

# A G E N D A

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**METRO**

## Agenda

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: May 7, 1998  
DAY: Thursday  
TIME: 2:00 PM  
PLACE: Council Chamber

Approx.  
Time\*

Presenter

- |                     |                                                                                                                                                                                                                                                                                                            |  |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 2:00 PM             | <b>CALL TO ORDER AND ROLL CALL</b>                                                                                                                                                                                                                                                                         |  |
| (5 min.)            | 1. <b>INTRODUCTIONS</b>                                                                                                                                                                                                                                                                                    |  |
| (5 min.)            | 2. <b>CITIZEN COMMUNICATIONS</b>                                                                                                                                                                                                                                                                           |  |
| (5 min.)            | 3. <b>EXECUTIVE OFFICER COMMUNICATIONS</b>                                                                                                                                                                                                                                                                 |  |
| (5 min.)            | 4. <b>AUDITOR COMMUNICATIONS</b>                                                                                                                                                                                                                                                                           |  |
| (5 min.)            | 5. <b>MPAC COMMUNICATIONS</b>                                                                                                                                                                                                                                                                              |  |
|                     | 6. <b>CONSENT AGENDA</b>                                                                                                                                                                                                                                                                                   |  |
| 2:25 PM<br>(5 min.) | 6.1 Consideration of Minutes for the April 23, 1998<br>Metro Council Regular Meeting.                                                                                                                                                                                                                      |  |
|                     | 7 <b>ORDINANCES - FIRST READING</b>                                                                                                                                                                                                                                                                        |  |
| 2:30 PM<br>(5 min.) | 7.1 <b>Ordinance No. 98-746</b> , Amending the FY<br>1997-98 Budget and Appropriations to recognize<br>\$44,000 in new grant revenues, reclassify certain<br>expenditures, transfer funds from the Regional<br>Parks Fund contingency to various line items<br>within the fund and declaring an emergency. |  |

2:35 PM  
(5 min.)

- 7.2 **Ordinance No. 98-747**, Amending the FY 1997-98 Budget and Appropriations Schedule transferring \$4,000,000 from Open Space Fund contingency to Capital Outlay in the Open Space Fund in the Regional Parks and Greenspaces Department to provide funding for unanticipated expenditures; and declaring an emergency.

**8. ORDINANCES - SECOND READING**

2:40 PM  
(60 min.)

- 8.1 **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. (*PUBLIC HEARING*) Naito

3:40 PM  
(5 min.)

- 8.2 **Ordinance No. 98-735**, For the Purpose of Lowering the Minimum for the 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. Naito

**9. RESOLUTIONS**

3:45 PM  
(5 min.)

- 9.1 **Resolution No. 98-2634A**, For the Purpose of Approving the Year 9 Annual Waste Reduction Work Plan for Metro and Local Governments. McLain

3:50 PM  
(5 min.)

- 9.2 **Resolution No. 98-2635**, For the Purpose of Authorizing the Release of Request for Proposal #98-25-PKS for Design and Engineering Services for Improvements to Howell Territorial Park and Oxbow Regional Park. McCaig

**10. CONTRACT REVIEW BOARD**

3:55 PM  
(5 min.)

- 10.1 **Resolution No 98-2628**, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.040.044, Personal Services Contracts Selection Process, and Authorizing a Sole-Source Contract with Stop Oregon Litter and Vandalism (SOLV) for the Sponsorship of the Annual SOLV-IT Clean Up Event. Morissette

4:00 PM  
(10 min.)

**11. 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 6.1*

**CONSENT AGENDA**

**Consideration Of Minutes Of April 23, 1998**

# **MINUTES OF THE METRO COUNCIL MEETING**

**April 23, 1998**

**Council Chamber**

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

**Councilors Absent:** None.

Presiding Officer Kvistad convened the Regular Council Meeting at 2:19 p.m.

## **1. INTRODUCTIONS**

Presiding Officer Kvistad introduced guests that were visiting.

## **2. CITIZEN COMMUNICATION**

**Mr. Art Lewellan, 3205 8th #9 Portland OR 97202**, reviewed developments to date for his alternate LOTI alignment. He explained that the LOTI alignment was planned for the east side of the river and would serve the mall with an electric bus system instead of light rail. He explained the options for the routes and vehicles that would serve the LOTI system and made his proposal once again.

## **6. REM BUSINESS DEVELOPMENT GRANT CONTRACT AWARD**

**Mr. Bruce Warner, REM Director**, introduced the recipients of the award and said Metro was going to provide the rebuilding center, a not-for-profit used building material store, with startup funds in the form of a business development grant through the recycling program. He introduced Shane Endicott and Janelle Schmidt from the rebuilding center and asked them to explain the center.

**Janelle Schmidt** explained the program and thanked Metro for the grant. She explained the research done on the rebuilding center. She said about 300 tons per year of waste would be diverted the first year.

**Shane Endicott** explained that doors, cabinets, windows, lumber would be the kinds of things the rebuilding center would provide a place to recycle. He said they would be a resource for low income housing and non-profits.

**Ms Schmidt** said they were quite sure of the success of the project. She said the grant would help get the project off the ground.

**Shane Endicott** said they had visited sites that were 3-45 years old and all had good track records and were willing to help with suggestions.



**Presiding Officer Kvistad** said Metro developed the recycle program to help the development of businesses that reuse materials and recover them for recycling. He said Metro approved this grant for \$35,000 to encourage this type of program.

Councilor Morissette presented the check.

**3. EXECUTIVE OFFICER COMMUNICATIONS**

**5. US West Recycling Award was moved**

**Mr. Mike Burton, Executive Officer**, asked Sheila Benson from US WEST Dex to make a presentation.

**Ms. Sheila Benson** thanked the council and the executive officer for their work in recycling. She said Fred Meyers and Metro haulers have recycled over 11,000 tons of old phone books which was more than 6 million books in this area, which saved 79 million gallons of water and kept 680,000 pounds of pollution out of the air just by this small recycling effort. She reported that US West Dex received the Renew America Award for this year. She presented the award to Metro on behalf of the people of Portland.

**Mr. Burton** continued about solid waste, the announcement will be made that the Republic Corporation would purchase Robanko Corporation. He also said USA Waste and Waste Management were in the processing of trying to merge. He said this would have a major affect on our area.

**4. MPAC COMMUNICATION**

**Councilor McLain** said there were two elements at MPAC meeting to report: 1) they were interested in the council conversation about the Housing Technical Advisory Committee with the Growth Committee 2) the committee passed out a motion that would bring the model ordinance and the maps for Title 3. They had one motion that came from Doug Bollam amendment which would be passed out for the next meeting of the Growth Committee.

**5. US WEST RECYCLING AWARD**

This award was presented under Executive Officer communication.

**7. CONSENT AGENDA**

**7.1 Consideration meeting minutes of the April 16, 1998 Regular Council Meeting.**

**Motion:** Councilor Morissette moved to adopt the meeting minutes of April 16, 1998 Regular Council Meeting.

**Seconded:** Councilor McFarland 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. 98-742**, Amending the FY 1997-98 Budget and Appropriations Schedule by Transferring \$150,000 from Contingency to Capital Outlay in the Solid Waste Revenue Fund to Provide for Initial Expenditures Associated with the Replacement of Compaction Systems at Metro South Station, and Declaring an Emergency.

**Presiding Officer Kvistad** assigned Ordinance No. 98-742 to the Regional Environmental Management Committee.

## **9. ORDINANCES - SECOND READING**

**9.1 Ordinance No. 98-724**, For the Purpose of Adopting the Annual Budget for Fiscal year 1998-99, Making Appropriations, Creating Funds, Levying Ad Valorem Taxes, Authorizing Interfund Loans, and Declaring an Emergency.

**Councilor McCaig** said that a public hearing should have been noted on the agenda and the actual ordinance would be moved after it had gone to the TSEC and returned for another public hearing.

She explained the budget would be about \$409 million and would approve 672 FTEs. She said it had gone through 9 hearings, 3 of which were public hearings, and the council and its actions had reduced the budget by about \$158,000.

**Presiding Officer Kvistad** opened a public hearing on Ordinance No. 98-724. No one came forward. **Presiding Officer Kvistad** closed the public hearing.

**Councilor McCaig** reminded that another public hearing on this would be May 28th. A public hearing would also be June 11 when it would be before the Council for a final vote.

**9.2 Ordinance No. 98-726**, For the Purpose of Changing the Name of the Metro Washington Park Zoo.

**Motion:** **Councilor McCaig** moved to adopt Ordinance No. 98-726.

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

**Discussion:** **Councilor McCaig** reviewed the Ordinance which would change the name of the zoo. She urged aye vote for the name "Oregon Zoo".

**Presiding Officer Kvistad** opened a public hearing on Ordinance No. 98-726.

**Mr. Don Frisbee**, Washington Park Metro Zoo, 1500 SW 1st Ave. Suite 1005 Portland, OR 97201 said he had the privilege of serving as the President of the Oregon Zoo Foundation. The real heart of the issue was whether it was a Washington Park zoo or an Oregon zoo. He felt that the Oregon Zoo was somewhat limiting in that Oregon carried a sense of quality and wanting to belong. He said the zoo was one of the most highly attended facilities in the State for tourists. The Zoo's current expansion program was aimed at bringing a true Oregon exhibit to the zoo. He

thought that people from Oregon would support this name change and said it gave Oregon and Oregonians a base to be proud of. He said the name change was appropriate.

**Mr. Keith Kelly**, volunteer at the Washington Park Zoo, 420 SW 99th #4 Beaverton OR 97005 said if you asked someone how they heard about the zoo, they felt the current name is unwieldy and too long. He agreed that the zoo was a state and national resource. He encouraged approval of the name change.

**Ms. Deborah Wakefield**, Portland Oregon Visitors Association, 26 SW Salmon, Portland OR 97204 agree the name change clarified and made the zoo more accessible to visitors. She said the change was a great opportunity for the region to take ownership of the zoo which had become a world class preservation and education facility.

**Presiding Officer Kvistad** closed the public hearing.

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

**9.3 Ordinance No. 98-736**, For the Purpose of Granting a Yard Debris Processing Facility License to Best Buy in Town, Inc. to Operate a Yard Debris Reload Facility.

**Motion:** **Councilor Morissette** moved to adopt Ordinance No. 98-736.

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

**Discussion:** **Councilor Morissette** said this ordinance was unanimously passed at REM committee and was to help keep track of paperwork from various facilities.

**Presiding Officer Kvistad** opened a public hearing on Ordinance No. 98-736. No one came forward. **Presiding Officer Kvistad** closed the public hearing.

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

## **10. RESOLUTIONS**

**10.1 Resolution No. 98-2599**, For the Purpose of Approving the FY 1998-99 Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission.

**Motion:** **Councilor McCaig** moved to adopt Resolution No. 98-2599.

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

**Discussion:** **Councilor McCaig** said that the budget had not been adopted yet but it had been approved to send to the tax supervising committee which would review the budget and authorize the final adoption of it. She said this included a list of amendments adopted by Council as well as a short list of things referred to committees for the next year to continue to follow-up on the work done by the budget committee. She said the Tax Supervising Committee would need a quorum in attendance on June 11. She urged adoption of the resolution.

**Councilor Morissette** said that he felt Councilor McCaig had done a great job on the budget. However, he was concerned about some things that included reliance on excise tax to fund planning which he felt was inappropriate. He said it also caused him concern that potential savings were not looked for in the discussion on cost overruns at the zoo when the money was taken from the contingency fund. He felt the Council budget and the Executive Budget with the affordable housing advocate was too high.

**Councilor McCaig** closed by saying Council should take great pride that as a government we were trying to live within our means. She said while she agreed with Councilor Morissette on a few of the items, the overall budget was less than last year's.

**Presiding Officer Kvistad** clarified this was not a vote on whether or not to accept the budget, but was a motion to move it to TSEC for review.

**Vote:** The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Morissette voting no.

**10.2 Resolution No. 98-2625, For the Purpose of Amending the Metropolitan Transportation Improvement Program to Approve a Six-Month High Occupancy Vehicle (HOV) Lane Demonstration on I-5 Northbound and Associated Financing.**

**Motion:** Councilor McLain moved to adopt Resolution No. 98-2625.

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

**Discussion:** Councilor McLain said a unanimous vote at the April 21 Transportation Planning meeting recommended this resolution to Council. She said it was an HOV demonstration project between Delta Park and the bridge to give an opportunity to see exactly how well the HOV tactic would work with the congestion and volume issues. It would use federal funds managed by ODOT. She reported that the funding had not all been procured for this project. She said it seemed to be a good use of money.

**Councilor Washington** said JPACT had also approved this to go forward.

**Councilor Morissette** asked where the money came from for this.

**Councilor McLain** said the money was ODOT money that had been put aside for paving 2 years from now at the same location. ODOT felt it was a good idea to marry this pilot project and some of the paving dollars so the money could be used for improvement and maintenance as well as the operation of this project.

**Councilor Morissette** asked if this was a pass through and used no Metro money

**Councilor McLain** said the money was ODOT dollars and had been brought forward as Region 1 projects that would pass through JPACT and Metro Council.

**Presiding Officer Kvistad** said the HOV lanes were a companion to the trunion project on the bridge and would actually use money that would not be available at a later time.

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

**10.3 Resolution No. 98-2632, To Waive the Metro Urban Growth Boundary Annual Filing Deadline for Jerry Johnson, CGC, Inc. and Carla Ralston Locational Adjustment petitions in Multnomah County.**

**Motion:** Councilor Naito moved to adopt Resolution No. 98-2632.

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

**Discussion:** Councilor Naito explained that resolution would grant 2 waivers for proposed locational adjustments, one in Pleasant Valley and on McNamey Road along Skyline Boulevard.

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

**Presiding Officer Kvistad** recessed the Metro Council meeting and convened the Contract Review Board.

## **11. CONTRACT REVIEW BOARD**

**11.1 Resolution No. 98-2620A, For the Purpose of Amending Contract #920101 with Geonorth, Inc, to Upgrade the Computer Software in the Recycling Information Center's Call Tracking System.**

**Motion:** Councilor Morissette moved to adopt Resolution No. 98-2620A.

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

**Discussion:** Councilor Morissette explained that this was to upgrade computers again. He said it had been planned, it just had not been included in the CIP because of a slight cost adjustment.

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

**Presiding Officer Kvistad** recessed the Contract Review Board and reconvened the Metro Council meeting.

## **12. COUNCILOR COMMUNICATION**

**Presiding Officer Kvistad** announced that due to Resolution No. 97-2522 passed last year by the council, they had made a commitment to their partners to have joint meetings with these advisory committees. MCCI had requested a night meeting with the council. In order to accommodate this, May 28th following council budget hearing had been planned for the MCCI presentation and joint meeting.



**Councilor Morissette** informed Councilor Washington that he wouldn't be attending the May 14 meeting about Tri-Met South North, but would be happy to respond to the choices made there at a later time.

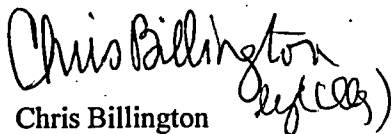
**Councilor McCaig** said she would also not be at the May 14th meeting.

**Councilor Naito** said due to the lack of a quorum for the Growth Management Committee, there would be no committee meeting on the third full week of the month of May, May 19th. The meeting was canceled.

### 13. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:10 p.m.

Prepared by,

  
Chris Billington  
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
042398c-01	4/20/98	letter supporting Zoo name change	TO: Metro Council FROM: John Inskeep, The Oregon Zoo Foundation Board of Trustees	Ord No. 98-726
042398c-02	4/23/98	Letter supporting Zoo name change	TO: Metro Council FROM: Terry Kennet (no address)	Ord. No. 98-726

*Agenda Item 7.1*

***ORDINANCES -- FIRST READING***

**Ordinance No. 98-746, Amending the FY 1997-98 Budget and Appropriations to Recognize \$44,000 in New Grant Revenues, Reclassify Certain Expenditures, Transfer Funds from the Regional Parks Fund Contingency to Various Line Items within the Fund, and Declaring an Emergency**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98	)	ORDINANCE NO. 98-746
BUDGET AND APPROPRIATIONS TO	)	
RECOGNIZE \$44,000 IN NEW GRANT	)	Introduced by Executive Officer
REVENUES, RECLASSIFY CERTAIN	)	Mike Burton
EXPENDITURES, TRANSFER FUNDS FROM	)	
THE REGIONAL PARKS FUND	)	
CONTINGENCY TO VARIOUS LINE ITEMS	)	
WITHIN THE FUND AND DECLARING AN	)	
EMERGENCY	)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing \$44,000 in new grant funds and related expenditures in the Regional Parks Fund; reclassifying \$13,469 from materials & services to debt service in the Regional Parks Fund, transferring \$17,525 from personal services to interfund transfers in the Regional Parks Fund, transferring \$16,591 from the Regional Parks Fund contingency to various line items within the Fund, and transferring \$1,962 from capital outlay to materials & services in the Regional Parks Fund.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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

## STAFF REPORT

CONSIDERATION OF ORDINANCE 98-746 AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE TO RECOGNIZE \$44,000 IN NEW GRANT REVENUES, RECLASSIFY CERTAIN EXPENDITURES, TRANSFER FUNDS FROM THE REGIONAL PARKS FUND CONTINGENCY TO VARIOUS LINE ITEMS WITHIN THE FUND, AND DECLARING AN EMERGENCY.

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Date: March 13, 1998

Presented by: Charles Ciecko  
Dan Kromer

## FACTUAL BACKGROUND

This ordinance requests changes to the Regional Parks Fund for four reasons. Each action will be explained separately below.

### *M James Gleason Dredging - Operations & Maintenance Division*

In July, 1997, it was brought to Regional Parks and Greenspaces staff's attention that an extremely high amount of sand was accumulating within the boat launch basin due to shoaling from flooding earlier in the year. During low tide it was becoming very difficult for large water craft to launch from this facility.

Staff contacted the Oregon State Marine Board for technical assistance in determining the extent of shoaling and the amount of dredging required within the basin to achieve an acceptable depth. Oregon State Marine Board staff determined that sand has also accumulated at a high level underneath the Multnomah County River Patrol's four boat houses, the Port of Portland boat house and the boat ramp's down river boarding floats.

At a meeting between interested parties, the Oregon State Marine Board recommended that approximately 7,000 cubic yards of materials be dredged from around these areas. The State Marine Board developed the technical drawings and specifications for the dredging project and submitted them to Metro. The Regional Parks Department will be responsible for the request for bids and contract administration for the project.

Funding for the project will come from each of the parties benefiting from the dredging. The estimated project cost is \$52,249. A grant request for \$40,000 has been submitted and approved by the Oregon State Marine Board. The Port of Portland and Multnomah County will each contribute \$2,000 and Metro's share will be \$8,249. The grant from the Oregon State Marine Board and the contributions from the Portland of Portland and Multnomah County can be recognized as a resource to the Department's FY 1997-98 budget under Oregon Budget Law, however, Metro's share of \$8,249 needs to be funded from the Department's Contingency.

This action requests the recognition of \$44,000 in grant funds, the transfer of \$8,249 from contingency and the increase in materials and services of \$52,249.



**Regional Parks Fund**

*Resources:*

4110	State Grants	\$40,000
4120	Local Grants	4,000
Total Resources		\$44,000

*Requirements:*

5260	Maintenance & Repairs	\$52,249
5999	Contingency	(8,249)
Total Requirements		\$44,000

***Capital Development Supervision - Planning & Capital Development Division***

As part of the consolidation agreement between Metro and Multnomah County, Metro's Regional Parks Department assumed responsibility for the Multnomah County Local Share proceeds received under the Open Spaces, Parks and Streams bond measure. These funds were identified to provide capital improvements at facilities now owned and managed by Metro. The budget includes a full time staff member whose responsibilities were to manage the capital improvements funded by the local share proceeds (.50 FTE budgeted in the Regional Parks Fund) as well as to provide stabilization assistance for the properties purchased under the Open Spaces regional share (.50 FTE budgeted in the Open Spaces Fund). Since the development of the initial Open Spaces work plan in FY 1995-96, it has become apparent to the department that the stabilization program is more complicated and time-consuming than originally anticipated. As a result, this employee has been spending more of his time on stabilization and has been unable to provide management of the local share capital improvement projects.

The Regional Parks Department negotiated with the Administrative Services Department for the services of the Construction Manager to manage the local share capital projects. These services will be paid through a direct transfer from the Regional Parks Fund to the Support Services Fund. This action requests the transfer of budget authority from personal services in the Regional Parks Fund to interfund transfers to allow the department to pay the Support Services Fund for the services of the Construction Manager.

**Regional Parks Fund**

*Requirements:*

5820	Transfer of Direct Costs to Support Services	\$17,525
5010	Regular Employee Salary	(11,258)
5100	Fringe Benefits	(6,267)
Total Requirements		\$0

**Support Services Fund**

*Resources:*

4980	Transfer of Direct Costs from Regional Parks	\$17,525
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*Requirements:*

5990	Unappropriated Balance	\$17,525
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***Recoding of Salmon Bake Proceeds - Planning & Capital Development Division***

Each year the Salmon Festival is held at Oxbow Park. One of the activities of the festival is the Salmon Bake. Proceeds from the Salmon Bake are given to the Oxbow Park Nature Center Account in the Regional Parks Trust Fund. This policy began when the facilities were with Multnomah County and has been continued at Metro. In FY 1996-97, the proceeds from the Salmon Bake were mistakenly coded to the Regional Parks Operating Fund and not the Regional Parks Trust Fund. Because this error was identified after the financial audit was completed for FY 1996-97 it was not possible to correct the miscoding in the same fiscal year, and the revenue is included in the beginning fund balance for the Regional Parks Operating Fund for FY 1997-98. To correct this error, the department is requesting the transfer of \$8,342 from the Operating Fund to the Regional Parks Trust Fund. This action only requests the authority to transfer to revenues from one fund to another fund; it does not request expenditure authority of those funds.

**Regional Parks Fund**

*Requirements:*

5810	Transfer of Resources to Parks Trust Fund	\$8,342
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5999	Contingency	(8,342)
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Total Requirements		\$0
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**Regional Parks Trust Fund**

*Resources:*

4970	Transfer of Resources from Regional Parks Fund	\$8,342
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*Requirements:*

5990	Unappropriated Balance	8,342
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***Reclassifying of Sewer Assessment Payment to Debt Service - Operations & Maintenance Division***

In 1993, sewer improvements were made at Blue Lake Park. Multnomah County funded the sewer improvements through a 20 year repayment schedule to the City of Portland. Since being transferred to Metro, these payments have been made by the Regional Parks Department and have been classified as a materials and services expenses. It

has recently been determined that this payment is more properly classified as a long term loan obligation of the agency and should be budgeted as a debt service payment. This action requests the reclassification of the budgeted appropriation authority from materials & services to debt service .

**Regional Parks Fund**

*Requirements:*

5300	Payments to Other Agencies	(\$13,469)
5610	Loan Payments - Principal	6,152
5615	Loan Payments - Interest	7,317
<hr/> Total Requirements		<hr/> \$0

***Computer Upgrade - Administration Division***

A computer was budgeted in the Administration Division of Regional Parks in case of any hardware failures in the department. All the computers have held up but the department needs to upgrade software to the latest versions in order to remain compatible with the rest of the agency and PeopleSoft applications that are currently being implemented. Therefore the request is as follows:

**Regional Parks Fund**

*Requirements:*

5750	Purchases - Office Furniture and Equipemnt	(\$1,962)
5201	Computer Software	1,962

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends adoption of Ordinance No. 98-746.

**Exhibit A**  
**Ordinance No. 98-746**

**Regional Parks Fund**

		FY 1997-98				FY 1997-98	
		<u>Adopted</u>		<u>REVISION</u>		<u>Revised</u>	
ACCT	DESCRIPTION	FTE	Amount	FTE	Amount	FTE	Amount
<b>Resources</b>							
<u>Resources</u>							
<b><u>REGIONAL PARKS &amp; GREENSPACES</u></b>							
BEGBAL	Beginning Fund Balance		\$2,055,212		\$0		\$2,055,212
GRANTS	Grants						
4100	Federal Grants - Direct		821,516		0		821,516
4110	State Grants - Direct		524,520		40,000		564,520
4120	Local Grants - Direct		15,000		4,000		19,000
<b>TOTAL RESOURCES</b>			<b>\$10,134,438</b>		<b>\$44,000</b>		<b>\$10,178,438</b>

**Exhibit A**  
**Ordinance No. 98-746**

**Regional Parks Fund**

		FY 1997-98		FY 1997-98	
		Adopted		Revised	
ACCT	DESCRIPTION	FTE	Amount	FTE	Amount
Regional Parks & Greenspaces Department					
<u>Debt Service</u>					
LOAN	Loan Payments				
5610	Loan Payments-Principal		0		6,152
5615	Loan Payments-Interest		0		7,317
Total Debt Service			\$0		\$13,469
<u>Capital Outlay</u>					
CAPNON	Capital Outlay (Non-CIP Projects)				
5700	Land (non-CIP)		650,000		0
5710	Improve-Oth thn Bldg (non-CIP)		0		0
5720	Buildings & Related (non-CIP)		472,529		0
5740	Equipment & Vehicles (non-CIP)		42,249		0
5750	Office Furn & Equip (non-CIP)		36,962		(1,962)
CAPCIP	Capital Outlay (CIP Projects)				
5705	Land (CIP)		0		0
5715	Improve-Oth thn Bldg (CIP)		1,165,525		0
5725	Buildings & Related (CIP)		42,500		0
5745	Equipment & Vehicles (CIP)		0		0
5755	Office Furniture & Equip (CIP)		0		0
Total Capital Outlay			\$2,409,765		(\$1,962)
<u>Interfund Transfers</u>					
INTCHG	Internal Service Transfers				
5800	Transfer for Indirect Costs				
	* to Support Services Fund		419,649		0
	* to Risk Mgmt Fund (liability)		18,903		0
	* to Risk Mgmt Fund (Worker Comp)		11,159		0
	* to Building Mgmt Fund		119,244		0
5820	Transfer for Direct Costs				
	* to Support Services Fund		2,000		17,525
	* to Planning Fund		16,000		0
	* to Open Spaces Fund		10,000		0
EQTCHG	Fund Equity Transfers				
5810	Transfer of Resources				
	* to Regional Parks Trust Fund		0		8,342
Total Interfund Transfers			\$596,955		\$25,867
<u>Contingency and Ending Balance</u>					
CONT	Contingency				
5999	Contingency		191,621		(16,591)
UNAPP	Unappropriated Fund Balance				
5990	Unappropriated Fund Balance		1,972,142		0
Total Contingency and Ending Balance			\$2,163,763		(\$16,591)
TOTAL REQUIREMENTS		33.25	\$9,152,995	0.00	\$44,000
		33.25	\$9,196,995		



# Exhibit A Ordinance No. 98-746

## Regional Parks Fund

		FY 1997-98		FY 1997-98		FY 1997-98	
		<u>Adopted</u>		<u>REVISION</u>		<u>Revised</u>	
ACCT	DESCRIPTION	FTE	Amount	FTE	Amount	FTE	Amount
<b>Regional Parks &amp; Greenspaces Department</b>							
<u>Debt Service</u>							
LOAN	Loan Payments						
5610	Loan Payments-Principal		0		6,152		6,152
5615	Loan Payments-Interest		0		7,317		7,317
<b>Total Debt Service</b>			<b>\$0</b>		<b>\$13,469</b>		<b>\$13,469</b>
<u>Capital Outlay</u>							
CAPNON	Capital Outlay (Non-CIP Projects)						
5700	Land (non-CIP)		650,000		0		650,000
5710	Improve-Oth thn Bldg (non-CIP)		0		0		0
5720	Buildings & Related (non-CIP)		472,529		0		472,529
5740	Equipment & Vehicles (non-CIP)		42,249		0		42,249
5750	Office Furn & Equip (non-CIP)		36,962		(1,962)		35,000
CAPCIP	Capital Outlay (CIP Projects)						
5705	Land (CIP)		0		0		0
5715	Improve-Oth thn Bldg (CIP)		1,165,525		0		1,165,525
5725	Buildings & Related (CIP)		42,500		0		42,500
5745	Equipment & Vehicles (CIP)		0		0		0
5755	Office Furniture & Equip (CIP)		0		0		0
<b>Total Capital Outlay</b>			<b>\$2,409,765</b>		<b>(\$1,962)</b>		<b>\$2,407,803</b>
<u>Interfund Transfers</u>							
INTCHG	Internal Service Transfers						
5800	Transfer for Indirect Costs						
	* to Support Services Fund		419,649		0		419,649
	* to Risk Mgmt Fund (liability)		18,903		0		18,903
	* to Risk Mgmt Fund (Worker Comp)		11,159		0		11,159
	* to Building Mgmt Fund		119,244		0		119,244
5820	Transfer for Direct Costs						
	* to Support Services Fund		2,000		17,525		19,525
	* to Planning Fund		16,000		0		16,000
	* to Open Spaces Fund		10,000		0		10,000
EQTCHG	Fund Equity Transfers						
5810	Transfer of Resources						
	* to Regional Parks Trust Fund		0		8,342		8,342
<b>Total Interfund Transfers</b>			<b>\$596,955</b>		<b>\$25,867</b>		<b>\$622,822</b>
<u>Contingency and Ending Balance</u>							
CONT	Contingency						
5999	Contingency		191,621		(16,591)		175,030
UNAPP	Unappropriated Fund Balance						
5990	Unappropriated Fund Balance		1,972,142		0		1,972,142
<b>Total Contingency and Ending Balance</b>			<b>\$2,163,763</b>		<b>(\$16,591)</b>		<b>\$2,147,172</b>
<b>TOTAL REQUIREMENTS</b>		<b>33.25</b>	<b>\$9,152,995</b>	<b>0.00</b>	<b>\$44,000</b>	<b>33.25</b>	<b>\$9,196,995</b>

**Exhibit A**  
**Ordinance No. 98-746**

**Regional Parks Fund**  
**For Information Only**

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks Administration							
<u>Personal Services</u>							
Total Personal Services		4.75	\$253,757	0.00	\$0	4.75	\$253,757
<u>Materials &amp; Services</u>							
<u>GOODS Goods</u>							
5201	Office Supplies		4,475		1,962		6,437
5205	Operating Supplies		0		0		0
5210	Subscriptions and Dues		578		0		578
5215	Maintenance & Repairs Supplies		0		0		0
5220	Food		0		0		0
5225	Retail		0		0		0
<u>SVCS Services</u>							
5240	Contracted Professional Svcs		0		0		0
5251	Utility Services		1,000		0		1,000
5255	Cleaning Services		0		0		0
5260	Maintenance & Repair Services		0		0		0
5265	Rentals		0		0		0
5280	Other Purchased Services		0		0		0
5290	Operations Contracts		0		0		0
<u>IGEXP Intergov't Expenditures</u>							
5300	Payments to Other Agencies		6,400		0		6,400
5310	Taxes (Non-Payroll)		0		0		0
5320	Government Assessments		0		0		0
<u>OTHEXP Other Expenditures</u>							
5450	Travel		0		0		0
5455	Training and Conference Fees		2,020		0		2,020
5490	Miscellaneous Expenditures		300		0		300
Total Materials & Services			\$14,773		\$1,962		\$16,735
<u>Capital Outlay</u>							
<u>CAPNON Capital Outlay (Non-CIP Projects)</u>							
5700	Land (non-CIP)		0		0		0
5710	Improve-Oth thn Bldg (non-CIP)		0		0		0
5720	Buildings & Related (non-CIP)		0		0		0
5740	Equipment & Vehicles (non-CIP)		0		0		0
5750	Office Furn & Equip (non-CIP)		1,962		(1,962)		0
<u>CAPCIP Capital Outlay (CIP Projects)</u>							
5705	Land (CIP)		0		0		0
5715	Improve-Oth thn Bldg (CIP)		0		0		0
5725	Buildings & Related (CIP)		0		0		0
5745	Equipment & Vehicles (CIP)		0		0		0
5755	Office Furniture & Equip (CIP)		0		0		0
Total Capital Outlay			\$1,962		(\$1,962)		\$0
TOTAL REQUIREMENTS		4.75	\$1,095,493	0.00	\$0	4.75	\$1,095,493

**Exhibit A**  
**Ordinance No. 98-746**

**Regional Parks Fund**  
**For Information Only**

		FY 1997-98		FY 1997-98	
		<u>Adopted</u>		<u>Revised</u>	
ACCT	DESCRIPTION	FTE	Amount	FTE	Amount
Regional Parks (Operations & Maintenance Division)					
Total Personal Services		19.00	\$1,288,042	0.00	\$0
Materials & Services					
GOODS	Goods				
5201	Office Supplies		3,150		3,150
5205	Operating Supplies		33,914		33,914
5215	Maintenance & Repairs Supplies		54,295		54,295
5225	Retail		5,200		5,200
SVCS	Services				
5240	Contracted Professional Svcs		343,704		343,704
5251	Utility Services		72,458		72,458
5260	Maintenance & Repair Services		30,413	52,249	82,662
5265	Rentals		21,675		21,675
5280	Other Purchased Services		11,250		11,250
IGEXP	Intergov't Expenditures				
5300	Payments to Other Agencies		230,000	(13,469)	216,531
5310	Taxes (Non-Payroll)		85,500		85,500
5320	Government Assessments		21,000		21,000
OTHEXP	Other Expenditures				
5450	Travel		1,000		1,000
5455	Training and Conference Fees		4,928		4,928
5490	Miscellaneous Expenditures		780		780
Total Materials & Services			\$919,267		\$38,780
Debt Service					
LOAN	Loan Payments				
5610	Loan Payments-Principal		0	6,152	6,152
5615	Loan Payments-Interest		0	7,317	7,317
Total Debt Service			\$0		\$13,469
Total Capital Outlay			\$165,003		\$0
Interfund Transfers					
INTCHG	Internal Service Transfers				
5800	Transfer for Indirect Costs				
	* to Support Services Fund		260,721	0	260,721
	* to Risk Mgmt Fund (liability)		11,538	0	11,538
	* to Risk Mgmt Fund (Worker Comp)		6,811	0	6,811
	* to Building Mgmt Fund		68,220	0	68,220
5820	Transfer for Direct Costs				
	* to Support Services Fund		880	0	880
EQTCHG	Fund Equity Transfers				
5810	Transfer of Resources				
	* to Regional Parks Trust Fund		0	8,342	8,342
Total Interfund Transfers			\$348,170		\$8,342
Contingency and Ending Balance					
CONT	Contingency				
5999	Contingency		104,944	(16,591)	88,353
UNAPP	Unappropriated Fund Balance				
5990	Unappropriated Fund Balance		83,561	0	83,561
Total Contingency and Ending Balance			\$188,505		(\$16,591)
TOTAL REQUIREMENTS		19.00	\$2,908,987	0.00	\$44,000

**Exhibit A**  
**Ordinance No. 98-746**

**Regional Parks Fund**  
**For Information Only**

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks (Planning & Capital Development)							
<u>Personal Services</u>							
SALWGE Salaries & Wages							
5010	Reg Employees-Full Time-Exempt						
	Associate Regional Planner	4.50	201,760	0.00	(11,258)	4.50	190,502
	Manager	1.00	64,735	0.00	0	1.00	64,735
	Program Coordinator	1.00	39,776	0.00	0	1.00	39,776
	Senior Regional Planner	1.00	53,334	0.00	0	1.00	53,334
5015	Reg Empl-Full Time-Non-Exempt						
	Program Assistant 2	2.00	55,888	0.00	0	2.00	55,888
5030	Temporary Employees		6,525		0		6,525
5080	Overtime		1,000		0		1,000
FRINGE Fringe Benefits							
5100	Fringe Benefits		145,120		(6,267)		138,853
Total Personal Services		9.50	\$568,138	0.00	(\$17,525)	9.50	\$550,613
Total Materials & Services			\$938,535		\$0		\$938,535
Total Capital Outlay			\$2,242,800		\$0		\$2,242,800
<u>Interfund Transfers</u>							
INTCHG Internal Service Transfers							
5800	Transfer for Indirect Costs						
	* to Support Services Fund		115,026		0		115,026
	* to Risk Mgmt Fund (liability)		5,091		0		5,091
	* to Risk Mgmt Fund (Worker Comp)		3,005		0		3,005
	* to Building Mgmt Fund		30,098		0		30,098
5820	Transfer for Direct Costs						
	* to Support Services Fund		880		17,525		18,405
	* to Planning Fund		16,000		0		16,000
	* to Open Spaces Fund		10,000		0		10,000
Total Interfund Transfers			\$180,100		\$17,525		\$197,625
<u>Contingency and Ending Balance</u>							
CONT Contingency							
5999	Contingency		74,791		0		74,791
UNAPP Unappropriated Fund Balance							
5990	Unappropriated Fund Balance		1,144,151		0		1,144,151
Total Contingency and Ending Balance			\$1,218,942		\$0		\$1,218,942
TOTAL REQUIREMENTS		9.50	\$5,148,515	0.00	\$0	9.50	\$5,148,515

# Exhibit A Ordinance No. 98-746

## Regional Parks Trust Fund

		FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
ACCT	DESCRIPTION	FTE	Amount	FTE	Amount	FTE	Amount
<u>Resources</u>							
<b>TIBBETS FLOWER ACCOUNT</b>							
BEGBAL	Beginning Fund Balance		\$1,134		\$0		\$1,134
INTRST	Interest Earnings						
4700	Interest on Investments		62		0		62
<b>BLUE LAKE CONCERT STAGE ACCOUNT</b>							
BEGBAL	Beginning Fund Balance		\$90,101		\$0		\$90,101
INTRST	Interest Earnings						
4700	Interest on Investments		4,956		0		4,956
<b>OXBOW PARK NATURE CENTER ACCOUNT</b>							
BEGBAL	Beginning Fund Balance		\$187,137		\$0		\$187,137
CHGSVC	Charges for Service						
4650	Miscellaneous Charges for Svc		10,000		0		10,000
INTRST	Interest Earnings						
4700	Interest on Investments		10,293		0		10,293
EQTREIV	Fund Equity Transfers						
4970	Transfer of Resources						
	* from Regional Parks Fund		0		8,342		8,342
<b>WILLAMINA FARMER FAMILY PLOT ACCOUNT</b>							
BEGBAL	Beginning Fund Balance		\$81,631		\$0		\$81,631
INTRST	Interest Earnings						
4700	Interest on Investments		4,490		0		4,490
<b>TOTAL RESOURCES</b>			<b>\$389,804</b>		<b>\$8,342</b>		<b>\$398,146</b>
<u>Materials &amp; Services</u>							
<b>BLUE LAKE CONCERT STAGE ACCOUNT</b>							
OTHEXP	Other Expenditures						
5490	Miscellaneous Expenditures		15,000		0		15,000
<b>OXBOW PARK NATURE CENTER ACCOUNT</b>							
OTHEXP	Other Expenditures						
5490	Miscellaneous Expenditures		15,000		0		15,000
<b>Total Materials &amp; Services</b>			<b>\$30,000</b>		<b>\$0</b>		<b>\$30,000</b>
<u>Interfund Transfers</u>							
INTCHG	Internal Service Transfers						
5820	Transfer for Direct Costs						
	* to Regional Parks-Tibbets Flower		100		0		100
	* to Regional Parks-Farmer Family		3,900		0		3,900
<b>Total Interfund Transfers</b>			<b>\$4,000</b>		<b>\$0</b>		<b>\$4,000</b>
<u>Contingency and Ending Balance</u>							
UNAPP	Unappropriated Fund Balance						
5990	Unappropriated Fund Balance						
	* Tibbets Flower		1,096		0		1,096
	* Blue Lake Concert Stage		80,057		0		80,057
	* Oxbow Park Nature Center		192,430		8,342		200,772
	* Willamina Farmer Family Plot		82,221		0		82,221
<b>Total Contingency and Ending Balance</b>			<b>\$355,804</b>		<b>\$8,342</b>		<b>\$364,146</b>
<b>TOTAL REQUIREMENTS</b>			<b>\$389,804</b>		<b>\$8,342</b>		<b>\$398,146</b>



