

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE )  
REGIONAL FRAMEWORK PLAN ORDINANCE )  
NO. 97-715B AND METRO CODE SECTIONS ) ORDINANCE NO. 01-929A  
3.01.010, 3.01.025, 3.01.030, 3.01.035, 3.01.040, )  
3.01.045, 3.01.050, 3.01.055, 3.01.060, 3.01.065, )  
AND 3.07.1120 AND REPEALING METRO CODE )  
SECTIONS 3.01.037 AND 3.01.075 TO REVISE ) Introduced by Councilor McLain  
THE SCOPE AND THE CRITERIA FOR QUASI- )  
JUDICIAL AMENDMENTS TO THE URBAN )  
GROWTH BOUNDARY; AND DECLARING AN )  
EMERGENCY )

WHEREAS, ORS 197.296(2) requires Metro to ensure that the region's urban growth boundary contains an adequate supply of land to accommodate estimated housing needs for 20 years each time Metro does its periodic review or any other legislative review of the boundary; and

WHEREAS, ORS 197.299(1) requires Metro to inventory and analyze its supply of land every five years; and

WHEREAS, Metro will, therefore, conduct a legislative review of its supply of land every five years, as contemplated by state law; and

WHEREAS, Metro wants to ensure that the urban growth boundary performs its intended role in the achieving the 2040 Growth Concept; and

WHEREAS, Metro also wants to ensure the availability of a procedure to amend the urban growth boundary between its five-year legislative reviews of land supply in order to address unanticipated needs that cannot wait for the next legislative review; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Section 1.9.3 of the Regional Framework Plan in Ordinance no. 97-715B is hereby amended to change the scope of quasi-judicial amendments to the urban growth boundary that may come before the Council, as indicated in Exhibit "A," attached and incorporated into this ordinance.

2. Policy 1.14.2 of the Regional Framework Plan is hereby amended, as indicated in Exhibit “B,” attached and incorporated into this ordinance, to clarify that a school facility plan under ORS 195.110 is not a prerequisite for a UGB expansion.

3. Section 3.01.025 of the Metro Code is hereby amended to revise the scope and process for major amendments to the urban growth boundary, as indicated in Exhibit “C,” attached and incorporated into this ordinance.

4. Section 3.01.030 of the Metro Code is hereby amended to revise the criteria for major amendments to the urban growth boundary, as indicated in Exhibit “D,” attached and incorporated into this ordinance.

5. Section 3.01.033 of the Metro Code is hereby amended to establish the scope and process for minor adjustments to the urban growth boundary, as indicated in Exhibit “E,” attached and incorporated into this ordinance.

6. Section 3.01.035 of the Metro Code is hereby amended to revise the criteria for minor adjustments to the urban growth boundary, as indicated in Exhibit “F,” attached and incorporated into this ordinance.

7. Section 3.01.010 of the Metro Code is hereby amended to revise the definitions of “natural area” and “special land need”; to add definitions of “public facilities and services,” “natural feature” and “special district”; and to delete definitions of “administrative adjustment,” “locational adjustment,” “major amendment” and “petition”; as indicated in Exhibit “G,” attached and incorporated into this ordinance.

8. Section 3.07.1120(I) of the Metro Code is hereby amended to revise the conceptual school planning requirement, as indicated in Exhibit “H,” attached and incorporated into this ordinance.

9. The following sections of Chapter 3.01 of the Metro Code are hereby amended to conform the Code with the amendments made by sections 1 through 8 of this Ordinance 01-929 as indicated in Exhibit “I,” attached and incorporated into this ordinance: 3.01.040; 3.01.045; 3.01.050; 3.01.055; 3.01.060 and 3.01.065.

10. Section 3.01.037 of the Metro Code on roadway realignment is hereby repealed, as indicated in Exhibit "J," attached and incorporated into this ordinance to conform the code with the amendments made by sections 1 through 8 of this Ordinance No. 01-929.

11. Section 3.01.075 of the Metro Code on boundary interpretation, is hereby repealed as indicated in Exhibit "K," attached and incorporated into this ordinance, to conform the code with the amendments made by sections 1 through 8 of this Ordinance No. 01-929.

12. The Findings of Fact and Conclusions of Law in Exhibit "L," attached and incorporated into this ordinance, demonstrate that the amendments to the Regional Framework Plan and the Metro Code in sections 1 through 11 of this Ordinance No. 01-929 comply with applicable statewide planning goals and the Regional Framework Plan.

13. This ordinance is necessary for the immediate preservation of public health, safety and welfare because processing and reviewing major amendments and locational adjustments under the current code is drawing staff and Council resources away from Metro's legislative review of the UGB, which Metro must complete to meet requirements of ORS 197.299 and periodic review before LCDC. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 13<sup>th</sup> day of DECEMBER, 2001.



*[Handwritten signature of David Bragdon]*

David Bragdon, Presiding Officer

ATTEST:

*[Handwritten signature of Recording Secretary]*  
\_\_\_\_\_  
Recording Secretary

Approved as to Form:

*[Handwritten signature of Daniel B. Cooper]*  
\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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THE METRO COUNCIL ORDAINS AS FOLLOWS:

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2. Policy 1.14.2 of the Regional Framework Plan is hereby amended, as indicated in Exhibit “B,” attached and incorporated into this ordinance, to clarify that a school facility plan under ORS 195.110 is not a prerequisite for a UGB expansion.

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4. Section 3.01.030 of the Metro Code is hereby amended to revise the criteria for major amendments to the urban growth boundary, as indicated in Exhibit “D,” attached and incorporated into this ordinance.

5. Section 3.01.033 of the Metro Code is hereby amended to establish the scope and process for minor adjustments to the urban growth boundary, as indicated in Exhibit “E,” attached and incorporated into this ordinance.

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11. Section 3.01.075 of the Metro Code on boundary interpretation, is hereby repealed as indicated in Exhibit "K," attached and incorporated into this ordinance, to conform the code with the amendments made by sections 1 through 8 of this Ordinance No. 01-929.

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ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

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

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

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2. Policy 1.14.2 of the Regional Framework Plan is hereby amended, as indicated in Exhibit “B,” attached and incorporated into this ordinance, to clarify that a school facility plan under ORS 195.110 is not a prerequisite for a UGB expansion.

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\_\_\_\_\_  
David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

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

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

Exhibit A to Ordinance No. 01-929A

Amend section 1.9.3 of the Regional Framework Plan in Ordinance No. 97-715B as follows:

1. Major Amendments. Amendments of the UGB may be made through a quasi-judicial or a legislative process. Metro will initiate the legislative amendment process when it determines there is need to add land to the UGB following the analysis of buildable land supply required every five years by ORS 197.299(1). The process shall involve local governments, special districts, citizens and other interests. A local government, a special district or a property owner may initiate a quasi-judicial amendment process to add land to the UGB for public facilities, public schools, natural areas and those nonhousing needs that (a) were not accommodated in the most recent five-year analysis of land supply pursuant to ORS 197.299(1) and (b) must be addressed prior to the next five-year analysis.
2. Minor Adjustments. Minor adjustments of the UGB may be brought to Metro by a local government, a special district or a property owner for siting public facility lines and roads, for land trades and to make the UGB coterminous with nearby property lines or natural or built features in order to make the UGB function more efficiently and effectively.

**Exhibit A to Ordinance No. 01-929A**  
**December 11, 2001**

Amend section 1.9.3 of the Regional Framework Plan in Ordinance No. 97-715B as follows:

1. **Major Amendments.** ~~Proposals for major a~~ Amendments of the UGB may be made through a quasi-judicial or a legislative process. ~~using Metro's regional forecasts for population and employment growth. T Metro will initiate the legislative amendment process will be initiated by a Metro finding of need, and when it determines there is need to add land to the UGB following the analysis of buildable land supply required every five years by ORS 197.299(1). The process shall involve local governments, special districts, citizens and other interests. A local government, a special district or a property owner may initiate a quasi-judicial amendment process to add land to the UGB for public facilities, public schools, natural areas, land trades and those nonhousing needs that (a) were not accommodated in the most recent five-year analysis of land supply pursuant to ORS 197.299(1) and (b) must be addressed prior to the next five-year analysis.~~
  
2. **Locational Minor Adjustments.** ~~Locational Minor~~ adjustments of the UGB may be brought to Metro by ~~cities, counties and/or a local government, a special district or a property owners based on public facility plans in adopted and acknowledged comprehensive plans. for siting public facility lines and roads, for land trades and for land trades to make the UGB coterminous with nearby property lines or natural or built features~~ in order to make the UGB function more efficiently and effectively.

**Exhibit B to Ordinance No. 01-929A**

Amend Policy 1.14.2 of the Regional Framework Plan in Ordinance No. 97-715B as follows:

Metro Review of Public Facility Plans to Include Schools – Metro, in its review of city and county comprehensive plans for compliance with the Regional Framework Plan, shall consider school facilities to be “public facilities.” Metro shall work with local governments and school districts on school facility plans to ensure that the Urban Growth Boundary contains a sufficient supply of land for school facility needs.

**Exhibit B to Ordinance No. 01-929A**

Amend Policy 1.14.2 of the Regional Framework Plan in Ordinance No. 97-715B as follows:

Metro Review of Public Facility Plans to Include Schools – Metro, in its review of city and county comprehensive plans for compliance with the Regional Framework Plan, shall consider school facilities to be “public facilities.” ~~School facility plans are required to be developed through the Urban Reserve Plans as specified by Metro Code 3-01.012(e)(11). Additions to the Urban Growth Boundary may only be approved by Metro following completion of conceptual school plans which provide for adequate land for school facilities in addition to other requirements.~~ Metro shall work with local governments and school districts on school facility plans to ensure that the Urban Growth Boundary contains a sufficient supply of land for school facility needs.

Exhibit C to Ordinance No. 01-929A

Amend section 3.01.025 of the Metro Code as follows:

3.01.025 Major Amendment Procedures

- (a) A city, a county, a special district or a property owner may file an application for a major amendment to the UGB on a form provided for that purpose. The Executive Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Metro Council is completing its five-year analysis of buildable land supply under ORS 197.299(1). After receipt of a complete application, the Executive Officer will set the matter for a public hearing and provide notice to the public in the manner set forth in sections 3.01.050 and 3.01.055.
- (b) The Executive Officer will determine whether the application is complete and notify the applicant of its determination within seven working days after the filing of an application. If the application is not complete, the applicant shall revise it to be complete within 14 days of notice of incompleteness from the Executive Officer. The Executive Officer will dismiss an application and return application fees if it does not receive a complete application within 14 days of its notice.
- (c) Upon a request by a Metro councilor and a finding of good cause, the Metro Council may, by a two-thirds vote of the full Council, waive the filing deadline for an application.
- (d) Except for that calendar year in which the Metro Council is completing its five-year analysis of buildable land supply, the Executive Officer shall give notice of the March 15 deadline for acceptance of applications for major amendments not less than 120 calendar days before the deadline and again 90 calendar days before the deadline in a newspaper of general circulation in the district and in writing to each city and county in the district. A copy of the notice shall be mailed not less than 90 calendar days before the deadline to anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained.
- (e) The Executive Officer shall submit a report and recommendation on the application to the hearings officer not less than 21 calendar days before the hearing. The Executive Officer shall send a copy of the report and recommendation simultaneously to the applicant and others who have requested copies. Any subsequent report by the Executive Officer to be used at the hearing shall be available at least seven days prior to the hearing.

- (f) An applicant shall provide a list of names and addresses of property owners for notification purposes, consistent with section 3.01.055, when submitting an application. The list shall be certified in one of the following ways:
  - (1) By a title company as a true and accurate list of property owners as of a specified date; or
  - (2) By a county assessor, or designate, pledging that the list is a true and accurate list of property owners as of a specified date; or
  - (3) By the applicant affirming that the list is a true and accurate list as of a specified date.
  
- (g) An applicant may request postponement of the hearing to consider the application within 90 days after filing of the application. The Executive Officer may postpone the hearing for no more than 90 days. If the Executive Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Executive Officer shall return the portion of the fee deposit not required for costs assessed pursuant to 3.01.045.
  
- (h) Position of City or County:
  - (1) Except as provided in paragraph (4) of this section, an application shall not be considered complete unless it includes a written statement by the governing body of each city or county with land use jurisdiction over the area included in the application that:
    - (A) Recommends approval of the application;
    - (B) Recommends denial of the application; or
    - (C) Makes no recommendation on the application.
  
  - (2) Except as provided in paragraph (4) of this subsection, an application shall not be considered complete unless it includes a written statement by any special district that has an agreement with the governing body of any city or county with land use jurisdiction over the area included in the application to provide an urban service to the area that:
    - (A) Recommends approval of the application;
    - (B) Recommends denial of the application; or
    - (C) Makes no recommendation on the application.

