission to the drivers and escorts of pre-formed tour groups at Metro Washington Park Zoo.

Presiding Officer Kvistad assigned Ordinance No. 98-735 to Regional Facilities Committee.

8.2 Ordinance No. 98-739, Amending the FY 1997-98 MERC Budget and Appropriations Schedule for the purpose of adopting the FY 1997-98 supplemental budget and declaring an emergency.

Presiding Officer Kvistad assigned Ordinance No. 98-739 to Finance Committee.

9. ORDINANCES - SECOND READING

9.1 Ordinance No. 98-734, Amending and Readopting Metro Code 2.06 (Investment Policy); and Declaring an Emergency.

Motion: Councilor Washington moved to adopt Ordinance No. 98-734.

Seconded: Councilor Morissette seconded the motion.

Councilor Washington said the Ordinance was to protect public funds that were under Council's responsibility. He urged an aye vote.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-734. No one came forward. **Presiding Officer Kvistad** closed the public hearing.

Discussion: Councilor Washington spoke regarding the motion to readopt this investment policy with a minor change to clarify the policy related to maintaining diversity and investment of funds. He explained that state law required annual readopting of the policy due to the nature of the investment. He said the comments of the state board of review had been incorporated into the policy which was unanimously passed by the Finance Committee.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

9.2 Ordinance No. 98-737, Amending the FY 1997-98 budget and appropriations schedule in the Support Services Fund by transferring \$15,000 from the Administrative Services Department to the Office Of the Auditor and transferring \$4,600 from Capital Outlay to Materials and Services within the Office Of the Auditor to provide funding for conducting an implementation review of the InfoLink project.

Motion: Councilor Morissette moved to adopt Ordinance No. 98-737.

Seconded: Councilor McFarland seconded the motion.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-737. No one came forward. **Presiding Officer Kvistad** closed the public hearing.

Discussion: Councilor Morissette went over the ordinance for Council, reviewing what would be considered in the InfoLink project.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

10. RESOLUTIONS

10.1 **Resolution No. 98-2619, For the Purpose of Authorizing Start-Up Activities for the Transit-Oriented Development (TOD) Implementation Program at Metro.**

Motion: Councilor McLain moved to adopt Resolution No. 98-2619.

Seconded: Councilor Washington seconded the motion.

Discussion: Councilor McLain reviewed the resolution for the Council and said it had passed by unanimous vote out of the Transportation Planning Committee on April 7. She discussed some of the projects that would be valuable for the 2040 growth concepts and trying to get people to use alternate modes of transportation. She explained the key points of the resolution. She urged an aye vote.

Councilor Morissette said he had no problem with this resolution as proposed. He suggested leveraging the money with a goal of maximizing the partners' side of the investment and minimizing Metro's so it would go further and being cautious about the assembly of land.

Councilor Naito said she thought this was an exciting opportunity and Metro should be recognized as a national leader in land use planning and transportation linking. She complimented the staff.

Councilor McFarland asked if this was federal money and Metro had it to use, why was it called a loan in paragraph 6?

Mr. Andy Cotugno, Transportation Planning Director, said there was a \$3,000,000 grant that was federal money available to this program, and it also authorized up to a \$2 million loan from the state infrastructure bank. The state infrastructure money was also federal money.

Councilor McFarland said if it was a loan when do we have to pay it back.

Mr. Cotugno said the grant did not have to be paid back but the loan would be used for land purchase and land sale would provide the proceeds for paying it back.

Presiding Officer Kvistad clarified that it was basically a revolving fund.

Councilor McFarland said she was uncomfortable with calling it a loan.

Councilor Washington thanked Mr. Cotugno and staff for their hard work.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

Presiding Officer Kvistad dismissed the regular Council Meeting and convened the Contract Review Board for discussion and action of a resolution.

11. CONTRACT REVIEW BOARD

11.1 Resolution No. 98-2622, For the Purpose of Approving Sole Source Agreements for Mark Bradley Research and Consulting, Cambridge Systematics and John Bowman and Associates.

Motion: Councillor Washington moved to adopt Resolution No. 98-2622.

Seconded: Councillor McLain seconded the motion.

Discussion: Councillor Washington asked Mr. Cotugno to explain this resolution.

Mr. Cotugno explained the Los Alamos connection with transportation in Portland. He explained their computer capabilities and shared that there was a short video of the project. Portland would be the first full national application of the whole program. He said it was a real coup to secure this capability and would place Portland at least 5 years ahead of the rest of the country before it started being deployed in other metropolitan areas. This would provide Portland with first class capabilities. It was happening now because computers were finally catching up to have the capacity at the right cost to do this kind of stuff. The Los Alamos labs had the capability today.

Councillor Washington thanked Mr. Cotugno for talking to Councillor McFarland about the contract.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed with Councillor McCaig absent from the vote.

Presiding Officer Kvistad dismissed the Contract Review Board and re-convened the regular Council Meeting.

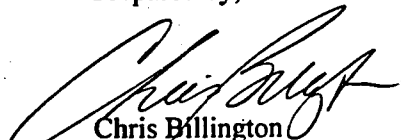
12. COUNCILOR COMMUNICATION

Presiding Officer Kvistad said they would follow up on the work session on the South North Light Rail. He asked interested Councilors to contact him regarding membership on the advisory board.

13. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:11 p.m.

Prepared by,



Chris Billington
Clerk of the Council

| Document Number | Document Date | Document Title | TO/FROM | RES/ORD |
|-----------------|----------------|--|--|---------|
| 040998c-01 | April 1998 | LOTI Loop Oriented Transit-Mall Intermodal Final Draft | TO: Metro Council FROM: Art Lewellan | |
| 040998c-02 | March 20, 1998 | South/North Corridor Project Briefing Document | TO: Metro Council FROM: Richard Brandman Transportation Planning Dept. | |
| 040998c-03 | 4/9/98 | Wilsonville Prison Alternate Site Consideration memo and attached memo on Wilsonville Special Need UGB Amendment Process | TO: Metro Council FROM: Mike Burton | |
| 040998c-04 | 4/9/98 | Expo Center Expansion: Construction Cost Management | TO: Metro Council FROM: Alexis Dow, Metro Auditor | |
| 040998c-05 | 3/4/98 | MERC's response to the Expo Center Expansion audit | TO: Alexis Dow, Metro Auditor FROM: Gary Conkling, Chair of MERC | |

Agenda Item Number 6.1

Ordinance No. 98-730, For the Purpose of Amending Ordinance Nos. 96-647C and No. 97-715B, to amend Title 3 of the Urban Growth Management Functional Plan, and amend the Regional Framework Plan, Appendix A, and adopt the Title 3 Model Ordinance and Water Quality and Flood Management Maps.

First Reading

**Metro Council Meeting
Thursday, April 16, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO 98-730
ORDINANCE NOS. 96-647C AND NO. 97-)
715B, TO AMEND TITLE 3 OF THE) Introduced by Councilors Naito and McLain
URBAN GROWTH MANAGEMENT)
FUNCTIONAL PLAN, AND AMEND)
THE REGIONAL FRAMEWORK PLAN,)
APPENDIX A, AND ADOPT THE TITLE)
3 MODEL ORDINANCE AND WATER)
QUALITY AND FLOOD MANAGEMENT)
MAPS)

WHEREAS, the Regional Growth Goals and Objectives - Objective 12 identifies the need to manage watersheds to protect, restore and ensure to the maximum extent practicable the integrity of streams, wetlands, and floodplains.

WHEREAS, Ordinance No. 96-647C, the Urban Growth Management Functional Plan (UGMFP), adopted November 21, 1996, delayed implementation of Title 3 of the UGMFP until Metro adopted a Model Ordinance to demonstrate one method of implementing Title 3, and Water Quality and Flood Management Area maps.

WHEREAS, Ordinance No. 97-715B, the Regional Framework Plan, adopted December 18, 1997, incorporates the UGMFP at Appendix A. The Regional Framework Plan is awaiting acknowledgment before the Land Conservation and Development Commission.

WHEREAS, the Water Resources Policy Advisory Committee (WRPAC), during 1997, drafted a Model Ordinance and maps to comply with Title 3, Section 6 of the UGMFP. WRPAC released a preliminary draft of the proposed Model Ordinance and maps in August 1997, and a revised draft on September 4, 1997. The proposed Model Ordinance was then forwarded to the Metro Policy Advisory Committee (MPAC) and the Metro Technical Advisory Committee (MTAC) for review.

WHEREAS, WRPAC and MTAC formed a joint subcommittee to further refine the Model Ordinance and maps and consider amendments to the UGMFP, Title 3, Sections 1-4. The joint subcommittee met twice per month beginning September 26, 1997 and ending December 19, 1997. The joint subcommittee forwarded proposed amendments to Title 3, dated December 30, 1997, to WRPAC and MTAC. The same proposed amendments were released for public comment prior to Metro's Stream and Floodplain Protection Plan workshops which began January 17, 1998.

WHEREAS, MTAC reviewed the joint subcommittee's proposed amendments to Title 3 at its January 8, 22, February 5, 19, and March 5, 19 and 26, 1998 meetings.

WHEREAS, WRPAC reviewed the joint subcommittee's proposed amendments to Title 3 at its January 26, February 9, March 9 and 25, 1998, meetings. At the March 25 meeting, WRPAC members reviewed and commented on MTAC's proposed changes to Title 3 and provided those comments to MPAC at chair Judie Hammerstad's request.

WHEREAS, the Metro Growth Management staff gave a presentation on Metro's "Stream and Floodplain Protection Plan" (Title 3) to MPAC at its February 11, 1998 meeting. MPAC also received a copy of the joint subcommittee's proposed Title 3 amendments.

WHEREAS, MPAC reviewed the joint subcommittee's proposed amendments to Title 3 at its February 11, 25, and March 11, and 25, 1998 meetings. At its March 25, 1998 meeting, MPAC passed forward recommended changes to Title 3 to the Metro Council after considering a package of WRPAC/MTAC recommendations.

WHEREAS, concurrently with WRPAC and MTAC's review of the joint subcommittee's proposed amendments to Title 3, Metro held Stream and Floodplain Protection Plan workshops on January 17, 20, 27 and 31, 1998. Copies of the joint subcommittee's proposed amendments to Title 3, the September 4, 1997, draft Model Ordinance and Title 3 maps were available for public review and comment.

WHEREAS, the Growth Management Committee considered proposed amendments to Title 3, the Model Ordinance and maps at a work session held on February 17, and at public hearings on March 17, and April 7, 1998.

WHEREAS, the Metro Council considered proposed amendments to Title 3, the Model Ordinance and maps at public hearings held on February 26 and ___ 1998.

WHEREAS, Title 3 of the UGMFP as adopted November 21, 1996, has a different effective date and compliance date than the UGMFP generally. The UGMFP has an effective date of February 19, 1997 with compliance required by February 19, 1999. Originally, Sections 1-4 of Title 3 were not effective until 24 months after the Metro Council adopted a Model Ordinance and maps addressing Title 3 because it was anticipated that drafting the Model Ordinance would take three to four months. That drafting process took one year. MPAC, WRPAC and MTAC recommended that compliance be required within 18 months of Metro Council adoption of the Model Ordinance and maps.

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Ordinances No. 96-647C and No. 97-715B, Appendix A, Sections 3.07.310 through 3.07.340 are hereby replaced to read as shown in Exhibit A which is attached and incorporated by reference into this ordinance.

Section 2. Ordinances No. 96-647C and No. 97-715B, Appendix A, Sections 3.07.350 through 3.07.370 are hereby amended to read as shown in Exhibit B which is attached and incorporated by reference into this ordinance.

Section 3. As required by Ordinances No. 96-647C and No. 97-715B, Appendix A, as amended, the Model Ordinance at Exhibit C, and the Water Quality and Flood Management Area maps at Exhibit D are hereby adopted to implement Title 3 of the Urban Growth Management Functional Plan.

Section 4. In accordance with Title 8, Section 3 of the Urban Growth Management Functional Plan, Ordinances No. 96-647C and No. 97-715B, Appendix A, any amendment of city or county comprehensive plans or implementing ordinances shall be consistent with Ordinances No. 96-647C and No. 97-715B, Appendix A, Sections 3.07.310 through 3.07.370 of the Metro Urban Growth Management Functional Plan as amended after the date this ordinance becomes effective.

Section 5. Cities and counties are hereby required to comply with Title 3, Sections 1-4 of the Urban Growth Management Functional Plan, as amended herein, within 18 months of the adoption of this ordinance.

Section 6. Ordinances No. 96-647C and No. 97-715B, Appendix A, Section 3.07.1000 is hereby amended to read as shown in Exhibit E which is attached and incorporated by reference into this ordinance.

ADOPTED by the Metro Council this ____ day of _____ 1998.

Jon Kvistad, Presiding Officer

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ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

EXHIBIT A

**TITLE 3: WATER QUALITY, FLOOD MANAGEMENT AND
FISH AND WILDLIFE CONSERVATION**

Section 1. Intent

To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities, protecting life and property from dangers associated with flooding and working toward a regional coordination program of protection for Fish and Wildlife Habitat Areas.

Section 2. Applicability

A. This Title applies to:

1. Development in Water Quality Resource and Flood Management Areas, and
2. Development which may cause temporary or permanent erosion on any property within the Metro Boundary.
3. Development in Fish and Wildlife Habitat Conservation Areas when Metro's Section 5 analysis and mapping are completed.

B. This Title does not apply to:

- Work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that after the emergency has passed, adverse impacts are mitigated in accordance with the performance standards in Section 4.

Section 3. Implementation Alternatives for Cities and Counties

Cities and counties shall comply with this Title in one of the following ways:

A. Amend their comprehensive plans and implementing ordinances to adopt all or part of the Title 3 Model Ordinance or code language that substantially complies with the performance standards in Section 4 and the intent of this Title, and adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map. Cities and counties may choose one of the following options for applying this section:

1. Adopt code language implementing this Title which prevails over the map and uses the map as reference; or
2. Adopt a city or county field verified map of Water Quality and Flood Management Areas based on the Metro Water Quality and Flood Management map, updated according to Section 7, implementing this Title which prevails over adopted code language.

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- B. Demonstrate that existing city and county comprehensive plans and implementing ordinances substantially comply with the performance standards in Section 4 and the intent of this Title.
- C. Any combination of A and B above that substantially complies with all performance standards in Section 4.

Section 4. Performance Standards

A. Flood Management Performance Standards.

1. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.
2. All development, excavation and fill in the Flood Management Areas shall conform to the following performance standards:
 - a. Development, excavation and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.
 - b. All fill placed at or below the design flood elevation in Flood Management Areas shall be balanced with at least an equal amount of soil material removal.
 - c. Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.
 - d. Minimum finished floor elevations for new habitable structures in the Flood Management Areas shall be at least one foot above the design flood elevation.
 - e. Temporary fills permitted during construction shall be removed.
 - f. Uncontained areas of hazardous materials as defined by DEQ in the Flood Management Area shall be prohibited.
3. The following uses and activities are not subject to the requirements of Subsection 2:
 - a. Excavation and fill necessary to plant new trees or vegetation.
 - b. Excavation and fill required for the construction of detention facilities or structures, and other facilities such as levees specifically designed to reduce or mitigate flood impacts. Levees shall not be used to create vacant buildable lands.
 - c. New culverts, stream crossings, and transportation projects may be permitted if designed as balanced cut and fill projects or designed to not significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossings shall

87 be as close to perpendicular to the stream as practicable. Bridges shall be used
88 instead of culverts wherever practicable.