**Exhibit A**  
**Ordinance No. 98-746**  
**Support Services Fund**

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Resources</b>							
<i>Resources</i>							
BEBAL	Beginning Fund Balance		\$1,363,443		\$0		\$1,363,443
CHGSVC	Charges for Service						
4150	Contractor's Business License		360,390		0		360,390
4180	Contract & Professional Service		14,546		0		14,546
INCGRV	Internal Charges for Service						
4670	Charges for Services		859,294		0		859,294
INTRST	Interest Earnings						
4700	Interest on Investments		68,477		0		68,477
MISCRV	Miscellaneous Revenue						
4890	Miscellaneous Revenue		15,000		0		15,000
INTSRV	Internal Service Transfers						
4975	Transfer for Indirect Costs						
	* from General Fund		514,499		0		514,499
	* from Zoo Operating Fund		1,126,282		0		1,126,282
	* from Planning Fund		1,665,149		0		1,665,149
	* from Open Spaces Fund		328,935		0		328,935
	* from Regional Parks Fund		419,649		0		419,649
	* from Smith & Bybee Lakes Fund		17,057		0		17,057
	* from SW Revenue Fund		2,270,455		0		2,270,455
4980	Transfer for Direct Costs						
	* from Planning Fund		25,000		0		25,000
	* from Regional Parks Fund		2,000		17,525		19,525
	* from SW Revenue Fund		103,561		0		103,561
EQTREV	Fund Equity Transfers						
4970	Transfer of Resources						
	* from General Fund		200,000		0		200,000
	* from Risk Mgmt Fund		340,000		0		340,000
<b>TOTAL RESOURCES</b>			<b>\$9,693,737</b>		<b>\$17,525</b>		<b>\$9,711,262</b>

# Exhibit A Ordinance No. 98-746

## Support Services Fund

ACCT	DESCRIPTION	FY 1997-98 <u>Adopted</u>		<u>REVISION</u>		FY 1997-98 <u>Revised</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Resources</b>							
<u>Resources</u>							
BEGBAL	Beginning Fund Balance		\$1,363,443		\$0		\$1,363,443
CHGSVC	Charges for Service						
4150	Contractor's Business License		360,390		0		360,390
4180	Contract & Professional Service		14,546		0		14,546
INCGRV	Internal Charges for Service						
4670	Charges for Services		859,294		0		859,294
INTRST	Interest Earnings						
4700	Interest on Investments		68,477		0		68,477
MISCRV	Miscellaneous Revenue						
4890	Miscellaneous Revenue		15,000		0		15,000
INTSRV	Internal Service Transfers						
4975	Transfer for Indirect Costs						
	* from General Fund		514,499		0		514,499
	* from Zoo Operating Fund		1,126,282		0		1,126,282
	* from Planning Fund		1,665,149		0		1,665,149
	* from Open Spaces Fund		328,935		0		328,935
	* from Regional Parks Fund		419,649		0		419,649
	* from Smith & Bybee Lakes Fund		17,057		0		17,057
	* from SW Revenue Fund		2,270,455		0		2,270,455
4980	Transfer for Direct Costs						
	* from Planning Fund		25,000		0		25,000
	* from Regional Parks Fund		2,000		17,525		19,525
	* from SW Revenue Fund		103,561		0		103,561
EQTREV	Fund Equity Transfers						
4970	Transfer of Resources						
	* from General Fund		200,000		0		200,000
	* from Risk Mgmt Fund		340,000		0		340,000
<b>TOTAL RESOURCES</b>			<b>\$9,693,737</b>		<b>\$17,525</b>		<b>\$9,711,262</b>

**Exhibit B**  
**Ordinance No. 98-746**  
**Schedule of Appropriations**

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Proposed Appropriation</u>
<b>SUPPORT SERVICES FUND</b>			
Administrative Services			
Personal Services	4,382,424	0	4,382,424
Materials and Services	1,126,419	0	1,126,419
Capital Outlay	1,088,547	0	1,088,547
Debt Service	27,232	0	27,232
Subtotal	6,624,622	0	6,624,622
Office of General Counsel			
Personal Services	655,656	0	655,656
Materials and Services	41,856	0	41,856
Capital Outlay	21,644	0	21,644
Subtotal	719,156	0	719,156
Office of Public and Government Relations			
Personal Services	75,758	0	75,758
Materials and Services	60,427	0	60,427
Capital Outlay	1,750	0	1,750
Subtotal	137,935	0	137,935
Council Office of Public Outreach			
Personal Services	100,049	0	100,049
Materials and Services	31,185	0	31,185
Capital Outlay	8,033	0	8,033
Subtotal	139,267	0	139,267
Office of Citizen Involvement			
Personal Services	61,631	0	61,631
Materials and Services	22,480	0	22,480
Capital Outlay	0	0	0
Subtotal	84,111	0	84,111
Auditor's Office			
Personal Services	394,617	0	394,617
Materials and Services	141,413	0	141,413
Capital Outlay	8,606	0	8,606
Subtotal	544,636	0	544,636
General Expenses			
Interfund Transfers	788,762	0	788,762
Contingency	348,834	0	348,834
Subtotal	1,137,596	0	1,137,596
Unappropriated Ending Fund Balance	306,414	17,525	323,939
<b>Total Fund Requirements</b>	<b>\$9,693,737</b>	<b>\$17,525</b>	<b>\$9,711,262</b>

**Exhibit B**  
**Ordinance No. 98-746**  
**Schedule of Appropriations**

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Proposed Appropriation</u>
<b>REGIONAL PARKS FUND</b>			
Regional Parks and Greenspaces			
Personal Services	2,109,937	(17,525)	2,092,412
Materials and Services	1,872,575	40,742	1,913,317
Debt Service	0	13,469	13,469
Capital Outlay	2,409,765	(1,962)	2,407,803
Subtotal	6,392,277	34,724	6,427,001
General Expenses			
Interfund Transfers	1,578,398	25,867	1,604,265
Contingency	191,621	(16,591)	175,030
Subtotal	1,770,019	9,276	1,779,295
Unappropriated Ending Fund Balance	1,972,142	0	1,972,142
<b>Total Fund Requirements</b>	<b>\$10,134,438</b>	<b>\$44,000</b>	<b>\$10,178,438</b>
<b>REGIONAL PARKS TRUST FUND</b>			
Materials and Services	30,000	0	30,000
Interfund Transfers	4,000	0	4,000
Unappropriated Ending Fund Balance	355,804	8,342	364,146
<b>Total Fund Requirements</b>	<b>\$389,804</b>	<b>\$8,342</b>	<b>\$398,146</b>

**All Other Appropriations Remain As Previously Adopted**

*Agenda Item 7.2*

**ORDINANCES -- FIRST READING**

**Ordinance No. 98-747, Amending the FY 1997-98 Budget and Appropriations Schedule Transferring \$4,000,000 from Open Space Fund Contingency to Capital Outlay in the Open Space Fund in the Regional Parks and Greenspaces Department to Provide Funding for Unanticipated Expenditures, and Declaring an Emergency**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98	)	ORDINANCE NO. 98-747
BUDGET AND APPROPRIATIONS	)	
SCHEDULE TRANSFERRING \$4,000,000	)	Introduced by Executive Officer
FROM OPEN SPACE FUND CONTINGENCY	)	Mike Burton
TO CAPITAL OUTLAY IN THE OPEN SPACES	)	
FUND IN THE REGIONAL PARKS AND	)	
GREENSPACES DEPARTMENT FOR	)	
UNANTICIPATED EXPENDITURES; AND	)	
DECLARING AN EMERGENCY	)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in Exhibit A for the purpose of transferring \$4,000,000 from Open Spaces Fund Contingency to Capital Outlay for potential land acquisitions in the Regional Parks and Greenspaces Department.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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

## **STAFF REPORT**

IN CONSIDERATION OF ORDINANCE 98-747 AMENDING THE FY 1997-98  
BUDGET AND APPROPRIATIONS SCHEDULE TRANSFERRING  
\$4,000,000 FROM OPEN SPACE FUND CONTINGENCY TO CAPITAL  
OUTLAY IN THE OPEN SPACES FUND IN THE REGIONAL PARKS AND  
GREENSPACES DEPARTMENT FOR UNANTICIPATED EXPENDITURES;  
AND DECLARING AN EMERGENCY

Date: April 14, 1998

Presented by:

Charles Ciecko  
Jim Desmond

## **FACTUAL BACKGROUND AND ANALYSIS**

### **OPEN SPACES FUND:**

Property purchases have proceeded at a faster pace than budgeted. The Open Spaces Fund has carried a high contingency to accommodate such an occurrence. To date, \$16,786,158 of the originally budgeted \$19,258,975 has been expended from the Open Spaces Fund for land purchases. More than \$6.1 million in properties are currently under negotiation leaving an unacceptably low balance available to purchase land. This action would transfer \$4,000,000 from contingency to Capital Outlay, Land Purchases to cover potential transactions through the close of the fiscal year.

5705-350-02720	Capital Outlay Land Purchases	\$4,000,000
5999-350-02720	Contingency	(\$4,000,000)

### **Executive Officer's Recommendation:**

The Executive Officer recommends adoption of Ordinance No. 98-747.



**Exhibit A**  
**Ordinance No. 98-747**  
**Open Spaces Fund**

FISCAL YEAR 1997-98 DESCRIPTION	CURRENT BUDGET		REVISION		PROPOSED BUDGET	
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<u>Resources</u>						
Beginning Fund Balance		97,735,446		0		97,735,446
Government Contributions		494,000		0		494,000
Retail Sales		0		0		0
Interest Earnings		5,147,493		0		5,147,493
Donation and Bequests		300,000		0		300,000
General Obligation Bond Proceeds		0		0		0
Transfer Direct Costs from Regional Parks/Expo		10,000		0		10,000
<b>TOTAL RESOURCES</b>		<b>103,686,939</b>		<b>0</b>		<b>103,686,939</b>
<u>Capital Outlay</u>						
Purchases - Land		19,258,975		4,000,000		23,258,975
Office Equipment		14,159		0		14,159
Construction Work-Other Improvements		1,800,000		0		1,800,000
<b>Total Capital Outlay</b>		<b>21,073,134</b>		<b>4,000,000</b>		<b>25,073,134</b>
<b>TOTAL REQUIREMENTS</b>	<b>17.25</b>	<b>37,467,739</b>		<b>4,000,000</b>	<b>17.25</b>	<b>41,467,739</b>
<u>Contingency &amp; Unapp. Balance</u>						
Contingency		31,000,000		(4,000,000)		27,000,000
Unappropriated Balance		33,010,075		0		33,010,075
<b>Total Contingency &amp; Unapp. Balance</b>		<b>64,010,075</b>		<b>(4,000,000)</b>		<b>60,010,075</b>
<b>TOTAL REQUIREMENTS</b>	<b>17.25</b>	<b>103,686,939</b>		<b>0</b>	<b>17.25</b>	<b>103,686,939</b>

**Exhibit B**  
**Ordinance No. 98-747**  
**Schedule of Appropriations**

	Current Appropriation	Revision	Proposed Appropriation
<b>OPEN SPACES FUND</b>			
Personal Services	1,177,634	0	1,177,634
Materials and Services	15,216,971	0	15,216,971
Capital Outlay	21,073,134	4,000,000	25,073,134
Subtotal	37,467,739	0	37,467,739
Interfund Transfers	2,209,125	0	2,209,125
Contingency	31,000,000	(4,000,000)	27,000,000
Subtotal	33,209,125	0	33,209,125
Unappropriated Ending Fund Balance	33,010,075	0	33,010,075
<b>Total Fund Requirements</b>	<b>\$103,686,939</b>	<b>0</b>	<b>\$103,686,939</b>

*Agenda Item 8.1*

**ORDINANCES -- SECOND READING, PUBLIC HEARING**

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

**Staff note to Ordinance 98-730**  
**April 29, 1998**

**The material in this May 7 Council packet is identical to material in the May 5 Growth Management Committee Packet. Proposed amendments in this packet may or may not have been acted upon at the May 5 meeting. Staff will make every attempt to have timely material at the May 7 Council public hearing.**

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.

- 41  
42 B. Demonstrate that existing city and county comprehensive plans and implementing ordinances  
43 substantially comply with the performance standards in Section 4 and the intent of this Title.
- 44 C. Any combination of A and B above that substantially complies with all performance  
45 standards in Section 4.

46 **Section 4. Performance Standards**

47 **A. Flood Management Performance Standards.**

- 48  
49 1. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to  
50 human life and property, and maintain functions and values of floodplains such as  
51 allowing for the storage and conveyance of stream flows through existing and natural  
52 flood conveyance systems.
- 53  
54 2. All development, excavation and fill in the Flood Management Areas shall conform to  
55 the following performance standards:
- 56  
57 a. Development, excavation and fill shall be performed in a manner to maintain or  
58 increase flood storage and conveyance capacity and not increase design flood  
59 elevations.
- 60  
61 b. All fill placed at or below the design flood elevation in Flood Management Areas  
62 shall be balanced with at least an equal amount of soil material removal.
- 63  
64 c. Excavation shall not be counted as compensating for fill if such areas will be filled  
65 with water in non-storm winter conditions.
- 66  
67 d. Minimum finished floor elevations for new habitable structures in the Flood  
68 Management Areas shall be at least one foot above the design flood elevation.
- 69  
70 e. Temporary fills permitted during construction shall be removed.
- 71  
72 f. Uncontained areas of hazardous materials as defined by DEQ in the Flood  
73 Management Area shall be prohibited.
- 74  
75 3. The following uses and activities are not subject to the requirements of Subsection 2:
- 76  
77 a. Excavation and fill necessary to plant new trees or vegetation.
- 78  
79 b. Excavation and fill required for the construction of detention facilities or structures,  
80 and other facilities such as levees specifically designed to reduce or mitigate flood  
81 impacts. Levees shall not be used to create vacant buildable lands.
- 82  
83 c. New culverts, stream crossings, and transportation projects may be permitted if  
84 designed as balanced cut and fill projects or designed to not significantly raise the  
85 design flood elevation. Such projects shall be designed to minimize the area of fill in  
86 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.  
89

90 **B. Water Quality Performance Standards**  
91

- 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  
96 a. providing a vegetated corridor to separate Protected Water Features from  
97 development;  
98  
99 b. maintaining or reducing stream temperatures;  
100  
101 c. maintaining natural stream corridors;  
102  
103 d. minimizing erosion, nutrient and pollutant loading into water;  
104  
105 e. filtering, infiltration and natural water purification;  
106  
107 f. stabilizing slopes to prevent landslides contributing to sedimentation of water  
108 features.  
109  
110 2. Local codes shall require all development in Water Quality Resource Areas to conform  
111 to the following performance standards:  
112  
113 a. The Water Quality Resource Area is the vegetated corridor and the Protected Water  
114 Feature. The width of the vegetated corridor is specified in the table below. At least  
115 three slope measurements along the water feature, at no more than 100-foot  
116 increments, shall be made for each property for which development is proposed.  
117 Depending on the width of the property, the width of the vegetated corridor will vary.

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.

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**

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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.

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8    B.     Fish and Wildlife Habitat Conservation Area Recommendations

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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.

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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.  
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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.

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 (4a) examining existing Goal 5 data, reports and regulation from cities and counties, and (2b) 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.

- 91  
92 5. Metro shall establish performance standards for protection of regionally  
93 significant fish and wildlife habitat that must be met by the plans implementing  
94 ordinances of cities and counties.  
95

96 **Section 6. Metro Model Ordinance Required**  
97

98 Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance and map.~~for~~  
99 ~~use by local jurisdictions to comply with this section. The Model Ordinance shall represent one~~  
100 method of complying with this Title. The Model Ordinance shall be advisory, and cities and  
101 counties are not required to adopt the Model Ordinance, or any part thereof, to substantially  
102 comply with this Title. However, cities and counties which adopt the Model Ordinance in its  
103 entirety and a Water Quality and Flood Management Areas Map shall be deemed to have  
104 substantially complied with the requirements of this Title.  
105

106 Sections 1-4 of this Title shall not become effective until 24~~18~~ months after the Metro Council  
107 has adopted a ~~Model Code~~the Model Ordinance and map~~Water Quality and Flood Management~~  
108 Areas Map that addresses all of the provisions of this title. Section 5 of this Title shall be  
109 implemented by adoption of new functional plan provisions. The Metro Council may adopt a  
110 Model Code and Fish and Wildlife Habitat Conservation Areas Model Ordinance and a Map for  
111 protection of regionally significant fish and wildlife habitat.~~Section 5 of this title shall be~~  
112 ~~implemented by adoption of new functional plan provisions.~~  
113

114 **Section 7. ~~Variances~~Map Adjustment**  
115

116 City and ~~county~~counties shall amend their comprehensive plans and implementing regulations  
117 ~~are hereby required~~ordinances to include procedures to consider claims of map error and  
118 ~~hardship variances to reduce or remove stream corridor protection for any property demonstrated~~  
119 ~~to be converted to an unbuildable lot by application of stream corridor protections allow:~~  
120

121 A. Amendments to the Water Quality and Flood Management Area Map to correct map  
122 error.  
123

124 B. Modification of the Water Quality Resource Area upon demonstration and evidence that  
125 the modification will offer the same or better protection of water quality, the Water  
126 Quality and Flood Management Area and Protected Water Feature.  
127

128  
129 I:\DOCS\07.P&D\04-20401.MPL\03UGMFNC.PLN\02STREAM.NAT\098730.EXB

Exhibit C

## **Title 3**

# **Model Ordinance**

The Committee will move to amend in MPAC 4/22/98 Model Ordinance, a copy of which is included in the amendment package following Ordinance No. 98-730.

## **Exhibit D**

### **Water Quality and Flood Management Maps**

**The Water Quality and Flood Management Maps are in quadrangle map form and are posted in the Council Chamber. A copy is on file in the Council permanent record.**

**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**

367  
368 **Primary Protected Water Features shall include:**

- 369  
370 a. wetlands; and  
371  
372 b. rivers, streams, and drainages downstream from the point at which 100 acres or more are  
373 drained to that water feature (regardless of whether it carries year-round flow); and  
374  
375 c. streams carrying year-round flow; and  
376  
377 d. springs which feed streams and wetlands and have year-round flow and  
378  
379 e. natural lakes.

380  
381 *Secondary Protected Water Features* shall include intermittent streams and seeps downstream of the  
382 point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that  
383 water feature.

384  
385 **Restoration** - the process of returning a disturbed or altered area or feature to a previously existing  
386 natural condition. Restoration activities reestablish the structure, function, and/or diversity to that  
387 which occurred prior to impacts caused by human activity.

388  
389 **Routine Repair and Maintenance** - activities directed at preserving an existing allowed use or  
390 facility, without expanding the development footprint or site use.

391  
392 **Significant Negative Impact** - an impact that affect the natural environment, considered  
393 individually or cumulatively with other impacts on the Water Quality Resource Area, to the point  
394 where existing water quality functions and values are degraded.

395  
396 **Stream** - a body of running water moving over the earth's surface in a channel or bed, such as a  
397 creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams.  
398 Streams are dynamic in nature and their structure is maintained through build-up and loss of  
399 sediment.

400  
401 **Substantial Compliance** - city and county comprehensive plans and implementing ordinances, on  
402 the whole, conform with the purposes of the performance standards in the functional plan and any  
403 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:

- 405
- 406 a. Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume
- 407 on public or private streets, adjacent property, or onto the storm and surface water system,
- 408 either by direct deposit, dropping discharge, or as a result of the action of erosion.
- 409
- 410 b. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or
- 411 evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not
- 412 filtered or captured on the site.
- 413
- 414 c. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.
- 415

416 **Utility Facilities** - buildings, structures or any constructed portion of a system which provides for

417 the production, transmission, conveyance, delivery or furnishing of services including, but not

418 limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable

419 television.

420

421 **Water Quality Resource Areas** - vegetated corridors and the adjacent water feature as established

422 in Title 3.

423

424 **Wetlands** - any wetland shown on the Metro Water Quality and Flood Management Area Map or

425 wetlands that meet the Oregon Division of State Lands definition of wetland.

426

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428 3/27/98

429

## 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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METRO

April 29, 1998

The Honorable Lisa Naito, Chair  
Metro Council Growth Management Committee  
600 N.E. Grand Avenue  
Portland, OR 97232

Dear Councilor Naito

**Re: *Summary of Changes and Recommendations Regarding Title 3 Performance Standards, Model Ordinance and Maps***

The following is a status report, analysis and summary of recommendations regarding the Title 3 performance standards, model ordinance and maps. This information is based on the final recommendations of the Metro Policy Advisory Committee (MPAC) made at their last meeting on April 22, 1998. Their recommendations are based on extensive review and consultation with the Metro Technical Advisory Committee (MTAC) and the Water Resources Policy Advisory Committee (WRPAC).

The agenda for your May 5, 1998, Metro Council Growth Management Committee meeting includes the following: 1) amendments and clarifications to the Title 3 Performance Standards (Exhibits A and E); and 2) a revised Exhibit C: Title 3 Model Ordinance (dated April 22, 1998) as recommended by MPAC. There are some further refinements MPAC directed to staff and addressed as amendments. In addition, a finalized set of Title 3 maps are available and will be presented at the Metro Council Growth Management Committee meeting on May 5, 1998. Details regarding the maps are discussed below.

### **Exhibits A and E**

#### **Title 3 Performance Standards (MPAC Recommended Version dated March 25, 1998)**

- **Clarify Definition of Development (Definition Section line 325, Exhibit E)**

The issue of farm use being exempted from the definition of development and described as a use permitted outright in the model ordinance was questioned by MTAC, WRPAC and MPAC. The

concern is that "farm use" defined in ORS 215.203," unlike "farm practices," may allow activities and structures that are inconsistent with the intent of Title 3. MPAC recommended Metro's Office of General Counsel (OGC) investigate this issue. OGC has begun discussing this issue with representatives from the Oregon Department of Agriculture and there is no recommended language at this time.

A similar concern was raised about commercial forestry operations which may be allowed based on language in lines 219-221 because these operations do not require a grading or building permit, especially if the local jurisdiction does not have a tree ordinance. In addition, there is also a general concern because Title 3 is intended to regulate the removal of more than 10 percent of the vegetation in vegetated corridors, but this language (line 220) inadvertently undermined the intent. This was not identified as an inconsistency until recent review of the Model Ordinance. MPAC asked Metro Legal Counsel to recommend language to address these concerns. The following amendment is recommended to address this issue:

Insert the following words into Line 220:

Cities and counties may choose to apply the Water Quality and Flood Management Area performance standards of Section 4 only to development necessary for the placement of structures that requires a grading or building permit.

- **Replacement of Existing Structures and the Bollam Recommendation (line 205-217, Exhibit A)**

Based on a request from MPAC, MTAC reviewed the section on additions, alterations and replacement of existing structures. MTAC recommended eliminating the definition of "replacement." The definition had limited replacement structures to instances where the structure was destroyed by fire or other casualty. In addition, MTAC recommended a requirement that owners wishing to add to, alter, rehabilitate or replace an existing structure be required to consider alternatives and restore the vegetated corridor if it is disturbed. The revised language would have added a reference to section "4(B)(2)(f)" (lines 146-156) at the end of line 217 as an additional condition.

Responding to this MTAC solution, alternative language was submitted by Mr. Bollam in a letter from Daniel H. Keams dated April 21, 1998. The proposed new subsection "d" modifies the MTAC alternatives and mitigation requirements specifically for existing structures. MPAC accepted this proposal. MPAC recommended an amendment to include a new subsection (d) in Section 4(D)(3) at line 218:

- "d. In determining appropriate conditions of approval, the affected city or county shall require the applicant to:
  - i. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and

- ii. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
- iii. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable."

I am concerned that the last few words of this proposed subsection, "to the extent practicable" may create difficulty for application locally. Practicable is defined in the Functional Plan to mean "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose."

- **Condensed Table 1 (line 120, Exhibit A)**

All committees have recommended an amendment replacing the current lengthy Table 1 on line 118 with a staff recommended condensed Table 1. The condensed table contains the same information, but is clearer and more concise. The recommended Table 1 is enclosed.

### **Exhibit C**

#### **Revised Title 3 Model Ordinance (dated April 22, 1998)**

- A revised Exhibit C: Title 3 Model Ordinance was forwarded to the Metro Council Growth Management Committee by MPAC at its meeting on April 22, 1998. MPAC directed Metro staff and OGC to provide language to address: 1) the definition of development addressing farm use; 2) existing structures (Mr. Bollam); and 3) additional definitions for debris, disturb and stormwater pre-treatment facility. The first two items are addressed above. The third item would be addressed by amendments adding the following:

**Debris:** discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance, or ornamental and recreational structures (e.g., birdbaths, swingsets, and kid's playhouses).

**Disturb:** man-made changes to the existing physical (and hydrological) status of the land, which are made in connection with development. The following uses (activities) are excluded from the definition:

- a. enhancement or restoration of the Water Quality Resource Area;
- b. planting native cover identified in the Metro Native Plant List.

**Stormwater Pre-treatment Facility:** any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

**Exhibit D**

**Complete Set of Title 3 Maps**

- A complete set of Title 3 maps has been forwarded to your committee from MPAC, after extensive review by MTAC and WRPAC. This set of maps has been reviewed by all local jurisdictions. Map changes requested by local jurisdictions were made if they met the criteria for map changes. The only outstanding map change request that has not been addressed is from the Port of Portland and staff have scheduled a meeting with Port staff to review their request. Staff will report back to your committee on the results of the meeting. Additional map change requests may be submitted to your committee and to the Metro Council for review.

**Other Outstanding Issues for Metro Council Growth Management Committee Consideration**

- **Proposed Variance for 80 Lots to Avoid Takings Claims**


OGC has recommended a strategy to address the approximately 80 properties that are fully within a Water Quality Resource Area to avoid the takings claim. This strategy and rationale is described in the OGC memo dated April 1, 1998, to Councilor Lisa Naito (see enclosed memo). The recommendation would explicitly exempt the approximately 80 unbuildable lots from the vegetated corridor performance standards.

- **Title 8: Compliance Procedures**

Metro Council Growth Management Committee discussed Metro legally defending any local jurisdiction that faces a constitutional challenge regarding implementation of Title 3. MPAC did not want to include this provision in Title 3, but recommended that this type of provision be considered for the entire Functional Plan. I recommend that the Metro Council refer this issue to MPAC where it can be discussed at greater length and reported separately.

I am available to discuss any of these issues or recommendations at your convenience.

Sincerely,



Mike Burton  
Executive Officer

MB/RF/srb  
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Enclosures

cc: Elaine Wilkerson  
Rosemary Furfey  
Ken Helm

177  
178

**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 <sup>1</sup>	< 25%	edge of bankful flow or 2-year storm level or delineated edge of wetland	50 feet
Primary Protected Water Features <sup>1</sup>	≥ 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 <sup>1</sup>	≥ 25% for less than 150 feet	top of ravine (break in ≥25% slope) <sup>3</sup>	50 feet <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	edge of bankful flow or 2-year storm level	15 feet
Secondary Protected Water Features <sup>2</sup>	≥ 25%	edge of bankful flow or 2-year storm level	50 feet

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

<sup>2</sup> Secondary Protected Water Features include intermittent streams draining 50-100 acres.

<sup>3</sup> Where 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 # \_\_).

<sup>4</sup> A maximum reduction 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: The following methodology is an alternative 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.)*



## METRO

DATE: April 1, 1998

TO: Lisa Naito, Chair - Growth Management Committee

FROM: *LSH*  
Larry Shaw - Senior Assistant Counsel

SUBJECT: Title 3 - Defense of Model Ordinance Against Takings Claims

---

**Introduction** - At the Growth Management Committee's request, Office of General Counsel drafted proposed revisions to Section 6 of Title 3 which would obligate Metro to participate in defense of constitutional claims against local jurisdictions which adopt the Title 3 Model Ordinance in its entirety. MPAC has recommended a modified version of this to apply to all Titles of the Functional Plan. You have asked our office to assess the draft variance provisions of Title 3 and the Model Ordinance and alternative approaches to protect Metro and local jurisdictions from claims that implementation of Title 3 and the Model Ordinance constitute an unconstitutional taking of private property for public use without just compensation.

**Facial and As Applied Takings Claims** - There are two types of takings claims: "facial" and "as applied." Facial takings claims allege that the mere adoption of an ordinance, like Title 3 or a local implementing ordinance, takes private property for public use without just compensation. In contrast to facial claims, "as applied" challenges acknowledge that the ordinance itself may be constitutional, but that the local government's application of the ordinance causes a "taking." Growth Management staff have identified approximately 80 buildable lots in Metro's jurisdiction which are located completely inside the Water Quality Resource Area and would be rendered unbuildable if all Title 3 regulations applied to them. Facial takings claims related to these properties can be nearly eliminated by requiring cities and counties to provide the affected property owners with some level of development opportunity on their property. Eliminating exposure to "as applied" takings claims is more difficult because it is hard to anticipate how local jurisdictions will implement Title 3 on a case-by-case basis, especially if the Model Ordinance is not used.

**Adopted Title 3** - In 1996, the Metro Counsel adopted variance provisions in Section 7 of Title 3 to provide hardship variances and to avoid unconstitutional takings claims. Section 7 provides:

"City and county comprehensive plans and implementing regulations are hereby required 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."

In response to this requirement, WRPAC's Model Ordinance allows for hardship variances if property owners can demonstrate that without the variance they would be denied all economically viable use of their land. Although a difficult standard to meet, the Model Ordinance variance provisions are consistent with adopted Title 3. However, neither adopted Title 3, nor the Model Ordinance currently require what would be the most conservative approach to thwart takings claims which would be to explicitly exempt the approximately 80 unbuildable lots from the vegetated corridor performance standards. That would "remove" the regulation, not just "reduce" it, regardless of whether the city or county decides to just "reduce" the regulation.

**MPAC Title 3 Recommendation** - MPAC has recommended revising Section 7 of Title 3 to ensure that when cities and counties "reduce or remove" vegetated corridor restrictions that they maintain the "maximum vegetated corridor practicable." MPAC's recommendation is as follows:

"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." Line 166.

This recommendation is consistent with adopted Title 3 because it requires cities and counties to reduce or remove vegetated corridor restrictions for lots that become unbuildable under vegetated corridor regulations. However, the recommendation discourages and may prevent cities and counties from an outright exemption from Title 3 on those lots and parcels by requiring some level of vegetated corridor protection.

**Defending Takings Claims** - Both adopted Section 7 of Title 3 and MPAC's recommendation are probably adequate to deter facial takings claims. However, both facial and as applied takings claims could be almost entirely foreclosed for the 80 properties by modifying MPAC's approach for only those existing lots fully within the vegetated corridor to require local jurisdictions to provide at least one buildable lot for those properties. OGC recommends applying MPAC's proposed language only to parcels "partially" within the corridor and adding the following:



For any lot located entirely within the Water Quality Resource Area, recorded with the county assessors office on or before the date cities and counties adopt amendments to their comprehensive plans and implementing ordinances to comply with this title, cities and counties shall allow development on at least one building site on each lot. Cities and counties shall encourage development on these lots that does not degrade the vegetated corridor. Development shall comply with the erosion and sediment control provisions of Section 4.C.

The state of Maine uses this approach. The governing body which oversees the Saco River Corridor is authorized to permit a single family dwelling in the river's Resource Protection District upon a finding that the restrictions of the district deprive an owner of economically viable use of a legal lot located completely within the district. The Saco River regulations are analogous to Title 3, and similar variance provisions incorporated into the Model Ordinance could greatly deter both facial and as applied takings claims. Also, the City of Portland currently guarantees up to a 5,000 square foot building area for buildable lots within their environmental zones.

Amending the Model Ordinance's variance provisions to be consistent with the recommended revision to Title 3 discussed above will provide a high level of protection against as applied takings claims. OGC recommends that a parallel section similar to Portland's ordinance be added to Section 7 of the Model Ordinance as follows:

## **Section 7. Variances**

B. Development may occur on lots located completely within the Water Quality Resource Area which are recorded with the county assessors 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.

This provision would be supplemented by an additional variance step which provides a process that allows the local government to address takings claims in a local forum before a property owner can pursue litigation. The advantage of this process is that it allows the local government to avoid a taking even if the applicant cannot qualify for an hardship variance for the desired use. OGC will provide details of this step at the Growth Management Committee meeting.

**Conclusion - 1.** MPAC has recommended a Title 3 provision reducing regulations to avoid takings that balances reduction of the regulations with retaining some portion of the vegetated corridor. This recommendation may be adequate to avoid takings claims. OGC recommends using the provision for lots which are partially within the vegetated corridor.

2. Those lots which are entirely within the vegetated corridor are prime candidates for takings litigation. OGC recommends a slightly stronger guarantee of a buildable lot for those properties to assist in defense of taking claims.

3. OGC recommends adding to Title 3 and WRPAC's Model Ordinance an additional variance step to assure that any alleged loss of "all economically viable use" is determined before a final land use decision. Consultation between the local jurisdiction and Metro would be appropriate during this process prior to litigation.

cc: Metro Council, Executive Officer, Elaine Wilkerson, Rosemary Furfey

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# **AMENDMENT PACKET**

**Ordinance No. 98-730**

**April 29, 1998**

**Cover Ordinance Amendments**  
**Ordinance No. 98-730**

ORDINANCE 98-730  
TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Office of General Counsel Amendment No. 1  
Amend Ordinance No. 98-730 to add:

May 5, 1998

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.

WHEREAS, Through review at WRPAC, MTAC and MPAC, Sections 1-4 of Title 3 have been extensively reorganized. For that reason, Exhibit A will fully replace Title 3, Sections 1-4 as adopted by the Metro Council on November 21, 1996.

WHEREAS, No significant changes have been made to Sections 5-7 of Title 3. Therefore, Exhibit B only amends Title 3, Sections 5-7 as adopted by the Metro Council on November 21, 1996.

REASON: Explains the method of amending Title 3 to clearly show that Sections 5-7 have not been substantively changed.

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

////

////

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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**Exhibit A Amendments**  
**Ordinance No. 98-730**

ORDINANCE 98-730

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Councilor Naito Amendment No. 1

May 5, 1998

Amend Exhibit A, Section 4.D.3 to add:

- d. In determining appropriate conditions of approval, the affected city or county shall require the applicant to:
  - i. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
  - ii. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
  - iii. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.

REASON: Doug Bollam suggested this language to clarify how the alternatives analysis will apply to existing structures.

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

METRO POLICY ADVISORY COMMITTEE - MARCH 25, 1998  
RECOMMENDATIONS

Councilor Don Morissette Amendment No.1

4/21/98

Amend page 4, Section 4.B.2, line 120 to read:

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)	$\geq 25\%$ for less than 150 feet	*25% slope break	**50 feet
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\* Where the Protected Water Feature is confined by a ravine or gully, 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 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).

\*\*\* A reduction of a maximum of 100 feet may be permitted for slopes which are greater than 25 % for more than 150 feet if a geotechnical report demonstrates that the slope is stable.

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# ORDINANCE 98-730

## TITLE 3 URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Councilor Naito Amendment No. 2

May 5, 1998

Amend Exhibit A, Table 1 and footnotes to read:

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 <sup>1</sup>	< 25%	edge of bankful flow or 2-year storm level or delineated edge of wetland	50 feet
Primary Protected Water Features <sup>1</sup>	≥ 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 <sup>1</sup>	≥ 25% for less than 150 feet	top of ravine (break in ≥25% slope) <sup>3</sup>	50 feet <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	edge of bankful flow or 2-year storm level	15 feet
Secondary Protected Water Features <sup>2</sup>	≥ 25%	edge of bankful flow or 2-year storm level	50 feet

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

<sup>2</sup> Secondary Protected Water Features include intermittent streams draining 50-100 acres.

<sup>3</sup> Where 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 #\_\_).

<sup>4</sup> A maximum reduction 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).

REASON: Simplifies Table 1.

ORDINANCE 98-730

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Councilor Naito Amendment No. 3

May 5, 1998

Amend Exhibit A, Section 4.D.4 to read:

4. Cities and counties may choose to apply the Water Quality and Flood Management Area performance standards of Section 4 only to development necessary for the placement of structures that require a grading or building permit.

REASON: Clarifies intent that Title 3 applies to removal of more than 10% of the vegetation in the Water Quality Resource Area. The optional exemption would only apply if a permit is not needed to place a structure in the water quality area.

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

METRO POLICY ADVISORY COMMITTEE - MARCH 25, 1998  
RECOMMENDATIONS

Councilor Don Morissette Amendment No.2

4/21/98

Amend page 7, to add a Section 4.D.6

6. Cities and counties may exempt existing sites from meeting the vegetated corridor width standards established under Section 4.B.2. where, as a result of a final local land use decision, a vegetated corridor has already been established and protected through dedication, conservation easement or other effective means.

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TITLE 3  
URBAN GROWTH MANGEMENT FUNCTIONAL PLAN

METRO POLICY ADVISORY COMMITTEE - MARCH 25, 1998  
RECOMMENDATIONS

Councilor Don Morissette Amendment No.3

4/21/98

Amend page 7, Section 4.D.7, to read:

7. Cities and counties shall not apply the Water Quality and Flood Management Area performance standards of this Section in a manner inconsistent with approved state Fill-Removal and/or federal Section 404 permits authorizing modifications to primary and secondary water features.

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TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Councilor Don Morissette Amendment No. 6

In Exhibit A, amend p. 5, Section 4B, to add subsection 4, to read:

4. 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 purposes stated in Section 4.B.1.

**Exhibit B Amendments  
Ordinance No. 98-730**

**As of April 29, 1998, no amendments to Ordinance No. 98-730 Exhibit B have been submitted.**

**Exhibit C Amendments**  
**Ordinance No. 98-730**

**ORDINANCE 98-730**

**TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN**

**Councilor Naito Amendment No. 4**

**May 5, 1998**

**Amend Exhibit C to read as attached:**

**REASON:** The Metro Policy Advisory Committee has forwarded a version of the Title 3 Model Ordinance which incorporates the Water Resources Policy Advisory Committee and Metro Technical Advisory Committee recommended changes. MPAC directed Growth Management Staff and Office of General Council to make further consistency amendments which are shown in Exhibit C.

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1 EXHIBIT C (Revised)

2  
3 Metro Water Quality and Flood Management Area Model Ordinance

4  
5  
6 Introduction

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

9  
10 The purpose of this model ordinance is to provide a specific example of provisions  
11 approved by the Metro Council that can be used by a city or county to comply with the  
12 performance standards for *Title 3: Water Quality, Flood Management, and Fish and*  
13 *Wildlife Conservation* described in the *Metro Urban Growth Management Functional*  
14 *Plan*. Title 3 describes specific performance standards and practices for floodplain and  
15 water quality protection. It also requires that Metro adopt a Water Quality and Flood  
16 Management Model Ordinance and map for use by local jurisdictions to comply with  
17 Title 3. This model ordinance fulfills the Title 3 requirement. It is also consistent with  
18 Metro's policies in the 1995 *Future Vision Report*, in the 1995 *Regional Urban Growth*  
19 *Goals and Objectives* (RUGGOs) in the 1992 *Greenspaces Master Plan*, and in the 1997  
20 *Regional Framework Plan*.