- (3) If a city, county or special district holds a public hearing to consider an application, it shall:
  - (A) Provide notice of such hearing to the Executive Officer and any city or county whose municipal boundary or urban planning area boundary abuts the area; and
  - (B) Provide the Executive Officer with a list of the names and addresses of persons testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.
  
- (4) Upon request by an applicant, Executive Officer shall waive the requirements of subsections (1) and (2) of this section if the applicant shows that the local government has a policy not to comment on such applications or that a request for comment was filed with the local government or special district at least 120 calendar days before the request and the local government or special district has not yet adopted a position on the application. The governing body of a local government may delegate the decisions described in paragraphs (1) and (2) of this subsection to its staff.
  
- (i) Applications involving land outside district boundary:
  - (1) An application to expand the UGB to include land outside the district shall not be accepted unless accompanied by a copy of a petition for annexation to the district.
  - (2) A city or county may approve a plan or zone change to implement the proposed amendment prior to a change in the district UGB if:
    - (A) The Executive Officer receives notice of the local action;
    - (B) The local action is contingent upon subsequent action by the Metro Council to amend its UGB; and
    - (C) The local action to amend the local plan or zoning map becomes effective only if the Metro Council amends the UGB consistent with the local action.
  - (3) If the Metro Council approves the application, the local government shall amend its plan or map within one year to be consistent with the amendment.
  
- (j) The proposed amendment to the UGB shall include the entire right-of-way of an adjacent street to ensure that public facilities and services can be provided to the



subject property by the appropriate local government or service district in a timely and efficient manner.

## Exhibit C to Ordinance No. 01-929A

Amend section 3.01.025 of the Metro Code as follows:

### 3.01.025 Major Amendment Procedures

~~(a) All major amendments shall demonstrate compliance with the following:~~

~~(1) The criteria in section 3.01.030 of this code as well as the procedures in OAR 660-18-000;~~

~~(2) Notice of public hearings for major amendments as described in section 3.01.050;~~

~~(3) Public hearings procedures as described in sections 3.01.055 through 3.01.065;~~

~~(4) Final action on major amendments shall be taken as described in section 3.01.070.~~

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

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

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

- (c) Upon a request by a Metro councilor and a finding of good cause, the Metro Council may, by a two-thirds vote of the full Council, waive the filing deadline for an application.
- (d) Except for **that** calendar years in which the Metro Council is **completing** ~~conducting~~ its five-year analysis of buildable land supply, the Executive Officer shall give notice of the March 15 deadline for acceptance of applications for major amendments not less than 120 calendar days before the deadline and again 90 calendar days before the deadline in a newspaper of general circulation in the district and in writing to each city and county in the district. A copy of the notice shall be mailed not less than 90 calendar days before the deadline to anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained.
- (e) The Executive Officer shall submit a report and recommendation on the application to the hearings officer not less than 21 calendar days before the hearing. The Executive Officer shall send a copy of the report and recommendation simultaneously to the applicant and others who have requested copies. Any subsequent report by the Executive Officer to be used at the hearing shall be available at least seven days prior to the hearing.
- (f) An applicant shall provide a list of names and addresses of property owners for notification purposes, consistent with section 3.01.055, when submitting an application. The list shall be certified in one of the following ways:
- (1) By a title company as a true and accurate list of property owners as of a specified date; or
  - (2) By a county assessor, or designate, pledging that the list is a true and accurate list of property owners as of a specified date; or
  - (3) By the applicant affirming that the list is a true and accurate list as of a specified date.
- (g) An applicant may request postponement of the hearing to consider the application within 90 days after filing of the application. The Executive Officer may postpone the hearing for no more than 90 days. If the Executive Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Executive Officer shall return the portion of the fee deposit not required for costs assessed pursuant to 3.01.045.
- (h) Position of City or County:
- (1) Except as provided in **paragraph (4)** ~~subsection 4~~ of this section, an application shall not be considered complete unless it includes a written

statement by the governing body of each city or county with land use jurisdiction over the area included in the application that:

(A) Recommends approval of the application;

(B) Recommends denial of the application; or

(C) Makes no recommendation on the application.

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

(A) Recommends approval of the application;

(B) Recommends denial of the application; or

(C) Makes no recommendation on the application.

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

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

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

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

(i) Applications involving land outside district boundary:

- (1) An application to expand the UGB to include land outside the district shall not be accepted unless accompanied by a copy of a petition for annexation to the district.
  
- (2) A city or county may approve a plan or zone change to implement the proposed amendment prior to a change in the district UGB if:
  - (A) The Executive Officer receives notice of the local action;
  
  - (B) The local action is contingent upon subsequent action by the Metro Council to amend its UGB; and
  
  - (C) The local action to amend the local plan or zoning map becomes effective only if the Metro Council amends the UGB consistent with the local action.
  
- (3) If the Metro Council approves the application, the local government shall amend its plan or map within one year to be consistent with the amendment.
  
- (j) The proposed amendment to the UGB shall include the entire right-of-way of an adjacent street to ensure that public facilities and services can be provided to the subject property by the appropriate local government or service district in a timely and efficient manner.

3.01.030 Criteria for Major Amendment

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

- (b) The applicant shall demonstrate that the amendment will provide for an orderly and efficient transition from rural to urban use, considering the following factors:
- (1) Demonstrated need to accommodate long-range urban population growth. The Metro Council will consider, based upon evidence in the record, whether the need for the subject land was accommodated at the time of the last legislative analysis of the UGB required by ORS 197.299. If the need was not accommodated in that analysis, the Metro Council will consider whether the need must be met now, rather than at the time of the next legislative amendment, in order to ensure an orderly and efficient transition from rural to urban use.
  - (2) Need for employment opportunities and livability. The Metro Council will consider, based upon evidence in the record, whether the need must be met at a particular location, or in a particular part of the region, in order to secure an employment or livability opportunity that cannot await the next legislative review of the UGB required by ORS 197.299(1), or to ensure the livability of that part of the region.
  - (3) Orderly and economic provision of public facilities and services. The Metro Council will consider, based upon evidence in the record, whether adding the subject land to the UGB, as compared with other land that might be added, will result in a more logical extension of public facilities and services and reduce the overall cost of public facilities and services to land already within the UGB.
  - (4) Maximum efficiency of land uses within and on the fringe of the existing urban area. The Metro Council will consider, based upon evidence in the record, whether, in comparison with other land that might be added to the UGB, addition of the subject land will better achieve the residential and employment targets and transportation objectives in the 2040 Growth Concept that apply to nearby land within the UGB.

- (5) Environmental, energy, economic and social consequences. The Metro Council will consider, based upon evidence in the record, whether the consequences of addition of the subject land would be, on the whole, more positive than not including the land, and more positive than including other land.
  - (6) Retention of agricultural and forest land. The Metro Council will consider, based upon evidence in the record, addition of land designated for agriculture or forestry pursuant to a statewide Goal 3 (Agricultural Land) or 4 (Forest Land) only under the following circumstances:
    - (A) There is no land designated as urban reserve land pursuant to OAR 660, Division 021, as exception land pursuant to ORS 197.732(1)(a) or (b), or as marginal land pursuant to ORS 197.247 (1991 Edition) available to accommodate the subject need; or
    - (B) There is no land designated urban reserve available to accommodate the subject need, the subject land is not high-value farmland as described in ORS 215.710, and the subject land is completely surrounded by exception land; or
    - (C) The application identifies a specific type of land need that cannot reasonably be accommodated on land described in (A) or (B) of this paragraph; or
    - (D) Future urban services could not reasonably be provided to land described in (A) or (B) of this paragraph.
  - (7) Compatibility of proposed urban development with nearby agricultural activities. The Metro Council will consider, based upon evidence in the record, whether urban development on the subject land would likely cause a change in farm practices, or an increase in the cost of farm practices, on farms in areas designated for agriculture or forestry pursuant to a statewide planning goal within one mile of the subject land, based upon an inventory and analysis of those practices. The Metro Council will also consider measures that might eliminate or alleviate the potential conflicts with farm practices.
- (c) The applicant shall demonstrate that:
- (1) There is no land within the existing UGB that can reasonably accommodate the subject need;

- (2) The long-term environmental, economic, social and energy consequences of addition of the subject land would not be significantly more adverse than the consequence of adding other land; and
  - (3) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land.
  - (4) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB.
  - (5) The amendment complies with applicable statewide planning goals.
  - (6) If the amendment would add land for public school facilities, a conceptual school plan as described in section 3.07.1120(I) has been completed.
- (d) If the Metro Council adds land to the UGB in order to facilitate a trade and the land is available for housing, the Metro Council shall designate the land to allow an average density of at least 10 units per net developable acre or such lower density that is consistent with the 2040 Growth Concept plan designation for the area.
- (e) Compliance with the criteria in subsections (b) and (c) of this section shall constitute conformance with the Regional Urban Growth Goals and Objectives.



Exhibit D to Ordinance No. 01-929A

3.01.030 Criteria for Major Amendment Criteria

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

~~(b) While all of the following Goal 14 factors must be addressed, the factors cannot be evaluated without reference to each other. Rigid separation of the factors ignores obvious overlaps between them. When demonstrating compliance with the seven factors, petitioners shall not assume that demonstrating compliance with one factor or subfactor constitutes a sufficient showing of compliance with the goal, and allows the exclusion of the other factors when making an overall determination of compliance or conflict with the goal. For major amendments, the petitioner shall address factors 1 through 7. If it can be demonstrated that factors 1 and 2 can be met, factors 3 through 7 are intended to assist in the decision as to which site is most appropriate for inclusion within the boundary through a balancing of factors. Demonstration that the priorities of ORS 197.298 have been followed is required in addition to the application of factors 3 through 7.~~

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

~~(A) Evidence in support of a major amendment petition to amend the UGB shall be based on a demonstrated need to accommodate long range population growth requirements utilizing Metro's most recently adopted regional forecast.~~

~~(B) Major amendment proposals shall demonstrate that the existing supply of land for the subject use is less than the district's adopted 20 year forecast of need.~~

~~(C) Evidence shall be provided to demonstrate that the identified need cannot reasonably be met within the UGB, consistent with the following considerations:~~

~~(i) A suitable site with an appropriate comprehensive plan designation is not available.~~

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

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

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

~~(b) A parcel with some development on it shall be considered unavailable if the market value of the improvements is not significantly less than the value of the land. Standard measures to account for the capability of infill and redevelopment will be developed by the district to provide a means to define what is significant when comparing structure value and land values. When a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that the district substitute that data in the gross developable land inventory.~~

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

~~(2) Factor 2: Need for housing, employment and livability. A proponent may choose to address either subsection (A) or (B) or both, as described below. The proposal may be either regional or subregional in scope.~~

~~(A) Evidence in support of a proposed amendment to the UGB based upon housing or employment opportunities must demonstrate that a need can be factually shown to be based upon an economic analysis and can only be met through a change in the location of the UGB. For housing, at a minimum, the proposal must demonstrate an unmet need according to statewide planning Goal 10 and its associated administrative rules. For employment opportunities, the proposal must demonstrate, at a minimum, an~~

~~unmet need according to statewide planning Goal 9 and its associated administrative rules. The proposal must consider adopted comprehensive plan policies of jurisdictions adjacent to the site, when identified by a jurisdiction and the proposal must demonstrate that it is consistent with adopted regional policies dealing with urban growth management, transportation, housing, solid waste, and water quality management.~~

~~(B) To assert a need for a UGB because of a livability need, an applicant must:~~

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

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

~~(iii) identify both positive and negative aspects of the proposed boundary amendment on both the livability need and on other aspects of livability; and~~

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

~~(3) Factor 3: Orderly and economic provision of urban services. Consideration of this factor shall be based upon the following:~~

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

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

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

~~(A) That the subject site can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and the ability to provide for a mix of land uses to meet the needs of residents and employees; and,~~

~~(B) That the amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with adopted local comprehensive and regional functional plans. Evidence shall demonstrate the following: the proposal assists with achieving residential and employment densities capable of supporting transit service; supports the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improves the likelihood of realizing a mix of land uses to meet the needs of residents and employees.~~

~~(5) Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall include, but not be limited to, consideration of the following:~~

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

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

~~(C) The long term environmental, energy, economic, and social consequences resulting from the use at the proposed site shall be identified. Petitions shall show that potential adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring an amendment of the UGB.~~

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

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

~~(i) Expansion on rural lands excepted from statewide planning Goals 3 and 4 in adopted and acknowledged county comprehensive plans. It is recognized that small amounts of rural resource land adjacent to or surrounded by those "exception lands" may be necessary for inclusion in the proposal to improve the efficiency of the boundary amendment, but shall be limited to the smallest amount of land necessary to achieve this efficiency;~~

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

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

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

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

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

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

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

~~(A) Evidence shall be provided by the petitioner analyzing the potential impact on nearby agricultural activities including, but not limited to, the following:~~

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

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

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

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

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

(3) Orderly and economic provision of public facilities and services. The Metro Council will consider, based upon evidence in the record, whether adding the subject land to the UGB, as compared with other land that might be added, will result in a more logical extension of public facilities and services and reduce the overall cost of public facilities and services to land already within the UGB.