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90 **B. Water Quality Performance Standards**

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92 1. The purpose of these standards is to: 1) protect and improve water quality to support the
93 designated beneficial water uses as defined in Title 10, and 2) protect the functions and
94 values of the Water Quality Resource Area which include, but are not limited to:
- 95 a. providing a vegetated corridor to separate Protected Water Features from
96 development;
 - 97 b. maintaining or reducing stream temperatures;
 - 98 c. maintaining natural stream corridors;
 - 99 d. minimizing erosion, nutrient and pollutant loading into water;
 - 100 e. filtering, infiltration and natural water purification;
 - 101 f. stabilizing slopes to prevent landslides contributing to sedimentation of water
102 features.
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107 2. Local codes shall require all development in Water Quality Resource Areas to conform
108 to the following performance standards:
- 109 a. The Water Quality Resource Area is the vegetated corridor and the Protected Water
110 Feature. The width of the vegetated corridor is specified in the table below. At least
111 three slope measurements along the water feature, at no more than 100-foot
112 increments, shall be made for each property for which development is proposed.
113 Depending on the width of the property, the width of the vegetated corridor will vary.
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| Drainage Area | Slope to Protected Water Feature | Top of Bank | Width of Vegetated Corridor from Top of Bank |
|---|----------------------------------|--|--|
| 0 – 100 acres (primary water features) | < 25% | bankful/2 year storm | 50 feet |
| 0 – 100 acres (primary water features) | ≥ 25% for 150 feet or more | bankful/2 year storm | 200 feet |
| 0-100 acres (primary water features) | ≥25% for less than 150 feet | *top of ravine (25% slope break) | **50 feet |
| 50 – 100 acres (secondary water features) | < 25% | edge of bankful flow or 2 year storm level | 15 feet |
| 50 – 100 acres (secondary water features) | ≥ 25% | edge of bankful flow or 2 year storm level | 50 feet |
| > 100 acres (primary water features) | < 25% | edge of bankful flow or 2 year storm level | 50 feet |
| > 100 acres (primary water features) | ≥ 25% for 150 feet or more | edge of bankful flow or 2 year storm level | 200 feet |
| > 100 acres (primary water features) | ≥ 25% for less than 150 feet | *Top of ravine (25% slope break) | **50 feet |
| Wetlands (primary water features) | < 25% | delineated edge | 50 feet |
| Wetlands (primary water features) | ≥ 25% for 150 feet or more | delineated edge | 200 feet |
| Wetlands (primary water features) | ≥ 25% for less than 150 feet | *25% slope break | **50 feet |

* Where a ravine or gully confines the Protected Water Feature, the top of ravine is the 25% slope break.

** A reduction of a maximum of 25 feet may be permitted in the width of vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

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- b. Water Quality Resource Areas shall be protected, maintained, enhanced or restored as specified in Section 4.B.2.
 - c. Prohibit development that will have a significant negative impact on the functions and values of the Water Quality Resource Area, which cannot be mitigated in accordance with 2 f.
 - d. Vegetative cover native to the Portland metropolitan region shall be maintained, enhanced or restored, if disturbed, in the Water Quality Resource Area. Invasive non-native vegetation may be removed from the Water Quality Resource Area and replaced with native cover. Only native vegetation shall be used to enhance or restore the Water Quality Resource Area. This shall not preclude construction of energy dissipaters at outfalls consistent with watershed enhancement, and as approved by local surface water management agencies.
 - e. Uncontained areas of hazardous materials as defined by DEQ in the Water Quality Resource Area shall be prohibited.
 - f. Cities and counties may allow development in Water Quality Resource Areas provided that the governing body, or its designate, implement procedures which:
 - 1) Demonstrate that no practicable alternatives to the requested development exist which will not disturb the Water Quality Resource Area; and
 - 2) If there is no practicable alternative, limit the development to reduce the impact associated with the proposed use; and
 - 3) Where the development occurs, require mitigation to ensure that the functions and values of the Water Quality Resource Area are restored
 - g. Cities and counties may allow development for repair, replacement or improvement of utility facilities so long as the Water Quality Resource Area is restored consistent with Section 4.B.2 (d).
 - h. The performance standards of Section 4.B.2 do not apply to routine repair and maintenance of existing structures, roadways, driveways, utilities, accessory uses and other development.
3. For lots or parcels which are fully or predominantly within the Water Quality Resource Area and are demonstrated to be unbuildable by the vegetative corridor regulations, cities and counties shall reduce or remove vegetative corridor regulations to assure the lot or parcel will be buildable while still providing the maximum vegetated corridor practicable. Cities and counties shall encourage landowners to voluntarily protect these areas through various means, such as conservation easements and incentive programs.

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C. Erosion and Sediment Control

1. The purpose of this section is to require erosion prevention measures and sediment control practices during and after construction to prevent the discharge of sediments.
2. Erosion prevention techniques shall be designed to prevent visible and measurable erosion as defined in Title 10.
3. To the extent erosion cannot be completely prevented, sediment control measures shall be designed to capture, and retain on-site, soil particles that have become dislodged by erosion.

D. Implementation Tools to protect Water Quality and Flood Management Areas

1. Cities and counties shall either adopt land use regulations, which authorize transfer of permitted units and floor area to mitigate the effects of development restrictions in Water Quality and Flood Management Areas, or adopt other measures that mitigate the effects of development restrictions.
2. Metro encourages local governments to require that approvals of applications for partitions, subdivisions and design review actions be conditioned upon one of the following:
 - a. protection of Water Quality and Flood Management Areas with a conservation easement;
 - b. platting Water Quality and Flood Management Areas as common open space; or
 - c. offer of sale or donation of property to public agencies or private non-profits for preservation where feasible.

Sub-Section 3 was referred back to staff with definitions of the terms: "addition," "alteration," "rehabilitation" and "replacement."

3. *Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development in the Water Quality and Flood Management Area may be allowed provided that:*
 - a. *The addition, alteration, rehabilitation or replacement is not inconsistent with applicable city and county regulations, and*
 - b. *The addition, alteration, rehabilitation or replacement does not encroach closer to the Protected Water Feature than the existing structures, roadways, driveways or accessory uses and development, and*
 - c. *The addition, alteration, rehabilitation or replacement satisfies section 4.C. of this Title.*

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4. Cities and counties may choose to apply the Water Quality and Flood Management Area performance standards of Section 4 only to development that requires a grading or building permit.
5. Metro encourages cities and counties to provide for restoration and enhancement of degraded Water Quality Resource Areas through conditions of approval when development is proposed, or through incentives or other means.

EXHIBIT B

1 **Section 5. Fish and Wildlife Habitat Conservation Area**

2
3 A. The purpose of these standards is to conserve, protect, and enhance fish and wildlife
4 habitat within the fish and wildlife habitat conservation areas to be identified on the water
5 quality and flood management area map by establishing performance standards and
6 promoting coordination by Metro of regional urban water sheds.

7
8 B. **Fish and Wildlife Habitat Conservation Area Recommendations**

9
10 These areas shall be shown on the Water Quality and Flood Management Area Map. Fish
11 and Wildlife Habitat Conservation Areas generally include and/or go beyond the Water
12 Quality and Flood Management Areas. These areas to be shown on the map ~~are~~will be
13 Metro's ~~initial~~ inventory of significant fish and wildlife habitat conservation areas. Metro
14 hereby recommends that local jurisdictions adopt the following temporary standards:

- 15
16 1. Prohibit development in ~~the Fish and Wildlife Conservation Areas~~ that
17 adversely impacts fish and wildlife habitat.

18
19 Exceptions: It is recognized that urban development will, at times, necessitate
20 development activities within or adjacent to Fish and Wildlife Habitat
21 Conservation Areas. The following Fish and Wildlife Habitat Conservation
22 Mitigation Policy, except for emergency situations, applies to all the following
23 exceptions:

24
25 A project alternatives analysis, where public need for the project has been
26 established, will be required for any of the exceptions listed below. The
27 alternatives analysis must seek to avoid adverse environmental impacts by
28 demonstrating there are no practicable, less environmentally damaging
29 alternatives available. In those cases where there are no practicable, less
30 environmentally damaging alternatives, the project proponent will seek
31 alternatives which reduce or minimize adverse environmental impacts. Where
32 impacts are unavoidable, compensation, by complete replacement of the impacted
33 site's ecological attributes or, where appropriate, substitute resources of equal or
34 greater value will be provided in accordance with the Metro Water Quality and
35 Flood Management model ordinance.

- 36
37 a. Utility construction within a maximum construction zone width
38 established by cities and counties.
- 39
40 b. Overhead or underground electric power, telecommunications and cable
41 television lines within a sewer or stormwater right-of-way or within a
42 maximum construction zone width established by cities and counties.
- 43
44 c. Trails, boardwalks and viewing areas construction.
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- d. Transportation crossings and widenings. Transportation crossings and widenings shall be designed to minimize disturbance, allow for fish and wildlife passage and crossings should be preferably at right angles to the stream channel.
- 2. Limit the clearing or removal of native vegetation from the Fish and Wildlife Habitat Conservation Area to ensure its long term survival and health. Allow and encourage enhancement and restoration projects for the benefit of fish and wildlife.
- 3. Require the revegetation of disturbed areas with native plants to 90 percent cover within three years. Disturbed areas should be replanted with native plants on the Metro Plant List or an approved locally adopted plant list. Planting or propagation of plants listed on the Metro Prohibited Plant List within the Conservation Area shall be prohibited.
- 4. Require compliance with Oregon Department of Fish and Wildlife (ODFW) seasonal restrictions for in-stream work. Limit development activities that would impair fish and wildlife during key life-cycle events according to the guidelines contained in ODFW's "Oregon Guidelines for Timing of In-water Work to Protect Fish and Wildlife Resources."

C. Fish and Wildlife Habitat Protection

Within eighteen (18) months from the effective date of this functional plan, Metro shall complete the following regional coordination program by adoption of functional plan provisions.

- 1. Metro shall establish criteria to define and identify regionally significant fish and wildlife habitat areas.
- 2. Metro shall adopt a map of regionally significant fish and wildlife areas after ~~(+a)~~ examining existing Goal 5 data, reports and regulation from cities and counties, and ~~(+b)~~ holding public hearings.
- 3. Metro shall identify inadequate or inconsistent data and protection in existing Goal 5 data, reports and regulations on fish and wildlife habitat. City and county comprehensive plan provisions where inventories of significant resources were completed and accepted by a LCDC Periodic Review Order after January 1, 1993, shall not be required to comply until their next periodic review.
- 4. Metro shall complete Goal 5 economic, social, environmental and energy (ESEE) analyses for mapped regionally significant fish and wildlife habitat areas only for those areas where inadequate or inconsistent data or protection has been identified.

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5. Metro shall establish performance standards for protection of regionally significant fish and wildlife habitat that must be met by the plans implementing ordinances of cities and counties.

Section 6. Metro Model Ordinance Required

Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance and map. ~~for use by local jurisdictions to comply with this section.~~ The Model Ordinance shall represent one method of complying with this Title. The Model Ordinance shall be advisory, and cities and counties are not required to adopt the Model Ordinance, or any part thereof, to substantially comply with this Title. However, cities and counties which adopt the Model Ordinance in its entirety and a Water Quality and Flood Management Areas Map shall be deemed to have substantially complied with the requirements of this Title.

Sections 1-4 of this Title shall not become effective until ~~24~~18 months after the Metro Council has adopted a Model Code ~~the Model Ordinance and map~~ Water Quality and Flood Management Areas Map that addresses all of the provisions of this title. Section 5 of this Title shall be implemented by adoption of new functional plan provisions. The Metro Council may adopt a Model Code and Fish and Wildlife Habitat Conservation Areas Model Ordinance and a Map for protection of regionally significant fish and wildlife habitat. Section 5 of this title shall be implemented by adoption of new functional plan provisions.

Section 7. ~~Variance~~Map Adjustment

City and ~~county~~counties shall amend their comprehensive plans and implementing regulations ~~are hereby required~~ordinances to include procedures to ~~consider claims of map error and hardship variances to reduce or remove stream corridor protection for any property demonstrated to be converted to an unbuildable lot by application of stream corridor protections.~~allow:

- A. Amendments to the Water Quality and Flood Management Area Map to correct map error.
- B. Modification of the Water Quality Resource Area upon demonstration and evidence that the modification will offer the same or better protection of water quality, the Water Quality and Flood Management Area and Protected Water Feature.

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EXHIBIT C

Title 3
Model Ordinance

Staff Draft
April 10, 1998

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Metro Water Quality and Flood Management Area Model Ordinance

Introduction

Attached is the model ordinance required by Title 3, Section 6 of Metro's *Urban Growth Management Functional Plan*.

The purpose of this model ordinance is to provide a specific example of provisions approved by the Metro Council that can be used by a city or county to comply with the performance standards for *Title 3: Water Quality, Flood Management, and Fish and Wildlife Conservation* described in the *Metro Urban Growth Management Functional Plan*. Title 3 describes specific performance standards and practices for floodplain and water quality protection. It also requires that Metro adopt a Water Quality and Flood Management Model Ordinance and map for use by local jurisdictions to comply with Title 3. This model ordinance fulfills the Title 3 requirement. It is also consistent with Metro's policies in the 1995 *Future Vision Report*, in the 1995 *Regional Urban Growth Goals and Objectives* (RUGGOs) in the 1992 *Greenspaces Master Plan*, and in the 1997 *Regional Framework Plan*.

The purpose of Title 3 is to protect water quality and floodplain areas. Floodplains protect the region's health and public safety by reducing flood and landslide hazards and pollution of the region's waterways. This Model Ordinance and Map address the purpose. Another purpose of Title 3 is to protect fish and wildlife habitat. Statewide land use Goal 5 measures, which include fish and wildlife habitat protection, will be addressed in a Metro study that will be conducted within the next 18 months. Title 3 will apply to development in Fish and Wildlife Habitat Conservation Areas when Metro's Section 5 analysis and mapping are completed. As additional issues are addressed, further regulations may be imposed on areas contained within or outside of the Water Quality Resource Area and Flood Management Area Overlay Zones addressed in this Model Ordinance.

The Metro *Future Vision, Greenspaces Master Plan, Regional Urban Growth Goals and Objectives* (RUGGOs), and *Regional Framework Plan* identify water quality protection, floodplain management, fish and wildlife habitat protection, development of recreational trails, acquisition of open space and maintenance of biodiversity as critical elements of maintaining healthy, livable communities.

This Model Ordinance, however, only provides specific examples of local ordinance provisions for a portion of the issues identified in Title 3: protection of the region's floodplains, water quality and reduction of flood hazards and the implementation of erosion control practices throughout the Portland metropolitan region. Other issues including fish and wildlife habitat, watershed-wide stormwater management, steep slopes, landslide hazards and biodiversity are addressed in the December 1997 Metro *Regional Framework Plan*.

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The approach in Sections 2, 3 and 4 of Title 3 is to implement Oregon Statewide Goal 6 and Goal 7. *Goal 6: Air, Water and Land Resources Quality* and *Goal 7: Areas Subject to Natural Disasters and Hazards* are addressed by protecting streams, rivers, wetlands, and areas adjacent to streams and floodplains within the Water Quality Resource and Flood Management Areas.

Cities and counties are required to amend their plans and implementing ordinances, if necessary, to ensure that they comply with Title 3 in one of the following ways:

A. Adopt the applicable provisions of the Metro Water Quality and Flood Management Area model ordinance and map, which is entitled the Metro Water Quality and Flood Management Area Map.

Local jurisdictions have two options with regard to their adoption of code language and a map (either the Metro Water Quality and Flood Management Area Map or a city or county field verified map that substantially complies with the Metro map):

- 1) the code language that describes the affected area prevails and the map is a reference; or
- 2) the map prevails and the descriptive code language is used to correct map errors when they are discovered and for delineating and marking the overlay zone boundary in the field.

The advantage of the latter approach is that the final boundary is determined at the time of the development application, based on a detailed survey of the site. If a large scale, precise boundary can be mapped, the official map should prevail. This method allows for a more efficient permit process, and more certainty for the property owner. In this case, the language is used to correct mapping errors when they are discovered. A map, however, should only be used if it has a level of detail and clarity equal to or better than 1" = 300 feet, and has been field-checked for accuracy.

B. Adopt plans and implementing ordinances and maps that substantially comply with the performance standards of Title 3.

C. Any combination of A and B above that substantially complies with all performance standards in Title 3, Section 4 (see Title 3, Section 3).