21  
22 The purpose of Title 3 is to protect water quality and floodplain areas. Floodplains  
23 protect the region's health and public safety by reducing flood and landslide hazards and  
24 pollution of the region's waterways. This Model Ordinance and Map address the  
25 purpose. Another purpose of Title 3 is to protect fish and wildlife habitat. Statewide land  
26 use Goal 5 measures, which include fish and wildlife habitat protection, will be addressed  
27 in a Metro study that will be conducted within the next 18 months. Title 3 will apply to  
28 development in Fish and Wildlife Habitat Conservation Areas when Metro's Section 5  
29 analysis and mapping are completed. As additional issues are addressed, further  
30 regulations may be imposed on areas contained within or outside of the Water Quality  
31 Resource Area and Flood Management Area Overlay Zones addressed in this Model  
32 Ordinance.

33  
34 The Metro *Future Vision, Greenspaces Master Plan, Regional Urban Growth Goals and*  
35 *Objectives* (RUGGOs), and *Regional Framework Plan* identify water quality protection,  
36 floodplain management, fish and wildlife habitat protection, development of recreational  
37 trails, acquisition of open space and maintenance of biodiversity as critical elements of  
38 maintaining healthy, livable communities.

39  
40 This Model Ordinance, however, only provides specific examples of local ordinance  
41 provisions for a portion of the issues identified in Title 3: protection of the region's  
42 floodplains, water quality and reduction of flood hazards and the implementation of  
43 erosion control practices throughout the Portland metropolitan region. Other issues  
44 including fish and wildlife habitat, watershed-wide stormwater management, steep  
45 slopes, landslide hazards and biodiversity are addressed in the December 1997 Metro  
46 *Regional Framework Plan*.

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 first approach above 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

## Water Quality and Flood Management Area Model Ordinance

### Section 1. Intent

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

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

1. Provide a vegetated corridor to separate Protected Water Features from development;
2. Maintain or reduce stream temperatures;
3. Maintain natural stream corridors;
4. Minimize erosion, nutrient and pollutant loading into water;
5. Provide filtration, infiltration and natural water purification;
6. Stabilize slopes to prevent landslides contributing to sedimentation of water features.

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

1. Protect life and property from dangers associated with flooding.
2. Flood storage, reduction of flood velocities, reduction of flood peak flows and reduction of wind and wave impacts.
3. Maintain water quality by reducing and sorting sediment loads, processing chemical and organic wastes and reducing nutrients.
4. Recharge, store and discharge groundwater.
5. Provide plant and animal habitat, and support riparian ecosystems.

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

137 **Section 2. Applicability**

138  
139 **A. This ordinance applies to:**

- 140  
141 1. Development in the Water Quality Resource Area and Flood  
142 Management Area Overlay Zones. The overlay zones restrict the  
143 uses that are allowed in the base zone by right, with limitations, or as  
144 conditional uses.  
145  
146 2. Development that may cause visible or measurable erosion on any  
147 property within the Metro Boundary.  
148

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

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

- 157  
158 **A. The purpose of this section is to protect and improve the beneficial water**  
159 **uses and functions and values of Water Quality Resource Areas.**  
160

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

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

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



177  
178

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 <sup>1</sup>	< 25%	edge of bankful flow or 2-year storm level or delineated edge of wetland	50 feet
Primary Protected Water Features <sup>1</sup>	≥ 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 <sup>1</sup>	≥ 25% for less than 150 feet	top of ravine (break in ≥25% slope) <sup>3</sup>	50 feet <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	edge of bankful flow or 2-year storm level	15 feet
Secondary Protected Water Features <sup>2</sup>	≥ 25%	edge of bankful flow or 2-year storm level	50 feet

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

<sup>2</sup>Secondary Protected Water Features include intermittent streams draining 50-100 acres.

<sup>3</sup>Where 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 #\_\_).

<sup>4</sup>A maximum reduction 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: The following methodology is an alternative 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.)*

196 D. Uses Permitted Outright

- 197  
198 1. Stream, wetland, riparian and upland enhancement or restoration  
199 projects; and farming practices as defined in ORS 30.930 and farm  
200 use as defined in ORS 215.203.

- 201  
202 2. Placement of structures that does not require a grading or building  
203 permit.

204  
205 *(Note: City and Counties have the option of choosing to apply the*  
206 *Water Quality and Flood Management Area performance standards*  
207 *of Table 1.)*

- 208  
209 3. Routine repair and maintenance of existing structures, roadways,  
210 driveways, utility facilities, accessory uses and other development.

211  
212 *(Note: Local jurisdictions may choose to place this subsection – D3*  
213 *– in subsection E as item 3, Uses under Prescribed Conditions, and*  
214 *prescribe those conditions.)*

215  
216 E. Uses Under Prescribed Conditions

- 217  
218 1. Repair, replacement or improvement of utility facilities where:

- 219  
220 a. the disturbed portion of the Water Quality Resource Area is  
221 restored; and  
222  
223 b. non-native vegetation is removed from the Water Quality  
224 Resource Area and replaced with vegetation from the Metro  
225 Native Plant List.

- 226  
227 2. Additions, alterations, rehabilitation, or replacement of existing  
228 structures that do not increase existing structural footprint in the  
229 Water Quality Resource Area where the disturbed portion of the  
230 Water Quality Resource Area is restored using native vegetative  
231 cover.

232  
233 F. Conditional Uses

234  
235 The following uses are allowed in the Water Quality Resource Area  
236 Overlay Zone subject to compliance with the Application Requirements  
237 and Development Standards of subsections H and I.

- 238  
239 1. Any use allowed in the base zone, other than those listed in  
240 subsection D and E above.  
241

- 242 2. Measures to remove or abate nuisances, or any other violation of  
243 state statute, administrative agency rule or city or county ordinance.  
244  
245 3. Roads to provide access to Protected Water Features or necessary  
246 ingress and egress across Water Quality Resource Areas.  
247  
248 4. New public or private utility facility construction.  
249  
250 5. Walkways and bike paths. (Subsection H.5).  
251  
252 6. New stormwater pre-treatment facilities (Subsection H.6).  
253  
254 7. Widening an existing road adjacent to or running parallel to a Water  
255 Quality Resource Area.  
256  
257 8. Additions, alterations, rehabilitation or replacement of existing  
258 structures, roadways, accessory uses and development that increase  
259 the structural footprint within the Water Quality Resource Area.  
260  
261 G. Prohibited Uses  
262  
263 1. Any new structures, development, other than those listed in  
264 subsection D, and E and F, construction activities, gardens, lawns,  
265 dumping of any materials of any kind.  
266  
267 2. Uncontained areas of hazardous materials as defined by the  
268 Department of Environmental Quality.  
269  
270 H. Application Requirements  
271  
272 Applications for Conditional Uses in the Water Quality Resource Area  
273 Overlay Zone must provide the following information in addition to the  
274 information required for the base zone:  
275  
276 1. A topographic map of the site at contour intervals of five feet or less  
277 showing a delineation of the Water Quality Resource Area, which  
278 includes areas shown on the City/County Water Quality and Flood  
279 Management Area map, and that meets the definition of Water  
280 Quality Resource Areas in Table 1.  
281  
282 2. The location of all existing natural features including, but not limit  
283 to, all trees of a caliper greater than six (6) inches diameter at breast  
284 height (DBH), natural drainages on the site, springs, seeps and  
285 outcroppings of rocks, or boulders within the Water Quality  
286 Resource Area.  
287

- 288 3. Location of wetlands. Where wetlands are identified, the applicant  
289 shall follow the Division of State Lands recommended wetlands  
290 assessment process. Descriptions and assessments required in this  
291 section shall be prepared by a professional wetlands specialist.  
292
- 293 4. An inventory and location of existing debris and noxious materials.  
294
- 295 5. An assessment of the existing condition of the Water Quality  
296 Resource Area in accordance with Table 2.  
297
- 298 6. An inventory of vegetation, including percentage ground and canopy  
299 coverage.  
300
- 301 7. Alternatives analysis demonstrating that:  
302
- 303 a. No practicable alternatives to the requested development exist  
304 that will not disturb the Water Quality Resource Area; and  
305
- 306 b. Development in the Water Quality Resource Area has been  
307 limited to the area necessary to allow for the proposed use; and  
308
- 309 c. The Water Quality Resource Area can be restored to an equal or  
310 better condition in accordance with Table 2; and  
311
- 312 d. It will be consistent with a Water Quality Resource Area  
313 Mitigation Plan.  
314
- 315 e. An explanation of the rationale behind choosing the alternative  
316 selected, including how adverse impacts to resource areas will be  
317 avoided and/or minimized.  
318
- 319 8. A Water Quality Resource Area Mitigation Plan shall contain the  
320 following information:  
321
- 322 a. A description of adverse impacts that will be caused as a result of  
323 development.  
324
- 325 b. An explanation of how adverse impacts to resource areas will be  
326 avoided, minimized, and/or mitigated in accordance with, but not  
327 limited to, Table 2.  
328
- 329 c. A list of all responsible parties including, but not limited to, the  
330 owner, applicant, contractor or other persons responsible for  
331 work on the development site.  
332

- 333 d. A map showing where the specific mitigation activities will  
334 occur.  
335  
336 e. An implementation schedule, including timeline for construction,  
337 mitigation, mitigation maintenance, monitoring, reporting and a  
338 contingency plan. All in-stream work in fish-bearing streams  
339 shall be done in accordance with the Oregon Department of Fish  
340 and Wildlife in-stream timing schedule.  
341

342 I. Development Standards  
343

344 Applications for Conditional Uses in the Water Quality Resource Area  
345 Overlay Zone shall satisfy the following standards:  
346

- 347 1. The Water Quality Resource Area shall be restored and maintained in  
348 accordance with the mitigation plan and the specifications in Table 2.  
349  
350 2. To the extent practicable, existing vegetation shall be protected and  
351 left in place. Work areas shall be carefully located and marked to  
352 reduce potential damage to the Water Quality Resource Area. Trees in  
353 the Water Quality Resource Area shall not be used as anchors for  
354 stabilizing construction equipment.  
355  
356 3. Where existing vegetation has been removed, or the original land  
357 contours disturbed, the site shall be revegetated, and the vegetation  
358 shall be established as soon as practicable. Nuisance plants, as  
359 identified in the Metro Native Plant List attached as \_\_\_\_, may be  
360 removed at any time. Interim erosion control measures such as  
361 mulching shall be used to avoid erosion on bare areas. Nuisance plants  
362 shall be replaced with non-nuisance plants by the next growing season.  
363  
364 4. Prior to construction, the Water Quality Resource Area shall be  
365 flagged, fenced or otherwise marked and shall remain undisturbed  
366 except as allowed in Subsection F. Such markings shall be  
367 maintained until construction is complete.  
368  
369 5. Walkways and bike paths:  
370  
371 a. A gravel walkway or bike path shall not be constructed closer  
372 than 10 feet from the boundary of the Protected Water Feature.  
373 Walkways and bike paths shall be constructed so as to minimize  
374 disturbance to existing vegetation. Where practicable, a  
375 maximum of 10 percent of the trail may be within 30 feet of the  
376 Protected Water Feature.  
377

b. A paved walkway or bike path shall not be constructed closer than 10 feet from the boundary of the Protected Water Feature. For any paved walkway or bike path, the width of the Water Quality Resource Area must be increased by a distance equal to the width of the path. Walkways and bike paths shall be constructed so as to minimize disturbance to existing vegetation. Where practicable, a maximum of 10 percent of the trail may be within 30 feet of the Protected Water Feature.

c. A walkway or bike path shall not exceed 10 feet in width.

6. Stormwater pre-treatment facilities:

- a. The stormwater pre-treatment facility may only encroach a maximum of 25 feet into the outside boundary of the Water Quality Resource Area of a primary water feature; and
- b. The area of encroachment must be replaced by adding an equal area to the Water Quality Resource Area on the subject property.

7. Additions, alterations, rehabilitation and replacement to structures that are conforming in the base zone.

- a. For existing structures, roadways, driveways, accessory uses and development which are 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:

- a. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:
  - 1) As close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable;

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- 2) Within the watershed where the development will take place or as otherwise specified by the city or county in an approved Wetland Mitigation Bank.
- b. In order to ensure that the mitigation area will be protected in perpetuity, proof that a deed restriction has been placed on the property where the mitigation is to occur is required.

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458

Table 2

WATER QUALITY RESOURCE AREA REQUIREMENTS

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS <u>UNDISTURBED</u> DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS <u>DISTURBED</u> DURING CONSTRUCTION
<b>Good Existing Corridor:</b> Combination of trees, shrubs and groundcover are 80% present, and there is more than 50% tree canopy coverage in the vegetated corridor.	<i>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.</i>  <i>Inventory and remove debris and noxious materials.</i>	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 the development, including: <ul style="list-style-type: none"><li>• sediments, temperature and nutrients</li><li>• sediment control</li><li>• temperature control</li><li>• or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list.</li></ul> Inventory and remove debris and noxious materials.

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**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.



EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS <u>UNDISTURBED</u> DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS <u>DISTURBED</u> 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><i>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.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></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>

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**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS <u>UNDISTURBED</u> DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS <u>DISTURBED</u> 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><i>Vegetate bare areas with plantings from approved Native Plant List.</i></p> <p><i>Remove non-native species and revegetate with plantings from approved Native Plants List.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></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>

468

469 **Note:** The middle column, being italicized, indicates that it is an option for consideration  
 470 in the development review process.

**Section 4. Flood Management**

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

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

C. The Flood Management Areas mapped include:

1. Land contained within the 100-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance maps and the area of inundation for the February 1996 flood; and
2. Lands that have physical or documented evidence of flooding within recorded history. Jurisdictions shall use the most recent and technically accurate information available to determine the historical flood area, such as the aerial photographs of the 1996 flooding and digitized flood elevation maps.

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

E. Uses Permitted Outright:

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

- 517 2. Uncontained areas of hazardous materials as defined by the  
518 Department of Environmental Quality.  
519

520 H. Development Standards  
521

522 All development, excavation and fill in the floodplain shall conform to the  
523 following balanced cut and fill standards:  
524

- 525 1. No net fill in any floodplain is allowed. All fill placed in a  
526 floodplain shall be balanced with at least an equal amount of soil  
527 material removal.  
528  
529 2. Excavation areas shall not exceed fill areas by more than 50 percent  
530 of the square footage.  
531  
532 3. Any excavation below bankful stage shall not count toward  
533 compensating for fill.  
534

535 *(Note: These areas would be full of water in the winter and not available*  
536 *to hold stormwater.)*  
537

- 538 4. Excavation to balance a fill shall be located on the same parcel as the  
539 fill unless it is not reasonable or practicable to do so. In such cases,  
540 the excavation shall be located in the same drainage basin and as  
541 close as possible to the fill site, so long as the proposed excavation  
542 and fill will not increase flood impacts for surrounding properties as  
543 determined through hydrologic and hydraulic analysis.  
544  
545 5. For excavated areas identified by the city or county to remain dry in  
546 the summer, such as parks or mowed areas, the lowest elevation of  
547 the excavated area shall be at least 6 inches above the winter "low  
548 water" elevation, and sloped at a minimum of two percent towards  
549 the Protected Water Feature. One percent slopes will be allowed in  
550 areas of \_\_\_ acres or less.  
551  
552 6. For excavated areas identified by the city or county to remain wet in  
553 the summer, such as a constructed wetland, the grade shall be  
554 designed not to drain into the Protected Water Feature.  
555  
556 7. Minimum finished floor elevations must be at least one foot above  
557 the design flood height or highest flood of record, whichever is  
558 higher, for new habitable structures in the Flood Area.  
559  
560 8. Short-term parking in the floodplain may be located at an elevation  
561 of no more than one foot below the ten-year floodplain so long as the  
562 parking facilities do not occur in a Water Quality Resource Area.

563 Long-term parking in the floodplain may be located at an elevation  
564 of no more than one foot below the 100-year floodplain so long as  
565 the parking facilities do not occur in a Water Quality Resource Area.  
566

- 567 9. Temporary fills permitted during construction shall be removed.  
568  
569 10. New culverts, stream crossings and transportation projects shall be  
570 designed as balanced cut and fill projects or designed not to  
571 significantly raise the design flood elevation. Such projects shall be  
572 designed to minimize the area of fill in Flood Management Areas  
573 and to minimize erosive velocities. Stream crossings shall be as  
574 close to perpendicular to the stream as practicable. Bridges shall be  
575 used instead of culverts wherever practicable.  
576  
577 11. Excavation and fill required for the construction of detention  
578 facilities or structures, and other facilities, such as levees,  
579 specifically shall be designed to reduce or mitigate flood impacts and  
580 improve water quality. Levees shall not be used to create vacant  
581 buildable lands.  
582

583 **Section 5. Subdivisions and Partitions (*optional*)**  
584

- 585 A. The purpose of this section is to amend the City/County regulations  
586 governing land divisions to require that new subdivision and partition plats  
587 delineate and show the Water Quality Resource Area as a separate tract.  
588  
589 B. The standards for land divisions in Water Quality Resource Areas shall  
590 apply in addition to the requirements of the City/County land division  
591 ordinance and zoning ordinance.  
592  
593 C. Prior to preliminary plat approval, the Water Quality Resource Area shall  
594 be shown as a separate tract, which shall not be a part of any parcel used  
595 for construction of a dwelling unit.  
596  
597 D. Prior to final plat approval, ownership of the Water Quality Resource Area  
598 tract shall be identified to distinguish it from lots intended for sale. The  
599 tract may be identified as any one of the following:  
600  
601 1. Private open space held by the owner or homeowners association; or  
602  
603 2. Residential land divisions, private open space subject to an easement  
604 conveying storm and surface water management rights to the  
605 City/County and preventing the owner of the tract from activities and  
606 uses inconsistent with the purpose of this ordinance; or  
607

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

610  
611 4. Any other ownership proposed by the owner and approved by the  
612 Director.

613  
614 E. Where the Water Quality Resource Area tract is dedicated to the  
615 City/County or other governmental unit, development shall be subject to a  
616 minimum 3-foot setback from the Water Quality Resource Area.

617  
618 **Section 6. Density Transfers**

619  
620 A. The purpose of this section is to allow density accruing to portions of a  
621 property within the Water Quality Resource Area and Flood Management  
622 Area Overlay Zones to be transferred outside the overlay zones.

623  
624 B. Development applications that request a density transfer must provide the  
625 following information:

626  
627 1. A map showing the net buildable area to which the density will be  
628 transferred.

629  
630 2. Calculations justifying the requested density increase.

631  
632 C. Density transfers shall be allowed if the applicant demonstrates  
633 compliance with the following standards:

634  
635 1. The density proposed for the lot receiving the density is not  
636 increased to more than two (2) times the permitted density of the  
637 base zone. Fractional units shall be rounded down to the next whole  
638 number.

639  
640 *(Note: This is one way of restricting density.)*

641  
642 2. Minimum density standards will not increase due to the density  
643 transfers.

644  
645 D. The area of land contained in a Water Quality Resource Area may be  
646 excluded from the calculations for determining compliance with minimum  
647 density requirements of the zoning code.

648  
649 E. All standards of the base zone other than density requirements continue to  
650 apply.

651  
652 F. Density transfers shall be recorded on the title of the lot in the Water  
653 Quality Resource Area and on the title of the transfer lot.

- 654 G. Once density is transferred from a lot in the Water Quality Resource Area,  
655 the density increase allocated to the transfer lot may not be transferred to  
656 any other lot.  
657

658 **Section 7. Erosion Prevention and Sediment Control**  
659

- 660 A. The purpose of this section is to require erosion prevention measures and  
661 sediment control practices for all development inside and outside the  
662 Water Quality Resource Area and Flood Management Area Overlay Zones  
663 during construction to prevent and restrict the discharge of sediments, and  
664 to require final permanent erosion prevention measures, which may  
665 include landscaping, after development is completed. Erosion prevention  
666 techniques shall be designed to protect soil particles from the force of  
667 water and wind so that they will not be transported from the site.  
668 Sediment control measures shall be designed to capture soil particles after  
669 they have become dislodged by erosion and attempt to retain the soil  
670 particles on site.  
671
- 672 B. Prior to, or contemporaneous with, approval of an application that may  
673 cause visible or measurable erosion, the applicant must obtain an Erosion  
674 and Sediment Control Permit.  
675
- 676 C. An application for an Erosion and Sediment Control Permit shall include  
677 an Erosion and Sediment Control Plan, which contains methods and  
678 interim measures to be used during and following construction to prevent  
679 or control erosion. The plan shall demonstrate the following:  
680
- 681 1. The Erosion and Sediment Control Plan meets the requirements of  
682 the *Erosion Prevention and Sediment Control Plans, Technical*  
683 *Guidance Handbook (Handbook)* attached and incorporated by  
684 reference as part of this ordinance;  
685
  - 686 2. The Erosion and Sediment Control Plan will:  
687
    - 688 a. Prevent erosion by employing prevention practices such as non-  
689 disturbance, construction schedules, erosion blankets and mulch  
690 covers; or  
691
    - 692 b. Where erosion cannot be completely avoided, the sediment  
693 control measures will be adequate to prevent erosion from  
694 entering the public stormwater system, surface water system, and  
695 Water Quality Resource Areas; and  
696
    - 697 c. Will allow no more than a ten percent cumulative increase in  
698 natural stream turbidities, as measured relative to a control point  
699 immediately upstream of the turbidity causing activity.

700 However, limited duration activities necessary to address an  
701 emergency or to accommodate essential dredging, construction  
702 or other legitimate activities, and that cause the standard to be  
703 exceeded may be authorized provided all practicable turbidity  
704 control techniques have been applied.  
705

706 3. The applicant will actively manage and maintain erosion control  
707 measures and utilize techniques described in the Permit to prevent or  
708 control erosion during and following development. Erosion and  
709 sediment control measures required by the Permit shall remain in  
710 place until disturbed soil areas are permanently stabilized by  
711 landscaping, grass, approved mulch or other permanent soil  
712 stabilizing measures;  
713

714 4. No mud, dirt, rock or other debris will be deposited upon a public  
715 street or any part of the public stormwater system, surfacewater  
716 system, Water Quality Resource Area, or any part of a private  
717 stormwater system or surfacewater system that drains or connects to  
718 the public stormwater or surfacewater system.  
719

720 D. The Erosion and Sediment Control Plan shall be reviewed in conjunction  
721 with the requested development approval. If the development does not  
722 require review under Sections 3 and 4 of this ordinance, the Director may  
723 approve or deny the permit with notice of the decision to the applicant.  
724

725 E. The city or county may inspect the development site to determine  
726 compliance with the Erosion and Sediment Control Plan and Permit.  
727

728 F. Erosion that occurs on a development site that does not have an Erosion  
729 and Sediment Control Permit, or that results from a failure to comply with  
730 the terms of such a Permit, constitutes a violation of this ordinance.  
731

732 G. If the Director finds that the facilities and techniques approved in an  
733 Erosion and Sediment Control Plan and Permit are not sufficient to  
734 prevent erosion, the Director shall notify the permittee. Upon receiving  
735 notice, the permittee shall immediately install interim erosion and  
736 sediment control measures as specified in the *Handbook*. Within three  
737 days from the date of notice, the permittee shall submit a revised Erosion  
738 and Sediment Control Plan to the city or county. Upon approval of the  
739 revised plan and issuance of an amended Permit, the permittee shall  
740 immediately implement the revised plan.  
741

## 742 Section 8. Variances

743

744 A. The purpose of this Section is to ensure that compliance with this  
745 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 Section 3F, the applicant must demonstrate the following:

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 requirements 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;

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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 3.H.8 (mitigation) or Section 7(erosion control), the proposed use will comply with those standards; and
  6. The proposed use complies with the standards of the base zone.

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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 in Section 7 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 8.E (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;
3. The proposed variance will comply with Section 3.H.8 (mitigation) and Section 7 (erosion control); and
4. The proposed use complies with the standards of the base zone.

G. Variance Conditions

The Director may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief. If a variance is granted pursuant to subsections E. 1-6, the variance shall be subject to the following conditions:

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1. The minimum width of the vegetated corridor shall be 15 feet on each side of a Primary Protected Water Feature, except as allowed in Section 3F and 3H;
  2. No more than 25 percent of the length of the Water Quality Resource Area for a Primary Protected Water Feature within a development site can be less than 30 feet in width on each side of the water feature; and
  3. In either case, the average width of the Water Quality Resource Area shall be a minimum of 15 feet on each side for Secondary Protected Water Features; a minimum of 50 feet on each side for Primary Protected Water Features; or up to 200 feet on each side in areas with slopes greater than 25 percent. The stream shall be allowed to meander within this area, but in no case shall the stream be less than 10 feet from the outer boundary of the Water Quality Resource Area.

856 **Section 9. Map Errors**

857  
858 **(PLACEHOLDER)**

859  
860 *(Note: It is recognized that there will be mapping errors in the Title 3 map.*  
861 *Whether these are errors of omission or errors where the map shows a resource*  
862 *where a resource does not exist, the jurisdiction shall develop and implement a*  
863 *public process whereby property owners, local stream groups, watershed councils*  
864 *and the affected public may submit suggested mapping corrections through a full*  
865 *and open public process. Process for correction of map errors should be*  
866 *included unless the general map error provision of the zoning code is sufficient)*  
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868 **Section 10. Consistency**

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870 Where the provisions of this ordinance are less restrictive or conflict with  
871 comparable provisions of the zoning ordinance, regional, state or federal law, the  
872 provisions that are more restrictive shall govern. Where this ordinance imposes  
873 restrictions that are more stringent than regional, state and federal law, the  
874 provisions of this ordinance shall govern.  
875

876 **Section 11. Warning and Disclaimer of Liability**

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878 The degree of flood protection required by this ordinance is considered reasonable  
879 for regulatory purposes and is based on scientific and engineering considerations.  
880 Larger floods can and will occur on rare occasions. Flood heights may be  
881 increased by man-made or natural causes. This ordinance does not imply that  
882 land outside the areas of special flood hazards or uses permitted within such areas  
883 will be free from flooding or flood damage. This ordinance shall not create

liability on the part of the City or County, any officer or employee thereof, or the Federal Insurance Administration, for any damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

## **Section 12. Severability**

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

## **Section 13. Enforcement**

A. No person shall engage in or cause to occur any development, use or activity that fails to meet the standards and requirements of this ordinance. Development, uses or activities that are not specifically allowed within the Water Quality Resource Area are prohibited. All activities that may cause visible or measurable erosion are prohibited prior to the applicant obtaining an Erosion and Sediment Control Permit.

B. In addition to other powers the city or county may exercise to enforce this ordinance, the city or county may:

1. Establish a cooperative agreement between the (enforcement authority) and the applicant (or responsible party) to remedy the violation.
2. Issue a stop work order.
3. Impose a civil penalty of not more than \$\_\_\_ for each violation upon the permittee, contractor or person responsible for carrying out the development work. Each day of violation shall constitute a separate offense.
4. Cause an action to be instituted in a court of competent jurisdiction.
5. Authorize summary abatement and subsequent recovery of costs 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.

**Section 14. Definitions**

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

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

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

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

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

**Debris**

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

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

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

**Disturb**

**Division of State Lands Wetland Determinations** - As defined in OAR 141-86-200 (definitions for Local Wetland Inventory Standards and Guidelines), "wetland determination" means identifying an area as wetland or non-wetland.

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

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

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

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

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

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

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

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

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

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

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

998  
999 **Lot** - Lot means a single unit of land that is created by a subdivision of land. (ORS  
1000 92.010(3)).

1001  
1002 **Mitigation** - the reduction of adverse effects of a proposed project by considering, in the  
1003 order: a) avoiding the impact all together by not taking a certain action or parts of an  
1004 action; b) minimizing impacts by limiting the degree or magnitude of the action and its  
1005 implementation; c) rectifying the impact by repairing, rehabilitating or restoring the  
1006 effected environment; d) reducing or eliminating the impact over time by preservation  
1007 and maintenance operations during the life of the action by monitoring and taking  
1008 appropriate measures; and e) compensating for the impact by replacing or providing  
1009 comparable substitute water quality resource areas.

1010  
1011 **Native Vegetation** - any vegetation native to the Portland metropolitan area or listed on  
1012 the Metro Native Plant list.

1013  
1014 **ODFW Construction Standards** - Oregon Department of Fish and Wildlife construction  
1015 guidelines for building roads, bridges and culverts or any transportation structure within a  
1016 waterway.

1017  
1018 **Open Space** - Land that is undeveloped and that is planned to remain so indefinitely.  
1019 The term encompasses parks, forests and farm land. It may also refer only to land zoned  
1020 as being available to the public, including playgrounds, watershed preserves and parks.

1021  
1022 **Ordinary Mean High Water Line** - As defined in OAR 141-82-005 as the line on the  
1023 bank or shore to which water ordinarily rises in season; synonymous with Mean High  
1024 Water (OAR 274.005).

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1026 **Ordinary Mean Low Water Line** - As defined in OAR 141-82-005 as the line on the on  
1027 the bank or shore to which water ordinarily recedes in season; synonymous with Mean  
1028 Low Water (OAR 274.005).

1029  
1030 **Owner or Property Owner** - The person who is the legal record owner of the land, or  
1031 where there is a recorded land sale contract, the purchaser thereunder.

1032  
1033 **Parcel** - Parcel means a single unit of land that is created by a partitioning of land. (ORS  
1034 92.010(7)).

1035  
1036 **Plans** - The drawings and designs which specify construction details as prepared by the  
1037 Engineer.

**Post-Construction Erosion Control** - Consists of re-establishing groundcover or landscaping prior to the removal of temporary erosion control measures.

**Protected Water Features**

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.

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

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

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

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

**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.



**Statewide Planning Goal 5** - Oregon's statewide planning goal that addresses open space, scenic and historic areas, and natural resources. The purpose of the goal is to conserve open space and protect natural and scenic resources.

**Statewide Planning Goal 6** - Oregon's statewide planning goal that addresses air, water and land resources quality to "maintain and improve the quality of the air, water and land resources of the state" as implemented by the Land Conservation and Development Commission (LCDC).

**Statewide Planning Goal 7** - Oregon's statewide planning goal that addresses areas subject to natural disasters and hazards to "protect life and property from natural disasters and hazards" as implemented by the Land Conservation and Development Commission (LCDC).

**Steep slopes** - Steep slopes are those slopes that are equal to or greater than 25%. Steep slopes have been removed from the "buildable lands" inventory and have not been used in calculations to determine the number of acres within the urban growth boundary which are available for development.

**Stormwater Pre-treatment Facility** -

**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.

**Structure** - A building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles or irrigation system components, that are not customarily regulated through zoning codes.

**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.

**Top of Bank** - The same as "bankful stage" defined in OAR 141-85-010(2).

**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. Utility facilities do not include stormwater pre-treatment facilities.

**Vegetated Corridor** - the area of setback between the top of bank of a Protected Water Feature and the delineated edge of the Water Quality Resource Area as defined in Table 1.

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

- 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.

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

**Water Quality and Floodplain Management Area** - The area that identifies where the Water Quality Resource Area and Floodplain Management Area Overlay Zone is applied.

**Water Quality Facility** - Any structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales, and ponds that are maintained as stormwater quality control facilities.

**Watershed** - A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

**Wetlands** - Wetlands are shown on the Metro Water Quality and Flood Management Area Map or are areas that meet the Oregon Division of State Lands definition of wetlands. These areas are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 1987

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TITLE 3  
URBAN GROWTH MANGEMENT FUNCTIONAL PLAN

MODEL ORDINANCE

Councilor Don Morissette Amendment No.1

4/21/98

Amend page 17, Section 5 Subdivisions and Partitions, to read:

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

- A. ~~The purpose of this section is to amend the City/County regulations governing land divisions to require that new subdivision and partition plats delineate and show the Water Quality Resource Area as a separate tract.~~
- B. ~~The standards for land divisions in Water Quality Resource Areas shall apply in addition to the requirements of the City/County land division ordinance and zoning ordinance.~~
- C. ~~Prior to preliminary plat approval, the Water Quality Resource Area shall be shown as a separate tract, which shall not be a part of any parcel used for construction of a dwelling unit.~~
- D. ~~Prior to final plat approval, ownership of the Water Quality Resource Area tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:~~
1. ~~Private open space held by the owner or homeowners association; or~~
  2. ~~Residential land divisions, private open space subject to an easement conveying storm and surface water management rights to the City/County and preventing the owner of the tract from activities and uses inconsistent with the purpose of this ordinance; or~~
  3. ~~At the owner's option, public open space where the tract has been dedicated to the City/County or other governmental unit; or~~
  4. ~~Any other ownership proposed by the owner and approved by the Director.~~
- E. ~~Where the Water Quality Resource Area tract is dedicated to the City/County or other governmental unit, development shall be subject to a maximum 3 foot setback from the Water Quality Resource Area.~~

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

MODEL ORDINANCE

Councilor Don Morissette Amendment No.2

4/21/98

Amend page 20, Section 8 Variances, line 719 to read:

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~~ the minimum area necessary to allow for the requested use, subject to the erosion and sediment control standards of this ordinance.

and line 757

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~~ the minimum area necessary to allow for the requested use, subject to the erosion and sediment control standards of this ordinance. Applicants must demonstrate the following:

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TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN  
MODEL ORDINANCE

Councilor Don Morissette Amendment No.3

4/21/98

Amend page 28, Section 10 Definitions, line 1020 to read:

**Protected Water Features -**

*Primary Protected Water Features* shall include:

- a) wetlands that meet the "significance" criteria established by the Division of State Lands (DSL) under ORS 197.279(3)(b) and OAR Chapter 141, Division 86; 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.

*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 (regardless of whether it carries year-round flow).

TITLE 3  
URBAN GROWTH MANGEMENT FUNCTIONAL PLAN  
MODEL ORDINANCE

Councilor Don Morissette Amendment No.4

4/21/98

Amend page 30, Section 14 Definitions, line 1132 to read:

~~Wetlands are shown on the Metro Water Quality and Flood Management Area Map or are areas that meet the Oregon Division of State Lands definition of wetlands:~~  
Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the Corps of Engineers Wetland Delineation Manual: Technical Report 4-87-1 by Environmental Laboratories 1987 for purposes of this policy, wetlands shall also be identified as a "significant wetland" pursuant to OAR Chapter 141, Division-86, and shall provide water quality functions as set forth by the 1996 Oregon Freshwater Wetland Assessment Methodology or Hydro Geomorphic Methodology (HGM). For the purposes of this policy, wetland areas, which are not subject to regulatory jurisdiction of the Corps of Engineers or Division of State Lands, are not included as wetlands.

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ORDINANCE 98-730

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Councilor Naito Amendment No. 5

May 5, 1998

Amend Exhibit C, Section 3.H.7. to add:

f. For applications seeking an alteration, additions, rehabilitation or replacement of existing structures:

- i. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
- ii. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
- iii. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.

REASON: Implements identical language MPAC has recommended to be added to Title 3.

ORDINANCE 98-730

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Councilor Naito Amendment No. 6

May 5, 1998

Amend Exhibit C, Section 3.I.7. to read:

7. Additions, alterations, rehabilitation and replacement to lawful structures ~~that are conforming in the base zone.~~

- a. For existing structures, roadways, driveways, accessory uses and development which are nonconforming ~~in the base zone~~, this ordinance shall apply in addition to the nonconforming use restrictions regulations of the City/County zoning ordinance.

REASON: Implements recommendation from MPAC to clarify regulation of nonconforming uses in the vegetated corridors.



ORDINANCE 98-730

TITLE 3  
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Councilor Naito Amendment No. 7

May 5, 1998

Amend Exhibit C, Section 14 to add definitions:

**Debris** — discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance, or ornamental and recreational structures.

**Disturb** — man-made changes to the existing physical status of the land, which are made in connection with development. The following uses (activities) are excluded from the definition:

- a. enhancement or restoration of the Water Quality Resource Area;
- b. planting native cover identified in the Metro Native Plant List.

**Stormwater Pre-treatment Facility** — any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

**Exhibit E Amendments**  
**Ordinance No. 98-730**

## TITLE 10

Councilor Don Morissette Amendment No.5

4/21/98

Amend Exhibit E, Definitions, line 331 to read:

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

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*Agenda Item 8.2*

**ORDINANCES -- SECOND READING**

**Ordinance No. 98-735, For the Purpose of Lowering the Minimum for the 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**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF LOWERING THE	)	ORDINANCE NO 98-735
MINIMUM FOR GROUP DISCOUNT	)	
CLASSIFICATION FROM 25 TO 20 PERSONS	)	Introduced by Mike Burton
AND GRANTING COMPLIMENTARY	)	Executive Officer
ADMISSION TO THE DRIVERS AND ESCORTS	)	
OF PRE-FORMED TOUR GROUPS AT METRO	)	
WASHINGTON PARK ZOO	)	

WHEREAS, for many years, the Metro Washington Park Zoo has had a policy granting a 20% discount to pre-formed groups of 25 or more; and

WHEREAS, recent surveys of groups have shown that this number is too high for many of the groups to whom we market the discount; and

WHEREAS, most of our competitors offer a lower minimum; and

WHEREAS, the policy of offering complimentary admission to drivers and escorts of pre-formed groups is a standard practice in the group sales business;

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. The minimum number of persons qualifying for a 20% group discount at the Metro Washington Park Zoo is lowered from 25 to 20, and complimentary admission is offered to drivers and escorts of pre-formed groups of 20 or more;

2. Metro Code Section 4.01.050 is amended to read as follows:

**4.01.050 Admission Fees and Policies**

**(a) Regular Fees**

**(1) Definitions**

**(A) An Education Discount is offered to groups of students in a state accredited elementary, middle, junior, or high school, or pre-school/daycare center. Qualifications for education discount include a minimum of one**

chaperon/escort, 18 years of age or older, for every five students of high school age or under; registration for a specific date at least two weeks in advance; and the purchase of curriculum materials offered by the zoo, or submission of a copy of the lesson plan that will be used on the day of the visit.

- (B) The Group Discount is defined as any group of 2520 or more (including school groups that have not met the advance registration and curriculum requirements for the education discount; groups of students not accompanied by a minimum of one chaperon for every five students shall not qualify for the group discount).

(2) Fee Schedule

Adult (12 years and over)	\$5.50
Youth (3 years through 11 years)	\$3.50
Child (2 years and younger)	free
Senior Citizen (65 years and over)	\$4.00
Education Groups (per student)	\$2.50
Chaperons/ <u>Escorts</u> 18 years or older admitted with education groups (maximum of one per five students)	free

<u>Driver(s)/Escorts 18 years or older</u> <u>admitted with groups other than</u> <u>education groups (maximum of two</u> <u>per twenty group members)</u>	free
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Additional chaperons/escorts 18 years or older in excess of one per five students will receive the group discount adult rate (20 percent discount) \$4.40

Groups other than education groups  
2520 or more per group 20 percent discount  
from appropriate fee  
listed above

(b) Free and Reduced Admission Passes

- (1) Free and reduced admission passes may be issued by the director in accordance with this chapter.