(4) Maximum efficiency of land uses within and on the fringe of the existing urban area. The Metro Council will consider, based upon evidence in the

record, whether, in comparison with other land that might be added to the UGB, addition of the subject land will better achieve the ~~target~~ residential and employment targets and transportation objectives in the 2040 Growth Concept that apply to nearby land within the UGB.

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

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

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

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

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

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

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

~~(c) The requirements of statewide planning Goal 2 will be met by addressing both the criteria in section 3.01.030(b), above, and by factually demonstrating the following:~~

- ~~(1) The land need identified cannot be reasonably accommodated within the current UGB;~~
- ~~(2) The land need identified can be fully accommodated by the proposed amendment;~~
- ~~(3) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts;~~
- ~~(4) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas than the proposed site and requiring an exception.~~

(c) The applicant shall demonstrate that:

- (1) There is no land within the existing UGB that can reasonably accommodate the subject need;
- (2) The long-term environmental, economic, social and energy consequences of addition of the subject land would not be significantly more adverse than the consequence of adding other land; and
- (3) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land.
- (4) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB.
- (5) The amendment complies with applicable statewide planning goals.
- (6) If the amendment would add land for public school facilities, a conceptual school plan as described in section 3.07.1120(I) has been completed.

~~(d) The district shall not consider any amendment which would result in an island of urban land outside the contiguous UGB or if the proposed addition contains within it an island of non-urban land excluded from the petition. The proposed location for the UGB shall result in a clear transition between urban and rural lands, as evidenced by its use of natural and built features, such as roads, drainage divides, floodplains, powerlines, major topographic features, and historic patterns of land use or settlement.~~

(d) If the Metro Council adds land to the UGB in order to facilitate a trade and the land is available for housing, the Metro Council shall designate the land to allow an average density of at least 10 units per net developable acre or such lower



density that is consistent with the 2040 Growth Concept plan designation for the area.

~~(e) Satisfaction of the criteria in section 3.01.030(a) and (b) does not mean that other statewide planning goals do not need to be considered. For major amendments, evidence shall be provided to identify any other applicable statewide goals which would be affected by the proposed amendment and to demonstrate compliance with them.~~

~~(f)(e) Demonstrating eCompliance with the criteria in subsections 3.01.030(a), (b), and (c) of this section and (d) shall be considered to be consistent with and in constitute conformance with the Regional Urban Growth Goals and Objectives.~~

## Exhibit E to Ordinance No. 01-929A

Amend section 3.01.035 of the Metro Code as follows:

### 3.01.033 Minor Adjustment Procedures

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

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

(c) The Executive Officer shall determine whether the application is complete and shall notify the applicant of its determination within seven working days after the filing of an application. If the application is not complete, the applicant shall complete it within 14 days of the Executive Officer's notice. The Executive Officer will dismiss an application and return application fees if it does not receive a complete application within 14 days of its notice.

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

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

**Exhibit E to Ordinance No. 01-929A**

Amend section 3.01.035 of the Metro Code as follows:

3.01.033 Applications for Major Amendments and Locational Adjustments Minor Adjustment Procedures

~~(a) — Petitions for Major Amendments or Locational Adjustments may be filed by:~~

~~(1) — A county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or~~

~~(2) — The owners of the property included in the petition or a group of more than 50 percent of the property owners who own more than 50 percent of the land area in each area included in the petition.~~

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

~~(b) — A petition for amendment of the UGB shall be on a form provided by the district and must be complete before it will be considered.~~

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

~~(c) — Completed petitions must be filed between February 1st and March 15. The proposed amendment or locational adjustment to the UGB shall not result in an island of urban land outside the existing UGB, or result in the creation of an island of non urban land. The district will determine not later than seven working days after the filing whether a petition is complete and notify the petitioner of any deficiencies. The petitioner must remedy any identified deficiencies within 14 days of notification, or the petition and fees shall be returned to the petitioner and no further consideration shall be given. Completeness of petitions shall be the petitioners' responsibility.~~

(c) — The Executive Officer shall determine whether the application is complete and shall notify the applicant of its determination within seven working days after the filing of an application. If the application is not complete, the applicant shall complete it within 14 days of the Executive Officer's notice. The Executive Officer will dismiss an application and return application fees if it does not receive a complete application within 14 days of its notice.

~~(d) — Upon request by a councilor or the executive officer, the council may, by an affirmative vote of two thirds of the full council, waive the filing deadline for a petition. Such waiver shall not waive any other requirement of this chapter.~~

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

~~(e) — The district shall give notice of the March 15 deadline for acceptance of petitions for UGB major amendments and locational adjustments under this chapter not less than 120 calendar days before a deadline and again 90 calendar days before a deadline in a newspaper of general circulation in the district and in writing to each city and county in the district. A copy of the notice shall be mailed not less than 90 calendar days before a deadline to anyone who has requested notification. The notice shall explain the consequences of failing to file before the deadline and shall specify the district officer or employee from whom additional information may be obtained.~~

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

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

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

~~(1) — A list attested to by a title company as a true and accurate list of property owners as of a specified date; or~~

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

~~(3) A list with an attached affidavit completed by the proponent affirming that the names and addresses are a true and accurate list of property owners as of a specified date.~~

~~(h) Upon request of the applicant, the executive officer may postpone the scheduling of the hearing for no more than 90 days. The applicant shall request rescheduling of the hearing within 90 days or the petition shall be considered inactive and withdrawn. The applicant shall be refunded the portion of the fee deposit not required for costs as outlined in 3.01.045.~~

~~(i) Local Position on Petition:~~

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

~~(A) recommends that Metro approve the petition; or~~

~~(B) recommends that Metro deny the petition; or~~

~~(C) expresses no preference on the petition.~~

~~(2) Except as provided in subsection 4 of this section, a petition shall not be considered completed for hearing unless the petition includes a written statement by any special district which has an agreement with the governing body of each city or county with land use jurisdiction over the area included in the petition to provide one or more urban services to the subject area that:~~

~~(A) recommends that Metro approve the petition; or~~

~~(B) recommends that Metro deny the petition; or~~

~~(C) expresses no preference on the petition.~~

~~(3) If a city, county or special district holds a public hearing to establish its position on a petition, the city or county shall:~~

~~(A) provide notice of such hearing to the district and to any city or county whose municipal boundaries or urban planning area boundary abuts the area affected; and~~

~~(B) provide the district with a list of the names and addresses of parties testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.~~

~~(4) Upon request by an applicant, the executive officer shall waive the requirements of subsections (1) and (2) of this section regarding written recommendations from the city or county with land use jurisdiction or a special district which provides one or more urban services if the applicant shows that a request for comment was filed with the local government at least 120 calendar days previously and that the local government or service provider has not yet adopted a position.~~

~~(j) Petitions outside district boundary:~~

~~(1) Petitions to extend the UGB to include land outside the district shall not be accepted unless accompanied by a copy of a petition for annexation to the district.~~

~~(2) A city or county may, in addition to the action required in subsection B of this section, approve a plan or zone change to implement the proposed adjustment in the area included in a petition prior to a change in the district UGB if:~~

~~(A) The district is given notice of the local action;~~

~~(B) The notice of the local action states that the local action is contingent upon subsequent action by the district to amend its UGB; and~~

~~(C) The local action to amend the local plan or zoning map becomes effective only if the district amends the UGB consistent with the local action.~~

~~(3) If the city or county has not contingently amended its plan or zoning map to allow the land use category of the proposed amendment proposed in a petition, and if the district does approve the UGB amendment, the local plan or map change shall be changed to be consistent with the UGB amendment within one year.~~

~~(k) The proposed amendment or locational adjustment to the UGB shall include the entire right of way of any adjacent street to ensure that urban services, including but not limited to sanitary sewer, storm sewer, water and police and fire services, be provided to the subject property by the appropriate local government or service district in a timely and efficient manner.~~

Exhibit F to Ordinance No. 01-929A

Amend section 3.01.035 of the Metro Code as follows:

3.01.035 Criteria for Minor Adjustments

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

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

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

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

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

- (1) the adjustment will result in the addition of no more than two net acres to the UGB;
- (2) urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (3) urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (4) the adjustment will help achieve the 2040 Growth Concept;
- (5) the adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

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

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



## Exhibit F to Ordinance No. 01-929A

Amend section 3.01.035 of the Metro Code as follows:

### 3.01.035 Locational Adjustment Procedures Criteria for Minor Adjustments Criteria

~~(a) — It is the purpose of sections 3.01.035 and 3.01.037 to establish procedures to be used by the district in making minor UGB amendments. The sections are intended to incorporate relevant portions of statewide goals 2 and 14, and, by restricting the location, size, character, and annual acreage of UGB adjustments that may be approved under this chapter, this section obviates the need to specifically apply these goal provisions to UGB amendments approved hereunder.~~

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

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

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

~~(c) — All petitions for locational adjustments except natural area petitions shall meet the following criteria:~~

~~(1) — Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion.~~

~~(2) — Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans.~~

~~(3) Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.~~

~~(4) Retention of agricultural land. When a petition includes land with Agricultural Class I-IV soils designated in the applicable comprehensive plan for farm or forest use, the petition shall not be approved unless it is factually demonstrated that:~~

~~(A) Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or~~

~~(B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable.~~

~~(5) Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of all factors of this subsection must clearly outweigh the adverse impact of any incompatibility.~~

~~(6) Demonstrate average residential densities of at least 10 dwelling units per net developable residential acre, or lower densities which conform to the 2040 Growth Concept plan designation for the area.~~

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

(1) the adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;

(2) adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;

(3) urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;

(4) urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;

(5) the adjustment will help achieve the 2040 Growth Concept;

~~(6) the adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and~~

~~(7) if the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.~~

**(7) if the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.**

~~(d) — Petitions for locational adjustments shall demonstrate compliance with the Regional Framework Plan and implementing policies.~~

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

~~(1) the adjustment will result in the addition of no more than two net acres to the UGB;~~

~~(2) urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;~~

~~(3) urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;~~

~~(4) the adjustment will help achieve the 2040 Growth Concept;~~

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

~~(e) — Petitions for locational adjustments to remove land from the UGB may be approved under the following conditions:~~

~~(1) Consideration of the factors in section 3.01.035(e) demonstrate that it is appropriate the land be excluded from the UGB.~~

~~(2) The land is not needed to avoid short term urban land shortages for the district and any long term urban land shortage that may result can reasonably be expected to be alleviated through the addition of urban land in an appropriate location elsewhere in the region.~~

~~(3) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and transportation facilities will thereby be significantly under utilized.~~

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

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

~~(f) A petition for a locational adjustment to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:~~

- ~~(1) The requirements of paragraph 3.01.035(e)(4) are met.~~
- ~~(2) The net amount of vacant land proposed to be added may not exceed 20 acres; nor may the net amount of vacant land removed exceed 20 acres.~~
- ~~(3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors of section 3.01.035 (e)(1-3 and 5) of this chapter.~~

~~(g) Petitions for locational adjustments to add land to the UGB may be approved under the following conditions:~~

- ~~(1) An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (e) this section, and the adjustment includes all contiguous lots divided by the existing UGB.~~
- ~~(2) For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (e) of this section.~~
- ~~(3) The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors in subsection (e).~~

~~(h) All natural area petitions for locational adjustments must meet the following conditions:~~

- ~~(1) Any natural area locational adjustment petition shall be proposed at the initiative of the property owner, with concurrence from the agency proposed to accept the land.~~
- ~~(2) At least 50 percent of the land area in the petition, and all land in excess of 40 acres, shall be owned by or donated to a county, city, parks district or the district, in its natural state, without mining, logging or other extraction of natural resources, or alteration of watercourses, water bodies or wetlands.~~
- ~~(3) Any developable portion of the lands included in the petition, not designated as a natural area, shall not exceed twenty acres and shall lie between the existing UGB and the area to be donated.~~
- ~~(4) The natural area portion owned by or to be donated to a county, city, parks district, or the district must be identified in a city or county comprehensive plan as open space or natural area or equivalent, or in the district's natural areas and open space inventory.~~
- ~~(5) The developable portion of the petition shall meet the criteria set out in parts (b), (c)(1), (c)(2) and (c)(3) of section 3.01.035.~~

## Exhibit G to Ordinance No. 01-929A

Amend section 3.01.010 of the Metro Code as follows:

### 3.01.010 Definitions

- (a) "Council" has the same meaning as in chapter 1.01.
- (b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.
- (c) "District" has the same meaning as in chapter 1.01.
- (d) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-15-000.
- (e) "Gross developable vacant land" means the total buildable land area within the UGB, as compiled by Metro for the purpose of determining the need for changes in the urban land supply. These are lands that can be shown to lack significant barriers to development. Gross developable vacant lands include, but are not limited to, all recorded lots on file with the county assessors equal to or larger than either the minimum lot size of the zone in which the lot is located or the minimum lot size which will be applied in an urban holding zone which:
  - (1) Are without any structures as corroborated through examination of the most recent aerial photography at the time of inventory; or
  - (2) Have no improvements according to the most recent assessor records.
- (f) "Gross redevelopable land" means the total area of redevelopable land and infill parcels within the UGB including:
  - (1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and
  - (2) All recorded lots on file with the county assessors that are 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment properties will be developed by the district to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a

part of their jurisdiction, it can request that the district substitute that data for inclusion in the gross developable land inventory.