The purpose of the map adopted by Metro is to provide the performance standard for the location of Water Quality Resource and Flood Management Areas. Therefore the map is the basis for evaluation of substantial compliance of local maps for those jurisdictions that choose to develop their own map of Water Quality Resource and Flood Management Areas. "Substantial compliance" means that the city and county comprehensive plans and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature

93 **Water Quality and Flood Management Area Model Ordinance**

94
95
96 **Section 1. Intent**

97
98 The purpose of this ordinance is to comply with Sections 1-4 of Title 3 of Metro's
99 Urban Growth Management Functional Plan.

100
101 A. To protect and improve water quality to support the designated beneficial
102 water uses and to protect the functions and values of existing and newly
103 established Water Quality Resource Areas, which include, but are not
104 limited to:

- 105
106 1. Provide a vegetated corridor to separate Protected Water Features
107 from development;
108
109 2. Maintain or reduce stream temperatures;
110
111 3. Maintain natural stream corridors;
112
113 4. Minimize erosion, nutrient and pollutant loading into water;
114
115 5. Filter, infiltration and natural water purification;
116
117 6. Stabilize slopes to prevent landslides contributing to sedimentation
118 of water features.

119
120 B. To protect Flood Management Areas, which provide the following
121 functions:

- 122
123 1. Protect life and property from dangers associated with flooding.
124
125 2. Flood storage, reduction of flood velocities, reduction of flood peak
126 flows and reduction of wind and wave impacts.
127
128 3. Maintain water quality by reducing and sorting sediment loads,
129 processing chemical and organic wastes and reducing nutrients.
130
131 4. Recharge, store and discharge groundwater.
132
133 5. Provide plant and animal habitat, and support riparian ecosystems.

134
135 C. To establish two overlay zones for Water Quality Resource Areas and
136 Flood Management Areas, which operate contemporaneously with the
137 base zone and implement the performance standards of Title 3 of the
138 Urban Growth Management Functional Plan.

139 **Section 2. Applicability**

140

141 A. This ordinance applies to:

142

143 1. Development in the Water Quality Resource Area and Flood
144 Management Area Overlay Zones. The overlay zones restrict the
145 primary uses that are allowed in the base zone by right, with
146 limitations, or as conditional uses.

147

148 2. Development that may cause visible and measurable erosion on any
149 property within the Metro Boundary.

150

151 B. This ordinance does not apply to work necessary to protect, repair,
152 maintain, or replace existing structures, utility facilities, roadways,
153 driveways, accessory uses and exterior improvements in response to
154 emergencies provided that after the emergency has passed, adverse
155 impacts are mitigated in accordance with Table 2 standards for restoring
156 marginal existing vegetated corridor.

157

158 **Section 3. Water Quality Resource Areas**

159

160 A. The purpose of this section is to protect and improve the beneficial water
161 uses and functions and values of Water Quality Resource Areas.

162

163 B. This ordinance establishes a Water Quality Resource Area Overlay Zone,
164 which is delineated on the Water Quality and Flood Management Area
165 map attached and incorporated by reference as part of this ordinance.

166

167 *(Note: If it has been determined during local public review that the code language*
168 *is to prevail, adoption of these standards as written is appropriate. If a map is to*
169 *prevail, this section should be used for map correction and interpretation, and the*
170 *definition of areas should be by adopting an official map by reference.)*

171

172 C. The Water Quality Resource Area is the vegetated corridor and the
173 Protected Water Feature. The width of the vegetated corridor is specified
174 in the Table One. At least three slope measurements along the water
175 feature, at no more than 100-foot increments, shall be made for each
176 property for which development is proposed. Depending on the width of
177 the property, the width of the vegetated corridor will vary.

Table 1

| Protected Water Feature Type (see definitions) | Slope to Protected Water Feature | Top of Bank | Width of Vegetated Corridor from Top of Bank |
|---|----------------------------------|--|--|
| Primary Protected Water Features ¹ | < 25% | edge of bankful flow or 2-year storm level or delineated edge of wetland | 50 feet |
| Primary Protected Water Features ¹ | ≥ 25% for 150 feet or more | edge of bankful flow or 2-year storm level or delineated edge of wetland | 200 feet |
| Primary Protected Water Features ¹ | ≥ 25% for less than 150 feet | top of ravine (break in ≥25% slope) ³ | 50 feet ⁴ |
| Secondary Protected Water Features ² | < 25% | edge of bankful flow or 2-year storm level | 15 feet |
| Secondary Protected Water Features ² | ≥ 25% | edge of bankful flow or 2-year storm level | 50 feet |

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¹Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, wetlands, natural lakes and springs

²Secondary Protected Water Features include intermittent streams draining 50-100 acres.

³Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the ≥ 25% slope (see slope measurement – Figure #__ in Appendix #__).

⁴A reduction of a maximum of 25 feet may be permitted in the width of vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

(Note: For the purposes of substantial compliance, a jurisdiction can meet the performance standards in Title 3 by applying the following method to the water quality resource area: for areas with zero slope (as measured parallel to the ground) the buffer will be 50 feet from top of waterway bank, but for every one percent (1%) slope after that point, add six (6) feet.)

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D. Uses Permitted Outright

1. Stream wetland, riparian and upland enhancement or restoration projects; and farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203.
2. Development that does not require a grading or building permit.
(City and Counties may choose to apply the Water Quality and Flood Management Area performance standards of Table 1.)
3. Repair, replacement or improvement of utility facilities where the disturbed portion of the Water Quality Resource Area is restored using native vegetative cover.
4. Routine repair and maintenance of existing structures, roadways, driveways, utilities, accessory uses and other development for which an Erosion and Sediment Control Permit has been granted.

E. Conditional Uses

The following uses are allowed in the Water Quality Resource Area Overlay Zone subject to compliance with the Application Requirements and Development Standards of subsections G and H.

1. Any use allowed in the base zone.
2. Measures to remove or abate nuisances, or any other violation of state statute, administrative agency rule or city or county ordinance.
3. Roads to provide access to Protected Water Features or necessary ingress and egress across Water Quality Resource Areas.
4. New public or private utility construction.
5. Walkways and bike paths not exceeding 10 feet in width (subsection H.5).
6. New stormwater pre-treatment facilities (subsection H.6).
7. Widening an existing road adjacent to or running parallel to a Water Quality Resource Area.

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8. Additions, alterations, rehabilitation or replacement of existing structures, roadways, accessory uses and development.

F. Prohibited Uses

1. Any structures, development, construction activities, gardens, lawns, dumping of any materials of any kind, or activities other than those listed in subsection D and E.
2. Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.

G. Application Requirements

Applications for Conditional Uses in the Water Quality Resource Area Overlay Zone must provide the following information in addition to the information required for the base zone:

1. A topographic map of the site at contour intervals of five feet or less showing a delineation of the Water Quality Resource Area, which includes areas shown on the City/County Water Quality and Flood Management Area map, and that meets the definition of Water Quality Resource Areas in Table 1.
2. The location of all existing natural features including, but not limit to, all trees of a caliper greater than six (6) inches diameter at breast height (DBH), natural drainages on the site, springs, seeps and outcroppings of rocks, or boulders within the Water Quality Resource Area.
3. Location of wetlands. Where potential wetlands are identified, the applicant shall follow the Division of State Lands recommended wetlands assessment process. Descriptions and assessments required in this section shall be prepared by a professional wetlands _____.
4. An inventory and location of existing debris and noxious materials.
5. An assessment of the existing condition of the Water Quality Resource Area in accordance with Table 2.
6. An inventory of vegetation by type, including percentage ground and canopy coverage.
7. Alternatives analysis demonstrating that:
 - a. No practicable alternatives to the requested development exist

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- that will not disturb the Water Quality Resource Area; and
- b. Development in the Water Quality Resource Area has been limited to the area necessary to allow for the proposed use; and
 - c. The Water Quality Resource Area can be restored in accordance with Table 2; or
 - d. If off-site mitigation is proposed, it will be consistent with a Water Quality Resource Area Mitigation Plan.
8. A Water Quality Resource Area Mitigation Plan shall contain the following information:
- a. A description of adverse impacts that will be caused as a result of development.
 - b. A description of at least two mitigation alternatives.
 - c. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized.
 - d. A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.
 - e. A map showing where the specific mitigation activities will occur.
 - f. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.
 - g. Proof that a deed restriction has been placed on the property where the mitigation is to occur, which ensures that the mitigation area will be protected in perpetuity.

326 H. Development Standards
327

328 Applications for Conditional Uses in the Water Quality Resource Area
329 Overlay Zone shall satisfy the following standards:
330

- 331 1. The Water Quality Resource Area will be restored and maintained in
332 accordance with the mitigation plan and the specifications in Table 2.
333
- 334 2. To the extent practicable, existing vegetation will be protected and
335 left in place. Work areas will be carefully located and marked to
336 reduce potential damage to the Water Quality Resource Area. Trees
337 in the Water Quality Resource Area shall not be used as anchors for
338 stabilizing construction equipment.
339
- 340 3. Where existing vegetation has been removed, or the original land
341 contours disturbed, the site shall be revegetated, and the vegetation
342 shall be established as soon as practicable. Nuisance plants, as
343 identified in the Metro Native Plant List attached as ____, may be
344 removed at any time. Interim erosion control measures such as
345 mulching should be used to avoid erosion on bare areas. Nuisance
346 plants shall be replaced with non-nuisance plants by the next
347 growing season.
348
- 349 4. Prior to construction, the Water Quality Resource Area will be
350 flagged, fenced or otherwise marked and will remain undisturbed
351 except as allowed in Subsection _____. Such markings will be
352 maintained until construction is complete.
353
- 354 5. Walkways and bike paths:
355
- 356 a. A gravel walkway or bike path may not be constructed closer
357 than 10 feet from the boundary of the Protected Water Feature,
358 unless approved by the city or county. Walkways and bike paths
359 shall be constructed so as to minimize disturbance to existing
360 vegetation. Where practicable, a maximum of 10 percent of the
361 trail may be within 30 feet of the Protected Water Feature.
362
- 363 b. A paved walkway or bike path may not be constructed closer
364 than 10 feet from the boundary of the Protected Water Feature,
365 unless approved by the city or county. For any paved walkway
366 or bike path, the width of the Water Quality Resource Area must
367 be increased by a distance equal to the width of the path.
368 Walkways and bike paths shall be constructed so as to minimize
369 disturbance to existing vegetation. Where practicable, a
370 maximum of 10 percent of the trail may be within 30 feet of the
371 Protected Water Feature.

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6. Stormwater pre-treatment facilities:
 - a. The stormwater pre-treatment facility may only encroach a maximum of 25 feet into the Water Quality Resource Area from its outside boundary; and
 - b. The area of encroachment must be replaced with an equal area within the Water Quality Resource Area on the subject property.
7. Additions, alterations, rehabilitation and replacements:
 - a. For existing structures, roadways, driveways, accessory uses and development which is nonconforming in the base zone, this ordinance shall apply in addition to the nonconforming use restrictions of the City/County zoning ordinance.
 - b. Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development shall not encroach closer to the Protected Water Feature than the existing structures, roadways, driveways, accessory uses and development.
8. Off-site Mitigation:

Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:

 - a. As close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable;
 - b. Within the watershed where the development will take place or as otherwise specified by the city or county in an approved Wetland Mitigation Bank.

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Table 2

WATER QUALITY RESOURCE AREA REQUIREMENTS

| EXISTING CONDITION OF WATER QUALITY RESOURCE AREA | REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS UNDISTURBED DURING CONSTRUCTION | REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS DISTURBED DURING CONSTRUCTION |
|--|--|--|
| <p><u>Good Existing Corridor:</u> Combination of trees, shrubs and groundcover are 80% present, and there is more than 50% tree canopy coverage in the vegetated corridor or existing native wetland system.</p> | <p>Provide certification by registered professional engineer, landscape architect, or biologist or other person trained or certified in riparian or wetland delineation that vegetated corridor meets the standards of this ordinance.</p> <p>Inventory and remove debris and noxious materials.</p> | <p>Prior to construction, a biologist or landscape architect shall prepare and submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to:</p> <ul style="list-style-type: none"> • development (e.g. sediments, temperature and nutrients), • sediment control • temperature control • or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list. <p>Inventory and remove debris and noxious materials.</p> |

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| EXISTING CONDITION OF WATER QUALITY RESOURCE AREA | REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS UNDISTURBED DURING CONSTRUCTION | REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS DISTURBED DURING CONSTRUCTION |
|---|--|--|
| <p><u>Marginal Existing Vegetated Corridor:</u> Combination of trees, shrubs and groundcover are 80% present, and 25-50 percent canopy coverage in the vegetated corridor.</p> | <p>Provide certification by registered professional engineer, landscape architect, or biologist or other person trained or certified in riparian or wetland delineation that vegetated corridor meets the standards of this ordinance.</p> <p>Inventory and remove debris and noxious materials.</p> | <p>Vegetate disturbed and bare areas with, non-nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p> <p>Revegetate with native species using a City/County approved plan developed to represent the vegetative composition that would naturally occur on the site. Seeding may be required prior to establishing plants for site stabilization.</p> <p>Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.</p> <p>Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p> |

| EXISTING CONDITION OF WATER QUALITY RESOURCE AREA | REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS UNDISTURBED DURING CONSTRUCTION | REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS DISTURBED DURING CONSTRUCTION |
|---|---|--|
| <p><u>Degraded Existing Vegetated Corridor:</u> Less vegetation and canopy coverage than Marginal Vegetated Corridors, and/or greater than 10% surface coverage of any non-native species.</p> | <p>Vegetate bare areas with plantings from approved Native Plant List.</p> <p>Remove non-native species and revegetate with plantings from approved Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p> | <p>Vegetate disturbed and bare areas with appropriate plants from Native Plants List.</p> <p>Remove non-native species and revegetate with non-nuisance plantings from Native Plants List.</p> <p>Plant and seed to provide 100 percent surface coverage.</p> <p>Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List.</p> <p>Inventory and remove debris and noxious materials.</p> |

420 **Section 4. Flood Management**

421

422 *(Note: The City or County's existing Flood Plain Ordinances should be included in this*
423 *section. Careful redrafting should be employed to insure that there are no conflicts, and*
424 *that the stricter language prevails. Some cities will want to exclude some flood plains*
425 *from the stricter requirements of this ordinance, for example, where the downtown area*
426 *encompasses a flood plain. Minimum Federal Emergency Management Agency (FEMA)*
427 *standards allow unrestricted fill and development as long as the area is elevated or*
428 *floodproofed. In some limited cases, the more lax FEMA standards should apply to those*
429 *areas that are in the flood plain, but where development and fill will be unrestricted.*
430 *Depending on the type of ordinance existing, some of these sections may be redundant.*
431 *Local jurisdictions should use FEMA floodway standards or adopt them into their code if*
432 *it is not currently being used.)*

433

434 A. The purpose of these standards is to reduce the risk of flooding, prevent or
435 reduce risk to human life and property, and maintain the functions and
436 values of floodplains, such as allowing for the storage and conveyance of
437 stream flows through existing and natural flood conveyance systems.

438

439 B. This ordinance establishes a Flood Management Area Overlay Zone,
440 which is delineated on the Water Quality and Flood Management Area
441 Map attached and incorporated by reference as a part of this ordinance.

442

443 C. The Floodplain Management Areas regulated by this ordinance are:

444

445 1. All land contained within the 100-year Floodplain as shown on the
446 official Federal Emergency Management Agency maps;

447

448 2. All land within the area shown as Flood Area on the official Federal
449 Emergency Management Agency maps;

450

451 3. All lands that have physical or documented evidence of flooding
452 within recorded history. Jurisdictions shall use the most recent and
453 technically accurate information available to determine the historical
454 flood area, such as the aerial photographs of the 1996 flooding and
455 digitized flood elevation maps; and

456

457 4. All lands in the floodway as shown on the official Federal
458 Emergency Management Agency maps.

459 D. The standards that apply to the Flood Management Areas apply in addition
460 to local, state or federal restrictions governing floodplains or flood hazard
461 areas.

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463 E. Uses Permitted Outright:

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465 1. Excavation and fill required to plant any new trees or vegetation.

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2. Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet federal and state standards.

F. Conditional Uses:

All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the Flood Management Overlay Zone subject to compliance with the Development Standards of subsection H.

G. Prohibited Uses:

1. Any use prohibited in the base zone or existing flood hazard overlay zone.
2. Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.