- (2) A free admission pass will entitle the holder only to enter the zoo without paying an admission fee.
- (3) A reduced admission pass will entitle the holder only to enter the zoo by paying a reduced admission fee.
- (4) The reduction granted in admission, by use of a reduced admission pass (other than free admission passes), shall not exceed 20 percent.
- (5) Free or reduced admission passes may be issued to the following groups or individuals and shall be administered as follows:
  - (A) Metro employees shall be entitled to free admission upon presentation of a current Metro employee identification card.
  - (B) Metro councilors and the Metro executive officer shall be entitled to free admission.
  - (C) Free admission passes in the form of volunteer identification cards may, at the director's discretion, be issued to persons who perform volunteer work at the zoo. Cards shall bear the name of the volunteer, shall be signed by the director, shall be non-transferrable, and shall terminate at the end of each calendar year or upon termination of volunteer duty, whichever date occurs first. New identification cards may be issued at the beginning of each new calendar year for active zoo volunteers.
  - (D) Reduced admission passes may be issued to members of any organization approved by the council, the main purpose of which is to support the Metro Washington Park Zoo. Such passes shall bear the name of the passholder, shall be signed by an authorized representative of the organization, shall be non-transferrable, and shall terminate not more than one year from the date of issuance.
  - (E) Other free or reduced admission passes may, with the approval of the director, be issued to other individuals who are working on educational projects or projects valuable to the zoo. Such passes shall bear an expiration date not to exceed three months from the date of issuance, shall bear the name of the passholder, shall be

signed by the director and shall be non-transferrable.

(c) Special Admission Days

- (1) Special admission days are days when the rates established by this Code are reduced or eliminated for a designated group or groups. Six special admission days may be allowed, at the discretion of the director, during each calendar year.
- (2) Three additional special admission days may be allowed each year by the director for designated groups. Any additional special admission days designated under this subsection must be approved by the executive officer.

(d) Special Free Hours. Admission to the zoo shall be free for all persons from 3:00 p.m. until closing on the second Tuesday of each month.

(e) Commercial Ventures. Proposed commercial or fund-raising ventures with private profit or nonprofit entities involving admission to the zoo must be authorized in advance by the executive officer. The executive officer may approve variances to the admission fees to facilitate such ventures.

(f) Special Events. The zoo, or portions thereof, may be utilized for special events designed to enhance zoo revenues during hours that the zoo is not normally open to the public. The number, nature of, and admission fees for such events shall be subject to the approval of the executive officer.

(Ordinance No. 92-412A, Sec. 2. Amended by Ordinance No. 93-505; Sec. 1; Ordinance No. 94-568)

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 1998

\_\_\_\_\_  
Jon Kvistad, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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**REGIONAL FACILITIES COMMITTEE REPORT**

**CONSIDERATION OF ORDINANCE NO. 98-735, FOR THE PURPOSE OF LOWERING THE MINIMUM FOR THE 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.**

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**Date:** April 28, 1998

**Presented by:** Councilor: Naito

**Committee Action:** At its April 22, 1998 meeting, the Regional Facilities Committee unanimously recommended Council adoption of Ordinance 98-735. Voting in favor: Councilors McCaig, Naito and McFarland.

**Council Issues/Discussion:** This ordinance lowers the criterion for group discount eligibility at the Zoo from 25 people per tour to 20. Approximately 16,000 more people are estimated to now be eligible for the discounted fee. Drivers and escorts of these groups will also now be granted complimentary admission.

There was no committee discussion of this ordinance.

## STAFF REPORT

### CONSIDERATION OF ORDINANCE NO. 98-735 FOR THE PURPOSE OF LOWERING THE MINIMUM FOR THE 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

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Date: March 19, 1998

Presented by: Kathy Kiaunis

## FACTUAL BACKGROUND AND ANALYSIS

Tour groups are an important market for the Metro Washington Park Zoo. With the completion of the Oregon project, the Zoo hopes to command a much larger share of this market. The marketing plan for the new exhibit seeks an additional 16,000 visitors in this category.

In a recent survey of tour organizers and commercial tour operators, we found that our minimum group size qualifying for a discount is higher than most places, and is detrimental to our ability to attract groups. Twenty people is the industry standard for group discounts, and some attractions offer discounts for groups as small as ten people (National Tour Association, 1995). Twenty-two passenger vans are now commonly used for groups organized by commercial tour operators and for church, youth and senior groups. Commercial tour operators often use this discount as their "commission," and are not as likely to come to the Zoo without it.

The Zoo has offered a 20% discount to pre-formed groups of 25 or more for more than 15 years. We would now like lower the group size eligible for a discount to 20.

The policy of offering complimentary admission to drivers and escorts of pre-formed groups is a standard practice in the group sales business and the Zoo would like to incorporate this provision into the ordinance.

## BUDGET IMPACT

Reducing the group size requirement for discount admissions will not adversely effect Zoo revenues. It is believed that the impact of reducing the group size requirement will be offset by the increase in the number of total groups attending.

## EXECUTIVE OFFICE RECOMMENDATIONS

The Executive Officer recommends adoption of Ordinance No. 98-735.

***Agenda Item 9.1***

***RESOLUTIONS***

**Resolution No. 98-2634A, For the Purpose of Approving the  
Year 9 Annual Waste Reduction Work Plan for Metro and  
Local Governments**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING  
THE YEAR 9 ANNUAL WASTE  
REDUCTION WORK PLAN FOR METRO  
AND LOCAL GOVERNMENTS

) RESOLUTION NO. 98-2634A  
)  
) Introduced by Mike Burton  
) Executive Officer  
)

WHEREAS, The Annual Waste Reduction Work Plan for Metro and Local Governments has been a significant part of the region's waste reduction and recycling programs for the past eight years in order to attain state mandated regional recovery goals (OAR 340-90-050); and

WHEREAS, The Annual Waste Reduction Work Plan serves as an implementation tool for the Regional Solid Waste Management Plan; and

WHEREAS, The Annual Waste Reduction Work Plan continues to be one of the primary mechanisms for Metro and local governments to establish and improve recycling and waste reduction efforts throughout the region; and

WHEREAS, The means of implementing these waste reduction tasks is through the Annual Waste Reduction Work Plan, which is adopted by Metro and local governments and defines the work to be completed by each jurisdiction; and

WHEREAS, A cooperative process for formulating and implementing the Year 9 Annual Waste Reduction Work Plan was used by Metro and local governments and ensures a coordinated regional effort to reduce waste; and

WHEREAS, The Year 9 Annual Waste Reduction Work Plan has been through three public comment opportunities and the plan has been amended to reflect input received during this process; and

WHEREAS, The Year 9 Annual Waste Reduction Work Plan is consistent with and meets the intent of the goals and objectives in the Regional Solid Waste Management Plan; and

WHEREAS, The Annual Waste Reduction Work Plan funding distribution to local governments is a revenue-sharing program that is tied to adherence to the plan and satisfactory completion of work plan elements; and

WHEREAS, The Annual Waste Reduction Work Plan grants are funded in the 1998-99 budget; and

WHEREAS, the Year 9 Annual Waste Reduction Work Plan has been reviewed by the Solid Waste Advisory Committee and recommended for Metro Council approval; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED, That the Metro Council approves the Year 9 Annual Waste Reduction Work Plan for Metro and Local Governments (attached hereto as Exhibit "A") and supports increased efforts to reduce waste in the Metro region.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Jon Kvistad, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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April 21, 1998

## **YEAR 9 ANNUAL WASTE REDUCTION PLAN TASK FRAMEWORK**

**FINAL DRAFT**

**April 9, 1998**

**Prologue:** The following 1998-99 Local Government and Metro waste reduction plan framework was developed based on the recommended solid waste practices as listed in the Regional Solid Waste Management Plan (RSWMP).

All tasks listed and implemented by the local jurisdictions are designed to build on the foundation of the RSWMP and contribute to the accomplishment of the regional waste reduction goals. As defined in the plan, local jurisdictions will all contribute to local and regional monitoring, measurement and evaluation of specific programs as well as the measurement and evaluation efforts for the overall solid waste system.

Some of the important intergovernmental coordination efforts that the local governments, Metro and hauler representatives undertake are not specifically addressed in the task list, but are a vital component leading to the successful implementation of the region's waste reduction and recycling programs. Representatives from Metro and local governments meet on a regularly scheduled basis in two work groups to plan programs and coordinate approaches to reduce duplication of effort and to create consistent programs to serve the region's citizens. The two primary work groups are the Local Government Recycling Coordinators and the Commercial Work Group. Both groups have spent considerable time and effort developing and implementing this and past year's programs. Other groups are formed on an ad hoc basis to address particular projects as they arise.

As with the RSWMP, the annual plan provides for a certain degree of local flexibility in the implementation and measurement methods used by local governments to complete tasks. Each local jurisdiction, through completed annual plans, details their own implementation methods that reflect progress toward local and regional goals. Individual jurisdictions' measurement methods will be combined into a regional framework to provide overall measures of the system as a whole.

**Compliance with State Law:** All local jurisdictions will continue to be required to comply with all provisions set forth in State Law (OAR 340-90-040) in addition to the tasks listed in the RSWMP. Metro will continue to be the reporting agency for the region's three county area.

### **Alternative Practices:**

Alternative practices are defined as solid waste management programs or services that are proposed by a local government as an "alternative" to a "recommended practice" in the Regional Solid Waste Management Plan. An alternative practice must demonstrate the same level of expected performance as the recommended practice. Alternative practices allow for local government flexibility in meeting the RSWMP's objective. The specific

application, evaluation and approval criteria for alternative practices has been developed and is included with this document as Attachment B.

**Annual Work Plan Development and Approval Process:** The public input process and program plan development schedule are incorporated into the Year 9 Annual Plan as Attachment A. In addition to the program plan development schedule, local government recycling coordinators and Metro staff plan to keep elected officials, advisory committee members and interested parties apprised of the progress of implemented programs on a quarterly basis via updates to the Metro Council, Metro Solid Waste Advisory Committee and mailings to interested parties. Also included in this attachment is the Alternative Practices application, review and approval process.

### **Regional Benchmarks**

Regional benchmarks are designed to give precise and reliable indicators of system trends that reflect the net effects of all factors that influence the system, including recommended practices. Recommended practices were designed to identify areas of regional interest, set expectations regarding what can be accomplished, and provide a strategy or approach that can also serve as the basis of an alternative practice. The programs and tasks outlined in this plan are based on the recommended practices set forth in the RSWMP.

Three groups of regional benchmarks - system, facility and disposal benchmarks - each containing several quantifiable measures, will track performance of the solid waste system under RSWMP. These benchmarks are listed in the attached table 9.3 from the RSWMP. The expected performance of the recommended practices by the year 2000 and 2005 is shown in the attached table 9.2a and 9.2b from the RSWMP respectively. Each column in the center section of the tables represents a recommended practice, with tonnage impacts on each generator and material type indicated. The tonnages are the amounts of waste that would have been disposed in the absence of the recommended practices. Accordingly, they are shown as reductions in disposal or landfilled quantities from base case<sup>1</sup> disposal.

<sup>1</sup>The base case is intended to draw out the tonnage implications of "no change" to the solid waste system. It serves as a "reference scenario" for solid waste programs that affect rates of generation, recycling and disposal. The base case is derived by applying current recycling and disposal rates (specific to the type of generator, material and location in the region) to population and employment projections over the entire planning horizon. Under the base case, changes in recycling and disposal tonnages are due solely to changes in the trend and structure of regional growth. Regional growth projections are from Metro's Region 2040 Plan.

**I. RESIDENTIAL WASTE PREVENTION PRACTICES**

**1. Education and Information for Waste Prevention**

**Local Government Priority Tasks:**

- a) Continue to emphasize waste prevention in local public education programs (M to assist). Evaluate in July 1998, adjust program as necessary.

**Metro Priority Tasks:**

- a) Design and implement annual regional media campaigns focused on waste prevention (LG to assist).
- b) Continue with "Earth-Wise" purchasing and waste prevention programs focused on households (LG to assist). Evaluate in July 1998.
- c) Continue to provide educational and promotional resources and materials to encourage the purchase of recycled products (LG to assist).

**2. Expand Home Composting**

**Local Government Priority Tasks:**

- a) Continue to promote home composting and Metro home composting workshops (LG to lead local promotion of home composting in general and assist in promoting Metro's workshops).

**Metro Priority Tasks:**

- a) Continue to provide home composting workshops in the Spring and Fall (LG to assist).
- b) Develop demonstration sites to serve all areas of the region (LG to assist). Develop Washington County site 1998-99.
- c) Continue bin distribution program if appropriate and necessary. 1998-99 probable final year of distribution program.



### **3. Expand and Increase Participation in Existing Residential Curbside Programs**

#### **Local Government Priority Tasks:**

- a) Expand and increase participation in existing residential recycling programs annually (improve performance of existing recycling services or add materials to curbside collection programs).
- b) Assess scrap paper curbside collection efforts December 1998 (M to assist).
- c) Develop programs that target the reduction of yard debris in drop box rentals. Program design 1998-99, implement 1999-00.
- d) Monitor multifamily recycling service availability to maintain provision of collection services for at least four materials at the 85% completion level. Provide information to Metro in order to update database as needed (M to assist).
- e) Regional education and promotion campaigns to support single and multifamily curbside recycling (M to assist).

#### **Metro Priority Tasks:**

- a) Develop programs that target the reduction of yard debris in self-haul loads at disposal facilities (LG to assist). Program design 1998-99, implement 1998-99
- b) Regional education and promotion campaigns to support single and multifamily curbside recycling (LG to assist).
- c) Assess scrap paper collection efforts December 1998. (LG to assist).

### **4. Develop New Collection Technologies**

#### **Local Government Priority Tasks:**

- a) Continue to investigate and examine new opportunities in collection technology (e.g., co-collection, alternative schedules, selective commingling, weight-based rates).

#### **Metro Priority Tasks:**

- a) Research the strength of markets and market capacity for materials that might be added to curbside programs (LG to assist).

## **II. BUSINESS WASTE REDUCTION PRACTICES**

### **1. Waste Prevention and Recycling Education, Information and Market Development**

#### **Local Government Priority Tasks:**

- a) Waste prevention, diversion and procurement evaluations will be conducted with a goal of reaching 80% of targeted businesses by 2000. Assess programs by July 1998. 50% of targeted businesses should have been reached by July 1998. (See Attachment C of this document for a description of the targeted businesses identified.)
- b) Assist with regional media campaign design and development. Apply messages locally.

#### **Metro Priority Tasks:**

- a) Model waste prevention programs developed for different types of businesses. Update existing materials and consider adding additional business sectors (LG to assist). 45% of targets by July 2000.
- b) Regional and local media campaigns emphasizing waste prevention (LG to assist with regional effort and lead local efforts).
- c) "Earth-Wise" programs including promotion campaigns, model procurement policies and recycled product guides. Annual updates and publication of guides, targeted promotions.
- d) Continue to provide technical or financial assistance to processors or end users of recycled materials.
- e) Education efforts developed to stress reduction in over-packaging. Promote development of sustainable resource management. (inform consumer of full costs of product).

### **2. Expand Source-Separated Recycling**

#### **Local Government Priority Tasks:**

- a) Collection of paper (newspaper, corrugated cardboard, high-grade office paper, and scrap paper) and containers (glass, steel, aluminum, PET & HDPE) from businesses. For businesses that do not dispose of significant quantities of paper and containers, the most prevalently disposed recyclable materials (e.g. scrap metals, wood, yard debris, or plastic film) will be collected. 100% of businesses by January 1999.

- b) Appropriate recycling containers provided to small businesses. 100% by January 2000
- c) Continue business recycling recognition programs (i.e., BRAG program) (M to assist).
- d) Report to Metro on the percent of customers who recycle through their regulated solid waste hauler. Include 1999 target and any findings related to success or failure, and any proposed changes the current approach. Restate initial targets and provide feedback on progress.

**Metro Priority Tasks:**

- a) Assist with and support promotion of BRAG program on a regional level.
- b) Coordinate strategy to integrate waste evaluations, targeted generator studies and business organic processing efforts in order to accomplish the highest level of waste reduction (LG to assist).

**3. Collection and Off-Site Recovery of Source-Separated Food and Non-Recyclable Paper**

**Local Government Priority Tasks:**

- a) Develop organic waste collection systems from larger generators (M to assist).  
Implementation is contingent upon development of regional processing capacity.

**Metro Priority Tasks:**

- a) Develop strategies to encourage siting of processing facilities for organic waste (LG to assist). Phase II of organic waste processing pilot project 1998-99.
- b) Increase efforts in the area of waste prevention, donation, and community partnerships for organic waste generators (LG to assist).

**Regional Processing Facilities for Mixed Dry Waste**

**Local Government Priority Tasks:**

**Metro Priority Tasks:**

*This section to be completed pending the outcome of SWAC Subcommittee deliberations on the reload issues.*

### **III. BUILDING INDUSTRIES WASTE REDUCTION PRACTICES**

*NOTE: During Fiscal Year 1997-98, a Building Industries/Construction and Demolition Debris Generator Study will be conducted. Results from this study may change the focus or the specifics in the tasks listed below.*

#### **Develop Targeted Technical and Educational Programs**

##### **Local Government Priority Tasks:**

- a) Conduct on-site audits designed for increasing waste prevention and recycling (LG to identify sites, Metro to assist with evaluations and training).

##### **Metro Priority Tasks:**

- a) Using existing building industry associations and networks including "Earth Wise Building Alliance", provide technical assistance and train builders about salvage, waste reduction, recycling, buy-recycled and other environmental building practices (LG to assist). Maintain system after June 1998.
- b) Conduct on-site audits at construction and demolition sites to promote waste prevention (LG to assist)
- c) Provide educational tools and training to local governments.

#### **2. On-Site Source Separation of Recyclables at Construction and Demolition Sites**

##### **Local Government Priority Tasks:**

- a) Assure the availability of on-site services for two or more materials and ensure that generators requesting hauling services for construction and demolition sites are offered these services.
- b) Promotion of and education about on-site recycling collection services. To be coordinated with task a. above.

##### **Metro Priority Tasks:**

- a) Develop educational materials that target new recoverable materials for source separation when markets are available (LG to assist). Materials to be developed by July 1999, implement FY 99-00 contingent upon favorable markets.

#### **3. Develop Markets to Support Reuse and Recycling rather than Energy Recovery**

##### **Local Government Priority Tasks:**

- a) Local governments to assist with Metro tasks listed below.

**Metro Priority Tasks:**

- a) Support salvage practices and markets for reused building materials. Monitor private sector progress in the use of salvaged building materials.
- b) Support development of industries using recycled construction and demolition materials.

**4. Develop Regional Dry Waste Processing Facilities for Waste from Sites Where Separation and Collection of Recyclables is Not Possible**

*This section to be completed pending the outcome of SWAC Subcommittee deliberations on the reload issues.*

**IV. SOLID WASTE FACILITIES AND SERVICES:**  
**REGULATION AND SITING**

*This section to be completed pending the outcome of Metro Solid Waste Code revision process. Yard Debris and Organics facility task section will also be added at that time.*

**V. SOLID WASTE FACILITIES AND SERVICES:**  
**TRANSFER AND DISPOSAL SYSTEM**

*This section to be completed pending the outcome of Metro Solid Waste Code revision process.*

**VI. SOLID WASTE FACILITIES AND SERVICES:**  
**HOUSEHOLD HAZARDOUS WASTE MANAGEMENT**

**1. Continue to Provide hazardous Waste Collection, Recycling and Disposal**

**Local Government Priority Tasks:**

- a) Promote household hazardous waste prevention and reduction through adult and school education programs (cooperative with Metro).
- b) Promote the use of Metro's two permanent household hazardous waste collection facilities.
- c) Assist in the siting and staffing of household hazardous waste mobile collection events in your jurisdiction. Annually as needed.

**Metro Priority Tasks:**

- a) Continue to provide hazardous waste collection, recycling and disposal services to the region's households and conditionally exempt commercial generators at Metro South and Metro Central transfer stations.
- b) Promote household hazardous waste prevention and reduction through adult and school education programs (cooperative with LG).
- c) Promote existing facilities to increase the number of customers served in total and by geographic regions.
- d) Provide service to outlying areas not conveniently served by permanent household hazardous waste collection facilities. LG to assist in identifying areas of need, staffing, and siting of mobile collection events.

**VII. ADDITIONAL OR ONGOING LOCAL GOVERNMENT  
PROGRAMS OR TASKS.**

Please provide a description of any additional or ongoing waste reduction and recycling programs implemented in your jurisdiction that have not been mentioned earlier in this plan. If any of these tasks or programs are being changed during fiscal year 1998-99, please explain the changes that will take place and how they will impact local and regional waste reduction efforts.

Ongoing or Existing Local Government Programs and Tasks			
Program/Task	1998-99 with no changes (✓)	1998-99 with change (✓)	Explanation of program/task change during 1998-99.

**Attachment A**  
**Annual Work Plan - Development and Approval Process.**  
**Alternative Practices - Application, Review and Approval Process**

Timeline		Annual Work Plan Process	Alternative Practice Process
<b>ANNUAL WORK PLAN PHASE</b>			
The Annual Work Plan phase is the time when Metro and local governments, using the Regional Solid Waste Management Plan as a guide, determine the general types of activities that will be implemented in the upcoming fiscal year (July 1 through June 30).			
	Oct. 1	Draft developed by Metro and local govt. staff for the upcoming fiscal year period	Local governments are encouraged to share plans about alternative practices with Metro as early in the planning process as possible, especially if the proposed alternative is a major departure from one or more recommended practices.
	Nov. 15 to Jan 23	Regional public involvement Public Comment and Metro SWAC reviews (3 sessions) REMCCom Work session REMCCom public hearing	
	February→		
	Mid February	Council approval process Metro Council consideration and adoption	
<b>ANNUAL IMPLEMENTATION PLAN PHASE</b>			
The implementation planning phase is the time when Metro and each local government develop specific programs, projects and activities for the upcoming fiscal year (July 1 through June 30). This process is timed to coincide with government budget schedules.			
	Jan. 1 to May 1	Details developed by Metro and local government staff that are consistent with the general Annual Work Plan framework.	Alternative practices developed by local governments
	Jan. 1 to May 1	Local and Regional Public Involvement Local SWAC and other public involvement Metro budget hearings Local government budget hearings, Other	Local governments work with local solid waste advisory committees to develop implementation details, including alternative practices.
	May 1		Deadline - Alternate Practice Concept Submitted by local government to the REM Director.
	May 1 - 31		Alternative Practice Concept Considered and Approved by REM Director. The Director may seek the advice of the regional Solid Waste Advisory Committee regarding the alternative practice during this time. Alternative Practices made available for public comment. **
	June 1	Implementation Plans Due to Metro from local governments Public Comment on Implementation Plans *	Alternative Practice Details Due to Metro from local governments as part of the detailed annual work plan.
<b>PLAN IMPLEMENTATION</b>			
	July 1	Start of Fiscal Year - Implementation begins	Implementation begins
	Nov. 30	Intergovernmental agreements for grant funding approved and funds distributed to local governments	
<b>PROGRESS REPORTING</b>			
	Aug. 1	Local govt. progress reports due to Metro for previous fiscal year period	Reports will include information about how alternative practices are performing
	Nov. 30	Metro publishes annual "State of the Regional Solid Waste Management Plan" status report for the previous fiscal year period	Metro's report will include information about how alternative practices are performing

REMCCom - Metro Council Subcommittee, the Regional Environmental Management Committee  
SWAC - Solid Waste Advisory Committee

\* Interested persons will be notified that implementation plans are available for comment before final approval. See the next page for a description of that process.

\*\* Interested persons will be notified that Alternative Practices are available for comment before final approval.



**Annual Work Plan - Development and Approval Process**  
**Public Input Process for Metro and Local Government Implementation Plans**

1. The following steps will determine the development and approval of Local Government Waste Reduction Implementation Plans.
2. Annual Waste Reduction Implementation Plans are received by Metro from local governments on June 1, 1998.
3. Metro staff review of plans submitted and notice to interested parties that plans may be reviewed and comments submitted (2 week time-frame).
4. Metro staff will compile both Metro comments and any public comments received.
5. Metro and local government staff will meet to review all comments submitted.
6. Metro and local governments will decide if any comments received warrant changes to the plans.
7. Metro will approve local government plans, as modified through steps 1) through 5) above, within two weeks of meeting with the local governments.

Analysis and consideration of public comments on local government implementation plans received by Metro is an administrative process. Local implementation plans will not be subject to Metro Council, local Council or Commission approval. Public comments are advisory only and may not result in changes to the local government annual implementation plans.

## **Attachment B**

### **Alternative Practices Application, Review & Approval Process**

#### **Background**

An “alternative practice” is a solid waste management program or service that is proposed by a local government as an alternative to one or more of the recommended practices stated in the Regional Solid Waste Management Plan (RSWMP). The purpose of this appendix is to provide clarification about the intent of alternative practices and to describe a process by which they will be reviewed and approved.

#### **Intent of Alternative Practices**

- They should focus on the strategy underlying the recommended practices
- Perform at same level or better than the recommended practice it is intended to replace
- Allow for local flexibility in programs and services
- Remove barriers to better, innovative approaches
- Be approved using a simple, administrative process

#### **At what point does an approach become an “alternative”?**

- If the local practice is a departure from the concept described in the RSWMP
- If the local practice represents a change in the solid waste management hierarchy (e.g., a move from source-separation and recycling to recovery)
- If the local practice diverts substantially from the annual work plan “line item” framework elements

#### **Process for application and review of an Alternative Practice**

- Local governments requesting an alternative practice will submit, for the REM Director’s approval, a proposal that demonstrates how the alternative will perform at the same level as the recommended practice.
- If the proposed alternative is a major departure from the recommended practice, the local government is encouraged to submit its proposal to the REM Director as early in the annual plan development cycle as possible.
- To demonstrate the same level of performance, the proposal for an alternative practice should address, as appropriate, the following criteria:
  - . Estimated participation levels
  - . Estimated amount of waste that will be prevented, recycled, recovered, or disposed
  - . Consistency with the waste reduction hierarchy and source separation priority
  - . Economic and technical feasibility
  - . Estimated impact on other waste reduction activities
- The REM Director will consider and may approve the proposal based on the criteria listed above.

## Attachment C

### Types of Businesses Targeted for Waste Prevention Programs

*Note: The purpose of this list is to clarify the types of businesses and materials targeted for regional waste prevention programs that are described in the Regional Solid Waste Management Plan.*

Office Related Businesses	Banking and financial institutions, insurance, real estate, title companies, legal service, engineering, architects, accounting, advertising, public relations, personnel services, personnel services, management.
Education	Elementary and secondary schools, colleges, universities, professional schools, junior colleges, libraries; vocational schools, and other educational services.
Dry Goods Retail	All types of retail except food stores. Examples include stores that sell lumber and building supplies, lawn and garden supplies, appliances, furniture, household goods, and clothing.
Wholesale and Warehousing	Businesses that wholesale and/or warehouse various goods including furniture and home furnishings, lumber and construction materials, professional and commercial equipment, durable goods, paper products, clothing, and groceries and related products. This category also includes public warehousing and storage.
Medical and Dental	Hospitals, medical and dental clinics, medical and dental schools and universities.
Hotels, Institutional and Other Services	Hotels, motels, auto leasing and rental, museums and galleries, professional organizations, social services, and health services.

These businesses have been targeted because they currently produce large quantities of preventable or recoverable wastes of the types listed below:

Paper Materials and Packaging:  
High grade office paper  
Mixed grades of office paper  
Newspaper  
Corrugated cardboard, kraft paper  
Other paper packaging

Plastic Packaging:  
Shrink and stretch wrap  
Plastic bags  
Bubble pack

Wood Packaging:  
Pallets  
Crates  
Dimensional lumber

Pilot projects have demonstrated that these businesses can achieve higher levels of waste prevention (and significant reductions in waste disposed) by changing purchasing and other management practices. Periodic assessments will be conducted to track and measure progress. The types of businesses targeted for waste prevention programs could change over time. See the following pages for a complete list of all the types of businesses, by SIC code, within each general category.

The regional goal is to reach 80% of targeted businesses by the year 2000. Each local government will implement a strategy to achieve waste prevention from the targeted types of businesses located within its jurisdiction. Upon request, Metro will assist local governments to identify the types, numbers and sizes of businesses within local jurisdictions.

### Types of Businesses Targeted for Waste Prevention Programs - Listed by SIC Codes

E. FINANCIAL RELATED	
Code	Description
601	Central Reserve Depository Institutions
602	Commercial Banks
603	Savings Institutions
606	Credit Unions
609	Functions related to depository banking (trust companies)
611	Federal and Federally Sponsored Credit Agencies
614	Personal Credit Institutions
615	Business Credit Institutions
616	Mortgage Bankers and Brokers
621	Security Brokers, Dealers and Flotation Companies
622	Commodity Contracts Brokers and Dealers
623	Security and Commodity Exchanges
628	Services allied with the Exchange of Securities or Commodities
631	Life Insurance
632	Accident and Health Insurance and Medical Service Plans
633	Fire, Marine, and Casualty Insurance
635	Surety Insurance
636	Title Insurance
637	Pension, Health, and Welfare Funds
639	Insurance Carriers (general)
641	Insurance Agents, Brokers, and Service
651	Real Estate Operators and Lessors (no Developers)
653	Real Estate Agents and Managers
654	Title Abstract Offices
655	Land Subdividers and Developers
671	Holding Offices
672	Investment Offices
673	Trusts
679	Miscellaneous Investing
731	Advertising
732	Consumer Credit Reporting, Mercantile Reporting, Adjustment and Collection Agencies
733	Mailing, Reproduction, Commercial Art, Photography and Stenographic Services
736	Personnel Supply Services
737	Computer Programming, Data Processing, and other Computer Related Services
801	Offices and Clinics of Doctors of Medicine
802	Offices and Clinics of Dentists
803	Offices and Doctors of Osteopathy
804	Offices and Clinics of Other Health Practitioners
807	Medical and Dental Laboratories
811	Legal Services
871	Engineering, Architectural, and Surveying Services
872	Accounting, Auditing, and Bookkeeping Services
874	Management and Public Relations Services

**Types of Businesses Targeted for Waste Prevention Programs - Listed by SIC Codes**  
(continued)

<b>III-EDUCATION</b>	
<b>Code</b>	<b>Description</b>
821	Elementary and Secondary Schools
822	Colleges, Universities, Professional Schools and Junior Colleges
823	Libraries
824	Vocational Schools
829	Other Schools and Educational Services

<b>III-DRY GOODS RETAIL</b>	
<b>Code</b>	<b>Description</b>
521	Lumber and Other Building Materials
525	Hardware Stores
526	Retail Nurseries, Lawn and Garden Supply Stores
531	Department Stores
533	Variety Stores
539	Miscellaneous General Merchandise Stores
561	Men's and Boy's Clothing and Accessory Stores
562	Women's Clothing Stores
563	Women's Accessory and Specialty Stores
564	Children's and Infants' Wear Stores
565	Family Clothing Stores
566	Shoe Stores
569	Miscellaneous Apparel and Accessory Stores
571	Home Furniture and Furnishing Stores
572	Household Appliance Stores
573	Radio, Television, Consumer Electronics, and Music Stores
591	Drug Stores and Proprietary Stores
593	Used Merchandise Stores
594	Miscellaneous Shopping Goods Stores
599	Retail Stores (not otherwise classified)

<b>IV-WHOLESALE/WAREHOUSING</b>	
<b>Code</b>	<b>Description</b>
422	Public Warehousing and Storage
502	Furniture and Home Furnishings Wholesale
503	Lumber and Other Construction Materials Wholesale
504	Professional and Commercial Equipment and Supplies Wholesale
509	Miscellaneous Durable Goods Wholesale
511	Paper and Paper Products Wholesale
513	Apparel, Piece Goods, and Notions Wholesale
514	Groceries and Related Products Wholesale
519	Miscellaneous Nondurable Goods Wholesale

**Types of Businesses Targeted for Waste Prevention Programs - Listed by SIC Codes**  
(continued)

<b>IV. HOTEL, INSTITUTIONAL and OTHER SERVICES</b>	
<b>Code</b>	<b>Description</b>
701	Hotels and Motels
702	Rooming and Boarding Houses
704	Organization Hotels and Lodging Houses on Membership Basis
751	Automotive Rental and Leasing
753	Automotive Repair Shops
805	Nursing and Personal Care Facilities
806	Hospitals
809	Miscellaneous Health and Allied Services
832	Individual and Family Social Services
833	Job Training and Vocational Rehabilitation Services
836	Residential Care
841	Museums and Galleries
861	Business Associations
862	Professional Membership Organizations
863	Labor Unions and Similar Labor Organizations
864	Civic, Social, and Fraternal Organizations
865	Political Organizations
866	Religious Organizations

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APRIL 9, 1998  
FINAL VERSION

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 98-2634 FOR THE PURPOSE OF APPROVING THE YEAR 9 ANNUAL WASTE REDUCTION WORK PLAN FOR METRO AND LOCAL GOVERNMENTS.**

Date: April, 1998

Presented by: Jennifer Erickson

## **PROPOSED ACTION**

Adopt Resolution No. 98-2634

## **FACTUAL BACKGROUND AND ANALYSIS**

### **History:**

The Annual Waste Reduction Program was established in 1990 to provide local governments with funding assistance needed to implement recycling and waste reduction activities within their jurisdiction. These activities are integral in helping the region meet the objectives of the Regional Solid Waste Management Plan (RSWMP) and State Law.

Through this and other programs, Metro and local governments have worked together to provide single and multi-family residential recycling services, yard debris collection, home composting education, waste reduction consultations to businesses, in-school programs for students and teachers, public outreach and education, and many other valuable programs and services.

Much progress has been made in the region with regard to recycling and waste reduction. The regional recycling rate has jumped from 28% in 1989 to 41% in 1996, all single family residents have the opportunity to recycle at the curb, and 85% of the 150,000 multi-family housing units in the region have recycling collection systems in place.

With \$200,000 in additional funding provided by Metro in 1997-98 through a new competitive matching grant program, local governments partnered with school districts, chambers of Commerce and others have implemented new commercial recycling efforts.

### **Framework:**

The RSWMP provides the larger long-term framework for the region's solid waste and recycling infrastructure. The Annual Waste Reduction Implementation Plan is one of many important planning and implementation tools for achieving the goals set forth by the Regional Plan.

The 1998-99 Annual Waste Reduction Program Grants will assist local governments defray the cost of both new and existing waste reduction and recycling programs as required by the RSWMP. The annual work plan which lists the tasks to be completed under the grant program was developed collaboratively with seven local government recycling coordinators representing the twenty-seven jurisdictions in the region, Metro staff, DEQ representatives, SWAC,

businesses and citizens. The format allows jurisdictions to develop and implement programs based on local circumstances while meeting the intent of the Regional Solid Waste Management Plan goals and objectives. The Plan framework has been through three public comment opportunities, and has been amended to reflect input received during the public process.

The annual work plan framework comes directly from the RSWMP recommended practices. In addition to these recommended practices, there are other supporting programs that are not specifically listed in the RSWMP but are important ongoing implementation programs that provide a valuable contribution to the RSWMP goals. As with the RSWMP, the Annual Plan recognizes the need for local flexibility in implementing programs.

#### **Approval Process:**

As will be explained in "Future of the Program" below, a portion of these grant funds will be distributed through a revenue sharing-formula, and the balance through competitive grants.

For the revenue-sharing portion, each local government will submit a brief description of how each element will be completed. These 1998-99 work plans will be due to Metro by June 1, 1998. Work plans will be reviewed by a Metro committee consisting of representatives from the Waste Reduction, Planning & Outreach Division and Metro Council staff. Discussions will be held with each local government to review areas of concern, make clarifications and to finalize the elements for that jurisdiction's plan. The review committee is charged with granting administrative approval of the work plan to the jurisdiction. Any jurisdictions proposing alternatives to the framework in the Annual Plan will be subject to an independent review process. The 1997-98 program final reports are due to Metro by August 1, 1998 and will also be reviewed by the committee.

The review committee will meet with local governments at their request throughout the year to review status and assist with amendment of work plans if necessary. At the end of FY 98-99 local governments will submit a final program report which describes how they have accomplished their planned work items. The same Metro committee will review these reports. If any work plan items were not completed or were found to be deficient, the committee will meet with the local government to determine the cause and appropriate action to allow the problem to be remedied. Penalties may be applied if other options for resolution are exhausted.

The competitive portion of this program will be a matching grant. Interested parties (with a government as lead) will propose programs designed to enhance recycling within the business sector. Proposals that include waste prevention elements will receive a more favorable rating. Proposals will be evaluated by the same committee described above.

The Solid Waste Advisory Committee reviewed working and final drafts of the Year 9 Annual Work Plan and has recommended that it be forwarded to the Metro Council for approval.

#### **The Future of the Program:**

Until the current fiscal year, funding for the Annual Plans had been based upon a type of revenue sharing wherein monies are disbursed on a per-capita basis. In her review of waste reduction



grant programs, the Metro Auditor has recommended that REM re-examine this approach in comparison with a competitive grant mechanism (Waste Reduction Grant Programs, August 1997). Metro Councilors and citizen advocates have also encouraged REM to move toward a grant program that would challenge the region to encourage innovation, creative partnerships and forward movement in waste reduction and material recovery. Fiscal 1998-99 will be a transition year where the budgeted funds will be split between the existing per capita allocation and a competitive matching grant pool. This approach was first implemented as a pilot in fiscal 1997-98 and proved successful. The intent in future years is to direct funding towards a targeted set of tasks based upon recoverable materials remaining in the waste stream, in concert with the recommended practices in the RSWMP. This will allow resources and efforts to be better focused on areas of greatest need. The planning process for the 1999-2000 program will begin in the late summer of 1998.

#### BUDGET IMPACT

A total of \$784,200 has been budgeted for this program. \$500,000 will be allocated to local jurisdictions on a per capita basis to support ongoing programs. The remaining \$284,200 will be made available as competitive matching grants for commercial recycling programs.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 98-2634.

## **REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT**

### **CONSIDERATION OF RESOLUTION NO. 98-2634A, FOR THE PURPOSE OF APPROVING THE YEAR 9 ANNUAL WASTE REDUCTION WORK PLAN FOR METRO AND LOCAL GOVERNMENTS**

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Date: April 21, 1998

Presented by: Councilor McLain

**Committee Recommendation:** At its April 21 meeting, the Committee considered Resolution No 98-2634A and voted 3-0 to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors McFarland, McLain and Chair Morissette. Councilor Washington was absent

**Background:** The joint development of an annual waste reduction work plan for Metro and the region's local governments was initiated in response to a DEQ order which required Metro to improve the region's recycling and waste reduction programs. Metro waste reduction and recycling staff meet with local government representatives in the fall to develop the plan for the following fiscal year. The plan is then presented to the Council in the spring as a resolution for consideration and adoption.

At the end of each fiscal year, the local governments are required to submit a report outlining its activities during the fiscal year related to the adopted plan and a proposed plan for the coming fiscal year. These reports and proposed plans are then reviewed by an internal committee at Metro which includes two REM waste reduction and recycling staff and the REM Committee Council analyst. The committee prepares and submits questions to the local governments concerning their plans and compliance reports and then meets with local representatives to review and discuss their responses. Following these meetings, the local governments often revise their proposed plans in response to recommendations made by the Metro committee. The final plans are then approved as part of an intergovernmental agreement between the local government and Metro.

To encourage the timely completion of the tasks outlined in each year's plan, Metro also initiated a "challenge" grant program under which local government's would receive funding based on population. Receipt of these funds was also tied to the successful completion of report submittal review and adoption program outlined above. Most of the affected cities in Washington and Clackamas have pooled their challenge grant and local resources into single programs administered by a central county staff. Three east Multnomah cities also have banded together into a single program staffed by the City of Gresham. Several cities operate their own programs. These include: Portland, Beaverton, Lake Oswego, Milwaukie and Troutdale.