(g) “Gross developable land” means the total of gross developable vacant land and gross redevelopable land.

(h) “Legislative amendment” means an amendment to the UGB initiated by the district, which is not directed at a particular site-specific situation or relatively small number of persons.

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

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

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

- (1) Any developed road rights-of-way through or on the edge of the proposed UGB amendment; and
- (2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and,
- (3) All publicly-owned land designated for park and open space uses.

(l) “Net developable land” means the total of net developable vacant land and net redevelopable land.

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

(n) “Net redevelopable land” means the amount of land remaining when gross redevelopable land is reduced by the estimated land needed for the provision of additional roads,

schools, parks, private utilities and other public facilities. The district shall determine the appropriate factor to be used for each jurisdiction in consultation with the jurisdiction within which the specific redevelopable land is located.

(o) "Nonurban land" means land currently outside the UGB.

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

(q) "Planning period" means the period covered by the most recent officially adopted district forecasts, which is approximately a 20-year period.

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

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

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

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

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

(w) "UGB" means the Urban Growth Boundary for the district pursuant to ORS 268.390 and 197.005 through 197.430.

(x) "Urban land" means that land inside the UGB.

(y) "Urban reserve" means an area designated as an urban reserve pursuant to section 3.01.012 of this code and applicable statutes and administrative rules.



## Exhibit G to Ordinance No. 01-929A

Amend section 3.01.010 of the Metro Code as follows:

### 3.01.010 Definitions

~~(a)~~ “Administrative adjustment” means an addition of five net acres or less to the UGB to adjust the UGB where the current UGB is coterminous with a transportation right of way that is changed by a modification to the alignment of the transportation facility.

~~(b)~~(a) “Council” has the same meaning as in chapter 1.01.

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

~~(d)~~(c) “District” has the same meaning as in chapter 1.01.

~~(e)~~(d) “Goals” means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-15-000.

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

- (1) Are without any structures as corroborated through examination of the most recent aerial photography at the time of inventory; or
- (2) Have no improvements according to the most recent assessor records.

~~(g)~~(f) “Gross redevelopable land” means the total area of redevelopable land and infill parcels within the UGB including:

- (1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and
- (2) All recorded lots on file with the county assessors that are 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment properties will be developed by the

district to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that the district substitute that data for inclusion in the gross developable land inventory.

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

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

~~(j)~~ "Locational adjustment" means a limited quasi-judicial change to the UGB which is either an addition or deletion of 20 net acres or less outside of an urban reserve.

~~(k)~~ "Major amendment" means a quasi-judicial change of the UGB of any size from within an urban reserve, or more than 20 net acres if outside an urban reserve.

~~(l)~~(i) "Natural area" means ~~an area exclusively or a landscape unit~~ substantially without any human development, structures, and paved areas which is wholly or that is substantially in a native and unaffected state. Further, it shall be and may be composed of plant and animal communities, water bodies, soil and rock and mitigated habitat. Natural areas must be identified in a city, county or special district open space inventory or plan, ~~prior to the initiation of an amendment.~~

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

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

- (1) Any developed road rights-of-way through or on the edge of the proposed UGB amendment; and
- (2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and,
- (3) All publicly-owned land designated for park and open space uses.

~~(n)~~(l) “Net developable land” means the total of net developable vacant land and net redevelopable land.

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

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

~~(q)~~(o) “Nonurban land” means land currently outside the UGB.

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

~~(s)~~ —“Petition” means a petition to amend the UGB either as a major amendment or as a locational adjustment.

~~(t)~~(q) “Planning period” means the period covered by the most recent officially adopted district forecasts, which is approximately a 20-year period.

~~(u)~~(r) “Property owner” means a person who owns the primary legal or equitable interest in the property.

~~(s)~~ —“Public facilities and services” means sanitary sewers, water service, fire protection, parks, open space, recreation, streets and roads and mass transit.

~~(v)~~(t) “Regional forecast” means a 20-year forecast of employment and population by specific areas within the region, which has been adopted by the district.

~~(w)~~(u) “Site” means the subject property for which an amendment or locational adjustment is being sought.

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

~~(y)~~(w) “UGB” means the Urban Growth Boundary for the district pursuant to ORS 268.390 and 197.005 through 197.430.

~~(z)~~(x) “Urban land” means that land inside the UGB.

(aa)(y) "Urban reserve" means an area designated as an urban reserve pursuant to section 3.01.012 of this code and applicable statutes and administrative rules.

**Exhibit H to Ordinance No. 01-929A**

Amend section 3.07.1120(I) of the Metro Code as follows:

- I. A conceptual school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.

## Exhibit I to Ordinance No. 01-929A

Amend section 3.01.040, 3.01.045, 3.01.050, 3.01.055, 3.01.060, and 3.01.065 of the Metro Code as follows:

### 3.01.040 Metro Conditions of Approval

(a) Land added to the UGB by legislative amendment pursuant to 3.01.015 or by major amendment pursuant to 3.01.025 shall be subject to the Urban Growth Boundary area comprehensive plan requirements of Title 11 of the Urban Growth Management Functional Plan (Metro Code section 3.07.1110 et seq.).

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

- (1) The Council shall consult with affected local governments and MPAC to determine whether local governments have agreed, pursuant to ORS 195.065 to 195.085 or otherwise, which local government shall adopt comprehensive plan amendments for the area consistent with requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code section 3.07.1110 et seq.). Where the affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate. If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.
- (2) The Council shall establish the 2040 Growth Concept design type designations applicable to the land added to the Urban Growth Boundary, including the special land need, if any, that is the basis for the amendment.
- (3) The Council shall establish the boundaries of the area that shall be included in the conceptual level of planning required by Title 11 of the Urban Growth Management Functional Plan (Metro Code section 3.07.1110 et seq.). The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) The Council shall also establish the time period for city or county compliance with the requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code section 3.07.1110 et seq.); however, the time period shall not be less than two (2) years from the time a local government is designated pursuant to section 3.01.040(b)(1) above.

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

### 3.01.045 Fees

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

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

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

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

(e) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of a final disposition of the application.

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

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

### 3.01.050 Hearing Notice Requirements

(a) 45-Day Notice. A proposal to amend the UGB by legislative amendment under 3.01.015 or by major amendment under 3.01.025 shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the matter. The notice shall be accompanied by the appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed

amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.

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

(c) Notice of public hearing shall include:

- (1) The time, date and place of the hearing.
- (2) A description of the property reasonably calculated to give notice as to its actual location. A street address or other easily understood geographical reference can be utilized if available.
- (3) For major amendments,
  - (A) An explanation of the proposed action, including the nature of the application and the proposed boundary change.
  - (B) A list of the applicable criteria for approval of the petition at issue.
  - (C) A statement that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (4) Notice that interested persons may submit written comments at the hearing and appear and be heard.
- (5) Notice that the hearing will be conducted pursuant to district rules and before the hearings officer unless that requirement is waived by the Metro council;
- (6) Include the name of the Metro staff to contact and telephone number for more information;
- (7) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the final hearing, and that a copy will be made available at no cost or reasonable cost. Further that if additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing; and



- (8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and

(d) Not less than 20 calendar days before the hearing, notice shall be mailed to the following persons:

- (1) The applicant and owners of record of property on the most recent property tax roll where the property is located.
- (2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify owners of record.
- (3) Cities and counties in the district, or cities and counties whose jurisdictional boundaries either include or are adjacent to the subject property, and affected agencies who request regular notice.
- (4) The neighborhood association, community planning organization or other citizen group, if any, which has been recognized by the city or county with land use jurisdiction for the subject property.
- (5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to participate in land use planning processes by the cities and counties whose jurisdictional boundaries either include or are adjacent to the site.
- (6) The regional representatives of the director of the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation.
- (7) Any other person requesting notification of UGB changes.

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

3.01.055 Public Hearing Rules before the Hearings Officer

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

- (1) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (2) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
- (3) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- (4) At the discretion of the applicant, the Executive Officer shall also provide notice to the Department of Land Conservation and Development.
- (5) The notice shall:
  - (A) Explain the nature of the application and the proposed use or uses which could be authorized;
  - (B) List the applicable criteria from the ordinance and the regional framework plan that apply to the application at issue;
  - (C) Set forth the street address or other easily understood geographical reference to the subject property;
  - (D) State the date, time and location of the hearing;
  - (E) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
  - (F) Be mailed at least:
    - (i) Twenty days before the evidentiary hearing; or
    - (ii) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

- (G) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;
  - (H) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
  - (I) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
  - (J) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (6) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the Executive Officer can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

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

- (1) Hearings officers shall be selected by the district pursuant to the provisions of section 2.05.025(a) of the Metro Code.
- (2) Parties to the case shall be defined as being any individual, agency, or organization who participates orally or in writing in the creation of the record used by the hearings officer in making a decision. If an individual represents an organization orally and/or in writing, that individual must indicate the date of the organization meeting in which the position presented was adopted. The hearings officer may request that the representative explain the method used by the organization to adopt the position presented. Parties need not be represented by an attorney at any point in the process outlined in this subsection and elsewhere in this chapter.
- (3) At the time of the commencement of a hearing, the hearings officer shall provide the following information to parties:
  - (A) A list and statement of the applicable substantive criteria and procedures for notice and conduct of local quasi-judicial land use hearings provided that failure to provide copies to all those present shall not constitute noncompliance with this subsection; and

- (B) A statement that testimony and evidence must be directed toward the criteria or other specific criteria which the person believes apply to the decision; and
  - (C) A statement that the failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal.
- (4) (A) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The hearing may be continued for a reasonable period as determined by the hearings officer. The hearings officer shall grant such request by continuing the public hearing pursuant to paragraph (B) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (C) of this subsection.
- (B) If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
  - (C) If the hearings officer leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the hearings officer for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings officer shall reopen the record pursuant to subsection (11) of this section.
  - (D) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.
- (5) Failure of the applicant to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the application.

- (6) The hearing shall be conducted in the following order:
  - (A) Staff report.
  - (B) Statement and evidence by the applicant in support of a petition.
  - (C) Statement and evidence of affected persons, agencies, and/or organizations opposing or supporting the petition, and/or anyone else wishing to give testimony.
  - (D) Rebuttal testimony by the applicant.
- (7) The hearings officer shall have the right to question any participant in the hearing. Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.
- (8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.
- (9) A verbatim audio tape or video tape, written, or other mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.
- (10) The burden of presenting evidence in support of a fact or position in the contested case rests on the applicant. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with all applicable standards.
- (11) The hearings officer may reopen a record to receive evidence not available or offered at the hearing. If the record is reopened, any person may raise new issues which relate to the new evidence before the record is closed.
- (12) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Metro Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.
- (13) All documents or evidence relied upon by the applicant shall be submitted to the Executive Officer and be made available to the public.

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

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

- (1) The procedure for filing an exception and filing deadlines for submitting an exception to the proposed order and findings of the hearings officer. Parties filing an exception with the district must furnish a copy of their exception to all parties to the case and the hearings officer.
- (2) A copy of the form to be used for filing an exception.
- (3) A description of the grounds upon which exceptions can be based.
- (4) A description of the procedure to be used to file a written request to submit evidence that was not offered at the hearing, consistent with Metro Code sections 2.05.035(c) and (d).
- (5) A list of all parties to the case.