H. Development Standards

All development, excavation and fill in the floodplain shall conform to the following balanced cut and fill standards:

1. No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal.
2. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage.
3. Any excavation below bankful stage shall not count toward compensating for fill since these areas would be full of water in the winter and not available to hold stormwater.
4. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.
5. For excavated areas identified by the city or county to remain dry in the summer, such as parks or mowed areas, the lowest elevation shall be at least 6 inches above the winter "low water" elevation, and

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sloped at a minimum of two percent towards the Protected Water Feature. One percent slopes will be allowed in areas of ___ acres or less;

6. For excavated areas identified by the city or county to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the Protected Water Feature.
7. Minimum finished floor elevations must be at least one foot above the design flood height or highest flood of record, whichever is higher, for new habitable structures in the Flood Area.
8. Short-term parking in the floodplain may be located at an elevation of no more than one foot below the ten-year floodplain. Long-term parking in the floodplain may be located at an elevation of no more than one foot below the 100-year floodplain so long as the parking facilities do not occur in a Water Quality Resource Area.
9. Temporary fills permitted during construction shall be removed.
10. New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to raise significantly the design flood elevation. Such projects shall be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.
11. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

546 **Section 5. Subdivisions and Partitions (optional)**

547

548 A. The purpose of this section is to amend the City/County regulations
549 governing land divisions to require that new subdivision and partition plats
550 delineate and show the Water Quality Resource Area as a separate tract.

551

552 B. The standards for land divisions in Water Quality Resource Areas shall
553 apply in addition to the requirements of the City/County land division
554 ordinance and zoning ordinance.

555

556 C. Prior to preliminary plat approval, the Water Quality Resource Area shall
557 be shown as a separate tract, which shall not be a part of any parcel used
558 for construction of a dwelling unit.

559

560 D. Prior to final plat approval, ownership of the Water Quality Resource Area
561 tract shall be identified to distinguish it from lots intended for sale. The
562 tract may be identified as any one of the following:

563

564 1. Private open space held by the owner or homeowners association; or

565

566 2. Residential land divisions, private open space subject to an easement
567 conveying storm and surface water management rights to the
568 City/County and preventing the owner of the tract from activities and
569 uses inconsistent with the purpose of this ordinance; or

570

571 3. At the owner's option, public open space where the tract has been
572 dedicated to the City/County or other governmental unit; or

573

574 4. Any other ownership proposed by the owner and approved by the
575 Director.

576

577 E. Where the Water Quality Resource Area tract is dedicated to the
578 City/County or other governmental unit, development shall be subject to a
579 maximum 3-foot setback from the Water Quality Resource Area.

580

581 **Section 6. Density Transfers**

582

583 A. The purpose of this section is to allow density accruing to portions of a
584 property within the Water Quality Resource Area and Flood Management
585 Area Overlay Zones to be transferred outside the overlay zones.

586

587 B. Development applications that request a density transfer must provide the
588 following information:

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590 1. A map showing the net buildable area to which the density will be
591 transferred.

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2. Calculations justifying the requested density increase.

C. Density transfers shall be allowed if the applicant demonstrates compliance with the following standards:

1. The density proposed for the transfer lot is not increased to more than two (2) times the permitted density of the base zone. Fractional units shall be rounded down to the next whole number.
2. Minimum density standards will not increase due to the density transfers.

D. The area of land contained in a Water Quality Resource Area may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code.

Section 7. Erosion Prevention and Sediment Control

A. The purpose of this section is to require erosion prevention measures and sediment control practices for all development inside and outside the Water Quality Resource Area and Flood Management Area Overlay Zones during construction to prevent and restrict the discharge of sediments, and to require final permanent erosion prevention measures, which may include landscaping, after development is completed. Erosion prevention techniques shall be designed to protect soil particles from the force of water and wind so that they will not be transported from the site. Sediment control measures shall be designed to capture soil particles after they have become dislodged by erosion and attempt to retain the soil particles on site.

B. Prior to, or contemporaneous with, approval of an application that may cause visible or measurable erosion, the applicant must obtain an Erosion and Sediment Control Permit.

C. An application for an Erosion and Sediment Control Permit shall include an Erosion and Sediment Control Plan, which contains methods and interim measures to be used during and following construction to prevent or control erosion. The plan shall demonstrate the following:

1. The Erosion and Sediment Control Plan meets the requirements of the *Erosion Prevention and Sediment Control Plans, Technical Guidance Handbook (Handbook)* attached and incorporated by reference as part of this ordinance;
2. The Erosion and Sediment Control Plan will:

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- a. Prevent erosion by employing prevention practices such as non-disturbance, construction schedules, erosion blankets and mulch covers; or
 - b. Where erosion cannot be completely avoided, the sediment control measures will be adequate to prevent erosion from entering the public stormwater system, surface water system, and Water Quality Resource Areas; and
 - c. Will allow no more than a ten percent cumulative increase in natural stream turbidities, as measured relative to a control point immediately upstream of the turbidity causing activity. However, limited duration activities necessary to address an emergency or to accommodate essential dredging, construction or other legitimate activities, and that cause the standard to be exceeded may be authorized provided all practicable turbidity control techniques have been applied.
3. The applicant will actively manage and maintain erosion control measures and utilize techniques described in the Permit to prevent or control erosion during and following development. Erosion and sediment control measures required by the Permit shall remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures;
 4. No mud, dirt, rock or other debris will be deposited upon a public street or any part of the public stormwater system, surfacewater system, Water Quality Resource Area, or any part of a private stormwater system or surfacewater system that drains or connects to the public stormwater or surfacewater system.
- D. The Erosion and Sediment Control Plan shall be reviewed in conjunction with the requested development approval. If the development does not require review under Sections 3 and 4 of this ordinance, the Director may approve or deny the permit with notice of the decision to the applicant.
 - E. The city or county may inspect the development site to determine compliance with the Erosion and Sediment Control Plan and Permit.
 - F. Erosion that occurs on a development site that does not have an Erosion and Sediment Control Permit, or that results from a failure to comply with the terms of such a Permit, constitutes a violation of this ordinance.
 - G. If the Director finds that the facilities and techniques approved in an

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Erosion and Sediment Control Plan and Permit are not sufficient to prevent erosion, the Director shall notify the permittee. Upon receiving notice, the permittee shall immediately install interim erosion and sediment control measures as specified in the *Handbook*. Within three days from the date of notice, the permittee shall submit a revised Erosion and Sediment Control Plan to the city or county. Upon approval of the revised plan and issuance of an amended Permit, the permittee shall immediately implement the revised plan.

Section 8. Variances

- A. The purpose of this Section is to ensure that compliance with this ordinance does not cause unreasonable hardship. To avoid such instances, the requirements of this ordinance may be varied. Variances are also allowed when strict application of this ordinance would deprive an owner of all economically viable use of land.
- B. This Section applies in addition to the standards governing proposals to vary the requirements of the base zone.
- C. The Director shall provide the following notice of variance applications:
 - 1. Upon receiving an application to vary the requirements of this ordinance, the Director shall provide notice of the request to all property owners within (100) feet inside the urban growth boundary, (250) feet outside the urban growth boundary and Metro.
 - 2. Within (7) days of a decision on the variance, the Director shall provide notice of the decision to all property owners within (100) feet inside the urban growth boundary, (250) feet outside the urban growth boundary and Metro.
- D. Development may occur on lots located completely within the Water Quality Resource Overlay Zone that are recorded with the county assessor's office on or before the date this ordinance is adopted. Development shall not disturb more than 5,000 square feet of the vegetated corridor, including access roads and driveways, subject to the erosion and sediment control standards of this ordinance.
- E. **Hardship Variance**

Variances to avoid unreasonable hardship caused by the strict application of this ordinance are permitted subject to the criteria set forth in this section. To vary from the requirements of Sections __ - __ the applicant must demonstrate the following:

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1. The variance is the minimum necessary to allow the proposed use or activity;
2. The variance does not increase danger to life and property due to flooding or erosion;
3. The impact of the increase in flood hazard, which will result from the variance, will not prevent the city or county from meeting the requirement of this ordinance. In support of this criteria the applicant shall have a qualified professional engineer document the expected height, velocity and duration of flood waters, and estimate the rate of increase in sediment transport of the flood waters expected both downstream and upstream as a result of the variance;
4. The variance will not increase the cost of providing and maintaining public services during and after flood conditions so as to unduly burden public agencies and taxpayers;
5. Unless the proposed variance is from Section __ (mitigation) or Section __ (erosion control), the proposed use will comply with those standards; and
6. The proposed use complies with the standards of the base zone.

F. Buildable Lot Variance

A variance to avoid the loss of all economically viable use of a lot that is partially inside the Water Quality Resource Overlay Zone is permitted. Development on such lots shall not disturb more than 5,000 square feet of the vegetated corridor, including access roads and driveways, subject to the erosion and sediment control standards of this ordinance. Applicants must demonstrate the following:

1. Without the proposed variance, the applicant would be denied economically viable use of the subject property. To meet this criterion, the applicant must show that:
 - a. The proposed use cannot meet the standards in Section __ (hardship variance); and
 - b. No other application could result in permission for an economically viable use of the subject property. Evidence to meet this criterion shall include a list of uses allowed on the subject property.
2. The proposed variance is the minimum necessary to allow for the requested use;

- 776 3. The proposed variance will comply with Section __ (mitigation) and
777 Section __ (erosion control); and
778
779 4. The proposed use complies with the standards of the base zone.
780

781 G. Variance Conditions
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783 The Director may impose such conditions as are deemed necessary to limit
784 any adverse impacts that may result from granting relief. If a variance is
785 granted pursuant to subsections E. 1-6, the variance shall be subject to the
786 following conditions:
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- 788 1. The maximum allowable encroachment shall be 15 feet on each side
789 of a Primary Protected Water Feature, except as allowed in Section
790 __;
791
792 2. No more than 25 percent of the length of the Water Quality Resource
793 Area within a development site can be less than 30 feet in width;
794
795 3. In either case, the average width of the Water Quality Resource Area
796 shall be a minimum of 15 feet on each side for Secondary Protected
797 Water Features, a minimum of 50 feet on each side for Primary
798 Protected Water Features; or up to 200 feet on each side in areas
799 with slopes greater than 25 percent. The stream shall be allowed to
800 meander within this area, but in no case shall the stream be less than
801 10 feet from the outer boundary of the Water Quality Resource Area.
802

803 Section 9. Map Errors
804

805 (PLACEHOLDER)
806

807 *(Note: It is recognized that there will be mapping errors in the Title 3 map.*
808 *Whether these are errors of omission or errors where the map shows a resource*
809 *where a resource does not exist, the jurisdiction shall develop and implement a*
810 *public process whereby property owners, local stream groups, watershed councils*
811 *and the affected public may submit suggested mapping corrections through a full*
812 *and open public process. Process for correction of map errors should be*
813 *included unless the general map error provision of the zoning code is sufficient)*
814

815 Section 10. Consistency
816

817 Where the provisions of this ordinance are less restrictive or conflict with
818 comparable provisions of the zoning ordinance, regional, state or federal law, the
819 provisions that are more restrictive shall govern. Where this ordinance imposes
820 restrictions that are more stringent than regional, state and federal law, the
821 provisions of this ordinance shall govern.

822
823 **Section 11. Warning and Disclaimer of Liability**
824

825 The degree of flood protection required by this ordinance is considered reasonable
826 for regulatory purposes and is based on scientific and engineering considerations.
827 Larger floods can and will occur on rare occasions. Flood heights may be
828 increased by man-made or natural causes. This ordinance does not imply that
829 land outside the areas of special flood hazards or uses permitted within such areas
830 will be free from flooding or flood damage. This ordinance shall not create
831 liability on the part of the City of Troutdale, any officer or employee thereof, or
832 the Federal Insurance Administration, for any damages that result from reliance
833 on this ordinance or any administrative decision lawfully made hereunder.
834

835 **Section 12. Severability**
836

837 The provisions of this ordinance are severable. If any section, clause or phrase of
838 this ordinance is adjudged to be invalid by a court of competent jurisdiction, the
839 decision of that court shall not affect the validity of the remaining portions of this
840 ordinance.
841

842 **Section 13. Enforcement**
843

- 844 A. No person shall engage in or cause to occur any development, use or
845 activity that fails to meet the standards and requirements of this ordinance.
846 Development, uses or activities that are not specifically allowed within the
847 Water Quality Resource Area are prohibited. All activities that may cause
848 visible or measurable erosion are prohibited prior to the applicant
849 obtaining an Erosion and Sediment Control Permit.
850
- 851 B. In addition to other powers the city or county may exercise to enforce this
852 ordinance, the city or county may:
853
- 854 1. Establish a cooperative agreement between the (enforcement
855 authority) and the applicant (or responsible party) to remedy the
856 violation.
857
 - 858 2. Issue a stop work order.
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 - 860 3. Impose a civil penalty of not more than \$___ for each violation upon
861 the permittee, contractor or person responsible for carrying out the
862 development work. Each day of violation shall constitute a separate
863 offense.
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 - 865 4. Cause an action to be instituted in a court of competent jurisdiction.
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 - 867 5. Authorize summary abatement and subsequent recovery of costs

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incurred by the city or county.

- C. Upon notification by the city or county of any violation of this ordinance the applicant, permittee, contractor or person responsible for carrying out development work may be required to immediately install emergency erosion and sediment control measures that comply with Section 6.

875 **Section 10. Definitions**

876

877 **Definitions.** Unless specifically defined below, words or phrases used in this section shall
878 be interpreted to give them the same meaning as they have in common usage and to give
879 this classification its most reasonable application.

880

881 **Architect** - An architect licensed by the State of Oregon.

882

883 **Bankful Stage** - Defined in OAR 141-85-010 (definitions for Removal/Fill Permits) as
884 the stage or elevation at which water overflows the natural banks of a stream or other
885 waters of the state and begin to inundate upland areas. In the absence of physical
886 evidence, the two-year recurrent flood elevation may be used to approximate the bankful
887 stage.

888

889 **Created Wetlands** - Those wetlands developed in an area previously identified as a non-
890 wetland to replace, or mitigate wetland destruction or displacement. A created wetland
891 shall be regulated and managed the same as an existing wetland.

892

893 **Constructed Wetlands** - Those wetlands developed as a water quality or quantity
894 facility, subject to change and maintenance as such. These areas must be clearly defined
895 and/or separated from naturally occurring or created wetlands.

896

897 **Department of Environmental Quality (DEQ) Water Quality Standards** - The
898 numerical criteria or narrative condition needed in order to protect an identified beneficial
899 use.

900

901 **Design Flood Elevation** -the elevation of the 100-year storm as defined in FEMA Flood
902 Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year
903 storm, or the edge of mapped flood prone soils or similar methodologies.

904

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906 **Development** - any man-made change defined as buildings or other structures, mining,
907 dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any
908 lot or excavation. In addition, any other activity that results in the removal of more than
909 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as
910 development, for the purpose of Title 3 except that more than 10 percent removal of
911 vegetation on a lot must comply with Section 4C - Erosion and Sediment Control.

912 **Development** does not include the following: a) Stream enhancement or restoration
913 projects approved by cities and counties; b) Farming practices as defined in ORS 30.930
914 and farm use as defined in ORS 215.203.

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920 **Division of State Lands Wetland Determinations** - As defined in OAR 141-86-200

921 (definitions for Local Wetland Inventory Standards and Guidelines), "wetland
922 determination" means identifying an area as wetland or non-wetland.

923

924 **Emergency** - any man-made or natural event or circumstance causing or threatening loss
925 of life, injury to person or property, and includes, but is not limited to, fire, explosion,
926 flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or
927 hazardous material, contamination, utility or transportation disruptions, and disease.

928

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930

931 **Engineer** - A registered professional engineer licensed by the State of Oregon.

932

933 **Enhancement** - the process of improving upon the natural functions and/or values of an
934 area or feature which has been degraded by human activity. Enhancement activities may
935 or may not return the site to a pre-disturbance condition, but create/recreate processes and
936 features that occur naturally.

937

938

939 **Engineering Geologist** - A registered professional engineering geologist licensed by the
940 State of Oregon.