Initially the work plans focused on the development of curbside collection programs, multi-family recycling programs, yard debris recycling and various waste reduction and recycling education and public awareness programs. In recent years, the annual plans have increasingly focused on commercial and organics recycling and waste prevention education.. The plans also are tied to the goals and requirements of the adopted Regional Solid Waste Management Plan (RSWMP)

**Committee Issues/Discussion:** Jennifer Erickson, REM Waste Reduction Staff, presented the staff report. She noted that the purpose of the proposed resolution was to approve the Year 9 annual waste reduction plan that would be used by local governments to develop their own individual plans. She briefly reviewed the history of the annual waste planning process and noted that the proposed draft of the annual plan was reviewed by the Solid Waste Advisory Committee (SWAC) and the most recent draft was reviewed by the REM Committee. She indicated that few changes had been made from the final draft and the proposed plan included in the resolution.

Erickson noted that in a recent audit, the Metro Auditor had questioned whether the funds provided through the challenge grant program were really grants or was the program more of a revenue sharing program. She indicated that the proposed budget included \$600,000 in funding that would be provided based on population and plan compliance and that an additional \$184,000 would be provided through a competitive grant program. Erickson explained that Councilor McLain had expressed interest in having a larger percentage of the program's funding provided through a competitive grant program and staff had responded that it would be willing to shift an additional from the population based grants to the competitive grant program. She noted that this issue was discussed at the April SWAC meeting and that several local government representatives had expressed concern about shifting these funds in the coming fiscal year.

Councilor McFarland expressed concern that, in the past, the local governments had received this Metro funding while being critical of Metro programs and providing only limited reporting concerning what was done with the Metro funding. She indicated that the expenditure of these funds should be directed to meeting state and Metro recycling goals. Bruce Warner, REM Director, responded that there are reporting requirements, but that he would be willing to review their effectiveness.

Lee Barrett, Co-Manager, City of Portland Solid Waste Recycling Program, offered testimony on the proposed plan and potential funding shifts. Barrett indicated that the program should be considered a revenue sharing program, but that local governments should not believe that they have an automatic right to this funding. He noted that there are reporting requirements and that, if a particular local program fails to meet the goals of the plan, then Metro can withhold its funding.

Barrett expressed concern about shifting funds to a competitive grant program. He noted that a large jurisdiction, such as Portland, could dominant a grant program because it would have local resources to hire grant-writers and other technical assistance that would give it a competitive advantage. He noted that funding uncertainty would cause some local programs to have to stop or start annually based on whether they obtained Metro funding. He indicated that Metro funding is of enormous assistance to local government and that the funding program should be viewed as revenue sharing. He indicated a willingness to develop an improved reporting mechanism to make Councilors better aware of how Metro funds are expended.

Rick Winterhalter, Clackamas County Recycling Program, noted that the local government's take their Metro reporting requirements very seriously. He noted that any decision to shift more funding to a grant program for the coming fiscal year would have a negative effect on local programs because local budgets have already been developed and submitted based on the assumption that

\$600,000 in challenge grant funding would be available from Metro. He expressed a willingness to continue to review reporting requirements and funding issues.

Kathy Kiwala, Washington County Cooperative Recycling Program, supported the testimony of Mr. Barrett and Mr. Winterhalter. She noted the cooperative nature of the Washington County program and that it had raised the recycling rate to 43%, provided recycling opportunities to 85% of the multi-family complexes in the county and developed a growing business recycling recognition program (BRAG).

Chair Morissette moved to amend the appropriate "whereas" clause in the resolution to establish that the program is a revenue sharing program. Councilor McLain indicated that she would support such a designation for next year. She requested that staff work toward the development of a competitive grant program. She expressed concern that the existing program was not fully meeting RSWMP goals and not getting at more difficult wastestreams. She indicated that funding should not go to support on-going programs.

The amendment was adopted by the committee.

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 98-2634 FOR THE PURPOSE OF APPROVING THE YEAR 9 ANNUAL WASTE REDUCTION WORK PLAN FOR METRO AND LOCAL GOVERNMENTS.

Date: April, 1998

Presented by: Jennifer Erickson

## PROPOSED ACTION

Adopt Resolution No. 98-2634

## FACTUAL BACKGROUND AND ANALYSIS

### **History:**

The Annual Waste Reduction Program was established in 1990 to provide local governments with funding assistance needed to implement recycling and waste reduction activities within their jurisdiction. These activities are integral in helping the region meet the objectives of the Regional Solid Waste Management Plan (RSWMP) and State Law.

Through this and other programs, Metro and local governments have worked together to provide single and multi-family residential recycling services, yard debris collection, home composting education, waste reduction consultations to businesses, in-school programs for students and teachers, public outreach and education, and many other valuable programs and services.

Much progress has been made in the region with regard to recycling and waste reduction. The regional recycling rate has jumped from 28% in 1989 to 41% in 1996, all single family residents have the opportunity to recycle at the curb, and 85% of the 150,000 multi-family housing units in the region have recycling collection systems in place.

With \$200,000 in additional funding provided by Metro in 1997-98 through a new competitive matching grant program, local governments partnered with school districts, chambers of Commerce and others have implemented new commercial recycling efforts.

### **Framework:**

The RSWMP provides the larger long-term framework for the region's solid waste and recycling infrastructure. The Annual Waste Reduction Implementation Plan is one of many important planning and implementation tools for achieving the goals set forth by the Regional Plan.

The 1998-99 Annual Waste Reduction Program Funds will assist local governments defray the cost of both new and existing waste reduction and recycling programs as required by the RSWMP. The annual work plan which lists the tasks to be completed under the program was developed collaboratively with seven local government recycling coordinators representing the twenty-seven jurisdictions in the region, Metro staff, DEQ representatives, SWAC, businesses and citizens. The format allows jurisdictions to develop and implement programs based on local

circumstances while meeting the intent of the Regional Solid Waste Management Plan goals and objectives. The Plan framework has been through three public comment opportunities, and has been amended to reflect input received during the public process.

The annual work plan framework comes directly from the RSWMP recommended practices. In addition to these recommended practices, there are other supporting programs that are not specifically listed in the RSWMP but are important ongoing implementation programs that provide a valuable contribution to the RSWMP goals. As with the RSWMP, the Annual Plan recognizes the need for local flexibility in implementing programs.

#### **Approval Process:**

As will be explained in "Future of the Program" below, a portion of these funds will be distributed through a revenue sharing-formula, and the balance through competitive grants.

For the revenue-sharing portion, each local government will submit a brief description of how each element will be completed. These 1998-99 work plans will be due to Metro by June 1, 1998. Work plans will be reviewed by a Metro committee consisting of representatives from the Waste Reduction, Planning & Outreach Division and Metro Council staff. Discussions will be held with each local government to review areas of concern, make clarifications and to finalize the elements for that jurisdiction's plan. The review committee is charged with granting administrative approval of the work plan to the jurisdiction. Any jurisdictions proposing alternatives to the framework in the Annual Plan will be subject to an independent review process. The 1997-98 program final reports are due to Metro by August 1, 1998 and will also be reviewed by the committee.

The review committee will meet with local governments at their request throughout the year to review status and assist with amendment of work plans if necessary. At the end of FY 98-99 local governments will submit a final program report which describes how they have accomplished their planned work items. The same Metro committee will review these reports. If any work plan items were not completed or were found to be deficient, the committee will meet with the local government to determine the cause and appropriate action to allow the problem to be remedied. Penalties may be applied if other options for resolution are exhausted.

For the competitive portion of this program, interested parties (with a government as lead) will propose programs designed to enhance recycling within the business sector or other RSWMP recommended practices identified by Metro. Proposals that include waste prevention elements will receive a more favorable rating. Proposals will be evaluated by the same committee described above.

#### **Regional Solid Waste Advisory Committee Recommendation:**

The Solid Waste Advisory Committee reviewed working and final drafts of the Year 9 Annual Work Plan and has recommended that it be forwarded to the Metro Council for approval. At its regular meeting on April 15, 1998, SWAC recommended that in light of the Metro Auditor's Report, the program not be called or classified as a grant program in the budget or for administrative purposes, but be classified as a revenue-sharing program and be administered as

such. SWAC also recommended that there be a competitive grant piece to the program as was initiated during this current fiscal year. SWAC voted to recommend to the Council REM Committee that the \$784,200 budgeted for the program in 1998-99 be allocated as follows:

- \$600,000 towards the per-capita revenue-sharing portion of the program
- \$184,200 towards the competitive grant portion

Outside of the motion, some SWAC members commented that due to the fact that local government budgets for 1998-99 are nearly complete, a radical shift in funding allocations at this time was unwise. Some members of the committee also suggested that Metro, local governments, SWAC and the Council should work together this summer to develop and agree upon the future form and administration of the program.

SWAC's discussion was based upon REM staff's proposed allocation of \$500,000 for the revenue-sharing portion of the program and \$284,200 for the competitive grant portion. For Council's information the attached table (Table 1) illustrates the difference between a \$500,000 and a \$600,000 revenue-sharing allocation to the local governments receiving the funds.

#### **Possibilities for the Future of the Program:**

Until the current fiscal year, funding for the Annual Plans had been called a grant program, when in fact it does not function as a true grant. In her review of waste reduction grant programs, the Metro Auditor has recommended that REM prepare a white paper to examine a true revenue-sharing program approach in comparison with a competitive grant mechanism (Waste Reduction Grant Programs, August 1997). Metro Councilors and citizen advocates have also encouraged REM to move toward a program that would encourage innovation, creative partnerships and forward movement in waste reduction and material recovery. Fiscal 1998-99 will be a transition year where the budgeted funds will be split between the per capita revenue-sharing allocation and a competitive matching grant pool. This approach was first implemented as a pilot in fiscal 1997-98 and proved successful. The intent in future years is to direct funding towards a targeted set of tasks based upon recoverable materials remaining in the waste stream, in concert with the recommended practices in the RSWMP. This will allow resources and efforts to be better focused on areas of greatest need. The planning process for the 1999-2000 program will begin in the summer of 1998. REM staff is in the process of preparing the white paper recommended by the Auditor to assist in the review and planning for future administration of this program.

#### **BUDGET IMPACT**

A total of \$784,200 has been budgeted for this program.

#### **EXECUTIVE OFFICER RECOMMENDATION**

The Executive Officer recommends approval of Resolution No. 98-2634.

**TABLE 1**

**COMPARISON OF DOLLARS RECEIVED BY LOCAL GOVERNMENTS WITH A  
\$600,000 REVENUE-SHARE ALLOCATION AND A \$500,000 REVENUE-SHARE  
ALLOCATION**

**(all allocations are on a per-capita basis)**

<b>Local Government</b>	<b>\$600,000 Allocation</b>	<b>\$500,000 Allocation</b>	<b>Difference</b>
Washington County*	\$149,188	\$124,321	-\$24,867
Beaverton	\$29,932	\$24,943	-\$4,989
Portland*	\$241,320	\$201,100	-\$40,220
Gresham*	\$40,707	\$33,923	-\$6,784
Troutdale	\$6,273	\$5,228	-\$1,045
Clackamas County*	\$107,169	\$89,308	-\$17,861
Milwaukie	\$9,064	\$7,554	-\$1,510
Lake Oswego	\$15,396	\$12,830	-\$2,566
Estacada	\$949	\$791	-\$158

\*These jurisdictions are the contacts for cooperative programs which include other cities or counties. The dollars shown are aggregate amounts allocated to the cooperative on behalf of all members.



*Agenda Item 9.2*

**RESOLUTIONS**

**Resolution No. 98-2635, For the Purpose of Authorizing the Release of Request for Proposal #98-25-PKS for Design and Engineering Services for Improvements to Howell Territorial park and Oxbow Regional Park**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING ) RESOLUTION NO. 98-2635  
RELEASE OF REQUEST FOR )  
PROPOSAL # 98R-25-PKS FOR ) Introduced by Mike Burton  
DESIGN AND ENGINEERING SERVICES ) Executive Officer  
FOR IMPROVEMENTS TO HOWELL )  
TERRITORIAL PARK AND OXBOW )  
REGIONAL PARK. )

WHEREAS, The Metro Council adopted park master plans for Howell Territorial Park on April 17, 1997 and for Oxbow Regional Park on October 23, 1997; and

WHEREAS, The master plans for both parks recommend a phased approach to implementation with Phase I design to be complete by September 1998; and

WHEREAS, Metro Council's adopted FY 1998-99 through FY 2002-3 CIP includes \$42,700 for design of Phase I improvements at Howell Territorial Park and \$265,000 for design of Phase I improvements at Oxbow Regional Park; and

WHEREAS, The Department successfully competed in the Oregon Parks and Recreation Department's (OPRD) County Opportunity Grants Program that resulted in an award of an additional \$245,300 for design and construction of improvements at Oxbow Regional Park; and

WHEREAS, The OPRD grant award is contingent on the Department's commitment to expend no more than 20% of the total grant on design and engineering services and to complete the work by December 1999; and

WHEREAS, Consultant services are required to perform the work tasks identified in the attached Request for Proposal (RFP); and

WHEREAS, It is in the best interest of the public that the Department retain one design firm throughout the entire design process to maintain consistent and seamless delivery of quality services and maximize time and cost savings; and

WHEREAS, The design work will be phased and will require the Department to enter into a five year contract (to expire no later than June 30, 2003) with the selected contractor to perform services on an as needed basis, subject to Metro's discretion and funding availability; now, therefore,

BE IT RESOLVED,

- 1) That the Metro Council authorizes the release of the Request for Proposal (see attached Exhibit A) for the design of master plan improvements at Oxbow Regional Park and Howell Territorial Park.
- 2) The Metro Council authorizes the Executive Officer to execute a multi-year contract with the selected design team.

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

**REQUEST FOR PROPOSALS  
FOR  
DESIGN AND ENGINEERING SERVICES  
FOR  
OXBOW REGIONAL PARK  
AND  
HOWELL TERRITORIAL PARK  
IMPROVEMENTS**

**RFP #98R-25-PKS**

May 1998

Metro  
Regional Parks and Greenspaces  
600 NE Grand Avenue  
Portland, OR 97232  
503-797-1850



**REQUEST FOR PROPOSALS  
FOR  
DESIGN AND ENGINEERING SERVICES FOR OXBOW REGIONAL PARK  
AND HOWELL TERRITORIAL PARK IMPROVEMENTS**

**I. INTRODUCTION**

The Metro Regional Parks and Greenspaces Department has developed Master Plans for it's Oxbow Regional Park and Howell Territorial Park. Metro is requesting proposals for design and engineering services for implementation of the Master Plan improvements for both parks. Funding for total implementation of the Master Plans is not currently available. Metro expects to design the projects in phases as additional funding becomes available. Metro intends to enter into a long term contract on an as needed basis for the design and engineering services as described herein with the Proposer who submits the Proposal which is judged to be the best.

Metro is a regional government serving the Portland metropolitan area, organized under the laws of the State of Oregon and the 1992 Metro Charter. **Proposals will be received at the reception desk of Regional Parks and Greenspaces offices , attention Glenn Taylor, 600 NE Grand Avenue, Portland, Oregon 97232, until 5:00 p.m., on May 29, 1998.** Details concerning the project are contained in the request for proposals (RFP) and background documents. Copies of the RFP and background materials may be obtained by contacting Regional Parks and Greenspaces at (503) 797-1870. Master Plan documents may be obtained from Metro for a refundable \$50 deposit per set (if returned in good condition.)

**II. BACKGROUND**

Oxbow Regional Park is located in the Sandy River Gorge in east Multnomah County and is comprised of approximately 1,040 acres. The park has been providing recreational opportunities for visitors (over 219,000 in 1996) annually in a natural setting including camping, picnicking, water access for boating, fishing and swimming since 1963. Metro assumed management of the park from Multnomah County in 1994 and ownership in 1997.

The primary components of the Oxbow Regional Park Master Plan are:

- recreate twenty historical overnight campsites in the existing campground area;
- provide overnight structures (yurts) in twelve of the twenty restored campsites;
- redesign group camping sites for more efficient use;
- reconfigure group picnic area to accommodate six shelters (4 replacement & 2 additional) plus four shelterless reservable areas;
- reconstruct family picnic areas for more efficient use;
- upgrade the existing water and electric utilities;
- design and construct flush toilets in primary park use areas (including showers in camping areas) and up-grade pit toilets to a vault design in secondary park use areas;

- realign portions of the road system, add turnaround feature and relocate parking in some areas;
- renovate the front entrance area including a new park entry booth, new office building, public restroom and orientation kiosk;
- design and construct a new environmental education building;
- install irrigation system for major turf areas; and
- upgrade the existing boat ramp to provide ADA compliant fishing and boating opportunities.
- Provide various improvements to comply with ADA standards;
- provide directional and interpretive signage;
- redesign parking where applicable.

The Howell Territorial Park is located on Sauvie Island in northwest Multnomah County one mile north of the Sauvie Island Bridge at 13605 NW Howell Park Road and is comprised of approximately 93 acres. Multnomah County purchased the Park in 1962 and managed it in cooperation with the Oregon Historical Society (OHS.) Metro assumed management responsibility from Multnomah County in 1994 and ownership in 1997. OHS provides cultural interpretation and public events, such as the annual Wintering-In Festival and educational workshops. Picnicking and weddings are also popular activities at the park. The Bybee Howell House located within the Park is the only remaining house built by one of the original homesteaders and is the oldest intact structure on the Island. The wetlands and farmland are representative of the abundant habitat types on Sauvie Island for migratory waterfowl traveling the Pacific Flyway.

The primary components of the Howell Territorial Park Master Plan are:

- design and construct a 1,500 square foot ranger residence, a park admission booth, public restrooms, a replica of the original detached kitchen, four wildlife viewing blinds, three picnic shelters, an arbor, an entry orientation kiosk and a maintenance building;
- install an irrigation system in public use areas near the barn, residence, picnic shelters, restroom and parking lot;
- upgrade the water system to accommodate new facilities;
- relocate the "Finnish Log Cabin" to an off-site location;
- construct 1,200 linear feet of hard surface trail and 3,000 linear feet of soft surface trail;
- construct an all weather parking lot with capacity for 25 passenger vehicles, 2 ADA compliant parking spaces and 2 buses;
- redesign overflow (turf) parking for 530 vehicles;
- design and install directional signage both on and off-site;
- provide various improvements to comply with ADA standards;
- install security gates at the park entrance; and
- renovate barn including restroom upgrade

Metro will be responsible for obtaining the necessary land use approvals required for implementation of the Oxbow Regional Park and Howell Territorial Park Master Plans. The entire application and approval process is estimated to take from five to ten months. The selected contractor will be required to assist in this effort by providing various design documents and input as needed.

Metro intends to enter into a multi-year contact with the selected contractor for design and engineering services to be performed in phases on an as needed basis subject to Metro discretion and funding availability.

The preliminary cost estimate for improvements at Oxbow Regional Park is \$8,000,000 (including Environmental Education Center) and Howell Territorial Park is \$1,800,000. The work in both parks is planned to be phased in over a number of years when funding becomes available. It is anticipated that \$1,188,940 will be budgeted for construction projects in fiscal year 1998 - 99 for improvements at Oxbow Regional Park and \$232,700 for improvements at Howell Territorial Park.

### **III. PROJECT SUMMARY/SCOPE OF SERVICES**

Metro is requesting design and engineering services for the implementation of Master Plan improvements at both Oxbow Regional Park and Howell Territorial Park and for technical assistance as may be required for submittal and approval of land use permits.

#### **Task I**

The first task of the design consultant will be to assist Metro staff in determining overall project phasing. This phasing will be based on several factors including land use approval requirements, available funding, park staff input, the course of construction, minimizing impact on park visitors, etc.

#### **Task II**

The second task will be to provide the design and engineering for Phase I improvements to Oxbow Regional Park and Howell Territorial Park that are determined to be feasible in task one. Task II must remain tentative until Task I has been completed but Metro expects that the following improvements will be included in phase I at Oxbow Regional Park:

1. water system upgrades that may include;
  - water treatment for iron and manganese
  - water booster pump upgrades
  - water distribution system mapping
  - water line valve replacement
  - fire truck fill outlets

- upgrade of water line at creek crossing
  - a 400 foot extension of the 4 inch main
  - irrigation separation and/or automatic controllers
2. electrical system upgrades that may include;
    - upgrading the existing primary metering
    - adding secondary metering at eleven new pad mounted transformers
    - new service disconnects at seventeen locations
    - approximately 6,200 feet of new 4 inch primary conduit
  3. replacement of selected pit toilets with vault toilets

Metro expects that the following improvements will be included in phase I at Howell Territorial Park:

1. ADA access to house porch
2. utility improvements
  - upgrade water system to accommodate new facilities
  - upgrade electrical service to accommodate new facilities
3. design and construct two 60 person picnic shelters
4. design and construct restrooms near picnic shelters
5. design and construct trail system to support shelter use

### Task III

Task three will be to design the tasks in the remaining phases of the two Master Plans as funding becomes available.

For all projects, Metro requires not only design and engineering services, but also assistance in preparing bid specifications, conducting prebid activities, assistance during and after construction. Tasks, which apply to both projects, are generally described below.

### Permit Scope of Work

Contractor will provide the following services for permits on the project:

- A. Attend various meetings with Metro staff and permitting agencies.
- B. Provide required design documents for land use permits.



- C. Provide final construction documents to permitting agencies for building permits and revise documents as required to obtain final building permits.

#### Design Scope of Work

Contractor will produce a design for the projects, including drawings and technical specifications suitable for construction. The design services will also include:

- A. Attend initial design meetings as necessary with Metro to establish Phase I projects and design parameters. Attend design progress meetings with Metro design team as necessary but no less than monthly.
- B. Produce schematic design for presentation to and approval by Metro.
- C. Produce 50% and 90% construction document design submittals for review by Metro and Factory Mutual ( Metro property Insurance Agent) if necessary.
- D. Submit for and obtain plan check approval from applicable agencies.
- E. Prepare construction cost estimates at schematic design, 50% and 90% submittal phases.
- F. Attend the pre-bid conference and be prepared to expend up to 10 hours in addressing technical questions related to bidding.
- G. Contractor will attend the pre-construction conference and be prepared to expend up to 20 hours in addressing technical problems and participating as required in preconstruction meetings with the contractor selected.
- H. Provide assistance during the construction phase (such as review of submittals and change requests, response to requests for information concerning design, periodic site visits, etc.) to ensure adherence to drawings and specifications.
- I. Compile as-built information for all features and provide to Metro two hard copies and one electronic copy of as-builts drawings (in AutoCad R14.)

#### Design Parameters

The following parameters must be incorporated in the design:

- 1. Materials will be new and installed in accordance with the appropriate codes, regulations and industry standards. Use of materials utilizing recycled content wherever possible per Metro Executive Order #47.
- 2. Design specifications will include a requirement for the Construction Contractor to make submittals for all materials to be used in the installation.

3. Design will include guidance for the construction contractor to minimize disruption to the operation of the facilities during construction.
4. Design will take into consideration long term operation and maintenance efficiencies.
5. Design to take advantage of any reuse and salvage materials during construction and recycling of building materials.

#### **IV. PROJECT SCHEDULE**

- |                              |                    |
|------------------------------|--------------------|
| 1. Advertise for Proposals   | May 8, 1998        |
| 2. Proposals Due             | May 29, 1998       |
| 3. Interviews (if required)  | June 4 - 5, 1998   |
| 4. Final Selection           | June 8, 1998       |
| 5. Contract Execution        | June 18, 1998      |
| 6. Initial Design Meeting    | June 23, 1998      |
| 7. Phase I Design Completion | September 15, 1998 |
| 8. Advertise for Bids        | October 2, 1998    |
| 9. Pre-Bid Meeting           | October 9, 1998    |
| 10. Bid Opening              | October 30, 1998   |
| 11. Notice to Proceed        | November 13, 1998  |

#### **V. PROPOSAL INSTRUCTIONS**

##### **A. Submission of Proposals**

One original and five copies of the proposal shall be furnished to Metro, addressed to:

Metro  
Regional Parks and Greenspaces Department  
Attn: Glenn Taylor  
600 NE Grand Avenue  
Portland, OR 97232-2736

##### **B. Deadline**

Proposals will not be considered if received after 5:00 p.m., May 29, 1998.

**C. RFP as Basis for Proposals:**

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information that is not addressed in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed in writing to Glenn Taylor at Metro and can be faxed to (503) 797-1796. Any questions, which in the opinion of Metro, warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP. Metro will not respond to questions received after May 22, 1998.

**D. Information Release**

All proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all proposers agree to such activity and release Metro from all claims arising from such activity.

**E. Minority and Women-Owned Business Program**

In the event that any subcontracts are to be utilized in the performance of this agreement, the Proposer's attention is directed to Metro Code provisions 2.04.100.

Copies of that document are available from the Risk and Contracts Management Division of Administrative Services, Metro, Metro Center, 600 NE Grand Avenue, Portland, OR 97232 or call (503) 797-1717.

**VI. PROPOSAL CONTENTS**

The proposal should contain not more than 20 pages of written material (excluding biographies and brochures, which may be included in an appendix), describing the ability of the consultant to perform the work requested in the manner outlined below. The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

- A. Transmittal Letter: As part of the proposal, submit a transmittal letter. The letter should provide an overview of the approach that will be used to accomplish the work.

Include in the overview who is to be the contact for the project and who in the firm has authority to sign the agreement with Metro if a contract is awarded to the firm. State that the proposal will be valid for a minimum of 90 days. Also detail which other firms will be involved in the project and their roles.

- B. List the specific individuals on the design team who will perform the work, their specific roles and billing rates.

- C. Describe the design team's experience in performing similar work, particularly

experience with parks facilities design and construction. Provide a minimum of two references from similar projects for key team members.

- D. Describe the firm's experience in performing similar work. Provide a minimum of two references from similar projects.
- E. Describe the qualifications and experience of the design team with river and forest based parks and historic farms.
- F. Provide a work plan for the project.
- G. Estimate the number of hours by position and task required for accomplishing the work. Enclose a fee schedule for all personnel to be utilized in the project.
- H. Submit a project schedule with timeline and critical milestones to accomplish the major items of the scope of work prior to construction. Metro desires to commence construction by November 1998.
- I. In addition to services described elsewhere, Metro may require construction management services during the construction phase of work. Please provide a fee schedule and team experience for delivering these services.
- J. Exceptions and Comments Firms wishing to take exception to, or comment on, any specified requirements within this RFP are encouraged to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized.

## VII. EVALUATION OF PROPOSALS

Evaluation Process: An evaluation team will conduct the evaluation process. Metro will only evaluate proposals that, in the evaluation team's sole opinion, conform to the proposal instructions.

The team will rank proposals based on the evaluation criteria and points described below. Interviews with the top ranked firm or firms may be required at the discretion of the Project Manager. If interviews occur, they will be limited to 60 minutes in duration, time and place to be announced. At interviews, the design team should be represented by team members from the key disciplines who will be the primary contact throughout the project.

Based on the evaluation of proposals, Metro will enter into negotiations with the highest ranked firm(s) to finalize a contract. The scoring of the evaluation team, and the consequent ranking of firms, will not be permitted as grounds for an appeal of the award of a contract, per the Metro Code.

If Metro is unsuccessful in negotiating a contract with the highest ranking firm, Metro will select the next highest ranked firm and attempt to negotiate a contract. This process

will continue until a contract is recommended to the Metro Executive Officer for award or Metro terminates the procurement.

After evaluations are complete, all teams submitting proposals will be notified of the results by way of a Notice of Award.

**Evaluation Criteria:** This section provides a description of the criteria which will be used in the evaluation of proposals submitted to accomplish the work defined in this RFP.

- |                                                                                  |     |
|----------------------------------------------------------------------------------|-----|
| 1. Firm's experience with design of similar work in similar applications.        | 20% |
| 2. Design team's experience with design of similar work in similar applications. | 30% |
| 3. Ability to meet project deadlines.                                            | 10% |
| 4. Fee cost proposal.                                                            | 20% |
| 5. Work plan.                                                                    | 20% |

## **VIII. GENERAL PROPOSAL/CONTRACT CONDITIONS**

- A. **Limitation and Award:** This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. **Billing Procedures:** Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Metro shall pay Contractor within 30 days of receipt of an approved invoice.
- C. **Validity Period and Authority:** The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- D. **Conflict of Interest.** A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

## **IX. NOTICE TO ALL PROPOSERS – STANDARD AGREEMENT**

The attached personal services agreement is a standard agreement approved for use by the Metro Office of General Counsel. This is the contract the successful Proposer will enter into with Metro; it is included for your review prior to submitting a proposal. Failure to respond will be interpreted as acceptance of the standard terms and conditions for contract and subsequent changes will not be considered.

## **Attachments**

- A. Oxbow Regional Park Information**
- B. Howell Territorial Information**
- C. Standard Personal Services Agreement**

# **Attachment A**

## **Oxbow Regional Park Information**

**Figure 1      Vicinity Map**

**Figure 2      Existing Site Improvements**

**Figure 3      Master Plan Overview**



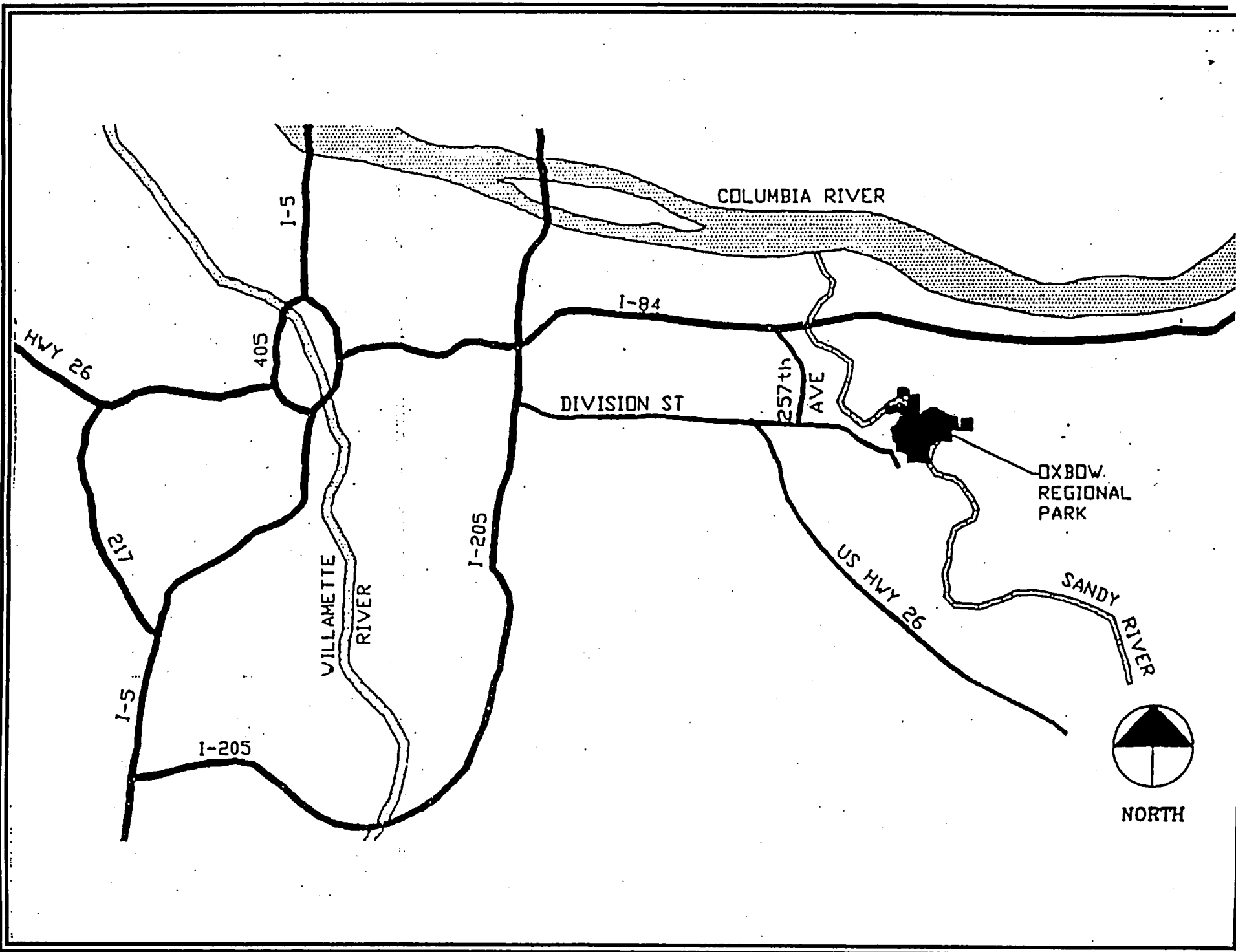


FIGURE 1  
VICINITY MAP

# Existing Facilities at Oxbow Regional Park

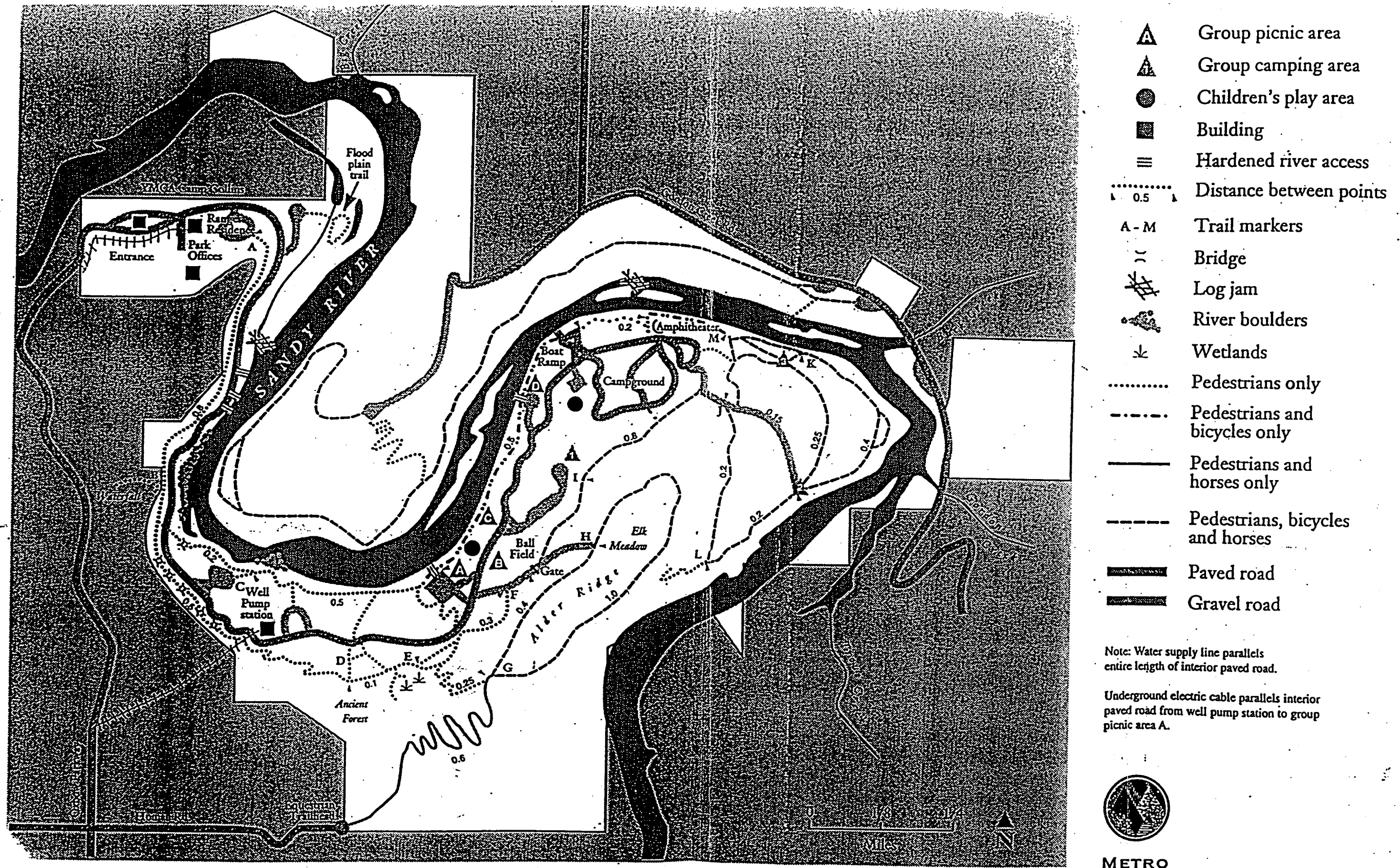
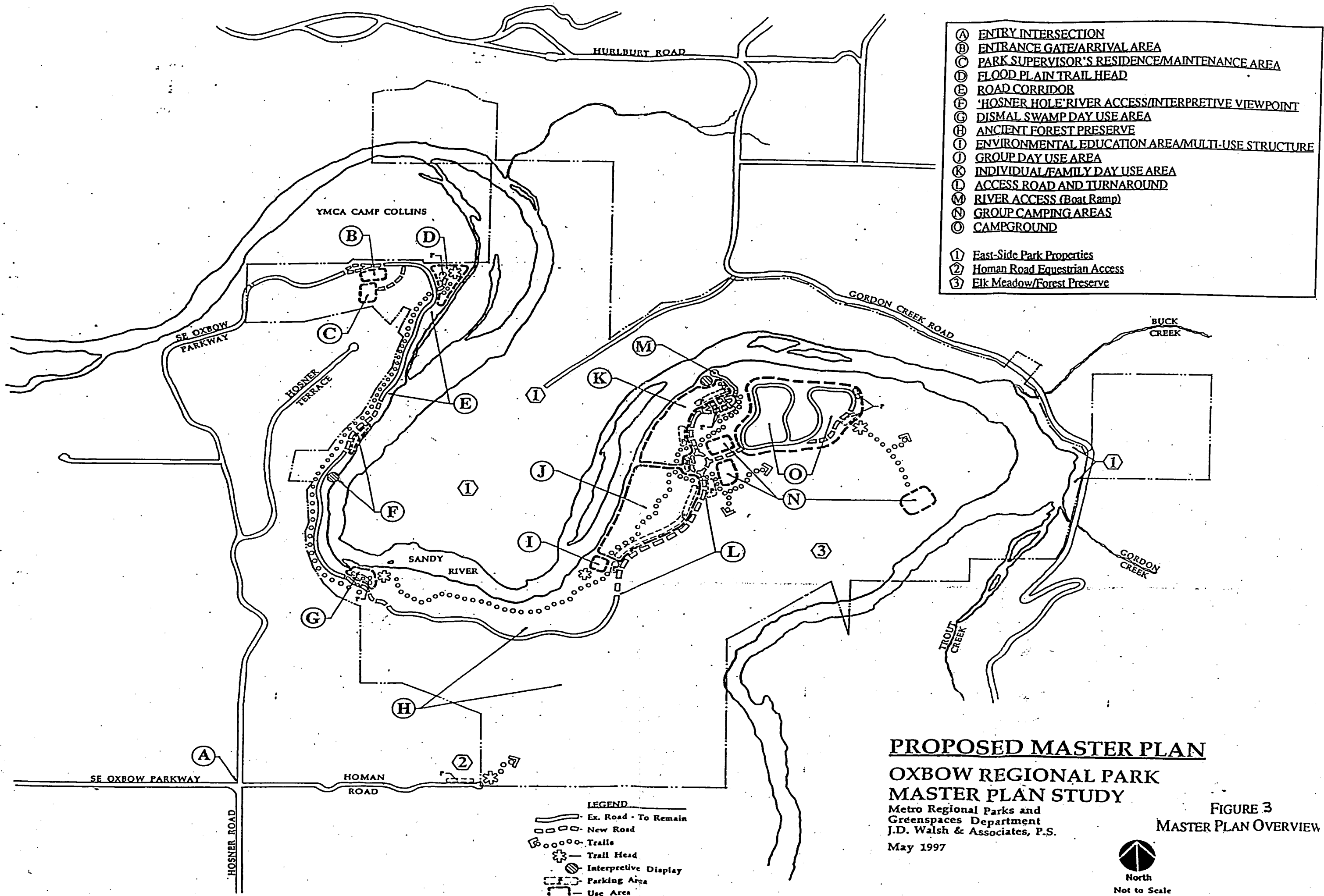
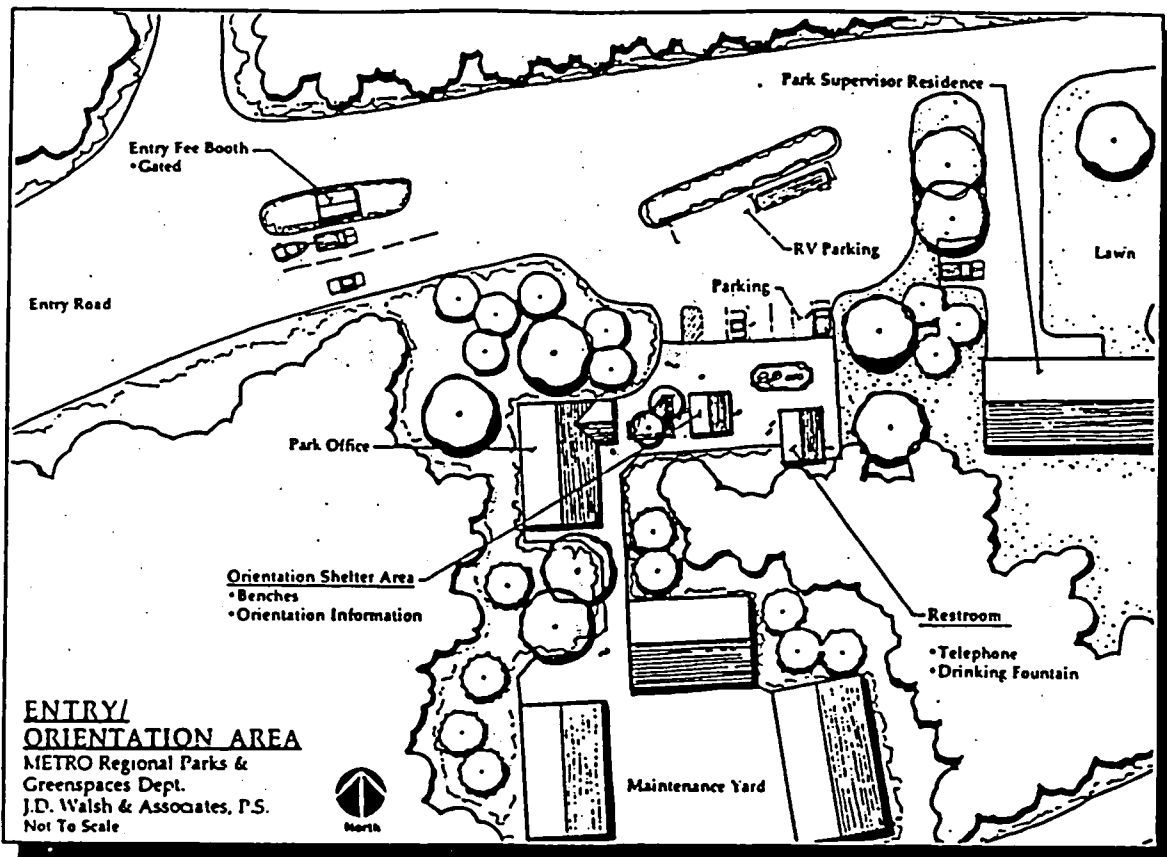