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

### 3.01.060 Exceptions to Hearing Officer Decision

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

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

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

3.01.065 Council Action On Quasi-Judicial Amendments

(a) The council may act to approve, remand or deny an application in whole or in part. When the council renders a decision that reverses or modifies the proposed order of the hearings officer, then, in its order, it shall set forth its findings and state its reasons for taking the action.

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

(c) Final council action following the opportunity for parties to comment orally to council on the proposed order shall be as provided in Code section 2.05.045. Parties shall be notified of their right to review before the Land Use Board of Appeals pursuant to 1979 Oregon Laws, chapter 772.

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

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

(f) When the council acts to approve an application in whole or in part by requiring annexation to a city and/or service district(s) and Tri-Met and whenever an application includes land outside the district:

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

(g) When the council is considering an ordinance to approve an application, it shall take all public comment at its first reading of the ordinance, discuss the case, and then either pass the ordinance to second reading or remand the proposed order and findings of the hearings officer to the executive officer or the hearings officer for new or amended findings. If new or amended findings are prepared, parties to the case shall be provided a copy of the new order and findings by mail no less than seven calendar days prior to the date upon which the council will consider the new order and findings, and parties will be given the opportunity to provide the council with oral or written testimony regarding the new order and findings.



## Exhibit I to Ordinance No. 01-929A

Amend section 3.01.040, 3.01.045, 3.01.050, 3.01.055, 3.01.060, and 3.01.065 of the Metro Code as follows:

### 3.01.040 Metro Conditions of Approval

(a) ~~All~~ Land added to the ~~Urban Growth Boundary~~ UGB by legislative amendment pursuant to 3.01.015 or by major amendment pursuant to 3.01.025 shall be subject to the Urban Growth Boundary area comprehensive plan requirements of Title 11 of the Urban Growth Management Functional Plan (Metro Code section 3.07.1110 et seq.).

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

- (1) The Council shall consult with affected local governments and MPAC to determine whether local governments have agreed, pursuant to ORS 195.065 to 195.085 or otherwise, which local government shall adopt comprehensive plan amendments for the area consistent with requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code section 3.07.1110 et seq.). Where the affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate. If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.
- (2) The Council shall establish the 2040 Growth Concept design type designations applicable to the land added to the Urban Growth Boundary, including the special land need, if any, that is the basis for the amendment.
- (3) The Council shall establish the boundaries of the area that shall be included in the conceptual level of planning required by Title 11 of the Urban Growth Management Functional Plan (Metro Code section 3.07.1110 et seq.). The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) The Council shall also establish the time period for city or county compliance with the requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11

thereof (Metro Code section 3.07.1110 et seq.); however, the time period shall not be less than two (2) years from the time a local government is designated pursuant to section 3.01.040(b)(1) above.

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

### 3.01.045 Fees

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

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

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

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

(e) The unexpended portion of ~~petitioner's~~ an applicant's deposit, if any, shall be returned to the ~~petitioner~~ applicant at the time of a final disposition of the ~~petition~~ application.

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

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

### 3.01.050 Hearing Notice Requirements

(a) 45-Day Notice. A proposal to amend the UGB by ~~a legislative amendment, under 3.01.015 or by major amendment under 3.01.025 or locational adjustment~~ shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the ~~final~~ first public hearing on adoption the matter. The notice shall be accompanied by the

appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.

(b) Newspaper Ads. A 1/8 page advertisement in a newspaper of general circulation of the district for all legislative amendments and major amendments. For legislative amendments and major amendments the initial newspaper advertisements shall be published at least 45 days prior to the public hearing and shall include the same information listed in subsection (a). ~~For locational adjustments, a newspaper advertisement shall be published not more than 20, nor less than 10 calendar days prior to the hearing.~~

(c) Notice of public hearing shall include:

- (1) The time, date and place of the hearing.
- (2) A description of the property reasonably calculated to give notice as to its actual location. A street address or other easily understood geographical reference can be utilized if available.
- (3) For major amendments ~~and locational adjustments,~~
  - (A) An explanation of the proposed action, including the nature of the application and the proposed boundary change.
  - (B) A list of the applicable criteria for approval of the petition at issue.
  - (C) A statement that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (4) Notice that interested persons may submit written comments at the hearing and appear and be heard.
- (5) Notice that the hearing will be conducted pursuant to district rules and before the hearings officer unless that requirement is waived by the Metro council;
- (6) Include the name of the Metro staff to contact and telephone number for more information;
- (7) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the final hearing, and that a copy will be made available at no cost or reasonable cost. Further that if

additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing; and

- (8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and

(d) Not less than 20 calendar days before the hearing, notice shall be mailed to the following persons:

- (1) The ~~petitioner(s)~~ applicant and to owners of record of property on the most recent property tax roll where the property is located.
- (2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify owners of record.
- (3) Cities and counties in the district, or cities and counties whose jurisdictional boundaries either include or are adjacent to the subject property, and affected agencies who request regular notice.
- (4) The neighborhood association, community planning organization or other citizen group, if any, which has been recognized by the city or county with land use jurisdiction for the subject property.
- (5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to participate in land use planning processes by the cities and counties whose jurisdictional boundaries either include or are adjacent to the site.
- (6) The regional representatives of the director of the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation.
- (7) Any other person requesting notification of UGB changes.

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

3.01.055 Public Hearing Rules before the Hearings Officer

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

- (1) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (2) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
- (3) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- (4) At the discretion of the applicant, ~~Metro~~ the Executive Officer shall also provide notice to the Department of Land Conservation and Development.
- (5) The notice shall:
  - (A) Explain the nature of the application and the proposed use or uses which could be authorized;
  - (B) List the applicable criteria from the ordinance and the regional framework plan that apply to the application at issue;
  - (C) Set forth the street address or other easily understood geographical reference to the subject property;
  - (D) State the date, time and location of the hearing;
  - (E) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
  - (F) Be mailed at least:
    - (i) Twenty days before the evidentiary hearing; or
    - (ii) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

- (G) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;
  - (H) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
  - (I) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
  - (J) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (6) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if ~~Metro~~ the Executive Officer can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

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

- (1) Hearings officers shall be selected by the district pursuant to the provisions of section 2.05.025(a) of the Metro Code.
- (2) Parties to the case shall be defined as being any individual, agency, or organization who participates orally or in writing in the creation of the record used by the hearings officer in making a decision. If an individual represents an organization orally and/or in writing, that individual must indicate the date of the organization meeting in which the position presented was adopted. The hearings officer may request that the representative explain the method used by the organization to adopt the position presented. Parties need not be represented by an attorney at any point in the process outlined in this subsection and elsewhere in this chapter.
- (3) At the time of the commencement of a hearing, the hearings officer shall provide the following information to parties:
  - (A) A list and statement of the applicable substantive criteria and procedures for notice and conduct of local quasi-judicial land use

hearings provided that failure to provide copies to all those present shall not constitute noncompliance with this subsection; and

- (B) A statement that testimony and evidence must be directed toward the criteria or other specific criteria which the person believes apply to the decision; and
  - (C) A statement that the failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal.
- (4) (A) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The hearing may be continued for a reasonable period as determined by the hearings officer. The hearings officer shall grant such request by continuing the public hearing pursuant to paragraph (B) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (C) of this subsection.
- (B) If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
  - (C) If the hearings officer leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the hearings officer for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings officer shall reopen the record pursuant to subsection (11) of this section.
  - (D) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

- (5) Failure of the ~~petitioner~~ applicant to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the ~~petition~~ application.
- (6) The hearing shall be conducted in the following order:
  - (A) Staff report.
  - (B) Statement and evidence by the ~~petitioner~~ applicant in support of a petition.
  - (C) Statement and evidence of affected persons, agencies, and/or organizations opposing or supporting the petition, and/or anyone else wishing to give testimony.
  - (D) Rebuttal testimony by the ~~petitioner~~ applicant.
- (7) The hearings officer shall have the right to question any participant in the hearing. Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.
- (8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.
- (9) A verbatim audio tape or video tape, written, or other mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.
- (10) The burden of presenting evidence in support of a fact or position in the contested case rests on the ~~petitioner~~ applicant. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with all applicable standards.
- (11) The hearings officer may reopen a record to receive evidence not available or offered at the hearing. If the record is reopened, any person may raise new issues which relate to the new evidence before the record is closed.
- (12) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Metro Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.



- (13) All documents or evidence relied upon by the applicant shall be submitted to ~~Metro~~ the Executive Officer and be made available to the public.
- (14) ~~UGB petitions~~ Applications may be consolidated by the hearings officer for hearings where appropriate. Following consultation with district staff and prospective ~~petitioners~~ applicants, the hearings officer shall issue rules for the consolidation of related cases and allocation of charges. These rules shall be designed to avoid duplicative or inconsistent findings, promote an informed decision-making process, protect the due process rights of all parties, and allocate the charges on the basis of cost incurred by each party.

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

- (1) The procedure for filing an exception and filing deadlines for submitting an exception to the proposed order and findings of the hearings officer. Parties filing an exception with the district must furnish a copy of their exception to all parties to the case and the hearings officer.
- (2) A copy of the form to be used for filing an exception.
- (3) A description of the grounds upon which exceptions can be based.
- (4) A description of the procedure to be used to file a written request to submit evidence that was not offered at the hearing, consistent with Metro Code sections 2.05.035(c) and (d).
- (5) A list of all parties to the case.

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

### 3.01.060 Exceptions to Hearing Officer Decision

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

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

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

### 3.01.065 Council Action On Quasi-Judicial Amendments

(a) The council may act to approve, remand or deny a ~~petition~~ an application in whole or in part. When the council renders a decision that reverses or modifies the proposed order of the hearings officer, then, in its order, it shall set forth its findings and state its reasons for taking the action.

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

(c) Final council action following the opportunity for parties to comment orally to council on the proposed order shall be as provided in Code section 2.05.045. Parties shall be notified of their right to review before the Land Use Board of Appeals pursuant to 1979 Oregon Laws, chapter 772.

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

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

(f) When the council acts to approve an application in whole or in part ~~a petition~~ by requiring annexation to a city and/or service district(s) and Tri-Met and whenever ~~a petition~~ an application includes land outside the district:

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

(g) When the council is considering an ordinance to approve ~~a petition~~ an application, it shall take all public comment at its first reading of the ordinance, discuss the case, and then either pass the ordinance to second reading or remand the proposed order and findings of the hearings officer to the executive officer or the hearings officer for new or amended findings. If new or amended findings are prepared, parties to the case shall be provided a copy of the new order and findings by mail no less than seven calendar days prior to the date upon which the council will consider the new order and findings, and parties will be given the opportunity to provide the council with oral or written testimony regarding the new order and findings.

Exhibit J to Ordinance No. 01-929A

Repeal section 3.01.037 of the Metro Code.

~~3.01.037 Roadway Realignment Administrative Adjustments~~

- ~~(a) Applications for administrative adjustments.~~
- ~~(1) All petitions for administrative adjustments filed pursuant to this chapter must be submitted on forms provided by the district.~~
- ~~(2) Administrative amendments may be filed by:~~
- ~~(A) a county with jurisdiction over the property; or~~
- ~~(B) a city whose corporate boundary or planning area is contiguous to the property.~~
- ~~(3) Completed petitions for Administrative Adjustments may be filed with the district at any time. The district will determine not later than seven calendar days after submittal of the petition whether a petition is complete and notify the petitioner. The petitioner must remedy any identified deficiencies within 14 calendar days of notification. Completeness of petitions shall be the petitioner's responsibility.~~
- ~~(4) Applications for Administrative Adjustments shall be approved or denied by the executive officer within 90 calendar days of determining that a petition is complete. All petitions shall be reviewed by district staff and a report and recommendation submitted to the executive officer. The staff report shall be completed within 60 calendar days, of determination that the petition is complete and mailed to the petitioner, those within the required notice area and any other persons who have requested copies. Any person may submit comments or responses within 80 calendar days of the determination that a petition is complete.~~
- ~~(5) Notice of the proposed change shall be provided to the parties listed in section 3.01.050(d)(1 through 7).~~
- ~~(6) Within 10 calendar days of the final decision of the executive officer, the district shall furnish the final order and findings to all parties to the case. The notice shall contain the information listed in section 3.01.055(c)(1-5).~~
- ~~(7) The executive officer's final decision may be appealed to the district council by any party to the case. Such appeal must be filed with the district within 14 calendar days of the executive officer's final decision.~~

~~(8) Petitions for land outside the district boundary shall be subject to the provisions of section 3.01.065(f).~~

~~(b) Administrative Adjustment Criteria~~

~~(1) Petitions for administrative adjustments shall meet the following criteria:~~

~~(A) The adjustment is necessary in order to accommodate modification or expansion of a transportation facility presently located on the UGB line and the transportation facility is a component of an adopted transportation system plan;~~

~~(B) The proposed amendment includes findings derived from a city or county transportation project development process which considered alternatives through the evaluation and balancing of relevant transportation, environmental and land use impacts; and~~

~~(C) The land proposed to be added to the district UGB is the minimum needed to accommodate the transportation facility modification or expansion; and~~

~~(D) The land to be included within the UGB is less than five net acres.~~

~~(Ordinance No. 92 450A, Sec. 1)~~

Exhibit J to Ordinance No. 01-929A

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- ~~(4) Applications for Administrative Adjustments shall be approved or denied by the executive officer within 90 calendar days of determining that a petition is complete. All petitions shall be reviewed by district staff and a report and recommendation submitted to the executive officer. The staff report shall be completed within 60 calendar days, of determination that the petition is complete and mailed to the petitioner, those within the required notice area and any other persons who have requested copies. Any person may submit comments or responses within 80 calendar days of the determination that a petition is complete.~~
- ~~(5) Notice of the proposed change shall be provided to the parties listed in section 3.01.050(d)(1 through 7).~~
- ~~(6) Within 10 calendar days of the final decision of the executive officer, the district shall furnish the final order and findings to all parties to the case. The notice shall contain the information listed in section 3.01.055(c)(1-5).~~
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~~(Ordinance No. 92-450A, Sec. 1)~~

Exhibit K to Ordinance No. 01-929A

Repeal section 3.01.075 of the Metro Code.