941

942 **Erosion** - Erosion is the movement of soil particles resulting from actions of water or
943 wind.

944

945 **Fill** - any material such as, but not limited to, sand, gravel, soil, rock or gravel that is
946 placed in a wetland or floodplain for the purposes of development or redevelopment.

947

948 **Floodway Fringe** - The area of the floodplain, lying outside the floodway, which does
949 not contribute appreciably to the passage of flood water, but serves as a retention area.

950

951 **Floodplain** - The land area identified and designated by the United States Army Corps
952 of Engineers, the Oregon Division of State Lands, FEMA, or (identify name)
953 county/city that has been or may be covered temporarily by water as a result of a storm
954 event of identified frequency. It is usually the flat area of land adjacent to a stream or
955 river formed by floods.

956

957 **Floodway** - The portion of a watercourse required for the passage or conveyance of a
958 given storm event as identified and designated by the (identify name) City/County
959 pursuant to this Ordinance. The floodway shall include the channel of the watercourse
960 and the adjacent floodplain that must be reserved in an unobstructed condition in order to
961 discharge the base flood without flood levels by more than one foot.

962

963 **Flood Management Areas** - all lands contained within the 100-year floodplain, flood
964 area and floodway as shown on the Federal Emergency Management Agency Flood
965 Insurance Maps and the area of inundation for the February 1996 flood. In addition, all
966 lands which have documented evidence of flooding.

967
968 **Invasive Non-native or Noxious Vegetation** - plant species that have been introduced
969 and due to aggressive growth patterns and lack of natural enemies in the area where
970 introduced, spread rapidly into native plant communities, or which are listed on the Metro
971 Prohibited Plant List.
972
973 **Lot** - Lot means a single unit of land that is created by a subdivision of land. (ORS
974 92.010(3)).
975
976 **Mitigation** - the reduction of adverse effects of a proposed project by considering, in the
977 order: a) avoiding the impact all together by not taking a certain action or parts of an
978 action; b) minimizing impacts by limiting the degree or magnitude of the action and its
979 implementation; c) rectifying the impact by repairing, rehabilitating or restoring the
980 effected environment; d) reducing or eliminating the impact over time by preservation
981 and maintenance operations during the life of the action by monitoring and taking
982 appropriate measures; and e) compensating for the impact by replacing or providing
983 comparable substitute water quality resource areas.
984
985 **Native Vegetation** - any vegetation native to the Portland metropolitan area or listed on
986 the Metro Native Plant list.
987
988 **ODFW Construction Standards** - Oregon Department of Fish and Wildlife construction
989 guidelines for building roads, bridges and culverts or any transportation structure within a
990 waterway.
991
992 **Open Space** - Land that is undeveloped and that is planned to remain so indefinitely.
993 The term encompasses parks, forests and farm land. It may also refer only to land zoned
994 as being available to the public, including playgrounds, watershed preserves and parks.
995
996 **Ordinary Mean High Water Line** - As defined in OAR 141-82-005 as the line on the
997 bank or shore to which water ordinarily rises in season; synonymous with Mean High
998 Water (OAR 274.005).
999
1000 **Ordinary Mean Low Water Line** - As defined in OAR 141-82-005 as the line on the on
1001 the bank or shore to which water ordinarily recedes in season; synonymous with Mean
1002 Low Water (OAR 274.005).
1003
1004 **Owner or Property Owner** - The person who is the legal record owner of the land, or
1005 where there is a recorded land sale contract, the purchaser thereunder.
1006
1007 **Parcel** - Parcel means a single unit of land that is created by a partitioning of land. (ORS
1008 92.010(7)).
1009
1010 **Plans** - The drawings and designs which specify construction details as prepared by the
1011 Engineer.
1012

1013 **Post-Construction Erosion Control** - Consists of re-establishing ground cover or
1014 landscaping prior to the removal of temporary erosion control measures.
1015

1016 **Protected Water Features**

1017
1018 **Primary Protected Water Features** shall include:
1019

- 1020 a. wetlands; and
1021
1022 b. rivers, streams, and drainages downstream from the point at which 100 acres or
1023 more are drained to that water feature (regardless of whether it carries year-round
1024 flow); and
1025
1026 c. streams carrying year-round flow; and
1027
1028 d. springs which feed streams and wetlands and have year-round flow and
1029
1030 e. natural lakes.
1031

1032 **Secondary Protected Water Features** shall include intermittent streams and seeps
1033 downstream of the point at which 50 acres are drained and upstream of the point at which
1034 100 acres are drained to that water feature.
1035

1036 **Restoration** - the process of returning a disturbed or altered area or feature to a
1037 previously existing natural condition. Restoration activities reestablish the structure,
1038 function, and/or diversity to that which occurred prior to impacts caused by human
1039 activity.
1040

1041 **"Resource" versus "Facility"** - The distinction being made is between a "resource," a
1042 functioning natural system such as a wetland or stream; and a "facility" which refers to a
1043 created or constructed structure or drainage way that is designed, constructed and
1044 maintained to collect and filter, retain, or detain surface water run-off during and after a
1045 storm event for the purpose of water quality improvement.
1046

1047 **Riparian** - Those areas associated with streams, lakes and wetlands where vegetation
1048 communities are predominately influenced by their association with water.
1049

1050 **Routine Repair and Maintenance** - activities directed at preserving an existing allowed
1051 use or facility, without expanding the development footprint or site use.
1052

1053 **Set-back Adjustment** - The placement of a building a specified distance away from a
1054 road, property line or protected resource.
1055

1056 **Significant Negative Impact** - an impact that affect the natural environment, considered
1057 individually or cumulatively with other impacts on the Water Quality Resource Area, to
1058 the point where existing water quality functions and values are degraded.

1059
1060 **Statewide Planning Goal 5** - Oregon's statewide planning goal that addresses open
1061 space, scenic and historic areas, and natural resources. The purpose of the goal is to
1062 conserve open space and protect natural and scenic resources.
1063
1064 **Statewide Planning Goal 6** - Oregon's statewide planning goal that addresses air, water
1065 and land resources quality to "maintain and improve the quality of the air, water and land
1066 resources of the state" as implemented by the Land Conservation and Development
1067 Commission (LCDC).
1068
1069 **Statewide Planning Goal 7** - Oregon's statewide planning goal that addresses areas
1070 subject to natural disasters and hazards to "protect life and property from natural disasters
1071 and hazards" as implemented by the Land Conservation and Development Commission
1072 (LCDC).
1073
1074 **Steep slopes** - Steep slopes are those slopes that are equal to or greater than 25%. Steep
1075 slopes have been removed from the "buildable lands" inventory and have not been used
1076 in calculations to determine the number of acres within the urban growth boundary which
1077 are available for development.
1078
1079 **Stream** - a body of running water moving over the earth's surface in a channel or bed,
1080 such as a creek, rivulet or river. It flows at least part of the year, including perennial and
1081 intermittent streams. Streams are dynamic in nature and their structure is maintained
1082 through build-up and loss of sediment.
1083
1084
1085
1086 **Structure** - A building or other major improvement that is built, constructed or installed,
1087 not including minor improvements, such as fences, utility poles, flagpoles or irrigation
1088 system components, that are not customarily regulated through zoning codes.
1089
1090 **Substantial Compliance** - city and county comprehensive plans and implementing
1091 ordinances, on the whole, conform with the purposes of the performance standards in the
1092 functional plan and any failure to meet individual performance standard requirements is
1093 technical or minor in nature.
1094
1095 **Top of Bank** - The same as "bankful stage" defined in OAR 141-85-010(2).
1096
1097 **Utility Facilities** - buildings, structures or any constructed portion of a system which
1098 provides for the production, transmission, conveyance, delivery or furnishing of services
1099 including, but not limited to, heat, light, water, power, natural gas, sanitary sewer,
1100 stormwater, telephone and cable television.
1101
1102 **Visible or Measurable Erosion** - Visible or measurable erosion includes, but is not
1103 limited to:
1104

- 1105 a. Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in
1106 volume on public or private streets, adjacent property, or onto the storm and surface
1107 water system, either by direct deposit, dropping discharge, or as a result of the action
1108 of erosion.
1109
- 1110 b. Evidence of concentrated flows of water over bare soils; turbid or sediment laden
1111 flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the
1112 flow of water is not filtered or captured on the site.
1113
- 1114 c. Earth slides, mud flows, earth sloughing, or other earth movement which leaves the
1115 property.
1116
- 1117 **Water Quality Resource Areas - vegetated corridors and the adjacent water feature as**
1118 **established in Title 3.**
1119
- 1120 **Water Quality and Floodplain Management Area - The area that identifies where the**
1121 **Area and Floodplain Management Area Overlay Zone is applied.**
1122
- 1123 **Water Quality Facility - Any structure or drainage way that is designed, constructed and**
1124 **maintained to collect and filter, retain, or detain surface water run-off during and after a**
1125 **storm event for the purpose of water quality improvement. It may also include, but is not**
1126 **limited to, existing features such as constructed wetlands, water quality swales, and**
1127 **ponds which are maintained as stormwater quality control facilities.**
1128
- 1129 **Watershed - A watershed is a geographic unit defined by the flows of rainwater or**
1130 **snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or**
1131 **wetland.**
- 1132 **Wetlands - Wetlands are shown on the Metro Water Quality and Flood Management**
1133 **Area Map or are areas that meet the Oregon Division of State Lands definition of**
1134 **wetlands. These areas are inundated or saturated by surface or ground water at a**
1135 **frequency and duration sufficient to support and under normal circumstances do support a**
1136 **prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands**
1137 **generally include swamps, marshes, bogs and similar areas. Wetlands are those areas**
1138 **identified and delineated by a qualified wetland specialist as set forth in the Federal**
1139 **Manual for Identifying and Delineating Jurisdictional Wetlands, January 1987**
1140
- 1141 I:\gm\carolk\model.4rtf

EXHIBIT D

**TITLE 3 MAPS
AVAILABLE AT FIRST
READING - 4/16/98**

EXHIBIT E

319 **DEFINITIONS (Title 10)**

320
321 **Design Flood Elevation** -the elevation of the 100-year storm as defined in FEMA Flood Insurance
322 Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of
323 mapped flood prone soils or similar methodologies.

324
325 **Development** - any man-made change defined as buildings or other structures, mining, dredging,
326 paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In
327 addition, any other activity that results in the removal of more than 10 percent of the vegetation in
328 the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3
329 except that more than 10 percent removal of vegetation on a lot must comply with Section 4C -
330 Erosion and Sediment Control. Development does not include the following: a) Stream
331 enhancement or restoration projects approved by cities and counties; b) Farming practices as defined
332 in ORS 30.930 and farm use as defined in ORS 215.203.

333
334 **Emergency** - any man-made or natural event or circumstance causing or threatening loss of life,
335 injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe
336 weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material,
337 contamination, utility or transportation disruptions, and disease.

338
339 **Enhancement** - the process of improving upon the natural functions and/or values of an area or
340 feature which has been degraded by human activity. Enhancement activities may or may not return
341 the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

342
343 **Fill** - any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a
344 wetland or floodplain for the purposes of development or redevelopment.

345
346 **Flood Management Areas** - all lands contained within the 100-year floodplain, flood area and
347 floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the
348 area of inundation for the February 1996 flood. In addition, all lands which have documented
349 evidence of flooding.

350
351 **Invasive Non-native or Noxious Vegetation** - plant species that have been introduced and due to
352 aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly
353 into native plant communities, or which are listed on the Metro Prohibited Plant List.

354
355 **Mitigation** - the reduction of adverse effects of a proposed project by considering, in the order:
356 a) avoiding the impact all together by not taking a certain action or parts of an action; b) minimizing
357 impacts by limiting the degree or magnitude of the action and its implementation; c) rectifying the
358 impact by repairing, rehabilitating or restoring the effected environment; d) reducing or eliminating
359 the impact over time by preservation and maintenance operations during the life of the action by
360 monitoring and taking appropriate measures; and e) compensating for the impact by replacing or
361 providing comparable substitute water quality resource areas.

362
363 **Native Vegetation** - any vegetation native to the Portland metropolitan area or listed on the Metro
364 Native Plant list.

366 **Protected Water Features**

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Primary Protected Water Features shall include:

- a. wetlands; and
- b. rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow); and
- c. streams carrying year-round flow; and
- d. springs which feed streams and wetlands and have year-round flow and
- e. natural lakes.

Secondary Protected Water Features shall include intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

Restoration - the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

Routine Repair and Maintenance - activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

Significant Negative Impact - an impact that affect the natural environment, considered individually or cumulatively with other impacts on the Water Quality Resource Area, to the point where existing water quality functions and values are degraded.

Stream - a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

Substantial Compliance - city and county comprehensive plans and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.

404 **Visible or Measurable Erosion** - visible or measurable erosion includes, but is not limited to:

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a. Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.

b. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.

c. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.

Utility Facilities - buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television.

Water Quality Resource Areas - vegetated corridors and the adjacent water feature as established in Title 3.

Wetlands - any wetland shown on the Metro Water Quality and Flood Management Area Map or wetlands that meet the Oregon Division of State Lands definition of wetland.

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3/27/98

STAFF REPORT

ORDINANCE No.98-730, FOR THE PURPOSE OF AMENDING ORDINANCES NO. 96-647C AND NO 97-715B, TO AMEND TITLE 3 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN, AND AMEND THE REGIONAL FRAMEWORK PLAN, APPENDIX A, AND ADOPT THE MODEL ORDINANCE AND MAP.

Date: April 1, 1998

Presented by: Elaine Wilkerson,
Rosemary Furfey

PURPOSE /SUMMARY

- The Metro Council, in adopting the *Title 3: Water Quality and Floodplain Management Conservation* in the *Urban Growth Management Functional Plan (UGMFP)*, required that two products be completed before the title would become effective. These were: 1) a model ordinance; and 2) a regional map. (For the purposes of this report and Metro's public involvement activities, Title 3 is called the Stream and Floodplain Protection Plan.) This staff report describes each product, the process by which it was developed, and analyzes key policy issues related to each product. The following products will be discussed:
- Exhibit A: Proposed Revised Title 3 (showing strikeout and underline changes from Title 3 as adopted by the Metro Council November, 1996.)
- Exhibit B: Proposed revisions to other chapters of the Urban Growth Management Functional Plan
- Exhibit C: (blank – to be completed) Stream and Floodplain Protection Plan Model Ordinance
- Exhibit D: (blank – to be completed) Stream and Floodplain Protection Plan Maps

The Metro Council is being asked to consider a revised Title 3 to:

- 1) protect water quality in streams and
- 2) address flooding.

The intent of these revisions is to clarify the intent of the Title and to ensure that its performance standards are clear and objective.

Three primary tools are recommended:

- 1) At least balanced cut and fill to assure that existing flood water capacity is not reduced;

- 2) vegetated corridors in widths of 15, 50 (and up to 200 feet along steep slopes) along each side of a stream or water feature are used to reduce water pollution; and
- 3) erosion and sediment control measures.

With these tools, flooding, water pollution and erosion can be managed and reduced.

BACKGROUND

The *Metro Charter* mandates that Metro adopt elements of the *Regional Framework Plan* that address issues of regional significance, particularly as they relate to growth management and land use planning. Water quality and flood protection are issues of regional significance because they cross jurisdictional boundaries, affect all parts of the Metro region and can be addressed, in part, by regional, watershed-wide land use management actions.

The *Urban Growth Management Functional Plan (UGMFP)*, adopted by the Metro Council in November, 1996, included *Title 3: Water Quality and Floodplain Management Conservation* which sets performance standards to meet water quality and flood management goals. The Stream and Floodplain Protection Plan, i.e. Title 3, did not become effective with the rest of the UGMFP in February, 1997, because the Metro Council required that two products be developed and adopted: 1) a model ordinance and 2) a map showing the areas affected by the Plan.