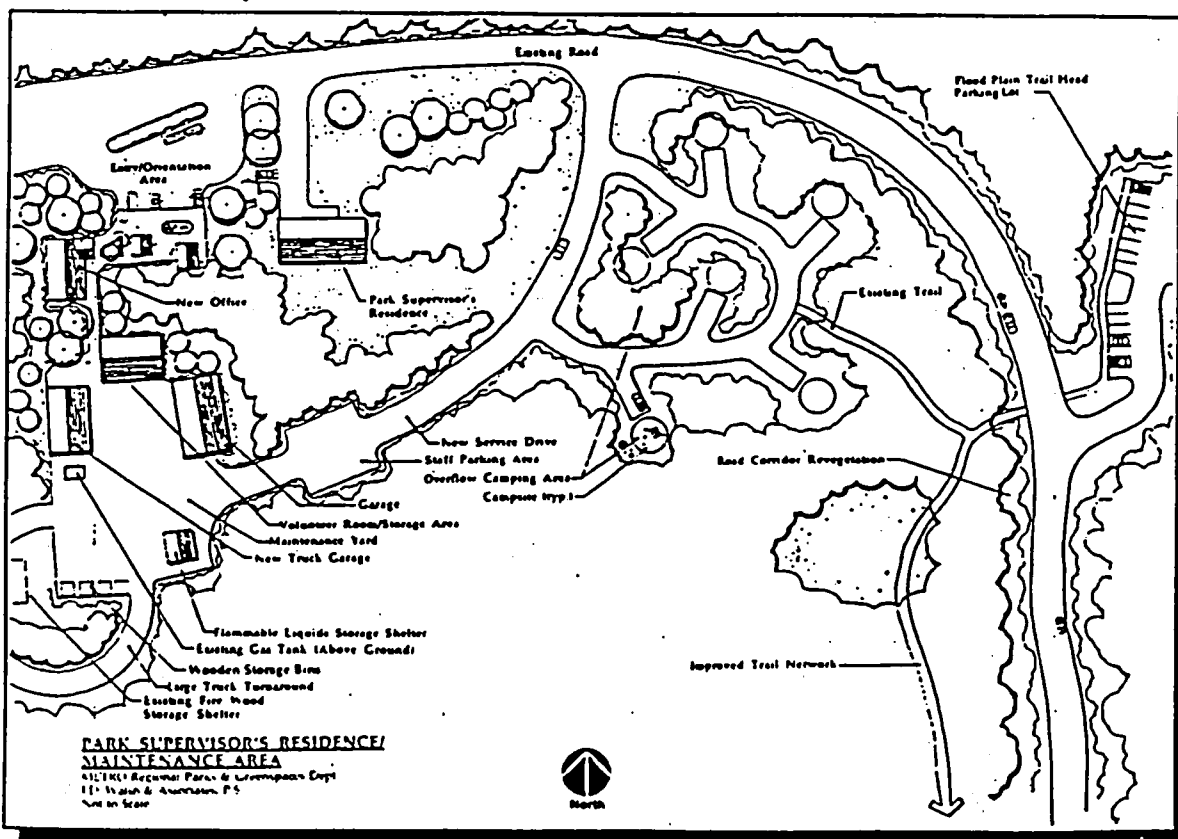
FIGURE 2  
EXISTING SITE IMPROVEMENT



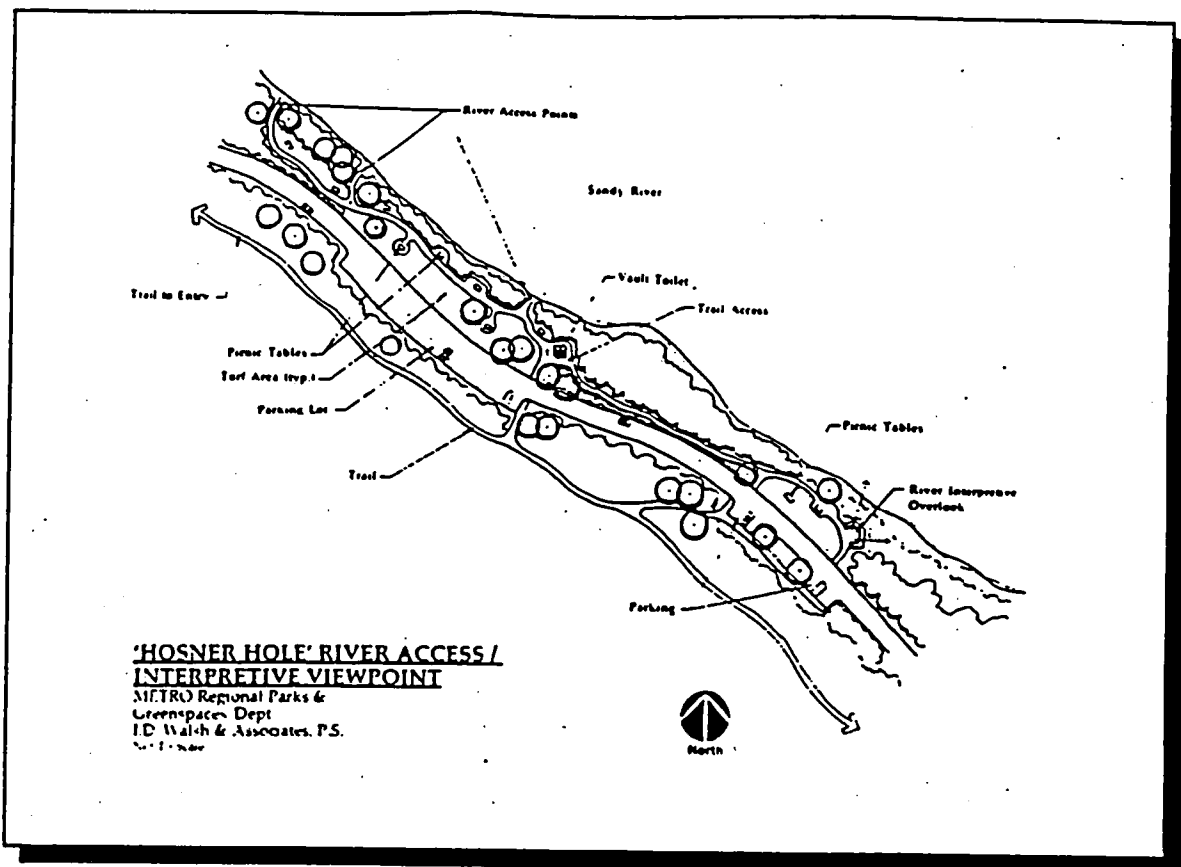


(B) Orientation Area

© Metro

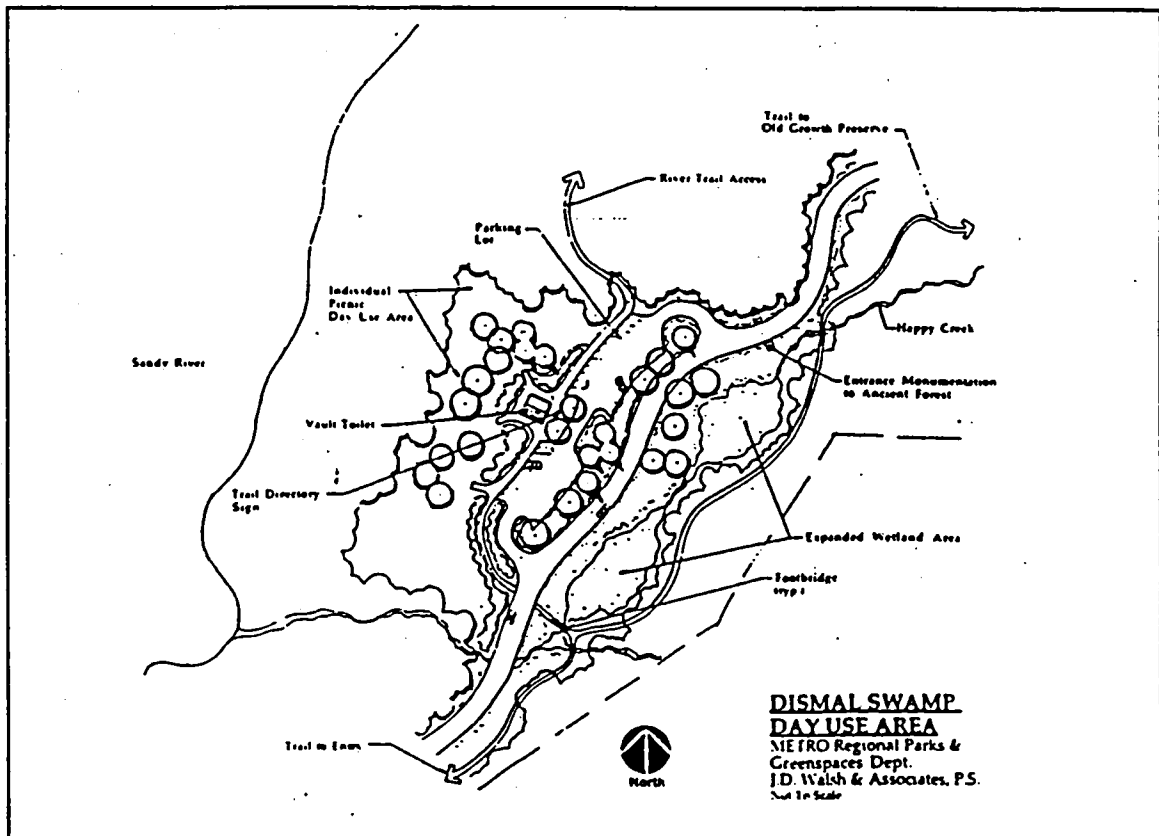


(C) Park Supervisor's Residence / Maintenance Area



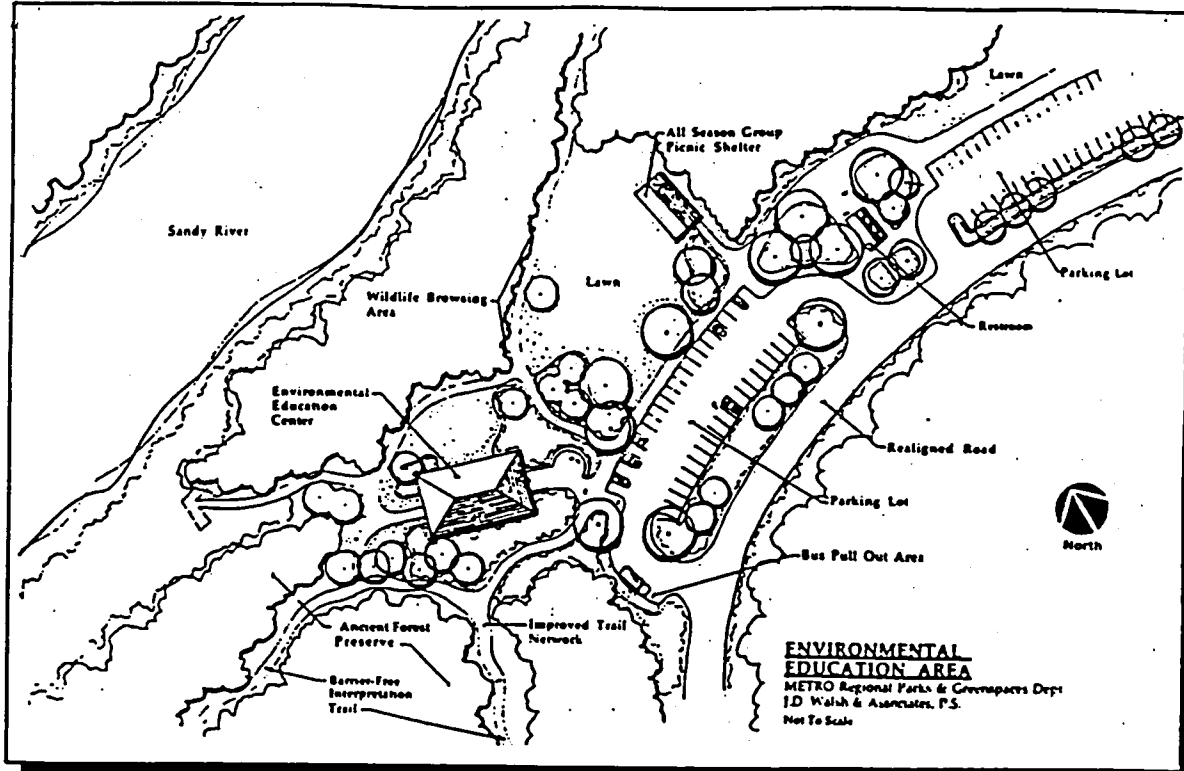
**F** 'Hosner Hole' River Access / Interpretive Viewpoint

© Metro



**G** Dismal Swamp Day Use Area

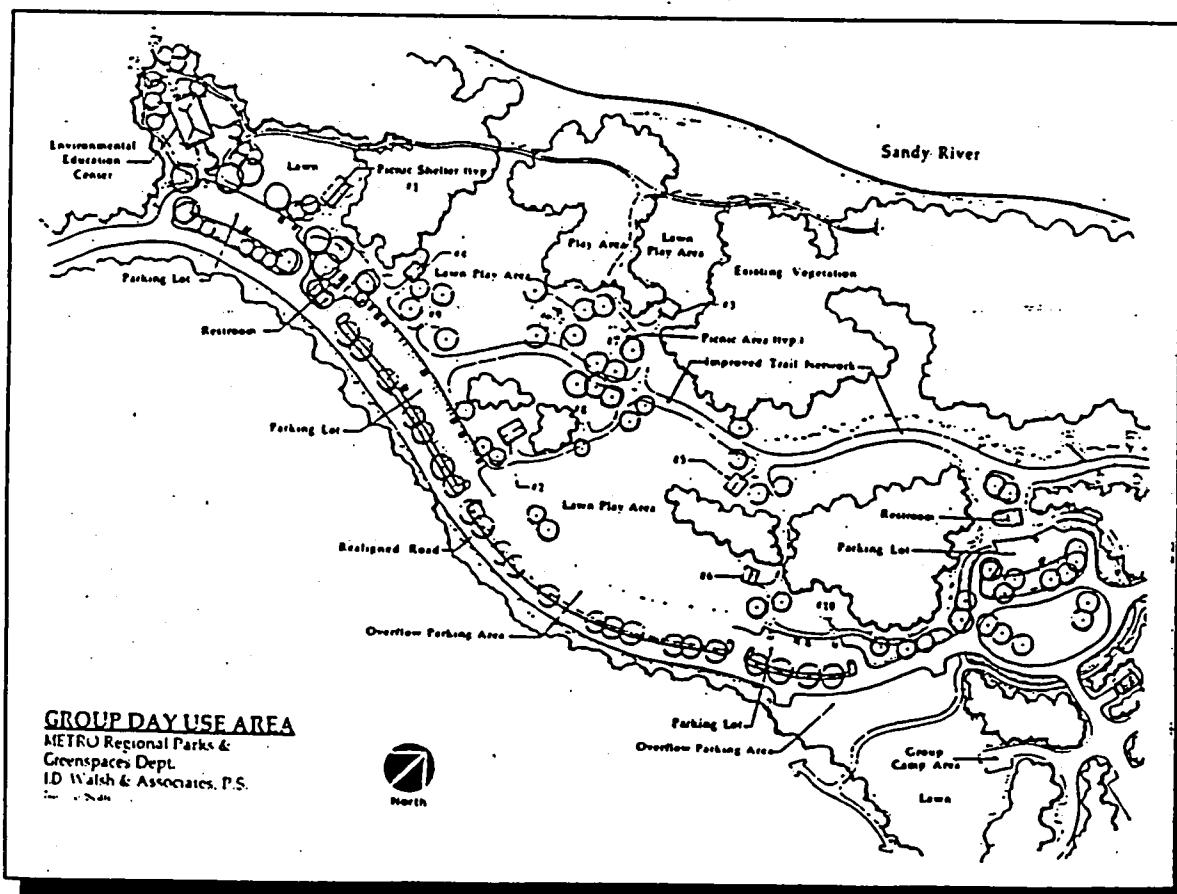
© Metro



①

Environmental Education Area

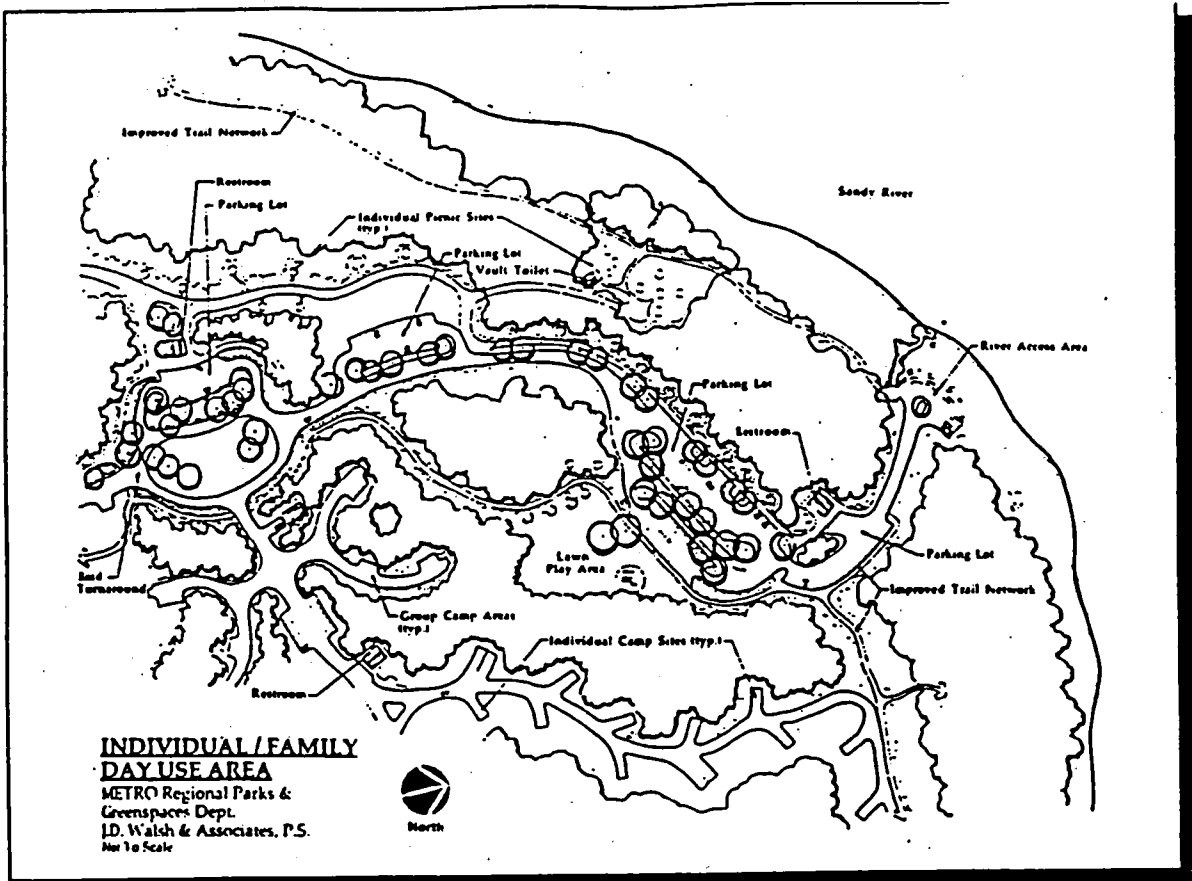
© Metro



②

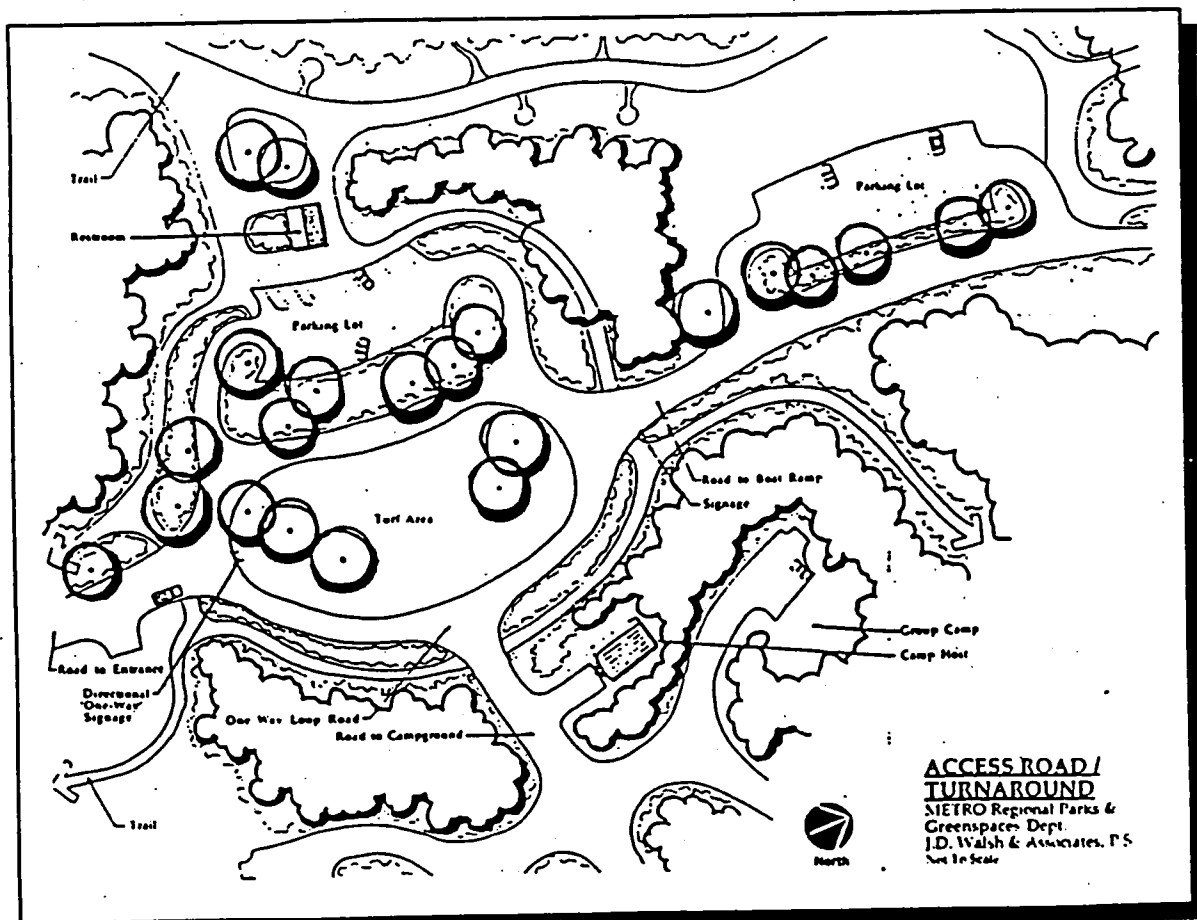
Group Day Use Area - Plan View

© Metro



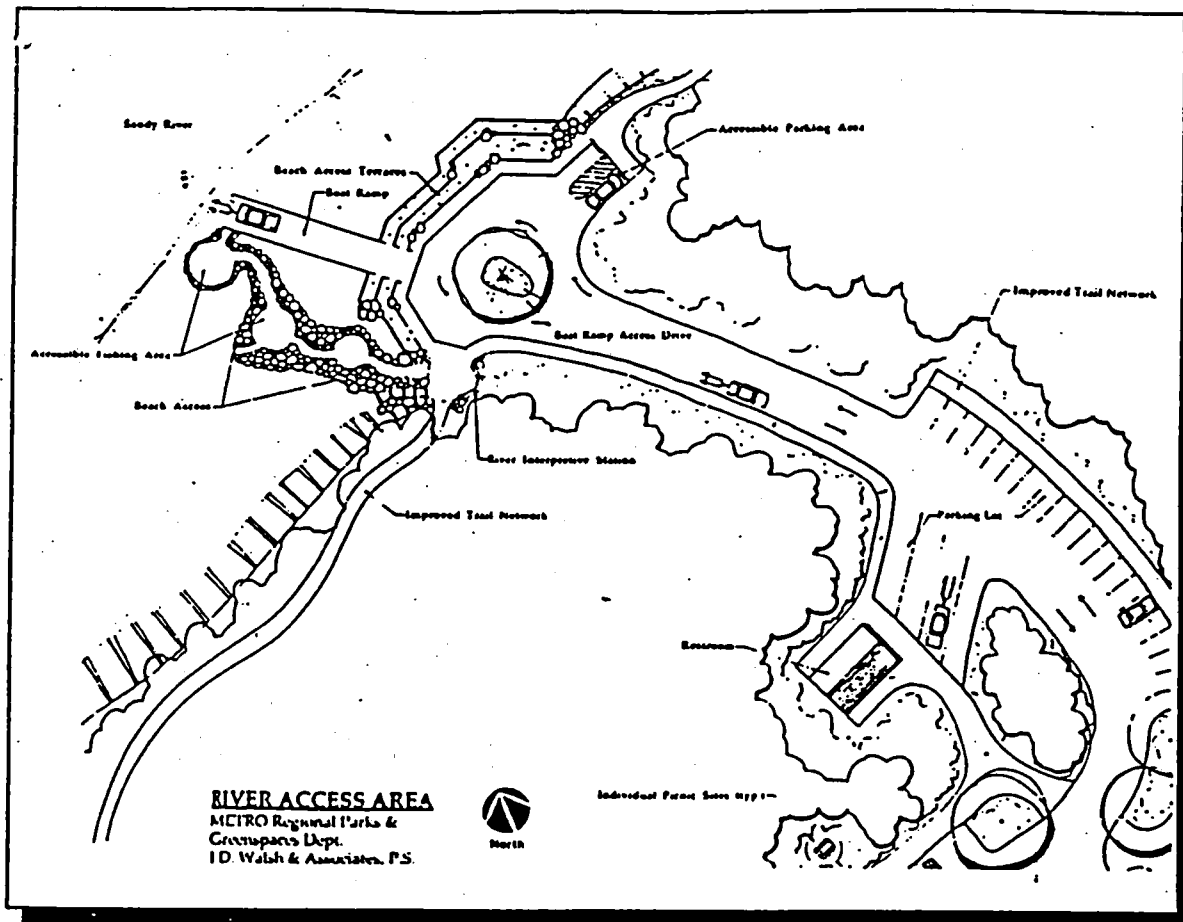
**(K)** Individual/Family Day Use Area - Plan View

© Metro



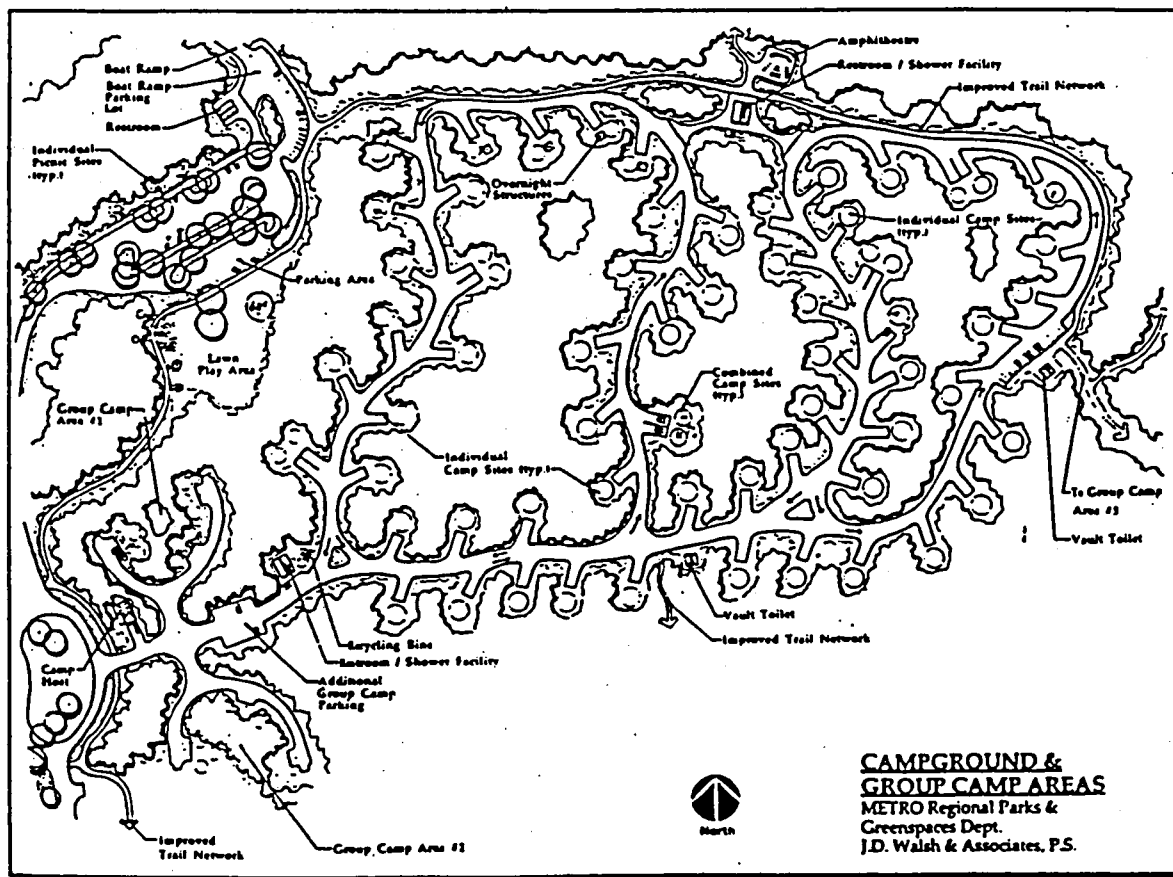
**(L)** Access Road & Turnaround

© Metro



**(M)** River Access Area (Boat Ramp)

© Metro



**(N)** Group Camp & Campground Area - Plan View

© Metro

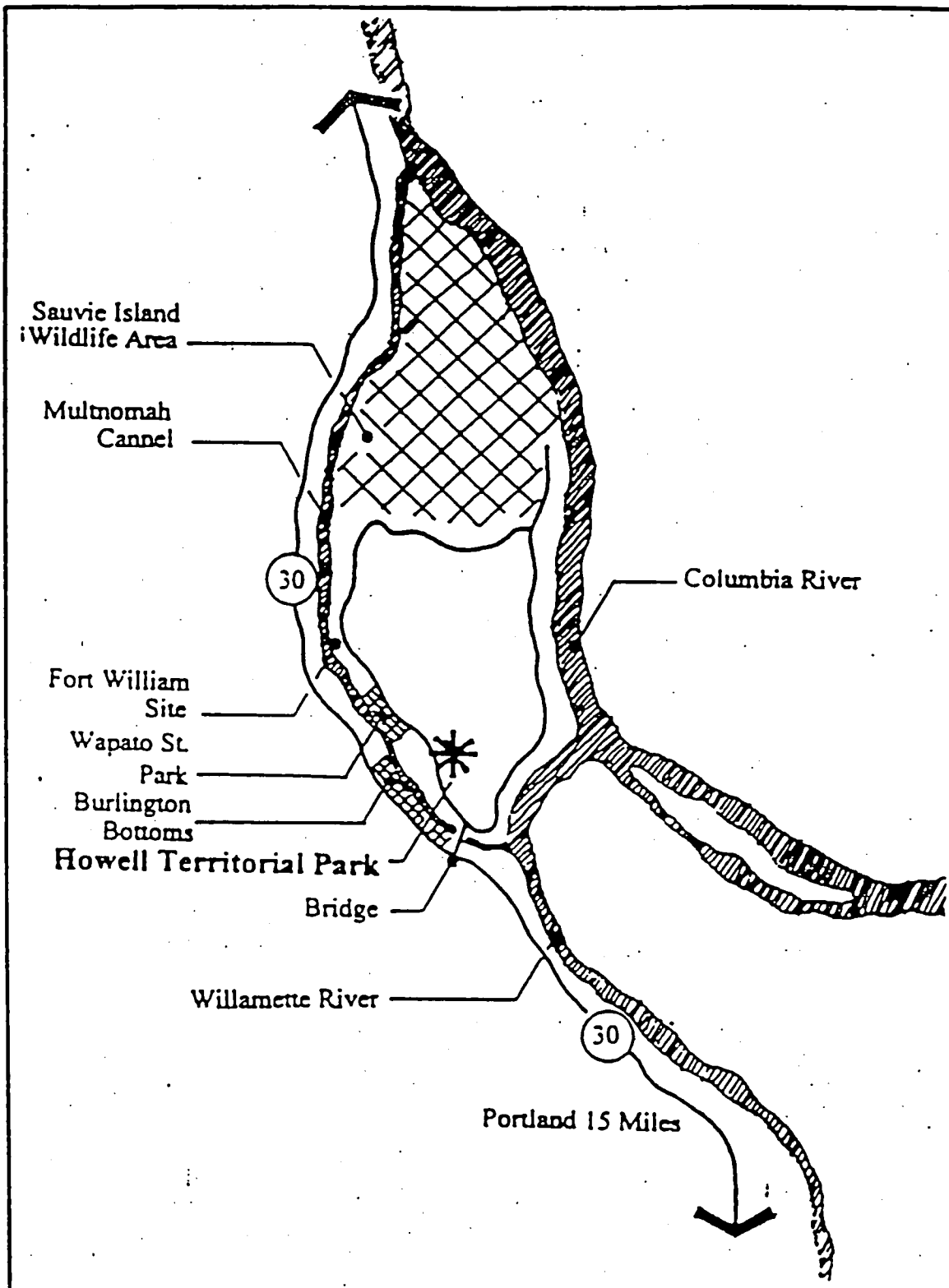
Figure 3-e



## **Attachment B**

### **Howell Territorial Park Information**

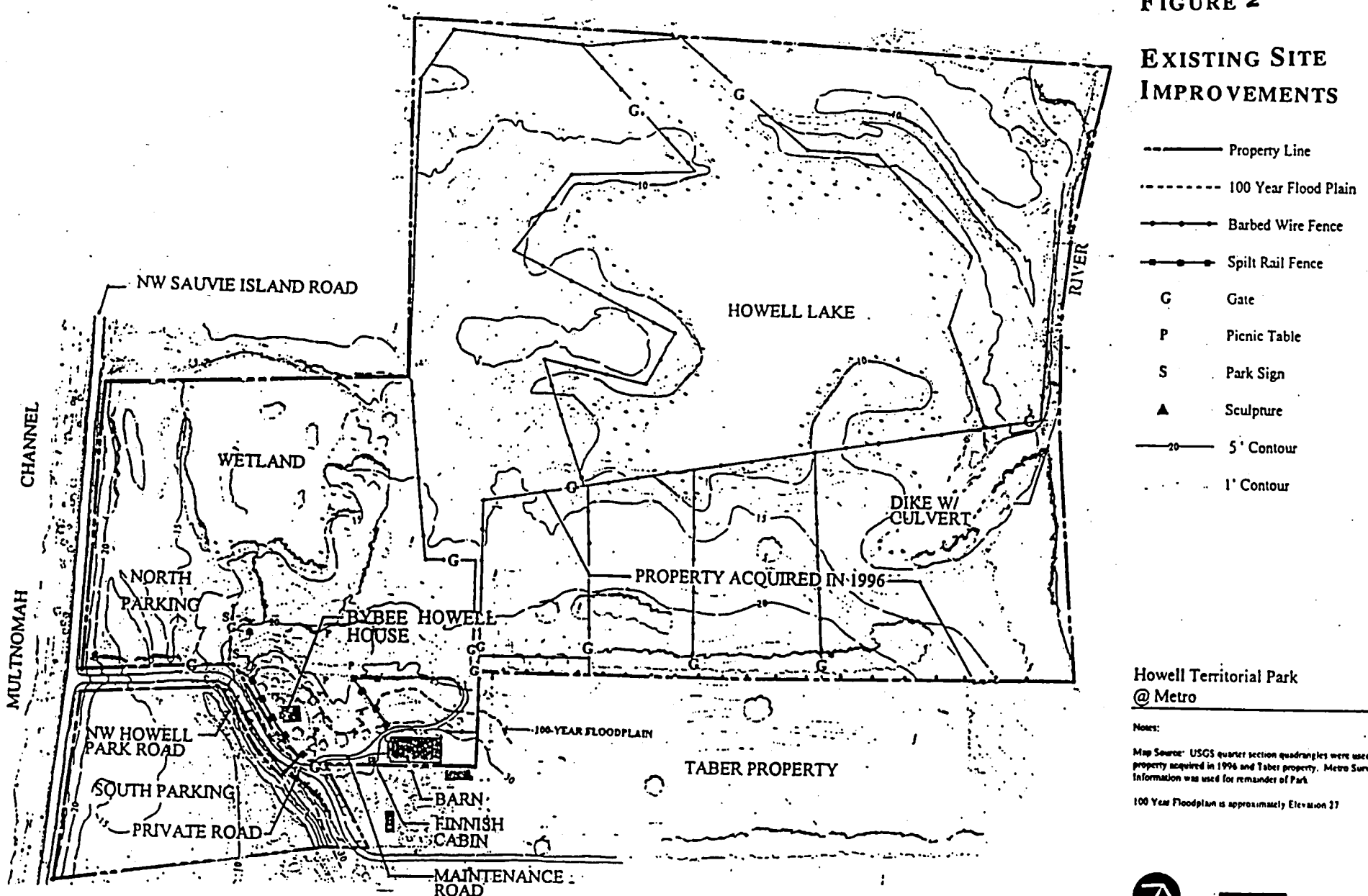
Figure 1	Vicinity Map
Figure 2	Existing Site Improvements
Figure 3	Utilities
Figure 4	Master Plan
Figure 5	Project Locations