3.01.075 Boundary Line Location Interpretation

~~(a) When the UGB map and the legal description of the UGB are found to be inconsistent, the executive officer is hereby authorized to determine and interpret whether the map or the legal description correctly establishes the UGB location as adopted and to correct the map or description if necessary. In determining where the adopted UGB is located, the executive officer shall review the record to determine legislative intent. The map location should be preferred over the legal description in absence of clear evidence to the contrary, provided that for those recent adjustments or amendments where a legal description was used as an exhibit at the public hearing, the legal metes and bounds description shall be the accepted boundary.~~

~~(b) A city, county or special district whose municipal or planning area boundary includes the property, or a property owner who would be included or excluded from the urban area depending on whether the map or legal description controls, may request that the executive officer render an interpretation under this section. If the request is submitted in writing, the executive officer shall make the requested interpretation within 60 calendar days after the request is submitted.~~

~~(c) Within 10 working days of rendering the interpretation, the executive officer, or designate, shall provide a written notice and explanation of the decision to each city or county whose municipal or planning area boundaries include the area affected, owners of property in the area affected, and the council.~~

~~(d) Any party eligible to request an interpretation under subsection (b) may appeal to the council for a determination of where the UGB is located if that party disagrees with the executive officer's interpretation or if the executive officer fails to render an interpretation requested under subsection (b). Such appeal must be filed with the district within 20 calendar days of receipt of the executive officer's interpretation or within 80 calendar days after submission of the request for interpretation to the executive officer, whichever is later.~~

~~(Ordinance No. 92-450A, Sec. 1)~~



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~~(c) Within 10 working days of rendering the interpretation, the executive officer, or designate, shall provide a written notice and explanation of the decision to each city or county whose municipal or planning area boundaries include the area affected, owners of property in the area affected, and the council.~~

~~(d) Any party eligible to request an interpretation under subsection (b) may appeal to the council for a determination of where the UGB is located if that party disagrees with the executive officer's interpretation or if the executive officer fails to render an interpretation requested under subsection (b). Such appeal must be filed with the district within 20 calendar days of receipt of the executive officer's interpretation or within 80 calendar days after submission of the request for interpretation to the executive officer, whichever is later.~~

~~(Ordinance No. 92-450A, Sec. 1)~~

**Exhibit L**  
**To Ordinance No. 01-929**  
**December 5, 2001**

Findings of Fact and Conclusions of Law

**Statewide Planning Goals**

Goal 1 - Citizen Involvement: Ordinance No. 01-929 provides opportunities for citizen involvement in the major amendment and minor adjustment processes. The ordinance complies with Goal 1.

Goal 2 – Land Use Planning: Ordinance No. 01-929 is consistent with the Regional Framework Plan, as demonstrated below. The Metro Council held a public hearing on the ordinance on December 13, 2001. The Council also submitted the ordinance to its Metropolitan Policy Advisory Committee (on November 28, 2001) and its Metropolitan Technical Advisory Committee (on December 5, 2001) for comment and coordination. The ordinance complies with Goal 2.

Goal 3 – Agricultural Lands: There are no agricultural lands as defined by Goal 3 within the Metro UGB. If an application were filed for a major amendment to add agricultural land to the UGB, Metro would apply Goal 3 at that time. The ordinance complies with Goal 3.

Goal 4 – Forest Lands: There are no forest lands as defined by Goal 4 within the Metro UGB. If an application were filed for a major amendment to add forest land to the UGB, Metro would apply Goal 4 at that time. The ordinance complies with Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Ordinance No. 01-929 does not affect any Goal 5 resources. Goal 5 would apply to any amendment of the UGB under this ordinance. The ordinance complies with Goal 5.

Goal 6 – Air, Water and Land Resources Quality: Ordinance No. 01-929 does not affect Goal 6 resources. Goal 6 would apply to any amendment of the UGB under this ordinance. The ordinance complies with Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards: Ordinance No. 01-929 does not affect any Goal 7 areas. Goal 7 would apply to any amendment of the UGB under this ordinance. The ordinance complies with Goal 7.

Goal 8 – Recreational Needs: Ordinance No. 01-929 does not affect recreational resources or needs. Goal 8 may apply to an amendment to the UGB under the ordinance. The ordinance complies with Goal 8.

Goal 9 – Economic Development: Goal 9 does not expressly apply to Ordinance No. 01-929 because Goal 9 is directed toward comprehensive plans. Neither the Regional Framework Plan nor the Metro Code are comprehensive plans. Nonetheless, the ordinance authorizes expansion of the UGB by major amendment to respond to employment needs under certain circumstances. The ordinance complies with Goal 9.

Goal 10 – Housing: Ordinance No. 01-929 does not itself affect the supply of housing within the Metro UGB. However, Goal 10 may apply to an amendment to the UGB

under the ordinance. The ordinance amends the code to disallow significant expansions to the UGB to accommodate housing by quasi-judicial amendment. The code continues to allow expansion of the UGB by legislative amendment in section 3.01.020. The ordinance complies with Goal 10.

Goal 11 – Public Facilities and Services: Ordinance No. 01-929 authorizes expansion of the UGB in order to facilitate the timely, orderly and efficient provision of services in the Metro area. Goal 11 may apply at the time of expansion of the UGB under this ordinance. The ordinance complies with Goal 11.

Goal 12 – Transportation: Ordinance No. 01-929 authorizes expansion of the UGB in order to facilitate the timely, orderly and efficient provision of road services in the Metro area. Goal 12 may apply at the time of expansion of the UGB under this ordinance. The ordinance complies with Goal 12.

Goal 13 – Energy Conservation: Ordinance No. 01-929 makes it more likely that land within the UGB will be managed and controlled to maximize the conservation of energy by encouraging more efficient use of land. The ordinance complies with Goal 13.

Goal 14 – Urbanization: Ordinance No. 01-929 brings the code on quasi-judicial amendments to the UGB into compliance with Goal 14 by ensuring that expansion to add a significant amount of land for housing or employment is subject to all Goal 14 factors through the major amendment process. Goal 14 will apply at the time of expansion of the UGB under this ordinance. The ordinance complies with Goal 14.

Goals 15-19 do not apply to Ordinance No. 01-929

### **Regional Framework Plan**

Policy 1.9 – Urban Growth Boundary: the policy requires Metro to locate the UGB in a manner consistent with the statewide planning goals. As noted in the finding for Goal 14, Ordinance No. 01-929 brings the code on quasi-judicial amendments to the UGB into compliance with Goal 14 by ensuring that expansion to add a significant amount of land for housing or employment is subject to all Goal 14 factors through the major amendment process. The ordinance amends RFP Policy 1.9.2 to change the scope of major amendments and locational adjustments to more fully conform to Policy 1.9 and the statewide planning goals. The ordinance complies with Policy 1.9.

Policy 1.14 – School Siting: The policy requires Metro to coordinate its planning with local governments and special districts to provide land for school facilities. Ordinance No. 01-929 amends Policy 1.14.2 to remove a potential obstacle to expansion of the UGB for land for schools 9 (or other purposes). As amended, the policy will not require development of a concept plan a prerequisite for UGB expansion. But it requires coordination with local governments and school districts on school facility plans to ensure a sufficient supply of land for schools.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE )  
REGIONAL FRAMEWORK PLAN ORDINANCE )  
NO. 97-715B AND METRO CODE SECTIONS ) ORDINANCE NO. 01-929  
3.01.010, 3.01.025, 3.01.030, 3.01.035, 3.01.040, )  
3.01.045, 3.01.050, 3.01.055, 3.01.060, 3.01.065, )  
AND 3.07.1120 AND REPEALING METRO CODE )  
SECTIONS 3.01.037 AND 3.01.075 TO REVISE ) Introduced by Councilor McLain  
THE SCOPE AND THE CRITERIA FOR QUASI- )  
JUDICIAL AMENDMENTS TO THE URBAN )  
GROWTH BOUNDARY )

WHEREAS, ORS 197.296(2) requires Metro to ensure that the region’s urban growth boundary contains an adequate supply of land to accommodate estimated housing needs for 20 years each time Metro does its periodic review or any other legislative review of the boundary; and

WHEREAS, ORS 197.299(1) requires Metro to inventory and analyze its supply of land every five years; and

WHEREAS, Metro will, therefore, conduct a legislative review of its supply of land every five years, as contemplated by state law; and

WHEREAS, Metro wants to ensure that the urban growth boundary performs its intended role in the achieving the 2040 Growth Concept; and

WHEREAS, Metro also wants to ensure the availability of a procedure to amend the urban growth boundary between its five-year legislative reviews of land supply in order to address unanticipated needs that cannot wait for the next legislative review; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Section 1.9.3 of the Regional Framework Plan in Ordinance no. 97-715B is hereby amended to change the scope of quasi-judicial amendments to the urban growth boundary that may come before the Council, as indicated in Exhibit “A,” attached and incorporated into this ordinance.

2. Policy 1.14.2 of the Regional Framework Plan is hereby amended, as indicated in Exhibit “B,” attached and incorporated into this ordinance, to clarify that a school facility plan under ORS 195.110 is not a prerequisite for a UGB expansion.

3. Section 3.01.025 of the Metro Code is hereby amended to revise the scope and process for major amendments to the urban growth boundary, as indicated in Exhibit “C,” attached and incorporated into this ordinance.

4. Section 3.01.030 of the Metro Code is hereby amended to revise the criteria for major amendments to the urban growth boundary, as indicated in Exhibit “D,” attached and incorporated into this ordinance.

5. Section 3.01.033 of the Metro Code is hereby amended to establish the scope and process for minor adjustments to the urban growth boundary, as indicated in Exhibit “E,” attached and incorporated into this ordinance.

6. Section 3.01.035 of the Metro Code is hereby amended to revise the criteria for minor adjustments to the urban growth boundary, as indicated in Exhibit “F,” attached and incorporated into this ordinance.

7. Section 3.01.010 of the Metro Code is hereby amended to revise the definitions of “natural area” and “special land need”; to add definitions of “public facilities and services,” “natural feature” and “special district”; and to delete definitions of “administrative adjustment,” “locational adjustment,” “major amendment” and “petition”; as indicated in Exhibit “G,” attached and incorporated into this ordinance.

8. Section 3.07.1120(I) of the Metro Code is hereby amended to revise the conceptual school planning requirement, as indicated in Exhibit “H,” attached and incorporated into this ordinance.

9. The following sections of Chapter 3.01 of the Metro Code are hereby amended to conform the Code with the amendments made by sections 1 through 8 of this Ordinance 01-929 as indicated in Exhibit “I,” attached and incorporated into this ordinance: 3.01.040; 3.01.045; 3.01.050; 3.01.055; 3.01.060 and 3.01.065.

10. Section 3.01.037 of the Metro Code on roadway realignment is hereby repealed, as indicated in Exhibit "J," attached and incorporated into this ordinance to conform the code with the amendments made by sections 1 through 8 of this Ordinance No. 01-929.

11. Section 3.01.075 of the Metro Code on boundary interpretation, is hereby repealed as indicated in Exhibit "K," attached and incorporated into this ordinance, to conform the code with the amendments made by sections 1 through 8 of this Ordinance No. 01-929.