A committee set up to advise Metro about water resources in the region, The Water Resources Policy Advisory Committee (WRPAC) began work on the model ordinance and maps in September, 1996. In addition, a scientific paper (*Policy Analysis and Scientific Literature Review Report*) was written by Metro staff to explore existing scientific literature and research concerning the effectiveness of various standards. This paper was then reviewed by a panel of academic and governmental experts from outside the region. Revisions were made and the paper was completed in July, 1997. By September, 1997, WRPAC completed a draft model ordinance and region-wide maps. In September, 1997 a joint committee was then formed consisting of members from the Metro Technical Advisory Committee (MTAC) and WRPAC to address issues and differences between the two committees. During this work, it became evident that because of the volume of additional information and policy discussion that occurred with the development of the model ordinance and the regional maps, Title 3 itself should be revised, especially concerning the overall performance standards included in the original adopted title. The joint committee completed its work at the end of December, 1997. The full membership of MTAC, during the months of January, February and March, completed an additional review of the draft revised Title 3 and made its recommendations to the Metro Policy Advisory Committee (MPAC). MPAC completed its review, and the proposed revised Title 3, is their recommendation and is the subject of the Growth Management Committee hearing beginning April 7. (A revised model ordinance to be consistent with the proposed

revised Title 3 is being completed and it, along with the regional map are being reviewed by WRPAC, MTAC and MPAC, with the expected MPAC recommendation scheduled for April 22, 1998).

The Growth Management Department developed a public outreach strategy in November, 1997 to educate the public and seek their comments on the Stream and Floodplain Protection Plan's draft model ordinance, maps and revised performance standards. The strategy included:

- producing public outreach materials such as slide shows, printed materials, and visual displays;
- developing a speakers bureau, which has presented the slide show more than 40 times to interested groups, targeted groups and local governments;
- conducting four workshops around the region, with 15,000 individual notices as well as newspaper ads;
- supporting media coverage through newspapers, radio and cable access; and

An original public involvement program report was completed in February, 1998 and an updated written report and a summary of comments received to date will be presented at the Growth Management Committee meeting on April 7, 1998.

FACTUAL ANALYSIS

Current Conditions

Examples of regional water quality and flooding problems include:

- Development in the floodplain has resulted in property damage and threats to human health and safety. In the Metro region, there are an estimated 8,840 units in or close to the floodplain, and approximately 1,080 household units were built in or close to the floodplain between 1992 and 1995. The February, 1996 flood and landslides resulted in almost \$60 million dollars worth of damage in the entire tri-county region. An estimated 189 household units built since 1992 in the Metro region were flooded.
- The Oregon Department of Environmental Quality (DEQ) has identified 34 stream/river segments (213 miles) in the Metro region that do not meet water quality standards. Metro has mapped these stream segments. DEQ suspects other waterbodies in the Metro region have water quality problems, but corroborating data are lacking due to insufficient monitoring stations and limited resources. Therefore, the extent of the water quality problems may be greater than indicated by the DEQ.
- Some streams have disappeared entirely due to the historic practice of placing streams in pipes or culverts during development. The Metro "Disappearing Streams" map will be presented at the informational presentation to illustrate the approximately 400 miles of streams throughout the region that have been lost. That is, of the original 1,450 miles of streams in the region, only 900 miles remain.

- Without proper controls installed and maintained at construction sites, clearing and grading at the sites cause sediment to be deposited in streams and wetlands, which can cause severe water quality problems. Erosion is the movement of soil particles resulting from the actions of water or wind. National figures reveal that uncontrolled construction site sediment loads have been reported to be at a rate of 35 to 45 tons per acre per year, compared to the rate from undisturbed woodlands which is typically less than 1 ton per year. Each year in the United States, an estimated 80 million tons of sediment are washed from construction sites into receiving streams and lakes. The estimated cost to replace this amount of topsoil is approximately \$41.6 billion per year. Erosion control programs vary around the region, but there are currently no minimum erosion control standards in place regionwide.

Scientific Analysis

As noted earlier, staff completed a Policy Analysis and Scientific Literature Review. A panel of biologists, being academic and governmental experts primarily outside the region (see the inside cover of the report for the list of experts), reviewed the staff Literature Review. From this analysis, the proposed vegetated corridors were evaluated and revised. WRPAC, MTAC and MPAC also reviewed the paper and made their recommendations for the vegetated corridors as reflected in the latest draft of Title 3.

Caveat

The Stream and Floodplain Protection Plan (Title 3) is an important first step for Metro to begin addressing the region's water quality and flood damage problems. It must be emphasized, however, that the Plan is not the total solution to water quality and flooding problems. It sets minimum regional standards for the protection of vegetation along rivers, streams and wetlands; controls development in the floodplain and requires erosion prevention and control measures region-wide. In addition to these important measures, there needs to be comprehensive watershed-wide stormwater management, watershed planning and analysis for regionally significant fish and wildlife habitat conservation. These tasks were identified in the original Title 3 adopted in 1996 as important next steps for Metro to assess.

COUNCIL CONSIDERATION

Ordinance 98-750 is intended to amend the Urban Growth Management Functional Plan (UGMFP) and is attached for committee review. It provides for Metro Council consideration of amendment of Ordinance No. 96-647C to amend Title 3 in the UGMFP and adopt the model ordinance and map. It also amends Ordinance No. 97-715B, Attachment 1, of the Regional Framework Plan to amend the performance standards in the UGMFP.

Stream and Floodplain Protection Plan Model Ordinance (Exhibit C)

The Stream and Floodplain Protection Plan Model Ordinance was developed by the Water Resources Policy Advisory Committee (WRPAC) over the course of one year, including intense discussion, research and debate regarding how to best achieve the performance standards. However, because of the proposed revisions to Title 3, staff are currently reviewing the model ordinance and proposed revisions to ensure consistency. These revisions will be available mid-April and MPAC review of the proposals is scheduled for April 22.

Stream and Floodplain Protection Plan Maps (Exhibit D)

The Stream and Floodplain Protection Plan maps have been developed over the last year in coordination with local jurisdictions. Each jurisdiction has been provided copies of the maps during two periods over the past year. Staff are proposing revisions consistent with local jurisdiction recommendations. Initially, we developed a map change request form for citizens, landowners and jurisdictions to request a change to the map. WRPAC and MTAC will be reviewing these and MPAC is scheduled to make its recommendations to the Council on April 22.

Issues and Concerns

Although there has been an extensive review of the revised Stream and Floodplain Protection Plan (Title 3), the following are some of the issues that the Metro Council may wish to consider:

- **Additions, Alterations, Rehabilitation or Replacement**

Issue: Should there be more consideration of existing structures than presently provided, so that if additions, alterations, rehabilitation or replacement are desired by a property owner, they can be accommodated.

MPAC referred this subsection and related definitions back to MTAC. There was some discussion about permitting the reconstruction of existing structures within the vegetative corridor so long as the new structure is no closer to the water feature and footprint increases are reasonably limited. One MPAC member suggested that any addition or reconstruction be limited to a maximum 50 percent increase in footprint within the vegetative corridor. The Title could encourage local governments to establish reasonable limits on building footprint coverage increases in vegetated corridors. This would still permit additions or reconstruction outside the vegetative corridor or on upper stories.

- **Metro Legal Defense Assistance**

Issue : Should Metro assist cities and counties in the region with legal defense of local ordinances enacted to implement Title 3?

As an incentive to early adoption, the Metro Council Growth Management Committee suggested that Metro should participate in defense of any appeals claiming the model ordinance is unconstitutional if the local adoption occurred within one year.

MTAC recommended this be broadened to include any local code implementation occurring within 18 months when Metro finds the local code to substantially comply with the Title. WRPAC supported the defense of the model ordinance adoption within 18 months. WRPAC was concerned about supporting code language where Metro had not been involved with its development. In addition, WRPAC preferred that this provision not be included in the Title and could see the need for similar consideration for other titles.

MPAC recommended this section be deleted from the Title and suggested that similar intent be incorporated in Title 8 applying to the entire Functional Plan.

Providing Alternative Approaches

Issue: Should alternative city and county approaches to vegetated corridors/setbacks be encouraged?

In response to the vegetated corridors table, MTAC proposed wording for a new Section 4.B.4. WRPAC did not support the inclusion of this section preferring the existing provisions for substantial compliance. The MTAC wording was:

Cities and counties in the region may adopt alternative standards regulating development within the Water Quality Resource Areas, provided that such local jurisdictions demonstrate that the alternative regulations comply with the purposes stated in Section 4.B.1.

In the clarification process, the two technical committees have refined the Title proposals to provide flexibility in implementation through provisions for:

- a gradation of vegetated corridor width for steeper slopes depending on the extent of the slope, previously expressed as 200 feet,
- a 25-foot reduction in width on these steeper slopes where supported by a geotechnical report, development in the vegetated corridor where there is no practicable alternative and where the development is limited and mitigation occurs,
- repair, maintenance and improvement of utilities,
- required reductions in vegetative corridors where lots are made unbuildable by the regulations,

- additions, alterations, or replacement for existing structures, roads, etc., if not closer to the water feature,
- correction of map errors.

After much discussion on the need for both regional consistency and local implementation flexibility, a motion at MPAC to recommend the inclusion of the MTAC proposed section failed on a vote of 4-11. Some members indicated a desire to have the Metro legal staff clarify the nature of implementation flexibility that will be available under the substantial compliance provision.

Agricultural Coordination

Issue: Should urban water quality efforts be coordinated and made consistent with those for agricultural and rural areas.

MTAC did not recommend inclusion of text drafted for the Metro Council Growth Management Committee requiring cities and counties to coordinate with the Department of Agriculture to ensure consistency of water quality regulations, urban and agricultural.

While the majority of MTAC recognizes State law requires this coordination, they do not recommend repeating existing law in the Functional Plan. In addition, they noted the State has primary responsibility for coordination with local government. The minority saw no harm in being explicit and highlighting the need for coordination.

WRPAC did not address this issue. MPAC had no comment and recommended the Title without the text addressing this coordination.

Property Owner Notification

Issue: Should the property owners within those areas designated on the Stream Flood Protection Maps be notified individually?

MTAC recommended that Metro consider notification of another round of open houses and the Metro Council public hearing, to individual property owners affected by the Title. WRPAC did not support notice as proposed by MTAC, but recommended there should be continuous public involvement as in the past and there should be a concerted effort to notify interested groups and affected members of the public of the upcoming Metro Council hearing. There was also some concern about further delays.

MPAC members expressed concern about notice at this time because the maps are not finalized and they recognized that the local jurisdictions would be establishing

the specific regulations to apply locally after Metro Council decisions. As a result, they did not support individual property owner notice at this time.

Balancing Land Use Planning Goals

Issue: Should the balancing of land use goals, including goals 6 and 7 but also those dealing with economic issues be explicitly stated.

MTAC had recommended adding to the end of the Intent section of the Title ("while balancing those goals with regional employment and housing goals"). WRPAC did not recommend this addition, noting that such balancing should occur in all titles.

MPAC agreed with the WRPAC recommendation to the deletion of these words.

Budget Implications

There are no budget direct implications, although if the legal defense assistance provision were to be adopted by the Metro Council, there could be budgetary implications with it.

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TO: Metro Technical Advisory Committee
FROM: Elaine Wilkerson, Director, Growth Management Services Department
DATE: April 10, 1998
RE: Review of Proposed Revisions to Draft Model Ordinance (9/4/97)

The draft Model Ordinance (MO) produced by WRPAC dated September 9, 1997 has been revised to make its content consistent with the policies in the revised draft Performance Standards (PS) recommended by the Metro Policy Advisory Committee (MPAC), and to make its format and planning terminology consistent with standard planning code used by local jurisdictions. The attached revised MO looks very different from the MO voted on by WRPAC. Staff have made every effort to preserve the intent of WRPAC while striving to make a user friendly MO that can be adopted or adapted by local jurisdictions.

This memo highlights the major revisions made to WRPAC's 1997 MO. The left column refers to line numbers in the new, revised MO dated April 10, 1998. The relevant changes or reorganization of text are then described and compared with the new policies in the MPAC PS, dated March 25, 1998.

| <u>Line No. in New MO (4/10/98)</u> | <u>Proposed Revisions/Test Reorganization</u> |
|-------------------------------------|--|
| 97-134 | -functions and values consistent with PS language |
| 135 | -two overlay zones are proposed instead of one for ease of implementation. This does not change the Title 3 map designations. |
| 143 | <u>Applicability:</u> -deleted term "new" before development and took out term "redevelopment" to be consistent with PS and definitions. All other changes are consistent with PS. |
| 172 | <u>Water Quality Resource Area:</u> -change consistent with PS (deleted "C" of line 180 in 9/4/97 MO) |
| 179 | -replaced old language description of vegetated corridor widths in M.O. with new Table 1 to be consistent with PS. |
| 186 | -a chart describing how slope and vegetated corridor widths is calculated is now an Appendix replacing line 213 slope language in MO |

- 197 Uses Permitted Outright: This is a new section for ease of implementation. The content remains the same and text consolidated from other parts of the MO, or to be consistent with the PS and definition of development.
- 216 Conditional Uses: this list consistent with MO and PS
- 227 -new language consistent with intent of MO and PS
- 240 -new language consistent with PS (line 202-218)
- 243 Prohibited Uses: new section to be consistent with PS and MO
- 252 Application Requirements: (see line 237 of MO) Lines 241-270 of MO were deleted because that information is required by local jurisdictions already in development applications; the items that are specific to Water Quality Resource Areas are left in the list.
- 280 -new language consistent with PS lines 146-156
-9/97 MO lines 315-340 are partially dealt with in new MO Section 5: Subdivision and Partitions
-9/97 MO line 337 is moved to new MO line 572-574
-9/97 MO line 348 (development plan) now in new MO H. Development Standards in line 326
-9/97 MO line 374 line 377 dropped because it is redundant
-9/97 MO line 421: language dropped because it is assumed that this is already happening at the local level
- 381 New language
- 414 Table 2: Outstanding questions for WRPAC: Is this table accurately referenced in the MO? Is it serving its intended purpose?
- 434 Flood Management: language now consistent with line 49 of PS
- 439 -changes clarify intent and content; it just changes order from 9/97 MO
- 459 -language added for clarity
- 463 Uses Permitted Outright: new section to be consistent with 9/97 MO;
-9/97 MO line 594 moved to new Development Standards Section and modified to be consistent with new PS
- 470 -new section for clarity, but still consistent with 9/97 MO
- 476 -new section consistent with PS
- 524 -new language from line 70 of PS
- 530 -new language from one 83 of PS
- 536 -new language from line 79 of PS
- 540 -new section refers to line 190 in PS to carry out Implementation Tools
- 695 -new language consistent with local jurisdictions planning code

Line in New MO (4/10/97)

Proposed Revisions/ Text Reorganization

- 706 -new language proposed by Legal Counsel and will be discussed at WRPAC meeting
- 723 Hardship Variance: new language for clarity
- 747 -new sub-section
- 776 -new sub-section, language consistent with 9/97 MO
- 783 -this language is directly from the 9/97 MO, WRPAC needs to clarify the intent of this language
- 803 -new section
- 811 -new section
- 835 -new section

Agenda Item Number 7.1

Ordinance No. 98-732, For the Purpose of Revising Quasi-Judicial Urban Growth Boundary Amendment Procedures in Metro Code 3.01.033, 3.01.035, 3.01.055, 3.01.065 and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, April 16, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REVISING) ORDINANCE NO 98-732
QUASI-JUDICIAL URBAN GROWTH)
BOUNDARY AMENDMENT) Introduced by Mike Burton, Executive Officer
PROCEDURES IN METRO CODE) and Councilor Susan McLain
3.01.033 , 3.01.035, 3.01.055, 3.01.065 and)
DECLARING AN EMERGENCY)

WHEREAS, Metro's urban growth boundary (UGB) procedures were revised and acknowledged for compliance with the statewide Goals in 1992; and

WHEREAS, Metro recognized ORS 197.763 (1989) on quasi-judicial procedures by following the statute and requiring that a copy of the statute be provided at each hearing; and

WHEREAS, Metro has had very few quasi-judicial UGB amendment applications since 1989, while the ORS 197.763 was amended in 1991, 1995, and 1997; and

WHEREAS, more quasi-judicial UGB amendment applications are anticipated in 1998 and 1999 due to the deadlines in ORS 197.299 (HB 2493); and

WHEREAS, incorporating the amended statutory language into Metro's quasi-judicial procedures will clarify and shorten the hearing procedure, now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1 - Adoption. The provisions of Metro Code 3.01.033 Applications for Major Amendments and Locational Adjustments and Metro Code 3.01.055 Public Hearing Rules Before the Hearings Officer are hereby adopted as revised in Exhibit "A," attached and incorporated into this Ordinance.