**FIGURE 1**  
**VICINITY MAP**

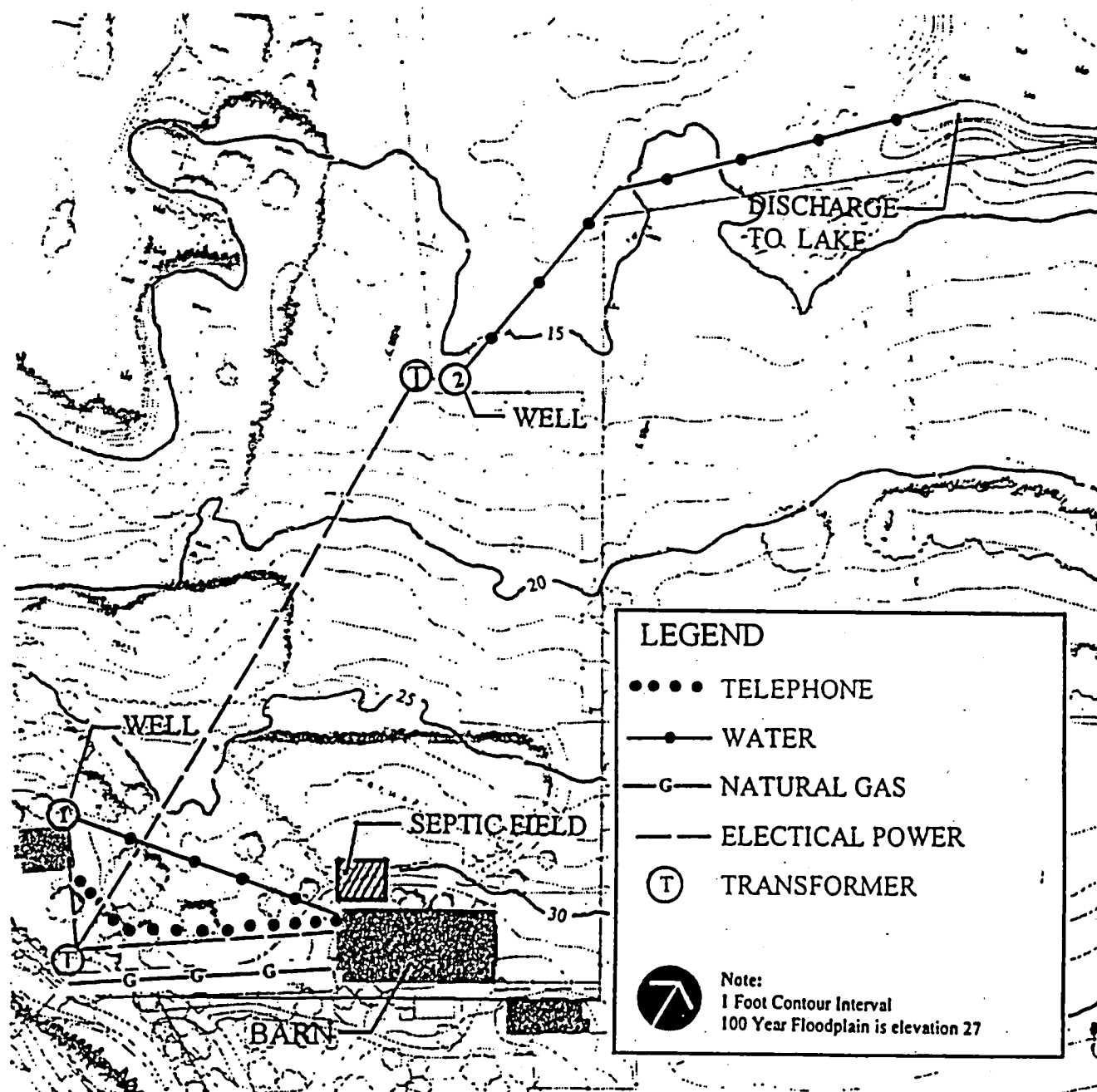
**FIGURE 2**

**EXISTING SITE IMPROVEMENTS**

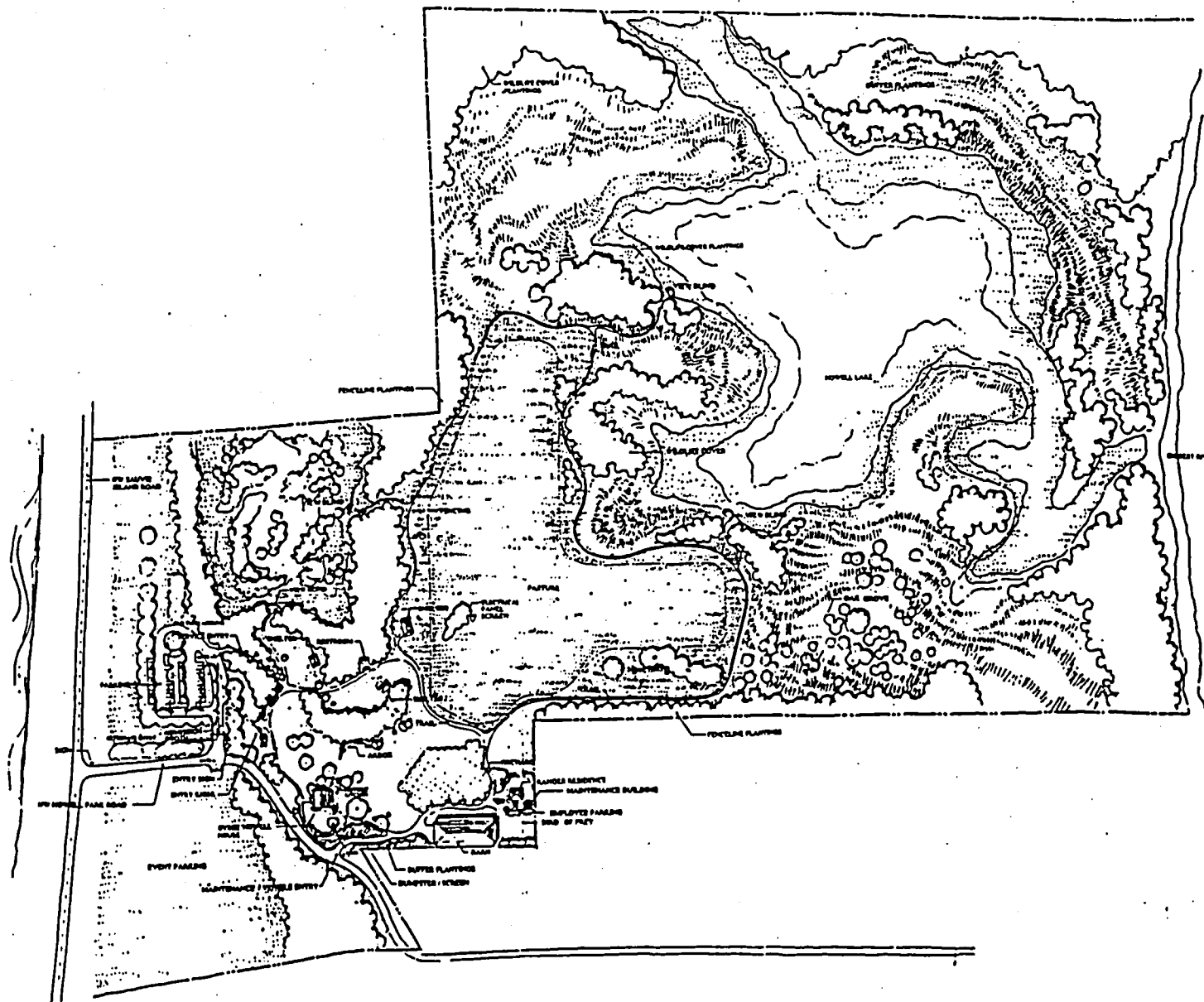


**Howell Territorial Park  
@ Metro**

FIGURE 3  
UTILITIES



**FIGURE 4**  
**MASTER PLAN**

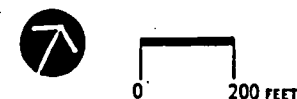


Howell Territorial Park  
@ Metro



0 200 FEET

## PROJECT LOCATIONS



## **Attachment C**

### **Standard Personal Services Agreement**

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232, and \_\_\_\_\_, referred to herein as "Contractor," located at \_\_\_\_\_.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective on the last signature date below and shall remain in effect until and including June 30, 1999, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amounts, manner and at the times specified in the Scope of Work for a maximum sum not to exceed \_\_\_\_\_ DOLLARS (\$0,000).
4. Insurance. CONTRACTOR shall provide METRO with a certificate of insurance complying with this article and naming METRO as an insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.
  - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
    - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
    - (2) Automobile bodily injury and property damage liability insurance.
  - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
  - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
  - d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017,



which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the

failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the state of Oregon and shall be conducted in the circuit court of the state of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor five days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding any and all prior agreements or practices, this Agreement constitutes the entire Agreement between the parties, and may only be modified in a writing signed by both parties.

\_\_\_\_\_  
METRO

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Exhibit A**

**Scope of Work**

**1. Statement of Work.**

PER REQUEST FOR PROPOSAL FOR DESIGN OF IMPROVEMENTS TO OXBOW REGIONAL PARK AND HOWELL TERRITORIAL PARK. (Enclosed)

**2. Payment, Billing and Term.**

Contractor shall provide engineering services for a maximum price not to exceed \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_). Progress payments shall be made following receipt of invoice from Contractor that identifies the cost of services. These costs shall be based upon the rates as outlined in the Hours and Fee Schedule (enclosed) as provided in Contractors proposal. In addition, reasonable miscellaneous costs not addressed in the Hours and Fee Schedule will be considered if accompanied by sufficient back-up information. An expense summary sheet will accompany each invoice.

In the event Metro wishes for Contractor to provide services or materials after the maximum contract price has been reached, Contractor shall provide such services or materials pursuant to amendment at the same unit prices that Contractor utilized as of the date of this Agreement, and which Contractor utilizes to submit requests for payment pursuant to this Scope of Work. Metro may, in its sole discretion and upon written notice to Contractor, extend the term of this contract for a period not to exceed 12 months. During such extended term all terms and conditions of this contract shall continue in full force and effect.

The maximum price includes all fees, costs and expenses of whatever nature. Each of Metro's payments to Contractor shall equal the percentage of the work Contractor accomplished during the billing period. Contractor's billing statements will include an itemized statement of unit prices for labor, materials, and equipment, will include an itemized statement of work done and expenses incurred during the billing period, will not be submitted more frequently than once a month, and will be sent to Metro, Attention Regional Parks and Greenspaces Department. Metro will pay Contractor within 30 days of receipt of an approved billing statement.

**REGIONAL FACILITIES COMMITTEE REPORT**

**CONSIDERATION OF RESOLUTION NO. 98-2635, FOR THE PURPOSE OF AUTHORIZING THE RELEASE OF REQUEST FOR PROPOSAL #98R-25-PKS FOR DESIGN AND ENGINEERING SERVICES IMPROVEMENTS TO HOWELL TERRITORIAL PARK AND OXBOW REGIONAL PARK.**

---

**Date:** April 27, 1998

**Presented by:** Councilor McCaig

**Committee Action:** At its April 22, 1998 meeting, the Regional Facilities Committee unanimously recommended Council adoption of Resolution No. 98-2635. Voting in favor: Councilors McCaig, Naito and McFarland.

**Council Issues/Discussion:** This RFP encompasses design and engineering for two parks; Howell Territorial and Oxbow Regional Park. The work is consistent with Metro Council adopted master plans. It is felt that awarding the work to one contractor will reduce time and cost, and provide consistent quality.

The RFP will result in a 5 year contract with one contractor, with services to be provided in a phased manner, subject to availability of funds. Funds are available for phase 1 design work at both parks. Phase 1 design work is expected to be completed by September 1998, with construction (phase 1) starting in November 1998, and ending June 1999.

The source of funds is G. O. bond Local Share, and a recent \$245,300 state grant. Total funds budgeted and expected to be expended in the 1998-99 fiscal year, are \$356,760.

## STAFF REPORT

RESOLUTION NO. 98-2635 FOR THE PURPOSE OF AUTHORIZING THE RELEASE OF REQUEST FOR PROPOSAL # 98R-25-PKS FOR DESIGN AND ENGINEERING SERVICES FOR IMPROVEMENTS TO HOWELL TERRITORIAL PARK AND OXBOW REGIONAL PARK.

---

Date: April 21, 1998

Presented by: Charles Ciecko

## BACKGROUND

Metro Council adopted park master plans for Metro's Howell Territorial Park on April 17, 1997, and for Oxbow Regional Park on October 23, 1997. The Metro Regional Parks and Greenspaces Department intends to release a Request for Proposal for design and engineering services for improvements described in the above mentioned master plans. The design and engineering work will be phased and will require the Department to enter into a 5 year contract with the selected contractor, to perform services on an as needed basis, subject to Metro's discretion and funding availability. Funds are available to begin Phase I improvements at both parks. Future improvements will occur as funds become available and annual budgets are approved by Metro Council. Working with one contractor throughout the entire design will greatly reduce time and cost factors, provide consistent quality and insure seamless delivery of services.

Phase I design work is expected to be completed by September 1998 with construction starting in November and completing by June 1999. Metro Council's adopted FY 1998-99 through FY 2002-3 Capital Improvement Plan (CIP) includes \$42,700 for design of Phase I components in the Howell Territorial Park Master Plan and \$265,000 for design of Phase I components in the Oxbow Regional Park Master Plan. The CIP also includes \$232,700 for construction of Phase I components at Howell Territorial Park and \$992,700 for construction of Phase I components at Oxbow Regional Park. Using the approved CIP (for master plan improvements to Oxbow Regional Park) as leverage, the Department successfully competed in the State Parks and Recreation Department County Opportunity Grant Program which resulted in a recent award of \$245,300 for additional capital improvements at Oxbow Regional Park. The grant was awarded contingent on the Department's commitment to complete the work by December 1999 and to spend no more than 20% (\$49,060) of the overall grant on design and engineering.

Phase I improvements at both parks will be primarily infrastructure improvements such as underground water and electric utilities. The remaining phases will be completed as funds become available and will include new entrance booths, ranger residence (in Howell Park only), picnic shelters, public restrooms, parking, ADA improvements, and trails at both parks. Oxbow Park improvements will also include renovating and reconfiguring campground spaces, adding public shower facilities, realigning portions of the road system, replacing the old office building, and upgrading the existing boat ramp to provide ADA compliant fishing and boating opportunities.

#### **BUDGET IMPACT**

A multi-year contract to expire no later than June 30, 2003 is required to complete design for both of the master plans as envisioned. The multi-year contract gives the Department the ability to maintain consistency in delivery of services and reduce costs throughout the entire design process, assuming the services are satisfactory. The anticipated budget impact is \$356,760; \$307,700 was approved by the Metro Council in its adopted FY 1998-99 through FY 2002-3 CIP and is included in the Parks Department FY 98-99 budget; and \$49,060 is available in the Oregon Parks and Recreation Department grant for design and engineering work. The anticipated budget impact could increase if more funds become available for master plan improvements at Oxbow Regional Park and Howell Territorial Park.

#### **RECOMMENDATION**

The Executive Officer recommends approval of Resolution No. 98-2635.

*Agenda Item 10.1*

**CONTRACT REVIEW BOARD**

**Resolution No. 98-2628, For the purpose of Authorizing an Exemption to Metro Code Chapter 2.040.044, Personal Services Contracts Selection Process, and Authorizing a Sole-Source Contract with Stop Oregon Litter and Vandalism (SOLV) for the Sponsorship of the Annual SOLV-IT Clean Up Event**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING AN	)	RESOLUTION NO. 98-2628
EXEMPTION TO METRO CODE CHAPTER 2.04.044,	)	
PERSONAL SERVICES CONTRACTS SELECTION	)	INTRODUCED BY MIKE BURTON,
PROCESS, AND AUTHORIZING A SOLE-SOURCE	)	EXECUTIVE OFFICER
CONTRACT WITH STOP OREGON LITTER AND	)	
VANDALISM (SOLV) FOR SPONSORSHIP OF THE	)	
ANNUAL "SOLV IT" CLEANUP EVENT	)	

WHEREAS, Metro supports cleanup events to rid the region of illegal dump sites and to assist local governments with cleanup of chronic problem sites; and

WHEREAS, Metro has provided technical and financial support for the past eight "SOLV IT" events; and

WHEREAS, the 1997 "SOLV IT" event succeeded in collecting more than 659 tons of material from 93 different sites throughout Multnomah, Clackamas and Washington Counties including 26.7 tons of mixed solid waste, 23.9 tons of recyclable scrap metal, 345.5 tons of wood debris and 1,946 waste tires; and

WHEREAS, the 1998 SOLV IT annual event is coordinated by Stop Oregon Litter and Vandalism (SOLV) and KINK Radio, and includes four other major sponsors: Metro, Weyerhaeuser, Sleep Country USA, and Amica Mutual Insurance Company; and

WHEREAS, the coordinating organization is the only organization qualified to perform the services as outlined in the contractual Scope of Work; and

WHEREAS, the Executive Officer has reviewed the contract with SOLV and hereby recommends Council approval; now, therefore,

BE IT RESOLVED,

That the Metro Council hereby exempts the attached contract (Exhibit "A" hereto) with SOLV from the competitive proposal requirement, pursuant to Metro Code Chapter 2.04.044, because the Council finds SOLV to be the sole provider of the required services.



ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Jon Kvistad, Presiding Officer

KD:ajb  
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METRO CONTRACT NO. \_\_\_\_\_

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232, and STOP OREGON LITTER AND VANDALISM (SOLV), referred to herein as "Contractor," located at P.O. Box 1235, Hillsboro, Oregon 97123.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective May 7, 1998, and shall remain in effect until and including June 30, 1998, unless terminated or extended as provided in this Agreement.

2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.

3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00).

4. Insurance.

a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:

- (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
- (2) Automobile bodily injury and property damage liability insurance.

b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the

work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under

this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the state of Oregon and shall be conducted in the circuit court of the state of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor five days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding any and all prior agreements or practices, this Agreement constitutes the entire Agreement between the parties, and may only be modified in a writing signed by both parties.

STOP OREGON LITTER AND  
VANDALISM (SOLV)

METRO

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Print name and title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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## EXHIBIT A

## SCOPE OF WORK

PROJECT: Coordination of 1998 "SOLV-IT" Event  
CONTRACTOR: Stop Oregon Litter and Vandalism (SOLV)  
PROJECT TERM: May 7, 1998 through June 30, 1998  
PROJECT TOTAL: \$30,000

CONTRACTOR'S RESPONSIBILITIES:

Contractor shall be responsible for conducting a one-day event to clean up neighborhoods and community illegal dump sites in the region on Saturday, April 18, 1998.

1. Community Cleanup Events:

SOLV will work with local governments and neighborhood organizations to identify and select sites to be scheduled for cleanup, and will also assume responsibility for arranging access to any identified public properties, if necessary. Community-based cleanup events will include collection of separated recyclables and/or reusables such as scrap metal, tires, etc.

2. Cleanup of Illegal Dump Sites on Public Land: SOLV will identify and conduct cleanups of large chronic illegal dump sites in the region.

- a. Contractor's activities and/or events will be distinctly different from normal maintenance responsibilities of local governments (such as public works road crews or parks department cleanups).
- b. Contractor shall assume responsibility for installation of prevention devices such as barricades or plantings for sites as appropriate.
- c. Contractor shall assume responsibility for arranging access to such sites if necessary.

3. Publicity: Contractor shall identify Metro as a major sponsor in all event media publicity, event signage, etc.4. Reporting: The Contractor's Project Manager will provide Metro with event information on or before June 30, 1998, including a report describing the cleanups:

- a. Total amount collected for each type of material and where material was disposed of or recycled;
- b. Number of participants in the event and number of volunteers contributing to the cleanup and recycling activities.
- c. Highlights of the event.

METRO'S RESPONSIBILITIES:

**METRO'S RESPONSIBILITIES:**

Metro will provide printing of the event materials such as brochures and posters, assistance with distribution of same, and will provide other assistance as necessary to develop and evaluate the project, including coordination between the Contractor and Metro's Creative Services Division.

**PAYMENT AND EVENT REVENUE:**

Metro will expedite the lump sum payment of \$30,000 to the Contractor immediately following contract approval. Any expenses which exceed Metro's total cash contribution of \$30,000 shall be borne by the Contractor. The majority of the event revenue is contributed by the following major sponsors: Metro, KINK Radio, Sleep Country USA, Weyerhaeuser and Amica Mutual Insurance Company. Additional revenue is generated from donations of \$10,000, \$5,000 and \$1,600 packages from other local businesses, to be used in covering costs of staging the SOLV-IT event.

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## **REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT**

CONSIDERATION OF RESOLUTION NO. 98-2628, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.040.044, PERSONAL SERVICES CONTRACTS SELECTION PROCESS, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH STOP OREGON LITTER AND VANDALISM (SOLV) FOR THE SPONSORSHIP OF AN ANNUAL SOLV-IT CLEAN UP EVENT

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Date: April 21, 1998

Presented by: Councilor Morissette

**Committee Recommendation:** At its April 21 meeting, the Committee considered Resolution No 98-2628 and voted 2-0 to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilor McFarland and Chair Morissette. Councilor Washington was absent.

**Background:** Metro has been one of the principal financial sponsors of SOLV's annual spring cleanup event for many years. In recent years, the amount of this sponsorship has been \$30,000. The estimated total cost of the event is \$107,000. Many Metro staff and councilors also have donated their time as cleanup volunteers at the event. Since 1993, the event has focused on the cleanup of illegal dumpsites. The 1997 event collected 372 tons of mixed waste, nearly 24 tons of scrap metal and over 1,900 tires. The SOLV event is largest one-day cleanup event in the United States.

**Committee Issues/Discussion:** Bruce Warner, Regional Environmental Management Director, presented the staff report. He noted that the resolution was being considered after the event had been held (April 18), but that the event had been supported by Metro for many years and funding had been included in the budget. He explained that it was necessary for the Council to annual adopt a resolution related to the event because Metro's contract code requires that sole source contracts exceeding a specified amount must be approved by the Council.

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 98-2628 FOR THE PURPOSE OF  
AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.044,  
PERSONAL SERVICES CONTRACTS SELECTION PROCESS, AND  
AUTHORIZING A SOLE-SOURCE CONTRACT WITH STOP OREGON LITTER  
AND VANDALISM (SOLV) FOR THE SPONSORSHIP OF THE ANNUAL "SOLV  
IT" CLEANUP EVENT

Date: April 8, 1998

Presented by: Bruce Warner

### PROPOSED ACTION

Adoption of Resolution No. 98-2628 would authorize an exemption to competitive contract procedures and authorize the execution of a personal services contract (Exhibit A) with Stop Oregon Litter and Vandalism (SOLV). The contract provides general financial support to SOLV, and specifically provides sponsorship of the ninth annual "SOLV-IT" cleanup event held on Saturday, April 18, 1998.

SOLV is the only agency of its kind to coordinate this type of event on this scale. Through this event, SOLV has targeted many small illegal disposal sites in the Metro region as well neighborhood cleanups coordinated by local groups, restoration projects, and beautification projects.

Metro's sponsorship of SOLV and this event was identified in the current-year budget approved by Council. However, Metro's administrative rules require us to treat this sponsorship as a contracted personal service, rather than as a grant, which would be more appropriate given the nature of SOLV's work and this event. In order to avoid this cumbersome process in the future, we will work with the agency's contract administrator to find a better way to deal with future grants and sponsorships awarded to non-profit agencies.

### FACTUAL BACKGROUND

#### *SOLV IT*

Metro has supported the annual one-day "SOLV IT" cleanup since the first event in 1990. Over that period of time, the scale of illegal dumping has become more manageable on a site-by-site basis. During the first two years, SOLV IT concentrated on collection of tires, scrap metal, and yard debris from neighborhoods, plus removal of solid waste from illegal dumpsites that were proliferating throughout the metropolitan area. With the institution of curbside recycling in 1993, SOLV IT shifted its focus to cleaning up illegal dumpsites. Remediation programs from Metro, other local cleanup projects, and SOLV IT were so successful that in 1995, only a few major dumpsites remained to be cleaned. In an effort to be responsive to the changing needs of the metropolitan community, SOLV IT adjusted its focus again to target smaller dumpsites and perform neighborhood community cleanup. SOLV IT 1997 continued that emphasis with 93 sites targeted that involved a variety of projects including trail maintenance, illegal dumpsite cleanup, neighborhood beautification, community enhancement, flood remediation, storm and ice damage repair, bike and pedestrian path construction, wildlife refuge maintenance, and landscaping.

Eight years of efforts have resulted in the removal of over 4.5 million pounds of discarded debris with the help of thousands of volunteers. SOLV IT 1997 was the largest cleanup in the nation.



A few years ago, with the help of the Association of Oregon Contractors, SOLV began to install barricades and plantings in an attempt to reduce or eliminate casual access to chronic sites. These efforts have continued, with neighborhood associations placing signs and securing permission to install barriers on private property. On the downside however, illegal dumpers have moved on to other places; and though the formerly large sites in isolated locations are starting to disappear, the current trend is toward more widely dispersed dumping at smaller sites that are more accessible and closer to the population. Working in conjunction with neighborhood associations' activities, this year's event will focus on the numerous smaller but chronic dumpsites in neighborhoods, while cleaning up the few large sites in the region that remain chronic.

Comparisons for the 1994, 1995, 1996, and 1997 SOLV IT events follow:

	<u>Mixed Waste*</u>	<u>Scrap Metal</u>	<u>Tires</u>
1994	83 tons	8.2 tons	4,836
1995	155 tons	6.1 tons	2,213
1996	381 tons	21.6 tons	2,586
1997	372 tons	23.94 tons	1,946

\*includes storm/yard debris

Metro is one of five primary event sponsors for the 1998 event. Other sponsors include KINK Radio, Weyerhaeuser, Sleep Country USA, and Amica Mutual Insurance Company. In addition, local haulers have helped with SOLV IT since its beginning. Last year, these haulers included the following companies: American Sanitary Service, B & B Leasing, Cedar Mill Disposal, Cloudburst Recycling, Gruetter Disposal Service, Keller Drop Box Service, Metropolitan Disposal, Miller Sanitary Service, Mt. Hood Refuse Removal, Inc., Oregon City Garbage, Sunset Garbage, Schnitzer Steel, Schultz-Clearwater Sanitation, Refuse Removal, Walker Garbage Service, Waste Recovery, Inc., and Waste Management of Oregon. Additional assistance with waste hauling will be provided by the City of Portland, Port of Portland, Clackamas and Washington Counties, and Mt. Hood Community College.

#### *Event Costs/Metro Participation*

The estimated total cost of the event is \$107,000, of which Metro will contribute \$30,000. In addition, in-kind and donated services from organizations and other businesses in the community are solicited by SOLV to help reduce direct costs. Each primary event sponsor has agreed to provide in-kind services as part of their participation. For our part, Metro will provide printing of posters and brochures, site map production, use of cleanup equipment on the day of the event, volunteer recruitment, and assistance with calls taken at the Metro Recycling Information Center and Regional Environmental Management reception desk.

#### BUDGET IMPACT

In FY 1997-98, \$30,000 is listed for the SOLV IT cleanup program in the Office of the Director's budget.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 98-2628.

## **GROWTH MANAGEMENT COMMITTEE REPORT**

CONSIDERATION OF ORDINANCE NO. 98-730, FOR THE PURPOSE OF AMENDING ORDINANCE Nos. 96-647C AND NO. 97715B, 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.

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Date: May 6, 1998

Presented by: Counselor Naito  
for Metro Council May 7 Public Hearing

**Committee Action:** At its May 5, 1998 meeting, the Growth Management Committee amended Ordinance 98-730, also referred to as the Stream and Floodplain Protection Plan, and held over several unfinished items until a specially scheduled committee meeting on Thursday May 28 at 2:30 PM. Committee members present at the meeting were councilors McCaig, Morissette and Naito. Also attending were councilors McFarland and Naito.

**Current Document:** The current document, as amended by the Growth Management Committee, is substantially the same as recommended by the Metro Policy Advisory Committee (MPAC). The ordinance consists of:

- The cover ordinance --References the relation of this ordinance to RUGGO's, the Urban Growth Management Functional Plan and the Regional Framework Plan; detailing review performed by advisory committees, Growth Management Committee and the Council; and specifying the impact of this Ordinance on the Framework Plan and Metro code.
- Exhibit A--Contains sections 1-4, revising Title 3 of the Urban Growth Management Functional Plan. Section 4 contains performance standards with which cities and counties must comply. These sections been extensively reorganized compared to the original Title 3.
- Exhibit B--Sections 5-7 references Fish and Wildlife Habitat Conservation, and requirements for Model Ordinance and Map Adjustment Process. This exhibit was not significantly revised from the original Title 3.
- Exhibit C--The Model Ordinance. Its creation was required by the original Title 3, and is one way cities and counties can demonstrate compliance. In addition, the performance standards in Exhibit A do not become effective until 18 months after Metro Council adoption of the Model Ordinance and the Water Quality and Flood Management Areas Map.

- Exhibit D--Water Quality and Flood Management Areas Map.
- Exhibit E--Definitions applying to Title 3 of the Urban Growth Management Functional Plan, but residing in Title 10 of same.

**Council Issues/Discussion:** The following amendments were accepted by the Growth Management Committee:

Cover Ordinance--Accept language recommended by Office of General Counsel clarifying that no substantive changes were made to the Original Title 3, sections 5-7.

#### Exhibit A

Revised Table 1, describing vegetated corridor requirements, to be consistent with a similar, but more condensed table in the model ordinance. Specifications remain the same.

Agreed with MPAC recommendation concerning language for existing structures and alternatives analysis (Section 4.D.3.d).

#### Exhibit C

Agreed to a housekeeping motion to include the table of contents and appendix to the model ordinance.

Amended model Ordinance to be consistent with change to Exhibit A, replacement and rehabilitation of existing structures and alternatives analysis (Section 3.H.7.f).

Agreed with MPAC recommendation to section 3.I.7 clarifying regulation of nonconforming uses in the vegetated corridors.

Agreed to definitions for "disturb" and "stormwater pre-treatment facility" in the definitions section (section 14) of the Model Ordinance. Also agreed to revise the definition of "development" to include application to buildings associated with farm practices and farm uses, to be consistent with similar change to Exhibit E (below).

#### Exhibit E

Amended definition of "development" to include application to buildings associated with farm practices and farm uses. The language was suggested by legal counsel, at the request of MPAC.

#### **Held over for further discussion:**

Definition and/or application of definition, of "wetlands". Legal counsel is revising options for consideration. Suggestions for amendments have been made by several parties, including Councilor Morissette. At issue is, 1) the relation of the adopted map

to text, which spells out map revision procedures, and 2) how the definition of wetlands should be applied.

Definition of "Debris" needs additional clarification.

Clarification of language limiting cutting of trees and other vegetation in water quality resource areas (Section 4.D.4 of Exhibit A).

An amendment clarifying the Metro role, relative to citizen notification and the Title #3 process.

**Future Council Action:** The committee agreed to meet at a special meeting time: Thursday, May 28, 1998, 2:30PM, at Metro, to take up held-over items. Council approval is expected in early June.

**BEFORE THE METRO COUNCIL**

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO 98-730A
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.

WHEREAS, Through review at WRPAC, MTAC and MPAC, Sections 1-4 of Title 3 have been extensively reorganized. For that reason, Exhibit A will fully replace Title 3, Sections 1-4 as adopted by the Metro Council on November 21, 1996.

WHEREAS, No significant changes have been made to Sections 5-7 of Title 3. Therefore, Exhibit B only amends Title 3, Sections 5-7 as adopted by the Metro Council on November 21, 1996.

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 add the definitions 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

////

////

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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**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.
- 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.**

- 42 C. Any combination of A and B above that substantially complies with all performance  
43 standards in Section 4.

44 **Section 4. Performance Standards**

45 A. Flood Management Performance Standards.

- 46  
47 1. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to  
48 human life and property, and maintain functions and values of floodplains such as  
49 allowing for the storage and conveyance of stream flows through existing and natural  
50 flood conveyance systems.  
51  
52 2. All development, excavation and fill in the Flood Management Areas shall conform to  
53 the following performance standards:  
54  
55 a. Development, excavation and fill shall be performed in a manner to maintain or  
56 increase flood storage and conveyance capacity and not increase design flood  
57 elevations.  
58  
59 b. All fill placed at or below the design flood elevation in Flood Management Areas  
60 shall be balanced with at least an equal amount of soil material removal.  
61  
62 c. Excavation shall not be counted as compensating for fill if such areas will be filled  
63 with water in non-storm winter conditions.  
64  
65 d. Minimum finished floor elevations for new habitable structures in the Flood  
66 Management Areas shall be at least one foot above the design flood elevation.  
67  
68 e. Temporary fills permitted during construction shall be removed.  
69  
70 f. Uncontained areas of hazardous materials as defined by DEQ in the Flood  
71 Management Area shall be prohibited.  
72  
73 3. The following uses and activities are not subject to the requirements of Subsection 2:  
74  
75 a. Excavation and fill necessary to plant new trees or vegetation.  
76  
77 b. Excavation and fill required for the construction of detention facilities or structures,  
78 and other facilities such as levees specifically designed to reduce or mitigate flood  
79 impacts. Levees shall not be used to create vacant buildable lands.  
80  
81 c. New culverts, stream crossings, and transportation projects may be permitted if  
82 designed as balanced cut and fill projects or designed to not significantly raise the  
83 design flood elevation. Such projects shall be designed to minimize the area of fill in  
84 Flood Management Areas and to minimize erosive velocities. Stream crossings shall  
85 be as close to perpendicular to the stream as practicable. Bridges shall be used  
86 instead of culverts wherever practicable.  
87  
88

89        **B.      Water Quality Performance Standards**

- 90
- 91            1. The purpose of these standards is to: 1) protect and improve water quality to support the
- 92            designated beneficial water uses as defined in Title 10, and 2) protect the functions and
- 93            values of the Water Quality Resource Area which include, but are not limited to:
- 94
- 95                a. providing a vegetated corridor to separate Protected Water Features from
- 96                development;
- 97
- 98                b. maintaining or reducing stream temperatures;
- 99
- 100              c. maintaining natural stream corridors;
- 101
- 102              d. minimizing erosion, nutrient and pollutant loading into water;
- 103
- 104              e. filtering, infiltration and natural water purification;
- 105
- 106              f. stabilizing slopes to prevent landslides contributing to sedimentation of water
- 107              features.
- 108
- 109            2. Local codes shall require all development in Water Quality Resource Areas to conform
- 110            to the following performance standards:
- 111
- 112                a. The Water Quality Resource Area is the vegetated corridor and the Protected Water
- 113                Feature. The width of the vegetated corridor is specified in the table below. At least
- 114                three slope measurements along the water feature, at no more than 100-foot
- 115                increments, shall be made for each property for which development is proposed.
- 116                Depending on the width of the property, the width of the vegetated corridor will vary.

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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 <sup>1</sup>	< 25%	edge of bankful flow or 2-year storm level or delineated edge of wetland	50 feet
Primary Protected Water Features <sup>1</sup>	≥ 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 <sup>1</sup>	≥ 25% for less than 150 feet	top of ravine (break in ≥25% slope) <sup>3</sup>	50 feet <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	edge of bankful flow or 2-year storm level	15 feet
Secondary Protected Water Features <sup>2</sup>	≥ 25%	edge of bankful flow or 2-year storm level	50 feet

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

<sup>2</sup>Secondary Protected Water Features include intermittent streams draining 50-100 acres.

<sup>3</sup>Where 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 #\_\_).

<sup>4</sup>A maximum reduction 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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175
- 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.

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.
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.
  - d. In determining appropriate conditions of approval, the affected city or county shall require the applicant to:

- 1) Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
- 2) If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
- 3) Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.
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.

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 ~~(1a)~~ examining existing Goal 5 data, reports and regulation from cities and counties, and ~~(2b)~~ 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.

- 91  
92 5. Metro shall establish performance standards for protection of regionally  
93 significant fish and wildlife habitat that must be met by the plans implementing  
94 ordinances of cities and counties.  
95

96 **Section 6. Metro Model Ordinance Required**  
97

98 Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance and map.~~for~~  
99 ~~use by local jurisdictions to comply with this section.~~ The Model Ordinance shall represent one  
100 method of complying with this Title. The Model Ordinance shall be advisory, and cities and  
101 counties are not required to adopt the Model Ordinance, or any part thereof, to substantially  
102 comply with this Title. However, cities and counties which adopt the Model Ordinance in its  
103 entirety and a Water Quality and Flood Management Areas Map shall be deemed to have  
104 substantially complied with the requirements of this Title.  
105

106 Sections 1-4 of this Title shall not become effective until 24~~18~~ months after the Metro Council  
107 has adopted a Model Code~~the Model Ordinance and map~~ Water Quality and Flood Management  
108 Areas Map that addresses all of the provisions of this title. Section 5 of this Title shall be  
109 implemented by adoption of new functional plan provisions. The Metro Council may adopt a  
110 Model Code and Fish and Wildlife Habitat Conservation Areas Model Ordinance and a Map for  
111 protection of regionally significant fish and wildlife habitat.~~Section 5 of this title shall be~~  
112 ~~implemented by adoption of new functional plan provisions.~~  
113

114 **Section 7. ~~Variances~~Map Adjustment**  
115

116 City and ~~county~~counties shall amend their comprehensive plans and implementing regulations  
117 ~~are hereby required~~ordinances to include procedures to ~~consider claims of map error and~~  
118 ~~hardship variances to reduce or remove stream corridor protection for any property demonstrated~~  
119 ~~to be converted to an unbuildable lot by application of stream corridor protections.~~allow:  
120

121 A. Amendments to the Water Quality and Flood Management Area Map to correct map  
122 error.  
123

124 B. Modification of the Water Quality Resource Area upon demonstration and evidence that  
125 the modification will offer the same or better protection of water quality, the Water  
126 Quality and Flood Management Area and Protected Water Feature.  
127  
128  
129

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## EXHIBIT C

# **Title 3 Model Ordinance**

**Growth Management Committee**

**May 5, 1998**



**METRO**

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Appendix



1 EXHIBIT C

2  
3 Metro Water Quality and Flood Management Area Model Ordinance

4  
5  
6 Introduction

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

9  
10 The purpose of this model ordinance is to provide a specific example of provisions  
11 approved by the Metro Council that can be used by a city or county to comply with the  
12 performance standards for *Title 3: Water Quality, Flood Management, and Fish and*  
13 *Wildlife Conservation* described in the *Metro Urban Growth Management Functional*  
14 *Plan*. Title 3 describes specific performance standards and practices for floodplain and  
15 water quality protection. It also requires that Metro adopt a Water Quality and Flood  
16 Management Model Ordinance and map for use by local jurisdictions to comply with  
17 Title 3. This model ordinance fulfills the Title 3 requirement. It is also consistent with  
18 Metro's policies in the 1995 *Future Vision Report*, in the 1995 *Regional Urban Growth*  
19 *Goals and Objectives* (RUGGOs) in the 1992 *Greenspaces Master Plan*, and in the 1997  
20 *Regional Framework Plan*.