12. The Findings of Fact and Conclusions of Law in Exhibit "L," attached and incorporated into this ordinance, demonstrate that the amendments to the Regional Framework Plan and the Metro Code in sections 1 through 11 of this Ordinance No. 01-929 comply with applicable statewide planning goals and the Regional Framework Plan.

13. This ordinance is necessary for the immediate preservation of public health, safety and welfare because processing and reviewing major amendments and locational adjustments under the current code is drawing staff and Council resources away from Metro's legislative review of the UGB, which Metro must complete to meet requirements of ORS 197.299 and periodic review before LCDC. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

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

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

**Exhibit A to Ordinance No. 01-929  
December 11, 2001**

Amend section 1.9.3 of the Regional Framework Plan in Ordinance No. 97-715B as follows:

1. ~~Proposals for major a~~Major Amendments. ~~Proposals for major a~~ Amendments of the UGB may be made through a quasi-judicial or a legislative process. ~~using Metro's regional forecasts for population and employment growth. T~~ Metro will initiate the legislative amendment process ~~will be initiated by a Metro finding of need, and~~ when it determines there is need to add land to the UGB following the analysis of buildable land supply required every five years by ORS 197.299(1). The process shall involve local governments, special districts, citizens and other interests. A local government, a special district or a property owner may initiate a quasi-judicial amendment process to add land to the UGB for public facilities, public schools, natural areas, **land trades** and those nonhousing needs that (a) were not accommodated in the most recent five-year analysis of land supply pursuant to ORS 197.299(1) and (b) must be addressed prior to the next five-year analysis.
  
2. ~~Locational Minor Adjustments. Locational Minor~~ Locational Minor adjustments of the UGB may be brought to Metro by ~~cities, counties and/or~~ a local government, a special district or a property owners based on public facility plans in adopted and acknowledged comprehensive plans. for siting public facility lines and roads and **for land trades to make the UGB coterminous with nearby property lines or natural or built features** in order to make the UGB function more efficiently and effectively.

**Exhibit B to Ordinance No. 01-929  
December 11, 2001**

Amend Policy 1.14.2 of the Regional Framework Plan in Ordinance No. 97-715B as follows:

Metro Review of Public Facility Plans to Include Schools – Metro, in its review of city and county comprehensive plans for compliance with the Regional Framework Plan, shall consider school facilities to be “public facilities.” ~~School facility plans are required to be developed through the Urban Reserve Plans as specified by Metro Code 3.01.012(e)(11). Additions to the Urban Growth Boundary may only be approved by Metro following completion of conceptual school plans which provide for adequate land for school facilities in addition to other requirements.~~ Metro shall work with local governments and school districts on school facility plans to ensure that the Urban Growth Boundary contains a sufficient supply of land for school facility needs.



**Exhibit C to Ordinance No. 01-929  
December 11, 2001**

Amend section 3.01.025 of the Metro Code as follows:

3.01.025 Major Amendment Procedures

- ~~(a) All major amendments shall demonstrate compliance with the following:~~
- ~~(1) The criteria in section 3.01.030 of this code as well as the procedures in OAR 660-18-000;~~
  - ~~(2) Notice of public hearings for major amendments as described in section 3.01.050;~~
  - ~~(3) Public hearings procedures as described in sections 3.01.055 through 3.01.065;~~
  - ~~(4) Final action on major amendments shall be taken as described in section 3.01.070.~~
- (a) A city, a county, a special district or a property owner may file an application for a major amendment to the UGB on a form provided for that purpose. The Executive Office will accept applications for major amendments between February 1 and March 15 of each calendar year except those calendar years in which the Metro Council is conducting its five-year analysis of buildable land supply under ORS 197.299(1). After receipt of a complete application, the Executive Officer will set the matter for a public hearing and provide notice to the public in the manner set forth in sections 3.01.050 and 3.01.055.
- ~~(b) Where efficiencies in the future development of an urban reserve are demonstrated by the applicant, petitions may include a request that the Metro Council amend the urban reserves in the same UGB amendment process to include additional adjacent nonresource lands up to 10 percent of the total acreage in the petition. Any requested urban reserve amendment shall demonstrate compliance with the Urban Reserve Rule (OAR 660-021-0030)~~
- (b) The Executive Officer will determine whether the application is complete and notify the applicant of its determination within seven working days after the filing of an application. If the application is not complete, the applicant shall revise it to be complete within 14 days of notice of incompleteness from the Executive Officer. The Executive Officer will dismiss an application and return application fees if it does not receive a complete application within 14 days of its notice.

- (c) Upon a request by a Metro councilor and a finding of good cause, the Metro Council may, by a two-thirds vote of the full Council, waive the filing deadline for an application.
- (d) Except for calendar years in which the Metro Council is conducting its five-year analysis of buildable land supply, the Executive Officer shall give notice of the March 15 deadline for acceptance of applications for major amendments not less than 120 calendar days before the deadline and again 90 calendar days before the deadline in a newspaper of general circulation in the district and in writing to each city and county in the district. A copy of the notice shall be mailed not less than 90 calendar days before the deadline to anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained.
- (e) The Executive Officer shall submit a report and recommendation on the application to the hearings officer not less than 21 calendar days before the hearing. The Executive Officer shall send a copy of the report and recommendation simultaneously to the applicant and others who have requested copies. Any subsequent report by the Executive Officer to be used at the hearing shall be available at least seven days prior to the hearing.
- (f) An applicant shall provide a list of names and addresses of property owners for notification purposes, consistent with section 3.01.055, when submitting an application. The list shall be certified in one of the following ways:
- (1) By a title company as a true and accurate list of property owners as of a specified date; or
  - (2) By a county assessor, or designate, pledging that the list is a true and accurate list of property owners as of a specified date; or
  - (3) By the applicant affirming that the list is a true and accurate list as of a specified date.
- (g) An applicant may request postponement of the hearing to consider the application within 90 days after filing of the application. The Executive Officer may postpone the hearing for no more than 90 days. If the Executive Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Executive Officer shall return the portion of the fee deposit not required for costs assessed pursuant to 3.01.045.
- (h) Position of City or County:
- (1) Except as provided in subsection 4 of this section, an application shall not be considered complete unless it includes a written statement by the

governing body of each city or county with land use jurisdiction over the area included in the application that:

(A) Recommends approval of the application;

(B) Recommends denial of the application; or

(C) Makes no recommendation on the application.

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

(A) Recommends approval of the application;

(B) Recommends denial of the application; or

(C) Makes no recommendation on the application.

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

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

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

(4) Upon request by an applicant, Executive Officer shall waive the requirements of subsections (1) and (2) of this section if the applicant shows that the local government has a policy not to comment on such applications or that a request for comment was filed with the local government or special district at least 120 calendar days before the request and the local government or special district has not yet adopted a position on the application.

(i) Applications involving land outside district boundary:

(1) An application to expand the UGB to include land outside the district shall not be accepted unless accompanied by a copy of a petition for annexation to the district.

(2) A city or county may approve a plan or zone change to implement the proposed amendment prior to a change in the district UGB if:

(A) The Executive Officer receives notice of the local action;

(B) The local action is contingent upon subsequent action by the Metro Council to amend its UGB; and

(C) The local action to amend the local plan or zoning map becomes effective only if the Metro Council amends the UGB consistent with the local action.

(3) If the Metro Council approves the application, the local government shall amend its plan or map within one year to be consistent with the amendment.

(j) The proposed amendment to the UGB shall include the entire right-of-way of an adjacent street to ensure that public facilities and services can be provided to the subject property by the appropriate local government or service district in a timely and efficient manner.

**Exhibit D to Ordinance No. 01-929  
December 11, 2001**

3.01.030 Criteria for Major Amendment-Criteria

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

~~(b) While all of the following Goal 14 factors must be addressed, the factors cannot be evaluated without reference to each other. Rigid separation of the factors ignores obvious overlaps between them. When demonstrating compliance with the seven factors, petitioners shall not assume that demonstrating compliance with one factor or subfactor constitutes a sufficient showing of compliance with the goal, and allows the exclusion of the other factors when making an overall determination of compliance or conflict with the goal. For major amendments, the petitioner shall address factors 1 through 7. If it can be demonstrated that factors 1 and 2 can be met, factors 3 through 7 are intended to assist in the decision as to which site is most appropriate for inclusion within the boundary through a balancing of factors. Demonstration that the priorities of ORS 197.298 have been followed is required in addition to the application of factors 3 through 7.~~

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

~~(A) Evidence in support of a major amendment petition to amend the UGB shall be based on a demonstrated need to accommodate long range population growth requirements utilizing Metro's most recently adopted regional forecast.~~

~~(B) Major amendment proposals shall demonstrate that the existing supply of land for the subject use is less than the district's adopted 20 year forecast of need.~~

~~(C) Evidence shall be provided to demonstrate that the identified need cannot reasonably be met within the UGB, consistent with the following considerations:~~

~~(i) A suitable site with an appropriate comprehensive plan designation is not available.~~

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

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

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

~~(b) A parcel with some development on it shall be considered unavailable if the market value of the improvements is not significantly less than the value of the land. Standard measures to account for the capability of infill and redevelopment will be developed by the district to provide a means to define what is significant when comparing structure value and land values. When a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that the district substitute that data in the gross developable land inventory.~~

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

~~(2) Factor 2: Need for housing, employment and livability. A proponent may choose to address either subsection (A) or (B) or both, as described below. The proposal may be either regional or subregional in scope.~~

~~(A) Evidence in support of a proposed amendment to the UGB based upon housing or employment opportunities must demonstrate that a need can be factually shown to be based upon an economic analysis and can only be met through a change in the location of the UGB. For housing, at a minimum, the proposal must demonstrate an unmet need according to statewide planning Goal~~

10 and its associated administrative rules. For employment opportunities, the proposal must demonstrate, at a minimum, an unmet need according to statewide planning Goal 9 and its associated administrative rules. The proposal must consider adopted comprehensive plan policies of jurisdictions adjacent to the site, when identified by a jurisdiction and the proposal must demonstrate that it is consistent with adopted regional policies dealing with urban growth management, transportation, housing, solid waste, and water quality management.

~~(B) To assert a need for a UGB because of a livability need, an applicant must:~~

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

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

~~(iii) identify both positive and negative aspects of the proposed boundary amendment on both the livability need and on other aspects of livability; and~~

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

~~(3) Factor 3: Orderly and economic provision of urban services.  
Consideration of this factor shall be based upon the following:~~

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

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

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

~~(A) That the subject site can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and the ability to provide for a mix of land uses to meet the needs of residents and employees; and,~~

~~(B) That the amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with adopted local comprehensive and regional functional plans. Evidence shall demonstrate the following: the proposal assists with achieving residential and employment densities capable of supporting transit service; supports the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improves the likelihood of realizing a mix of land uses to meet the needs of residents and employees.~~

~~(5) Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall include, but not be limited to, consideration of the following:~~

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

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

~~(C) The long term environmental, energy, economic, and social consequences resulting from the use at the proposed site shall be identified. Petitions shall show that potential adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring an amendment of the UGB.~~

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



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

~~(i) Expansion on rural lands excepted from statewide planning Goals 3 and 4 in adopted and acknowledged county comprehensive plans. It is recognized that small amounts of rural resource land adjacent to or surrounded by those "exception lands" may be necessary for inclusion in the proposal to improve the efficiency of the boundary amendment, but shall be limited to the smallest amount of land necessary to achieve this efficiency;~~

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

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

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

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

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

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

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

~~(A) Evidence shall be provided by the petitioner analyzing the potential impact on nearby agricultural activities including, but not limited to, the following:~~

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

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

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

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

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

(3) Orderly and economic provision of public facilities and services. The Metro Council will consider, based upon evidence in the record, whether adding the subject land to the UGB, as compared with other land that might be added, will result in a more logical extension of public facilities and services and reduce the overall cost of public facilities and services to land already within the UGB.

(4) Maximum efficiency of land uses within and on the fringe of the existing urban area. The Metro Council will consider, based upon evidence in the

record, whether, in comparison with other land that might be added to the UGB, addition of the subject land will better achieve the target residential and employment targets and transportation objectives in the 2040 Growth Concept that apply to nearby land within the UGB.

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

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

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

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

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

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

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

~~(e) The requirements of statewide planning Goal 2 will be met by addressing both the criteria in section 3.01.030(b), above, and by factually demonstrating the following:~~

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

~~(2) The land need identified can be fully accommodated by the proposed amendment;~~

~~(3) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts;~~

~~(4) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas than the proposed site and requiring an exception.~~

(c) The applicant shall demonstrate that:

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

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

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

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

(5) The amendment complies with applicable statewide planning goals.