Section 2 - Locational Adjustments. The limitation that the total of all locational adjustments for any one year shall not exceed 100 net acres is hereby amended to establish the

order that locational adjustments qualify for the 100-acre per year limit. Metro Code 3.01.035(b) and the corresponding provisions in Ordinances Nos. 96-647C and 97-715B, Appendix A are hereby amended to read as follows:

“(b) All locational adjustment additions and administrative adjustments for any one year shall not exceed 100 net acres and no individual locational adjustment shall exceed 20 net acres. Natural areas adjustments shall not be included in the annual total of 100 acres, and shall not be limited to 20 acres, except as specified in 3.01.035(g), below. Completed locational adjustment applications shall be processed on a first come, first served basis.”

Section 3 - Emergency Clause. This ordinance shall be effective March 30, 1998 as necessary for the health, safety or welfare of the Metro area for the following reasons: (1) these procedures are needed to expedite amendment application hearings; (2) the deadline for 1998 applications is March 15, with two weeks for additions to complete the applications; and (3) postponement of hearings to await the effectiveness of these procedures is inconsistent with Metro's efforts to comply with the December 18, 1998 deadline for UGB amendments in ORS 197.299(2).

ADOPTED by the Metro Council this ____ day of _____ 1998.

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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3.01.033 Applications for Major Amendments and Locational Adjustments

(a) All petitions filed pursuant to this chapter for amendment of the UGB must include a completed petition on a form provided by the district. Petitions which do not include the appropriate completed form provided by the district will not be considered for approval.

(b) Major Amendments or Locational Adjustments may be filed by:

- (1) A county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or
- (2) The owners of the property included in the petition or a group of more than 50 percent of the property owners who own more than 50 percent of the land area in each area included in the petition.

(c) Completed petitions for amending the UGB through either a major amendment or locational adjustment, shall be considered by the district if filed prior to March 15. No petition shall be accepted under this chapter if the proposed amendment or locational adjustment to the UGB would result in an island of urban land outside the existing UGB, or if the proposed addition contains within it an island of non-urban land excluded from the petition. The district will determine not later than seven working days after the deadline whether a petition is complete and notify the petitioner. The petitioner must remedy any identified deficiencies within 14 days of notification, or the petition and fees shall be returned to the petitioner and no further consideration shall be given. Completeness of petitions shall be the petitioners' responsibility.

(d) Upon request by a councilor or the executive officer, the council may, by an affirmative vote of two-thirds of the full council, waive the filing deadline for a particular petition or petitions and hear such petition or petitions at any time. Such waiver shall not waive any other requirement of this chapter.

(e) The district shall give notice of the March 15 deadline for acceptance of petitions for UGB major amendments and locational adjustments under this chapter not less than 90 calendar days before a deadline and again 20 calendar days before

a deadline in a newspaper of general circulation in the district and in writing to each city and county in the district. A copy of the notice shall be mailed not less than 90 calendar days before a deadline to anyone who has requested notification. The notice shall explain the consequences of failing to file before the deadline and shall specify the district officer or employee from whom additional information may be obtained.

(f) All petitions shall be reviewed by district staff and a report and recommendation submitted to the hearings officer. For locational adjustments, the staff report shall be submitted not less than 10 calendar days before the hearing. For major amendments, the staff report shall be submitted not less than 21 calendar days before the hearing. A copy of the staff report and recommendation shall simultaneously be sent to the petitioner(s) and others who have requested copies. Any subsequent staff report used at the hearing shall be available at least seven days prior to the hearing.

(g) It shall be the responsibility of the petitioner to provide a list of names and addresses for notification purposes, consistent with section 3.01.055(b), when submitting a petition. Said list of names and addresses shall be certified in one of the following ways:

- (1) A list attested to by a title company as a true and accurate list of property owners as of a specified date; or
- (2) A list attested to 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) A list with an attached affidavit completed by the proponent affirming that the names and addresses are a true and accurate list of property owners as of a specified date.

(h) Local Position on Petition:

- (1) Except as provided in subsection 4 of this section, a petition shall not be considered completed for hearing unless the petition includes a written statement by the governing body of each city or county with land use jurisdiction over the area included in the petition that:

(A) recommends that Metro approve the petition;
or

- (B) recommends that Metro deny the petition; or
 - (C) expresses no preference on the petition.
- (2) Except as provided in subsection 4 of this section, a petition shall not be considered completed for hearing unless the petition includes a written statement by any special district which has an agreement with the governing body of each city or county with land use jurisdiction over the area included in the petition to provide one or more urban services to the subject area that:
- (A) recommends that Metro approve the petition; or
 - (B) recommends that Metro deny the petition; or
 - (C) expresses no preference on the petition.
- (3) If a city, county or special district holds a public hearing to establish its position on a petition, the city or county shall:
- (A) provide notice of such hearing to the district and to any city or county whose municipal boundaries or urban planning area boundary abuts the area affected; and
 - (B) provide the district with a list of the names and addresses of parties testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.
- (4) Upon request by an applicant, the executive officer shall waive the requirements of subsections (1) and (2) of this section regarding written recommendations from the city or county with land use jurisdiction or a special district which provides one or more urban services if the applicant shows that a request for comment was filed with the local government at least 120 calendar days previously and that the local government or service provider has not yet adopted a position.

(i) Petitions outside district boundary:

- (1) Petitions to extend the UGB to include land outside the district shall not be accepted unless accompanied by:
 - (A) A copy of a petition for annexation to the district to be submitted to the Portland Metropolitan Area Local Government Boundary Commission pursuant to ORS chapter 199; and
 - (B) A statement of intent to file the petition for annexation within 90 calendar days of Metro action, or after the appeal period following final action by a court concerning a Metro action, to approve the petition for UGB major amendment or locational adjustment.
- (2) A city or county may, in addition to the action required in subsection B of this section, approve a plan or zone change to implement the proposed adjustment in the area included in a petition prior to a change in the district UGB if:
 - (A) The district is given notice of the local action;
 - (B) The notice of the local action states that the local action is contingent upon subsequent action by the district to amend its UGB; and
 - (C) The local action to amend the local plan or zoning map becomes effective only if the district amends the UGB consistent with the local action.
- (3) If the city or county has not contingently amended its plan or zoning map to allow the land use category of the proposed amendment proposed in a petition, and if the district does approve the UGB amendment, the local plan or map change shall be changed to be consistent with the UGB amendment within one year.

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) At the discretion of the applicant, Metro 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) Twenty 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 Metro 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.

(a) (b) All major amendment and locational adjustment petitions accepted under this chapter shall receive a contested case hearing according to the following rules:

- (1) Hearings officers shall be selected by the district 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, ~~a copy of ORS 197.763,~~ and procedures for notice and conduct of local quasi-judicial land use hearings, ~~notice requirements, hearing procedures,~~ 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 with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal; and
- ~~(D) A statement that any party may request a continuance of the hearing, but that any continuance would be granted at the discretion of the hearings officer upon finding good cause;~~

(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 (7) 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.

~~(4)~~ (5) Failure of the petitioner to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the petition.

~~(5)~~ (6) The hearing shall be conducted in the following order:

(A) Staff report.

(B) Statement and evidence by the petitioner 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 petitioner.

~~(6)~~ (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.

~~(7) The hearing may be continued for a reasonable period as determined by the hearings officer.~~

(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) Upon conclusion of the hearing, the record shall be closed and new evidence shall not be admissible thereafter unless a party requests that the record remain open before the conclusion of the initial, evidentiary hearing. Upon such a request, the record shall remain open for at least seven days after the hearing unless there is a continuance.~~

~~(11)~~ (10) The burden of presenting evidence in support of a fact or position in the contested case rests on the petitioner. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with the all applicable standards. ~~in this chapter.~~

~~(12) A proponent or opponent shall raise all issues of concern either orally or in written form at the public hearing. Failure to do so will constitute a waiver to the raising of such issues at any subsequent administrative or legal appeal deliberations.~~

~~(13)~~ (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 Metro and be made available to the public.

(14) UGB petitions may be consolidated by the hearings officer for hearings where appropriate. Following consultation with district staff and prospective petitioners, 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.

~~(b)~~ (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 executive officer. Within seven working days of receiving the materials from the hearings officer, the executive 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 the district 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.

~~(e) UCB petitions may be consolidated by the hearings officer for hearings where appropriate. Following consultation with district staff and prospective petitioners, 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.~~

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

3.01.065 Council Action On Quasi-Judicial Amendments

(a) The council may act to approve, remand or deny a petition 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 pursuant to 1979 Oregon Laws, chapter 772.

(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 a petition.

(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 Metro Council or the hearings office 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 in whole or in part a petition by requiring annexation to a city and/or service district(s) and Tri-Met and whenever a petition includes land outside the district:

- (1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the district within six months of the date of adoption of the Resolution.
- (2) The council shall take final action, as provided for in paragraphs (c) and (d) of this section, within 30 calendar days of notice that all required annexations to a city, service district(s) and the district have been approved.

(g) When the council is considering an ordinance to approve a petition, 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 executive officer 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.

GROWTH MANAGEMENT COMMITTEE REPORT
CONSIDERATION OF ORDINANCE 98-732, FOR THE PURPOSE OF REVISING
QUASI-JUDICIAL URBAN GROWTH BOUNDARY AMENDMENT PROCEDURES
IN METRO CODE 3.01.033, 3.01.035, 3.01.055, 3.01.065 AND DECLARING AN
EMERGENCY

Date: April 8, 1998

Presented by: Councilor McLain

Committee Action: At its April 7, 1998 meeting, the Growth Management Committee unanimously voted to recommend to Council adoption of Ordinance 98-732. Voting in favor: Councilors Naito and McCaig.

Committee Issues/Discussion: There was no substantive discussion on this ordinance by the Councilors.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 98-732, FOR THE PURPOSE OF REVISING QUASI-JUDICIAL URBAN GROWTH BOUNDARY AMENDMENT PROCEDURES IN METRO CODE 3.01.033, 3.01.035, 3.01.055, 3.01.065 AND DECLARING AN EMERGENCY

Date: March 4, 1998

Presented by: Larry Shaw

Proposed Action

Ordinance No. 98-732 amends Metro Code Chapter 3.01 to clarify and shorten the hearing procedure for Major Amendments and Locational Adjustments to the Urban Growth Boundary (UGB). This ordinance would be effective on March 30, 1998.

Factual Background and Analysis

Urban Reserves were adopted by the Metro Council on March 6, 1997. The Urban Growth Report sections on buildable lands, capacity analysis, forecasts for population, households and employment and the 1997 housing needs analysis were adopted on December 18, 1997. With these two decisions, which concluded that there is a deficit in the 20-year dwelling unit capacity, has come a dramatic increase in the number of inquiries for amending the UGB. With more UGB amendment activity anticipated, the Executive Officer recommends revisions, consistent with ORS 197.763, to clarify the procedures for processing UGB petitions.

The proposed changes are as follows:

1. Metro Code Section 3.01.033, Applications for Major Amendments and Locational Adjustments, would be amended to require that any staff report used at hearing shall be available at least seven days prior to the hearing.
2. Metro Code Section 3.01055 and 065 would be amended to incorporate the requirements that are specified in the Oregon Revised Statutes for notification and other procedural changes regarding the hearing itself.

In addition to the above, the Executive Officer recommends that Metro Code Section 3.01.035(b), Locational Adjustment Procedures, include the provision to process petitions on a first come, first served basis.

Budget Analysis

There is no budget impact.

Executive Officer's Recommendation

The Executive Officer recommends that the Metro Council adopt Ordinance No. 98-732.



METRO

DATE: February 20, 1998

TO: Councilor Lisa Naito
Chair, Growth Management Committee

FROM: *LSH*
Larry Shaw
Office of General Counsel

SUBJECT: UGB Amendment Procedure - Quasi-Judicial Applications

Metro's UGB Amendment Procedures were written and acknowledged in 1992. Quasi-judicial amendments are filed once a year and processed by a hearings officer prior to a Metro Council decision. Since 1992, Metro has had very few UGB Amendment applications each March. Therefore, biennial changes in the procedural statutory requirements in ORS 197.763 have been followed by Metro staff and the hearings officers using the statute and providing the parties a copy of the statute at each hearing. With more UGB amendment activity anticipated, the Executive Officer requested a discussion draft of amendments to Metro's acknowledged quasi-judicial procedures.

With one addition, the discussion draft is now Ordinance No. 98-732 amending Metro Code to add the following:

1. The absolute deadline for any staff memo of seven days prior to the hearing is added to 3.01.033(f) to reflect ORS 197.763(4)(b).
2. Public hearing notice requirements from ORS 197.763(2), (3) and (8) are incorporated into new 3.01.055(a), moving or eliminating 3.01.055(b)(3)(D); (b)(7), (10) and (12).
3. Continuance rules from ORS 197.763(6) are incorporated into new 3.01.055(b)(4).
4. The appeal issues statement from ORS 197.763(1) is incorporated into new 3.01.055(b)(12).
5. The full applicant documentation statement from ORS 197.763(4)(a) is incorporated into 3.01.055(b)(13).
6. The reopened record statement from ORS 197.763(7) is incorporated into 3.01.065(e).
7. The small addition to the discussion draft is to establish a first come, first served order for locational adjustments to qualify for the 100-acres per year limit.

These amendments address neither legislative amendments of the UGB, nor the process for "exceptions" to the hearings officer reports for quasi-judicial amendments. Legislative procedures could be addressed when the urban reserves productivity analysis to aid legislative amendments is complete.

Agenda Item Number 8.1

**Resolution No. 98-2626, For the Purpose of Confirming the Appointment of Ron Fortune to the
Metropolitan Exposition-Recreation Commission.**

**Metro Council Meeting
Thursday, April 16, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

| | | |
|---------------------------------------|---|----------------------------------|
| FOR THE PURPOSE OF CONFIRMING |) | RESOLUTION NO. 98-2626 |
| THE APPOINTMENT OF RON FORTUNE |) | |
| TO THE METROPOLITAN EXPOSITION |) | Introduced by Mike Burton |
| RECREATION COMMISSION |) | Executive Officer |

WHEREAS, The Metro Code, Section 6.01.030, provides that the Council confirms members to the Metropolitan Exposition Recreation Commission; and

WHEREAS, the term of Cliff Carlsen, a Metro appointee, was interrupted by his untimely death; and

WHEREAS, The Executive Officer recommends Ron Fortune be appointed to complete Mr. Carlsen's term, which would expire January 15, 2000; and

WHEREAS, The Council finds that Ron Fortune has the qualifications and desire to serve on the commission, and that his membership will result in a substantial contribution to the work of the commission; now, therefore,

BE IT RESOLVED,

That Ron Fortune is hereby confirmed for appointment as a member of the Metropolitan Exposition Recreation Commission completing the term of Cliff Carlsen beginning immediately and ending January 15, 2000.

ADOPTED by the Metro Council this _____ day of _____, 1998.

Jon Kvistad, Presiding Officer

REGIONAL FACILITIES COMMITTEE REPORT
**CONSIDERATION OF RESOLUTION NO. 98-2626, FOR THE PURPOSE OF
CONFIRMING THE APPOINTMENT OF RON FORTUNE TO THE
METROPOLITAN EXPOSITION-RECREATION COMMISSION.**

Date: April 10, 1998

Presented by: Councilor Naito

Committee Action: At its April 7, 1998 meeting, the Regional Facilities Committee unanimously recommended Council adoption of Resolution No. 98-2626. Voting in favor: Councilors McCaig, Naito and McFarland

Council Issues/Discussion: Mike Burton, Metro Executive, presented Mr. Fortune to the committee. Mr. Fortune is the executive secretary-treasurer of the Northwest Labor Council, AFL-CIO. Mr. Burton explained that Mr. Fortune will fill the position left vacant by the death of Mr. Cliff Carlsen. Mr. Fortune has been a member of the Oregon Economic Development Commission, the United Way Board, the Leader's Round Table and the Advisory Board of Portland State University.