21  
22 The purpose of Title 3 is to protect water quality and floodplain areas. Floodplains  
23 protect the region's health and public safety by reducing flood and landslide hazards and  
24 pollution of the region's waterways. This Model Ordinance and Map address the  
25 purpose. Another purpose of Title 3 is to protect fish and wildlife habitat. Statewide land  
26 use Goal 5 measures, which include fish and wildlife habitat protection, will be addressed  
27 in a Metro study that will be conducted within the next 18 months. Title 3 will apply to  
28 development in Fish and Wildlife Habitat Conservation Areas when Metro's Section 5  
29 analysis and mapping are completed. As additional issues are addressed, further  
30 regulations may be imposed on areas contained within or outside of the Water Quality  
31 Resource Area and Flood Management Area Overlay Zones addressed in this Model  
32 Ordinance.

33  
34 The Metro *Future Vision, Greenspaces Master Plan, Regional Urban Growth Goals and*  
35 *Objectives* (RUGGOs), and *Regional Framework Plan* identify water quality protection,  
36 floodplain management, fish and wildlife habitat protection, development of recreational  
37 trails, acquisition of open space and maintenance of biodiversity as critical elements of  
38 maintaining healthy, livable communities.

39  
40 This Model Ordinance, however, only provides specific examples of local ordinance  
41 provisions for a portion of the issues identified in Title 3: protection of the region's  
42 floodplains, water quality and reduction of flood hazards and the implementation of  
43 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*.

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 first approach above 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

89 Areas. "Substantial compliance" means that the city and county comprehensive plans  
90 and implementing ordinances, on the whole, conform with the purposes of the  
91 performance standards in the functional plan and any failure to meet individual  
92 performance standard requirements is technical or minor in nature.

## Water Quality and Flood Management Area Model Ordinance

### Section 1. Intent

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

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

1. Provide a vegetated corridor to separate Protected Water Features from development;
2. Maintain or reduce stream temperatures;
3. Maintain natural stream corridors;
4. Minimize erosion, nutrient and pollutant loading into water;
5. Provide filtration, infiltration and natural water purification;
6. Stabilize slopes to prevent landslides contributing to sedimentation of water features.

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

1. Protect life and property from dangers associated with flooding.
2. Flood storage, reduction of flood velocities, reduction of flood peak flows and reduction of wind and wave impacts.
3. Maintain water quality by reducing and sorting sediment loads, processing chemical and organic wastes and reducing nutrients.
4. Recharge, store and discharge groundwater.
5. Provide plant and animal habitat, and support riparian ecosystems.

C. To establish two overlay zones for Water Quality Resource Areas and Flood Management Areas, which operate contemporaneously with the

base zone and implement the performance standards of Title 3 of the Urban Growth Management Functional Plan.

## **Section 2. Applicability**

### **A. This ordinance applies to:**

1. Development in the Water Quality Resource Area and Flood Management Area Overlay Zones. The overlay zones restrict the uses that are allowed in the base zone by right, with limitations, or as conditional uses.
2. Development that may cause visible or measurable erosion on any property within the Metro Boundary.

### **B. This ordinance 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 Table 2 standards for restoring marginal existing vegetated corridor.**

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

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

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

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

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

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182

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 <sup>1</sup>	< 25%	edge of bankful flow or 2-year storm level or delineated edge of wetland	50 feet
Primary Protected Water Features <sup>1</sup>	≥ 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 <sup>1</sup>	≥ 25% for less than 150 feet	top of ravine (break in ≥25% slope) <sup>3</sup>	50 feet <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	edge of bankful flow or 2-year storm level	15 feet
Secondary Protected Water Features <sup>2</sup>	≥ 25%	edge of bankful flow or 2-year storm level	50 feet

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

<sup>2</sup> Secondary Protected Water Features include intermittent streams draining 50-100 acres.

<sup>3</sup> Where 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 #\_\_).

<sup>4</sup> A maximum reduction 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: The following methodology is an alternative 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.)*

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. Placement of structures that does not require a grading or building permit.

*(Note: City and Counties have the option of choosing to apply the Water Quality and Flood Management Area performance standards of Table 1.)*

3. Routine repair and maintenance of existing structures, roadways, driveways, utility facilities, accessory uses and other development.

*(Note: Local jurisdictions may choose to place this subsection – D3 – in subsection E as item 3, Uses under Prescribed Conditions, and prescribe those conditions.)*

E. Uses Under Prescribed Conditions

1. Repair, replacement or improvement of utility facilities where:

- a. the disturbed portion of the Water Quality Resource Area is restored; and

- b. non-native vegetation is removed from the Water Quality Resource Area and replaced with vegetation from the Metro Native Plant List.

2. Additions, alterations, rehabilitation, or replacement of existing structures that do not increase existing structural footprint in the Water Quality Resource Area where the disturbed portion of the Water Quality Resource Area is restored using native vegetative cover.

F. 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 H and I.

1. Any use allowed in the base zone, other than those listed in subsection D and E above.
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 facility construction.
5. Walkways and bike paths. (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.
8. Additions, alterations, rehabilitation or replacement of existing structures, roadways, accessory uses and development that increase the structural footprint within the Water Quality Resource Area.

G. Prohibited Uses

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

H 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 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 specialist.
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, including percentage ground and canopy coverage.
7. Alternatives analysis demonstrating that:
  - a. No practicable alternatives to the requested development exist 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 to an equal or better condition in accordance with Table 2; and
  - d. It will be consistent with a Water Quality Resource Area Mitigation Plan.
  - e. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized.
  - f. For applications seeking an alteration, addition, rehabilitation or replacement of existing structures:

- 1) Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
- 2) If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
- 3) Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.

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. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, Table 2.
- c. 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.
- d. A map showing where the specific mitigation activities will occur.
- e. 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.

I. Development Standards

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

1. The Water Quality Resource Area shall be restored and maintained in accordance with the mitigation plan and the specifications in Table 2.
2. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Quality Resource Area. Trees in the Water Quality Resource Area shall not be used as anchors for stabilizing construction equipment.
1. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in the Metro Native Plant List attached as \_\_\_\_\_, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.
2. Prior to construction, the Water Quality Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as allowed in Subsection F. Such markings shall be maintained until construction is complete.
3. Walkways and bike paths:
  - a. A gravel walkway or bike path shall not be constructed closer than 10 feet from the boundary of the Protected Water Feature. Walkways and bike paths shall be constructed so as to minimize disturbance to existing vegetation. Where practicable, a maximum of 10 percent of the trail may be within 30 feet of the Protected Water Feature.

409                                   b.                                   A paved walkway or bike path shall not be  
410                                   constructed closer than 10 feet from the boundary of the  
411                                   Protected Water Feature. For any paved walkway or bike path,  
412                                   the width of the Water Quality Resource Area must be increased  
413                                   by a distance equal to the width of the path. Walkways and bike  
414                                   paths shall be constructed so as to minimize disturbance to  
415                                   existing vegetation. Where practicable, a maximum of 10  
416                                   percent of the trail may be within 30 feet of the Protected Water  
417                                   Feature.

418  
419                                   c.                                   A walkway or bike path shall not exceed  
420                                   10 feet in width.

421  
422                                   6.   Stormwater pre-treatment facilities:

423  
424                                   a.                                   The stormwater pre-treatment facility may  
425                                   only encroach a maximum of 25 feet into the outside boundary of  
426                                   the Water Quality Resource Area of a primary water feature; and

427  
428                                   b.                                   The area of encroachment must be  
429                                   replaced by adding an equal area to the Water Quality Resource  
430                                   Area on the subject property.

431  
432                                   7.   Additions, alterations, rehabilitation and replacement to lawful  
433                                   structures.

434  
435                                   a.                                   For existing structures, roadways, driveways,  
436                                   accessory uses and development which are nonconforming, this  
437                                   ordinance shall apply in addition to the nonconforming use  
438                                   regulations of the City/County zoning ordinance.

439  
440                                   b.                                   Additions, alterations, rehabilitation or  
441                                   replacement of existing structures, roadways, driveways,  
442                                   accessory uses and development shall not encroach closer to the  
443                                   Protected Water Feature than the existing structures, roadways,  
444                                   driveways, accessory uses and development.

445  
446                                   1.   Off-site Mitigation:

447  
448                                   a.                                   Where the alternatives analysis demonstrates  
449                                   that there are no practicable alternatives for mitigation on site,  
450                                   off-site mitigation shall be located as follows:  
451

1) As close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable;

2) Within the watershed where the development will take place or as otherwise specified by the city or county in an approved Wetland Mitigation Bank.

a. In order to ensure that the mitigation area will be protected in perpetuity, proof that a deed restriction has been placed on the property where the mitigation is to occur is required.

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468  
469  
470

Table 2

**WATER QUALITY RESOURCE AREA REQUIREMENTS**

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS <u>UNDISTURBED</u> DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS <u>DISTURBED</u> 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.</p>	<p><i>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.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></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 the development, including:</p> <ul style="list-style-type: none"> <li>• sediments, temperature and nutrients</li> <li>• sediment control</li> <li>• temperature control</li> <li>• or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list.</li> </ul> <p>Inventory and remove debris and noxious materials.</p>

471  
472  
473  
474

**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS <u>UNDISTURBED</u> DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS <u>DISTURBED DURING</u> 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><i>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.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></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>

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477

478

**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS <u>UNDISTURBED</u> DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS <u>DISTURBED</u> 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><i>Vegetate bare areas with plantings from approved Native Plant List.</i></p> <p><i>Remove non-native species and revegetate with plantings from approved Native Plants List.</i></p> <p><i>Inventory and remove debris and noxious materials.</i></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>

480

481

482

**Note:** The middle column, being italicized, indicates that it is an option for consideration in the development review process.



483 **Section 4. Flood Management**

484  
485 A. The purpose of these standards is to reduce the risk of flooding, prevent or  
486 reduce risk to human life and property, and maintain the functions and  
487 values of floodplains, such as allowing for the storage and conveyance of  
488 stream flows through existing and natural flood conveyance systems.

489  
490 B. This ordinance establishes a Flood Management Area Overlay Zone,  
491 which is delineated on the Water Quality and Flood Management Area  
492 Map attached and incorporated by reference as a part of this ordinance.

493  
494 C. The Flood Management Areas mapped include:

- 495  
496 1. Land contained within the 100-year floodplain, flood area and  
497 floodway as shown on the Federal Emergency Management Agency  
498 Flood Insurance maps and the area of inundation for the February  
499 1996 flood; and  
500  
501 2. Lands that have physical or documented evidence of flooding within  
502 recorded history. Jurisdictions shall use the most recent and  
503 technically accurate information available to determine the historical  
504 flood area, such as the aerial photographs of the 1996 flooding and  
505 digitized flood elevation maps.

506  
507 C. The standards that apply to the Flood Management Areas apply in addition  
508 to local, state or federal restrictions governing floodplains or flood hazard  
509 areas.

510  
511 E. Uses Permitted Outright:

- 512  
513 1. Excavation and fill required to plant any new trees or  
514 vegetation.  
515  
516 2. Restoration or enhancement of floodplains, riparian  
517 areas, wetland, upland and streams that meet federal and state  
518 standards.

519  
520 F. Conditional Uses:

521  
522 All uses allowed in the base zone or existing flood hazard overlay zone are  
523 allowed in the Flood Management Overlay Zone subject to compliance  
524 with the Development Standards of subsection H.  
525

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 at least 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.

*(Note: 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 of the excavated area shall be at least 6 inches above the winter "low water" elevation, and 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 so long as the parking facilities do not occur in a Water Quality Resource Area. 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 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 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 shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

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

- A. The purpose of this section is to amend the City/County regulations governing land divisions to require that new subdivision and partition plats delineate and show the Water Quality Resource Area as a separate tract.
- B. The standards for land divisions in Water Quality Resource Areas shall apply in addition to the requirements of the City/County land division ordinance and zoning ordinance.
- C. Prior to preliminary plat approval, the Water Quality Resource Area shall be shown as a separate tract, which shall not be a part of any parcel used for construction of a dwelling unit.

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

1. Private open space held by the owner or homeowners association; or
2. Residential land divisions, private open space subject to an easement conveying storm and surface water management rights to the City/County and preventing the owner of the tract from activities and uses inconsistent with the purpose of this ordinance; or
3. At the owner's option, public open space where the tract has been dedicated to the City/County or other governmental unit; or
4. Any other ownership proposed by the owner and approved by the Director.

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

#### Section 6. Density Transfers

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

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

1. A map showing the net buildable area to which the density will be transferred.
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 lot receiving the density 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.

(Note: This is one way of restricting density.)

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.

A. All standards of the base zone other than density requirements continue to apply.

B. Density transfers shall be recorded on the title of the lot in the Water Quality Resource Area and on the title of the transfer lot.

C. Once density is transferred from a lot in the Water Quality Resource Area, the density increase allocated to the transfer lot may not be transferred to any other lot.

## **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;

705  
706 2. The Erosion and Sediment Control Plan will:

- 707  
708 a. Prevent erosion by employing prevention  
709 practices such as non-disturbance, construction schedules,  
710 erosion blankets and mulch covers; or  
711  
712 b. Where erosion cannot be completely avoided,  
713 the sediment control measures will be adequate to prevent  
714 erosion from entering the public stormwater system, surface  
715 water system, and Water Quality Resource Areas; and  
716  
717 c. Will allow no more than a ten percent  
718 cumulative increase in natural stream turbidities, as measured  
719 relative to a control point immediately upstream of the turbidity  
720 causing activity. However, limited duration activities necessary  
721 to address an emergency or to accommodate essential dredging,  
722 construction or other legitimate activities, and that cause the  
723 standard to be exceeded may be authorized provided all  
724 practicable turbidity control techniques have been applied.  
725

- 726 1. The applicant will actively manage and maintain  
727 erosion control measures and utilize techniques described in the  
728 Permit to prevent or control erosion during and following  
729 development. Erosion and sediment control measures required by  
730 the Permit shall remain in place until disturbed soil areas are  
731 permanently stabilized by landscaping, grass, approved mulch or  
732 other permanent soil stabilizing measures;  
733

- 734 2. No mud, dirt, rock or other debris will be deposited  
735 upon a public street or any part of the public stormwater system,  
736 surfacewater system, Water Quality Resource Area, or any part of a  
737 private stormwater system or surfacewater system that drains or  
738 connects to the public stormwater or surfacewater system.  
739

- 740 D. The Erosion and Sediment Control Plan shall be reviewed in conjunction  
741 with the requested development approval. If the development does not  
742 require review under Sections 3 and 4 of this ordinance, the Director may  
743 approve or deny the permit with notice of the decision to the applicant.  
744

- 745 E. The city or county may inspect the development site to determine  
746 compliance with the Erosion and Sediment Control Plan and Permit.  
747

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 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.

792 E. Hardship Variance

793  
794 Variances to avoid unreasonable hardship caused by the strict application  
795 of this ordinance are permitted subject to the criteria set forth in this  
796 section. To vary from the requirements of Section 3F, the applicant must  
797 demonstrate the following:

- 798  
799 1. The variance is the minimum necessary to allow the proposed use or  
800 activity;
- 801  
802 2. The variance does not increase danger to life and property due to  
803 flooding or erosion;
- 804  
805 3. The impact of the increase in flood hazard, which will result from the  
806 variance, will not prevent the city or county from meeting the  
807 requirements of this ordinance. In support of this criteria the  
808 applicant shall have a qualified professional engineer document the  
809 expected height, velocity and duration of flood waters, and estimate  
810 the rate of increase in sediment transport of the flood waters  
811 expected both downstream and upstream as a result of the variance;
- 812  
813 4. The variance will not increase the cost of providing and maintaining  
814 public services during and after flood conditions so as to unduly  
815 burden public agencies and taxpayers;
- 816  
817 5. Unless the proposed variance is from Section 3.H.8 (mitigation) or  
818 Section 7(erosion control), the proposed use will comply with those  
819 standards; and
- 820  
821 6. The proposed use complies with the standards of the base zone.

822  
823 F. Buildable Lot Variance

824  
825 A variance to avoid the loss of all economically viable use of a lot that is  
826 partially inside the Water Quality Resource Overlay Zone is permitted.  
827 Development on such lots shall not disturb more than 5,000 square feet of  
828 the vegetated corridor, including access roads and driveways, subject to  
829 the erosion and sediment control standards in Section 7 of this ordinance.  
830 Applicants must demonstrate the following:

- 831  
832 1. Without the proposed variance, the applicant would be denied  
833 economically viable use of the subject property. To meet this  
834 criterion, the applicant must show that:
- 835



a. The proposed use cannot meet the standards in Section 8.E (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;
3. The proposed variance will comply with Section 3.H.8 (mitigation) and Section 7 (erosion control); and
4. The proposed use complies with the standards of the base zone.

G. Variance Conditions

The Director may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief. If a variance is granted pursuant to subsections E. 1-6, the variance shall be subject to the following conditions:

1. The minimum width of the vegetated corridor shall be 15 feet on each side of a Primary Protected Water Feature, except as allowed in Section 3F and 3H;
2. No more than 25 percent of the length of the Water Quality Resource Area for a Primary Protected Water Feature within a development site can be less than 30 feet in width on each side of the water feature; and
3. In either case, the average width of the Water Quality Resource Area shall be a minimum of 15 feet on each side for Secondary Protected Water Features, a minimum of 50 feet on each side for Primary Protected Water Features; or up to 200 feet on each side in areas with slopes greater than 25 percent. The stream shall be allowed to meander within this area, but in no case shall the stream be less than 10 feet from the outer boundary of the Water Quality Resource Area.

876     **Section 9.     Map Errors**

877  
878     **(PLACEHOLDER)**

879  
880         *(Note: It is recognized that there will be mapping errors in the Title 3 map.*  
881         *Whether these are errors of omission or errors where the map shows a resource*  
882         *where a resource does not exist, the jurisdiction shall develop and implement a*  
883         *public process whereby property owners, local stream groups, watershed councils*  
884         *and the affected public may submit suggested mapping corrections through a full*  
885         *and open public process. Process for correction of map errors should be*  
886         *included unless the general map error provision of the zoning code is sufficient)*

887  
888     **Section 10.   Consistency**

889  
890         Where the provisions of this ordinance are less restrictive or conflict with  
891         comparable provisions of the zoning ordinance, regional, state or federal law, the  
892         provisions that are more restrictive shall govern. Where this ordinance imposes  
893         restrictions that are more stringent than regional, state and federal law, the  
894         provisions of this ordinance shall govern.

895  
896     **Section 11.   Warning and Disclaimer of Liability**

897  
898         The degree of flood protection required by this ordinance is considered reasonable  
899         for regulatory purposes and is based on scientific and engineering considerations.  
900         Larger floods can and will occur on rare occasions. Flood heights may be  
901         increased by man-made or natural causes. This ordinance does not imply that  
902         land outside the areas of special flood hazards or uses permitted within such areas  
903         will be free from flooding or flood damage. This ordinance shall not create  
904         liability on the part of the City or County, any officer or employee thereof, or the  
905         Federal Insurance Administration, for any damages that result from reliance on  
906         this ordinance or any administrative decision lawfully made hereunder.

907  
908     **Section 12.   Severability**

909  
910         The provisions of this ordinance are severable. If any section, clause or phrase of  
911         this ordinance is adjudged to be invalid by a court of competent jurisdiction, the  
912         decision of that court shall not affect the validity of the remaining portions of this  
913         ordinance.

914  
915     **Section 13.   Enforcement**

916  
917         A.     No person shall engage in or cause to occur any development, use or  
918         activity that fails to meet the standards and requirements of this ordinance.  
919         Development, uses or activities that are not specifically allowed within the  
920         Water Quality Resource Area are prohibited. All activities that may cause

921 visible or measurable erosion are prohibited prior to the applicant  
922 obtaining an Erosion and Sediment Control Permit.

923  
924 B. In addition to other powers the city or county may exercise to enforce this  
925 ordinance, the city or county may:

- 926  
927 1. Establish a cooperative agreement between the (enforcement authority)  
928 and the applicant (or responsible party) to remedy the violation.  
929  
930 2. Issue a stop work order.  
931  
932 3. Impose a civil penalty of not more than \$\_\_\_ for each violation upon  
933 the permittee, contractor or person responsible for carrying out the  
934 development work. Each day of violation shall constitute a separate  
935 offense.  
936  
937 4. Cause an action to be instituted in a court of competent jurisdiction.  
938  
939 5. Authorize summary abatement and subsequent recovery of costs  
940 incurred by the city or county.  
941

942 C. Upon notification by the city or county of any violation of this ordinance  
943 the applicant, permittee, contractor or person responsible for carrying out  
944 development work may be required to immediately install emergency  
945 erosion and sediment control measures that comply with Section 6.  
946

**Section 14. Definitions**

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

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

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

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

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

**Debris**

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

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

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

Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3.

**Disturb** - man-made changes to the existing physical status of the land, which are made in connection with development. The following uses (activities) are excluded from the definition.

- a. enhancement or restoration of the Water Quality Resource Area;
- b. planting native cover identified in the Metro Native Plant List.

**Division of State Lands Wetland Determinations** - As defined in OAR 141-86-200 (definitions for Local Wetland Inventory Standards and Guidelines), "wetland determination" means identifying an area as wetland or non-wetland.

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

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

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

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

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

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

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

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

**Floodway** - The portion of a watercourse required for the passage or conveyance of a given storm event as identified and designated by the (identify name) City/County pursuant to this Ordinance. The floodway shall include the channel of the watercourse

and the adjacent floodplain that must be reserved in an unobstructed condition in order to discharge the base flood without flood levels by more than one foot.

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

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

**Lot** - Lot means a single unit of land that is created by a subdivision of land. (ORS 92.010(3)).

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

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

**ODFW Construction Standards** - Oregon Department of Fish and Wildlife construction guidelines for building roads, bridges and culverts or any transportation structure within a waterway.

**Open Space** - Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests and farm land. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and parks.

**Ordinary Mean High Water Line** - As defined in OAR 141-82-005 as the line on the bank or shore to which water ordinarily rises in season; synonymous with Mean High Water (OAR 274.005).

**Ordinary Mean Low Water Line** - As defined in OAR 141-82-005 as the line on the on the bank or shore to which water ordinarily recedes in season; synonymous with Mean Low Water (OAR 274.005).

**Owner or Property Owner** - The person who is the legal record owner of the land, or where there is a recorded land sale contract, the purchaser thereunder.

**Parcel** - Parcel means a single unit of land that is created by a partitioning of land. (ORS 92.010(7)).

**Plans** - The drawings and designs that specify construction details as prepared by the Engineer.

**Post-Construction Erosion Control** - Consists of re-establishing groundcover or landscaping prior to the removal of temporary erosion control measures.

### **Protected Water Features**

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.

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

1123 **Riparian** - Those areas associated with streams, lakes and wetlands where vegetation  
1124 communities are predominately influenced by their association with water.  
1125  
1126 **Routine Repair and Maintenance** - activities directed at preserving an existing allowed  
1127 use or facility, without expanding the development footprint or site use.  
1128  
1129 **Set-back Adjustment** - The placement of a building a specified distance away from a  
1130 road, property line or protected resource.  
1131  
1132 **Significant Negative Impact** - an impact that affect the natural environment, considered  
1133 individually or cumulatively with other impacts on the Water Quality Resource Area, to  
1134 the point where existing water quality functions and values are degraded.  
1135  
1136 **Statewide Planning Goal 5** - Oregon's statewide planning goal that addresses open  
1137 space, scenic and historic areas, and natural resources. The purpose of the goal is to  
1138 conserve open space and protect natural and scenic resources.  
1139  
1140 **Statewide Planning Goal 6** - Oregon's statewide planning goal that addresses air, water  
1141 and land resources quality to "maintain and improve the quality of the air, water and land  
1142 resources of the state" as implemented by the Land Conservation and Development  
1143 Commission (LCDC).  
1144  
1145 **Statewide Planning Goal 7** - Oregon's statewide planning goal that addresses areas  
1146 subject to natural disasters and hazards to "protect life and property from natural disasters  
1147 and hazards" as implemented by the Land Conservation and Development Commission  
1148 (LCDC).  
1149  
1150 **Steep slopes** - Steep slopes are those slopes that are equal to or greater than 25%. Steep  
1151 slopes have been removed from the "buildable lands" inventory and have not been used  
1152 in calculations to determine the number of acres within the urban growth boundary which  
1153 are available for development.  
1154  
1155 **Stormwater Pre-treatment Facility** - any structure or drainage way that is designed,  
1156 constructed, and maintained to collect and filter, retain, or detain surface water run-off  
1157 during and after a storm event for the purpose of water quality improvement.  
1158  
1159 **Stream** - a body of running water moving over the earth's surface in a channel or bed,  
1160 such as a creek, rivulet or river. It flows at least part of the year, including perennial and  
1161 intermittent streams. Streams are dynamic in nature and their structure is maintained  
1162 through build-up and loss of sediment.  
1163  
1164 **Structure** - A building or other major improvement that is built, constructed or installed,  
1165 not including minor improvements, such as fences, utility poles, flagpoles or irrigation  
1166 system components, that are not customarily regulated through zoning codes.  
1167



1168 **Substantial Compliance** - city and county comprehensive plans and implementing  
1169 ordinances, on the whole, conform with the purposes of the performance standards in the  
1170 functional plan and any failure to meet individual performance standard requirements is  
1171 technical or minor in nature.  
1172  
1173 **Top of Bank** - The same as "bankful stage" defined in OAR 141-85-010(2).  
1174  
1175 **Utility Facilities** - buildings, structures or any constructed portion of a system which  
1176 provides for the production, transmission, conveyance, delivery or furnishing of services  
1177 including, but not limited to, heat, light, water, power, natural gas, sanitary sewer,  
1178 stormwater, telephone and cable television. Utility facilities do not include stormwater  
1179 pre-treatment facilities.  
1180  
1181 **Vegetated Corridor** - the area of setback between the top of bank of a Protected Water  
1182 Feature and the delineated edge of the Water Quality Resource Area as defined in Table  
1183 1.  
1184  
1185 **Visible or Measurable Erosion** - Visible or measurable erosion includes, but is not  
1186 limited to:  
1187  
1188 a. Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in  
1189 volume on public or private streets, adjacent property, or onto the storm and surface  
1190 water system, either by direct deposit, dropping discharge, or as a result of the action  
1191 of erosion.  
1192  
1193 b. Evidence of concentrated flows of water over bare soils; turbid or sediment laden  
1194 flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the  
1195 flow of water is not filtered or captured on the site.  
1196  
1197 c. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the  
1198 property.  
1199  
1200 **Water Quality Resource Areas** - vegetated corridors and the adjacent water feature as  
1201 established in Title 3.  
1202  
1203 **Water Quality and Floodplain Management Area** - The area that identifies where the  
1204 Water Quality Resource Area and Floodplain Management Area Overlay Zone is applied.  
1205  
1206 **Water Quality Facility** - Any structure or drainage way that is designed, constructed and  
1207 maintained to collect and filter, retain, or detain surface water run-off during and after a  
1208 storm event for the purpose of water quality improvement. It may also include, but is not  
1209 limited to, existing features such as constructed wetlands, water quality swales, and ponds  
1210 that are maintained as stormwater quality control facilities.  
1211

1212 **Watershed** - A watershed is a geographic unit defined by the flows of rainwater or  
1213 snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or  
1214 wetland.

1215  
1216 **Wetlands** - Wetlands are shown on the Metro Water Quality and Flood Management  
1217 Area Map or are areas that meet the Oregon Division of State Lands definition of  
1218 wetlands. These areas are inundated or saturated by surface or ground water at a  
1219 frequency and duration sufficient to support and under normal circumstances do support a  
1220 prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands  
1221 generally include swamps, marshes, bogs and similar areas. Wetlands are those areas  
1222 identified and delineated by a qualified wetland specialist as set forth in the Federal  
1223 Manual for Identifying and Delineating Jurisdictional Wetlands, January 1987

1224  
1225  
1226  
1227

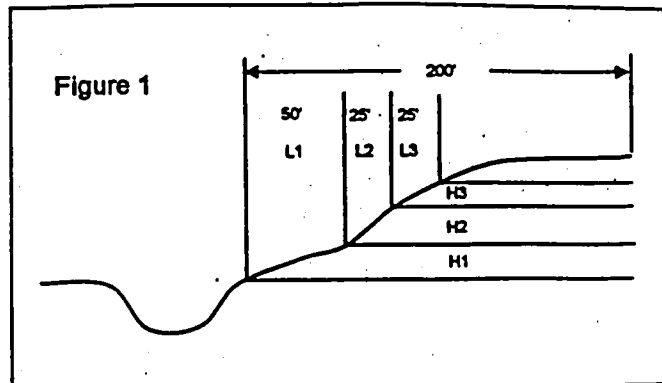
I:\DOCS#07.P&D\04-20401.MPL\03UGMFNC.PLN\02STREAM.NAT\T3EXHC.DOC.pm

# Appendix

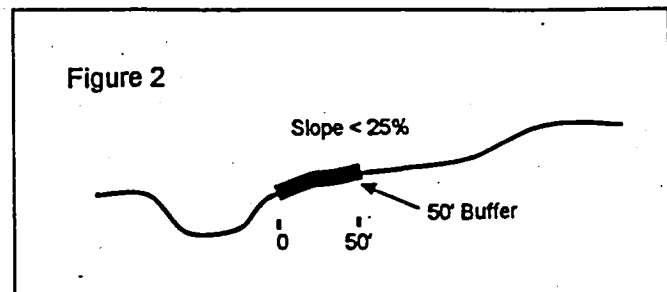
# Proposed Method for Determining Vegetated Corridors Next to Primary Protected Water Features

## How measure slope (Figure 1)

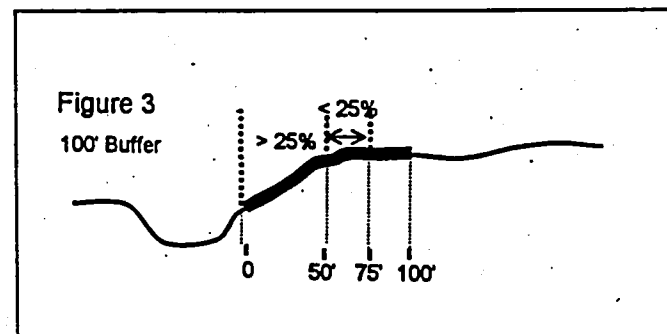
Measure 50 feet horizontally (L1) from the stream (top of bank) and determine the slope (H1/L1 - the difference in elevation divided by the difference in horizontal distance multiplied by 100).



If the slope in this 50-foot area is less than 25%, the corridor width is 50 feet from the top of bank (see Figure 2).



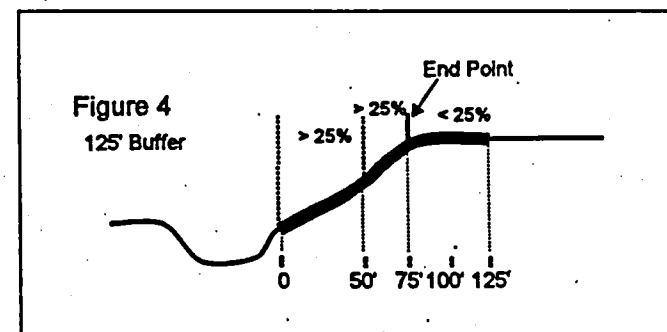
If the slope in the 50-foot area is 25% or greater, measure another 25 feet horizontally. If the slope in this incremental 25-foot area is now *less than 25%* ( $H2/L2 < 25\%$ ), the vegetated corridor width would be 100 feet (50 feet for the horizontal distance from the top of bank with slope greater than 25% **PLUS** an additional 50 feet). (See Figure 3.)



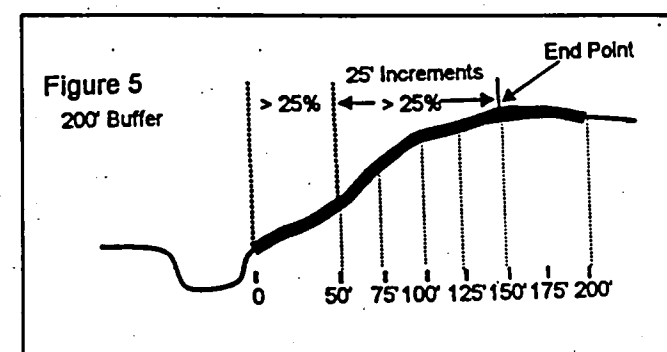
If the slope is greater than 25% in this incremental 25-foot area, continue measuring the slope every 25 feet (H/L) until you either:

- (a) find a slope less than 25% (see Figure 4), or

(When you find a slope less than 25%, the vegetated corridor equals the distance from the stream's top of bank to the **end point** of the last surveyed 25-foot increment with a slope greater than 25% **PLUS** an additional 50 feet).



- (b) reach 200 feet (the maximum corridor width). (See Figure 5.)



**Advantages:**

- Provides protection for most steep slopes, yet corridor widths can be varied to fit a number of different situations (corridor widths include 50 feet to 100 feet, 125 feet, 150 feet, 175 feet, and 200 feet)
- Provides flexibility.

**Disadvantages:**

- Does not protect slopes that rise steeply after a gradual "floodplain" area.

## EXHIBIT D

## **Exhibit D**

### **Water Quality and Flood Management Maps**

The Water Quality and Flood Management Maps are in quadrangle map form and are posted in the Council Chamber. A copy is on file in the Council permanent record.

**EXHIBIT E**



1 **DEFINITIONS (Title 10)**

2  
3 **Design Flood Elevation** -the elevation of the 100-year storm as defined in FEMA Flood  
4 Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year  
5 storm, or the edge of mapped flood prone soils or similar methodologies.  
6

7 **Development** - any man-made change defined as buildings or other structures, mining,  
8 dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot  
9 or excavation. In addition, any other activity that results in the removal of more than 10  
10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as  
11 development, for the purpose of Title 3 except that more than 10 percent removal of  
12 vegetation on a lot must comply with Section 4C - Erosion and Sediment Control.  
13 Development does not include the following: a) Stream enhancement or restoration  
14 projects approved by cities and counties; b) Farming practices as defined in ORS 30.930  
15 and farm use as defined in ORS 215.203, except that buildings associated with farm  
16 practices and farm uses are subject to the requirements of Title 3.  
17

18 **Emergency** - any man-made or natural event or circumstance causing or threatening loss  
19 of life, injury to person or property, and includes, but is not limited to, fire, explosion,  
20 flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or  
21 hazardous material, contamination, utility or transportation disruptions, and disease.  
22

23 **Enhancement** - the process of improving upon the natural functions and/or values of an  
24 area or feature which has been degraded by human activity. Enhancement activities may or  
25 may not return the site to a pre-disturbance condition, but create/recreate processes and  
26 features that occur naturally.  
27

28 **Fill** - any material such as, but not limited to, sand, gravel, soil, rock or gravel that is  
29 placed in a wetland or floodplain for the purposes of development or redevelopment.  
30

31 **Flood Management Areas** - all lands contained within the 100-year floodplain, flood area  
32 and floodway as shown on the Federal Emergency Management Agency Flood Insurance  
33 Maps and the area of inundation for the February 1996 flood. In addition, all lands which  
34 have documented evidence of flooding.  
35

36 **Invasive Non-native or Noxious Vegetation** - plant species that have been introduced  
37 and due to aggressive growth patterns and lack of natural enemies in the area where  
38 introduced, spread rapidly into native plant communities, or which are listed on the Metro  
39 Prohibited Plant List.  
40

41 **Mitigation** - the reduction of adverse effects of a proposed project by considering, in the  
42 order: a) avoiding the impact all together by not taking a certain action or parts of an  
43 action; b) minimizing impacts by limiting the degree or magnitude of the action and its  
44 implementation; c) rectifying the impact by repairing, rehabilitating or restoring the  
45 effected environment; d) reducing or eliminating the impact over time by preservation and

46 maintenance operations during the life of the action by monitoring and taking appropriate  
47 measures; and e) compensating for the impact by replacing or providing comparable  
48 substitute water quality resource areas.

49  
50 **Native Vegetation** - any vegetation native to the Portland metropolitan area or listed on  
51 the Metro Native Plant list.

52  
53 **Protected Water Features**

54  
55 **Primary Protected Water Features** shall include:

- 56  
57 a. wetlands; and  
58  
59 b. rivers, streams, and drainages downstream from the point at which 100 acres or  
60 more are drained to that water feature (regardless of whether it carries year-round  
61 flow); and  
62  
63 c. streams carrying year-round flow; and  
64  
65 d. springs which feed streams and wetlands and have year-round flow and  
66  
67 e. natural lakes.

68  
69 *Secondary Protected Water Features* shall include intermittent streams and seeps  
70 downstream of the point at which 50 acres are drained and upstream of the point at which  
71 100 acres are drained to that water feature.

72  
73 **Restoration** - the process of returning a disturbed or altered area or feature to a previously  
74 existing natural condition. Restoration activities reestablish the structure, function, and/or  
75 diversity to that which occurred prior to impacts caused by human activity.

76  
77 **Routine Repair and Maintenance** - activities directed at preserving an existing allowed  
78 use or facility, without expanding the development footprint or site use.

79  
80 **Significant Negative Impact** - an impact that affect the natural environment, considered  
81 individually or cumulatively with other impacts on the Water Quality Resource Area, to  
82 the point where existing water quality functions and values are degraded.

83  
84 **Stream** - a body of running water moving over the earth's surface in a channel or bed, such  
85 as a creek, rivulet or river. It flows at least part of the year, including perennial and  
86 intermittent streams. Streams are dynamic in nature and their structure is maintained  
87 through build-up and loss of sediment.

88  
89 **Substantial Compliance** - city and county comprehensive plans and implementing  
90 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.

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

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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Ord 90-735  
Res 90-2634A

May 7, 1998

McCaig	<u>Y</u>	Y	Y	Y			<u>          </u>	<u>~~~~~</u>
Naite	Y	<u>Y</u>	Y	Y				<u>          </u>
Washington	Y	Y	<u>Y</u>	Y				
McFarland	Y	Y	Y	<u>Y</u>				
McLain	Y	Y	Y	Y	<u>          </u>			
Monnette	Y	Y	Y	Y		<u>          </u>		
Kistad	Y	Y	Y	<u>Y</u>			<u>~~~~~</u>	
<hr/>								
McCaig	<u>~~~~~</u>						<u>          </u>	
Naite	<u>~~~~~</u>							<u>          </u>
Washington	<u>~~~~~</u>	<u>          </u>						
McFarland	<u>~~~~~</u>		<u>          </u>					
McLain	<u>~~~~~</u>			<u>          </u>				
Monnette	<u>~~~~~</u>				<u>          </u>			
Kistad	<u>~~~~~</u>					<u>          </u>		