STAFF REPORT

CONSIDERATION OF RESOLUTION 98-2626 FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF RON FORTUNE TO THE METROPOLITAN EXPOSITION-RECREATION COMMISSION

Date: March 20, 1998

Presented by: Mike Burton, Executive Officer

BACKGROUND

Metro ER Commission appointments under Ord. No. 90-339 provided for four year terms with staggered term expiration dates. Mr. Cliff Carlsen was appointed to MERC under resolution 96-2770, with his term expiring on January 15, 2000. Due to the untimely death of Mr. Carlsen, it is necessary to replace him on the Metropolitan Exposition-Recreation Commission, with the replacement filling out Mr. Carlsen's term.

The Executive Officer recommends Mr. Ron Fortune to complete Mr. Carlsen's term as a Commissioner on MERC. Mr. Fortune is currently the Executive Secretary-Treasurer of the Northwest Oregon Labor Council, AFL-CIO, and is a valuable member of the community. As the Executive Secretary-Treasurer, his responsibilities are to protect the rights of the members and of the community at large, by strengthening economic and social gains.

Mr. Fortune is also a member of the Oregon Economic Development Commission, United Way, Portland Leaders Roundtable and the Portland State University Advisory Board. He can bring a perspective to the Commission that has not been available in the past.

Mr. Fortune has expressed his desire to be appointed to complete Mr. Carlsen's term, as one of the two Metro seats on the Commission.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends the appointment of Ron Fortune to the Metro ER Commission.

Agenda Item Number 8.2

Resolution No. 98-2627A, For the Purpose of Approving the Selection of Hearings Officers for Contested Case Hearings for the period commencing April 1998.

**Metro Council Meeting
Thursday, April 16, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE) RESOLUTION NO 98-2627A
SELECTION OF HEARINGS OFFICERS FOR)
CONTESTED CASE HEARINGS FOR THE) Introduced by Mike Burton,
PERIOD COMMENCING APRIL, 1998) Executive Officer
)

WHEREAS, Section 2.05.025(a) of the Metro Code requires that contested case hearings and amendments to the Regional Urban Growth Boundary (UGB) shall be held before a Hearings Officer; and

WHEREAS, Metro also utilizes the services of Hearings Officers in other cases when contested case hearings must be held pursuant to the Metro Code; and

WHEREAS, the Council may from time to time approve and provide to the Executive Officer a list of prospective Hearings Officers from which Hearings Officers may be appointed by the Executive Officer; and

WHEREAS, the Council adopted Resolution No. 97-2569, authorizing the issuance of a Request for Proposals for Hearings Officer services; and

WHEREAS, responses were reviewed by the Office of General Counsel in concert with the Planning and Growth Management Department and members of the Council.; and

WHEREAS, the review committee recommends that eight qualified responses be accepted and that J. Richard Forester, Howard W. Carsman, Robert J. Harris, Jeffrey P. Chicoine, Barry Adamson, Mark J. Greenfield, Larry Epstein, and Pamela J. Beery be designated as approved Hearings Officers, and that the Executive Officer be authorized to enter into contracts to secure their services; now, therefore,

BE IT RESOLVED:

A. That pursuant to Metro Code Section 2.05.025(a) J. Richard Forester, Howard W. Carsman, Robert J. Harris, Jeffrey P. Chicoine, Barry Adamson, Mark J. Greenfield, Larry Epstein, and Pamela J. Beery are designated as approved Hearings Officers for the period commencing April, 1998.

B. That the Executive Officer is authorized to enter into contracts with J. Richard Forester, Howard W. Carsman, Robert J. Harris, Jeffrey P. Chicoine, Barry Adamson, Mark J. Greenfield, Larry Epstein, and Pamela J. Beery in a form substantially similar to the Request for Proposals document approved by Resolution No. 97-2569 and the responses received thereto.

ADOPTED by the Metro Council this ____ day of _____ 1998.

Jon Kvistad, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

**GROWTH MANAGEMENT COMMITTEE REPORT
CONSIDERATION OF ORDINANCE 98-2627, FOR THE PURPOSE OF
APPROVING THE SELECTION OF HEARINGS OFFICERS FOR CONTESTED
CASE HEARINGS**

Date: April 8, 1998

Presented by: Councilor Naito

Committee Action: At its April 7, 1998 meeting, the Growth Management Committee unanimously voted to recommend to Council adoption of Resolution 98-2627A. Voting in favor: Councilors Naito and McCaig.

Committee Issues/Discussion: The Committee voted to amend the resolution at the request of General Counsel Dan Cooper to add the following language to the title: "for the period commencing April 1998". The amendment clarified the title of the resolution so as to distinguish it from similar previously adopted resolutions.

Staff Report

CONSIDERATION OF RESOLUTION NO. 98-2627 FOR THE PURPOSE OF APPROVING THE SELECTION OF HEARINGS OFFICERS FOR CONTESTED CASE HEARINGS

Date: March 20, 1998

Presented by: Daniel B. Cooper

PROPOSED ACTION

This resolution would complete the process initiated by Resolution No. 97-2569 whereby the Council authorized the release of a Request for Proposals to identify qualified Hearings Officers. This Resolution officially designates eight Hearings Officers to conduct contested case hearings on land use and/or non-land use decisions required by the Metro Code.

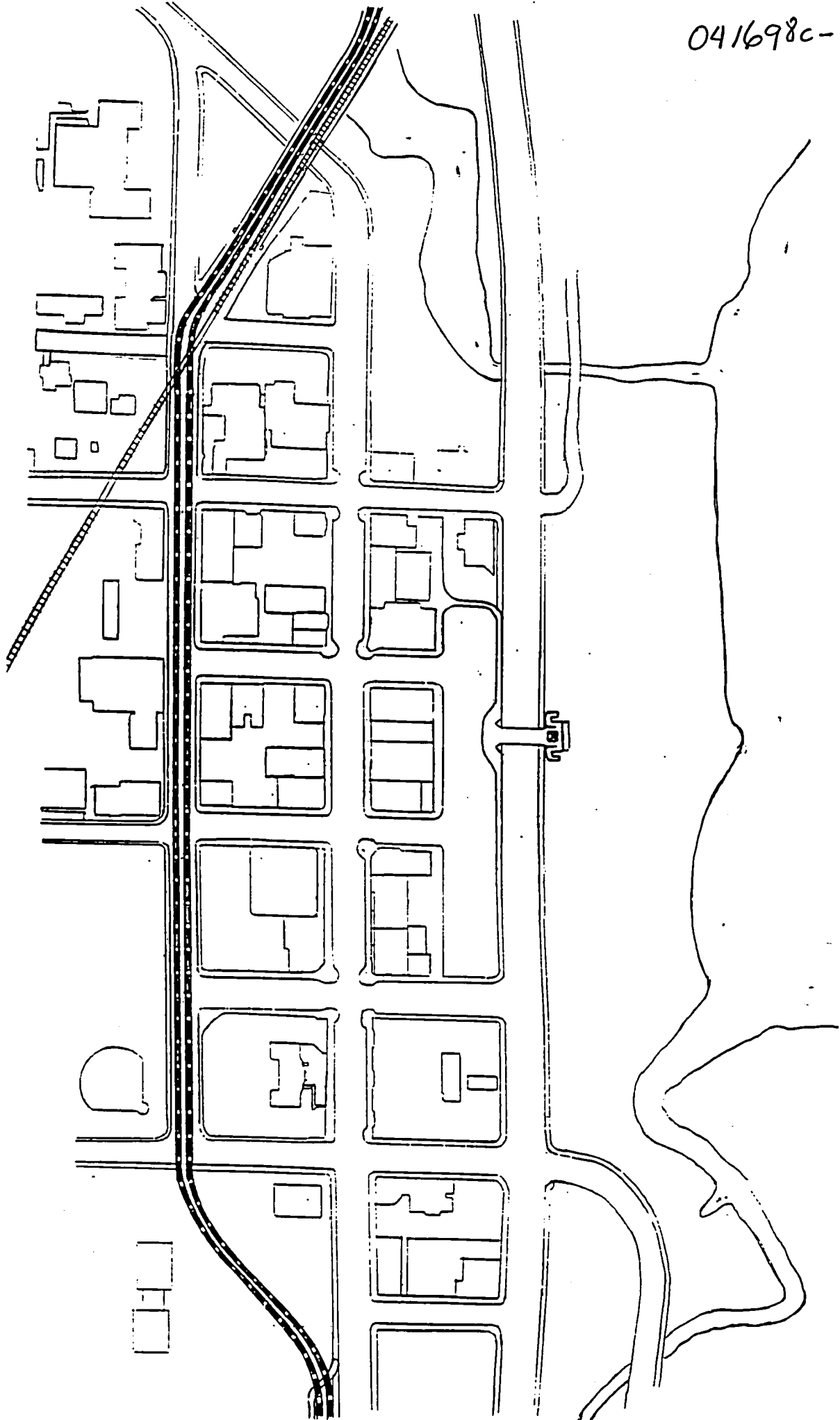
BACKGROUND AND ANALYSIS

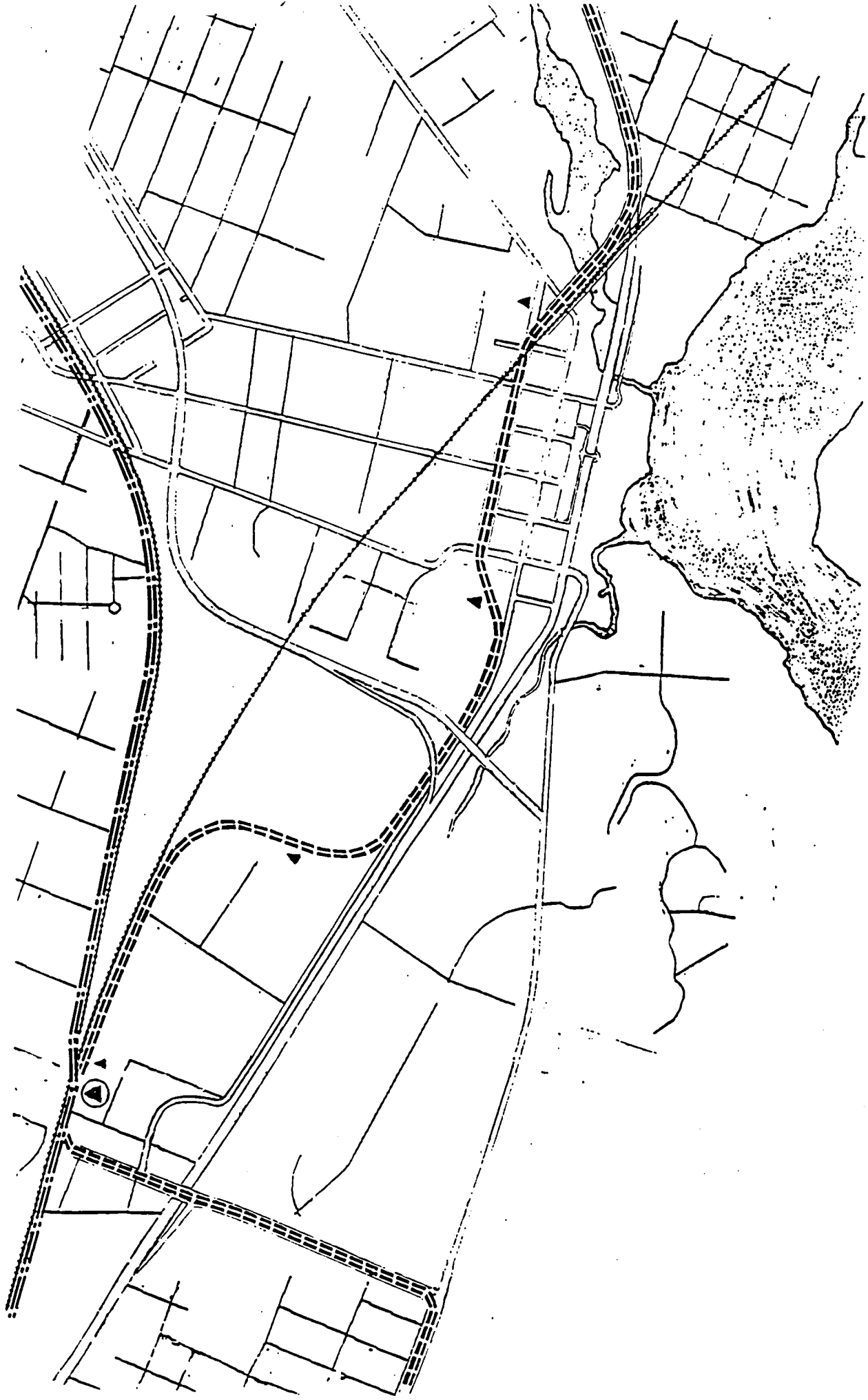
In adopting Resolution No. 97-2569, the Council initiated a procedure for selecting an approved list of Hearings Officers as required by Metro Code Section 2.05.025(a). The previous list had been created in 1993 and was no longer sufficient.

Pursuant to Resolution No. 97-2569, a Request for Proposals document was released and applicants were solicited. Eight applicants submitted written proposals to provide Hearings Officer services to Metro. The proposal documents were reviewed by the Office of General Counsel in concert with the Planning and Growth Management Department and members of the Council.

The review committee recommends that eight qualified responses be accepted and that Barry Adamson, Pamela J. Beery, Howard W. Carsman, Jeffrey P. Chicoine, Larry Epstein, J. Richard Forester, Mark J. Greenfield and Robert J. Harris be designated as approved Hearings Officers, and that the Executive Officer be authorized to enter into contracts in a form substantially similar to the Request for Proposals document approved by Resolution No. 97-2569 and the responses received thereto in order to secure their services.

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Top 10 reasons to object to light rail on the Transit Mall

Regardless of what your computer generated scenario indicates, the Transit Mall alignment is a mistake. (Remember, to err is human, to really screw things up, you need a computer). The inclusion of light rail on the Mall will have serious negative effects, including:

10. The Mall was designed to accommodate a bus system, adding the light rail compromises that operation; hampering buses' frequent "leap-frog", thus slowing and reducing their through capacity.

9. Increases the potential for accidents between buses, light rail, automobiles and pedestrians.

8. Any accident including light rail shuts down the entire Mall transit operation.

7. MAX light rail trains operate optimally at higher speeds. Their electricity requirements are up to 4 times that of streetcars or "Trams" that are designed for such slower speeds.

6. Surface operation of light rail on the Mall does not offer enough ridership capacity to justify the cost, (approaching that of rail systems with much greater ridership).

5. The PSU Urban Center alignment is very dangerous for pedestrians & limits the public square for uses such a space offers.

4. While waiting on the Mall for the light rail, riders will have the experience of numerous, (10 to 20), stinking diesel buses roaring by. This will make the wait entirely different from that of our E/W line and will leave a negative impression.

3. Light rail on the Mall may require the demolition of historic buildings and structures.

2. Planners indicate the light rail "transit hub" is at Pioneer Courthouse Square. The Transit Mall alignment requires the S/N line to cross the E/W line at two locations, there and at the Rose Quarter. Only by routing the S/N line to the Rose Quarter directly from the OMSI District creates a "true, rapid transit hub".

And the # 1 reason to object to the Transit Mall alignment: The public has always been overwhelmingly opposed to it.

Here is the main advantages of the 2-4 minute LOTI trolley on the Mall:

1. Frequency: patronization of businesses on the Mall increases.

2. Frequency: repatriation of the districts north of Burnside is assured.

3. Frequency: reduced waiting time is exactly what riders want in initial transit use and in transfers.

4. Less expensive, less construction, less diesels, fareless, etc. etc. etc.

Lightrail through PSU Urban Center?

Dangerous!

limited visibility = pedestrian fatality

Limits uses!

No events, concerts, parties, rallies

***Project corruption brought to you by special
Interests who decided the Lightrail should
go on the Transit Mall, another idiotic idea.***