(6) If the amendment would add land for public school facilities, a conceptual school plan as described in section 3.07.1120(1) has been completed.

~~(d) The district shall not consider any amendment which would result in an island of urban land outside the contiguous UGB or if the proposed addition contains within it an island of non-urban land excluded from the petition. The proposed location for the UGB shall result in a clear transition between urban and rural lands, as evidenced by its use of natural and built features, such as roads, drainage divides, floodplains, powerlines, major topographic features, and historic patterns of land use or settlement.~~

(d) If the Metro Council adds land to the UGB in order to facilitate a trade and the land is available for housing, the Metro Council shall designate the land to allow an average density of at least 10 units per net developable acre or such lower

density that is consistent with the 2040 Growth Concept plan designation for the area.

~~(e) Satisfaction of the criteria in section 3.01.030(a) and (b) does not mean that other statewide planning goals do not need to be considered. For major amendments, evidence shall be provided to identify any other applicable statewide goals which would be affected by the proposed amendment and to demonstrate compliance with them.~~

~~(f)(e) Demonstrating eCompliance with the criteria in subsections 3.01.030(a), (b), and (c) of this section and (d) shall be considered to be consistent with and in constitute conformance with the Regional Urban Growth Goals and Objectives.~~

**Exhibit E to Ordinance No. 01-929  
December 11, 2001**

Amend section 3.01.035 of the Metro Code as follows:

3.01.033 Applications for Major Amendments and Locational Adjustments Minor Adjustment Procedures

~~(a) — Petitions for Major Amendments or Locational Adjustments may be filed by:~~

~~(1) — A county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or~~

~~(2) — The owners of the property included in the petition or a group of more than 50 percent of the property owners who own more than 50 percent of the land area in each area included in the petition.~~

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

~~(b) — A petition for amendment of the UGB shall be on a form provided by the district and must be complete before it will be considered.~~

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

~~(c) — Completed petitions must be filed between February 1st and March 15. The proposed amendment or locational adjustment to the UGB shall not result in an island of urban land outside the existing UGB, or result in the creation of an island of non-urban land. The district will determine not later than seven working days after the filing whether a petition is complete and notify the petitioner of any deficiencies. The petitioner must remedy any identified deficiencies within 14 days of notification, or the petition and fees shall be returned to the petitioner and no further consideration shall be given. Completeness of petitions shall be the petitioners' responsibility.~~

(c) The Executive Officer shall determine whether the application is complete and shall notify the applicant of its determination within seven working days after the filing of an application. If the application is not complete, the applicant shall complete it within 14 days of the Executive Officer's notice. The Executive Officer will dismiss an application and return application fees if it does not receive a complete application within 14 days of its notice.

~~(d) — Upon request by a councilor or the executive officer, the council may, by an affirmative vote of two thirds of the full council, waive the filing deadline for a petition. Such waiver shall not waive any other requirement of this chapter.~~

(d) — The Executive Officer shall review the application for compliance with the criteria in section 3.01.035 and issue an order with its analysis and conclusion within 90 days of receipt of a complete application. The Executive Officer shall send a copy of its order to the applicant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.

~~(e) — The district shall give notice of the March 15 deadline for acceptance of petitions for UGB major amendments and locational adjustments under this chapter not less than 120 calendar days before a deadline and again 90 calendar days before a deadline in a newspaper of general circulation in the district and in writing to each city and county in the district. A copy of the notice shall be mailed not less than 90 calendar days before a deadline to anyone who has requested notification. The notice shall explain the consequences of failing to file before the deadline and shall specify the district officer or employee from whom additional information may be obtained.~~

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

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

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

~~(1) — A list attested to by a title company as a true and accurate list of property owners as of a specified date; or~~

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

~~(3) A list with an attached affidavit completed by the proponent affirming that the names and addresses are a true and accurate list of property owners as of a specified date.~~

~~(h) Upon request of the applicant, the executive officer may postpone the scheduling of the hearing for no more than 90 days. The applicant shall request rescheduling of the hearing within 90 days or the petition shall be considered inactive and withdrawn. The applicant shall be refunded the portion of the fee deposit not required for costs as outlined in 3.01.045.~~

~~(i) Local Position on Petition:~~

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

~~(A) recommends that Metro approve the petition; or~~

~~(B) recommends that Metro deny the petition; or~~

~~(C) expresses no preference on the petition.~~

~~(2) Except as provided in subsection 4 of this section, a petition shall not be considered completed for hearing unless the petition includes a written statement by any special district which has an agreement with the governing body of each city or county with land use jurisdiction over the area included in the petition to provide one or more urban services to the subject area that:~~

~~(A) recommends that Metro approve the petition; or~~

~~(B) recommends that Metro deny the petition; or~~

~~(C) expresses no preference on the petition.~~

~~(3) If a city, county or special district holds a public hearing to establish its position on a petition, the city or county shall:~~

~~(A) provide notice of such hearing to the district and to any city or county whose municipal boundaries or urban planning area boundary abuts the area affected; and~~

~~(B) provide the district with a list of the names and addresses of parties testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.~~



~~(4) Upon request by an applicant, the executive officer shall waive the requirements of subsections (1) and (2) of this section regarding written recommendations from the city or county with land use jurisdiction or a special district which provides one or more urban services if the applicant shows that a request for comment was filed with the local government at least 120 calendar days previously and that the local government or service provider has not yet adopted a position.~~

~~(j) Petitions outside district boundary:~~

~~(1) Petitions to extend the UGB to include land outside the district shall not be accepted unless accompanied by a copy of a petition for annexation to the district.~~

~~(2) A city or county may, in addition to the action required in subsection B of this section, approve a plan or zone change to implement the proposed adjustment in the area included in a petition prior to a change in the district UGB if:~~

~~(A) The district is given notice of the local action;~~

~~(B) The notice of the local action states that the local action is contingent upon subsequent action by the district to amend its UGB; and~~

~~(C) The local action to amend the local plan or zoning map becomes effective only if the district amends the UGB consistent with the local action.~~

~~(3) If the city or county has not contingently amended its plan or zoning map to allow the land use category of the proposed amendment proposed in a petition, and if the district does approve the UGB amendment, the local plan or map change shall be changed to be consistent with the UGB amendment within one year.~~

~~(k) The proposed amendment or locational adjustment to the UGB shall include the entire right of way of any adjacent street to ensure that urban services, including but not limited to sanitary sewer, storm sewer, water and police and fire services, be provided to the subject property by the appropriate local government or service district in a timely and efficient manner.~~

**Exhibit F to Ordinance No. 01-929  
December 11, 2001**

Amend section 3.01.035 of the Metro Code as follows:

3.01.035 Locational Adjustment Procedures~~Minor Adjustments Criteria~~

~~(a) — It is the purpose of sections 3.01.035 and 3.01.037 to establish procedures to be used by the district in making minor UGB amendments. The sections are intended to incorporate relevant portions of statewide goals 2 and 14, and, by restricting the location, size, character, and annual acreage of UGB adjustments that may be approved under this chapter, this section obviates the need to specifically apply these goal provisions to UGB amendments approved hereunder.~~

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

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

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

~~(c) — All petitions for locational adjustments except natural area petitions shall meet the following criteria:~~

~~(1) — Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion.~~

~~(2) — Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans.~~

~~(3) Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.~~

~~(4) Retention of agricultural land. When a petition includes land with Agricultural Class I-IV soils designated in the applicable comprehensive plan for farm or forest use, the petition shall not be approved unless it is factually demonstrated that:~~

~~(A) Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or~~

~~(B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable.~~

~~(5) Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of all factors of this subsection must clearly outweigh the adverse impact of any incompatibility.~~

~~(6) Demonstrate average residential densities of at least 10 dwelling units per net developable residential acre, or lower densities which conform to the 2040 Growth Concept plan designation for the area.~~

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

(1) the adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road;

(2) adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;

(3) urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;

(4) urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;

(5) the adjustment will help achieve the 2040 Growth Concept;

(6) the adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and

~~(7) if the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.~~

~~(d) Petitions for locational adjustments shall demonstrate compliance with the Regional Framework Plan and implementing policies.~~

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

~~(1) the adjustment will result in the addition of no more than two net acres to the UGB;~~

~~(2) urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;~~

~~(3) urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;~~

~~(4) the adjustment will help achieve the 2040 Growth Concept;~~

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

~~(e) Petitions for locational adjustments to remove land from the UGB may be approved under the following conditions:~~

~~(1) Consideration of the factors in section 3.01.035(c) demonstrate that it is appropriate the land be excluded from the UGB.~~

~~(2) The land is not needed to avoid short term urban land shortages for the district and any long term urban land shortage that may result can reasonably be expected to be alleviated through the addition of urban land in an appropriate location elsewhere in the region.~~

~~(3) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and transportation facilities will thereby be significantly under-utilized.~~

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

~~(f) — A petition for a locational adjustment to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:~~

- ~~(1) — The requirements of paragraph 3.01.035(c)(4) are met.~~
- ~~(2) — The net amount of vacant land proposed to be added may not exceed 20 acres; nor may the net amount of vacant land removed exceed 20 acres.~~
- ~~(3) — The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors of section 3.01.035 (c)(1-3 and 5) of this chapter.~~

~~(g) — Petitions for locational adjustments to add land to the UGB may be approved under the following conditions:~~

- ~~(1) — An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB.~~
- ~~(2) — For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) of this section.~~
- ~~(3) — The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors in subsection (c).~~

~~(h) — All natural area petitions for locational adjustments must meet the following conditions:~~

- ~~(1) — Any natural area locational adjustment petition shall be proposed at the initiative of the property owner, with concurrence from the agency proposed to accept the land.~~
- ~~(2) — At least 50 percent of the land area in the petition, and all land in excess of 40 acres, shall be owned by or donated to a county, city, parks district or the district, in its natural state, without mining, logging or other extraction of natural resources, or alteration of watercourses, water bodies or wetlands.~~

- ~~(3) Any developable portion of the lands included in the petition, not designated as a natural area, shall not exceed twenty acres and shall lie between the existing UGB and the area to be donated.~~
- ~~(4) The natural area portion owned by or to be donated to a county, city, parks district, or the district must be identified in a city or county comprehensive plan as open space or natural area or equivalent, or in the district's natural areas and open space inventory.~~
- ~~(5) The developable portion of the petition shall meet the criteria set out in parts (b), (c)(1), (c)(2) and (c)(3) of section 3.01.035.~~

**Exhibit G to Ordinance No. 01-929  
December 11, 2001**

Amend section 3.01.010 of the Metro Code as follows:

3.01.010 Definitions

~~(a)~~ “Administrative adjustment” means an addition of five net acres or less to the UGB to adjust the UGB where the current UGB is coterminous with a transportation right-of-way that is changed by a modification to the alignment of the transportation facility.

~~(b)~~(a) “Council” has the same meaning as in chapter 1.01.

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

~~(d)~~(c) “District” has the same meaning as in chapter 1.01.

~~(e)~~(d) “Goals” means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-15-000.

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

- (1) Are without any structures as corroborated through examination of the most recent aerial photography at the time of inventory; or
- (2) Have no improvements according to the most recent assessor records.

~~(g)~~(f) “Gross redevelopable land” means the total area of redevelopable land and infill parcels within the UGB including:

- (1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and
- (2) All recorded lots on file with the county assessors that are 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the

capability of infill and redevelopment properties will be developed by the district to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that the district substitute that data for inclusion in the gross developable land inventory.

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

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

~~(j)~~ "Locational adjustment" means a limited quasi-judicial change to the UGB which is either an addition or deletion of 20 net acres or less outside of an urban reserve.

~~(k)~~ "Major amendment" means a quasi-judicial change of the UGB of any size from within an urban reserve, or more than 20 net acres if outside an urban reserve.

~~(l)~~(i) "Natural area" means an area exclusively or a landscape unit substantially without any human development, structures, and paved areas which is wholly or that is substantially in a native and unaffected state. Further, it shall be and may be composed of plant and animal communities, water bodies, soil and rock and mitigated habitat. Natural areas must be identified in a city, county or special district open space inventory or plan, prior to the initiation of an amendment.

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

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

- (1) Any developed road rights-of-way through or on the edge of the proposed UGB amendment; and
- (2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and,



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

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

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

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

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

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

~~(s)~~—"Petition" means a petition to amend the UGB either as a major amendment or as a locational adjustment.

~~(t)~~(q) "Planning period" means the period covered by the most recent officially adopted district forecasts, which is approximately a 20-year period.

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

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

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

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

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

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

~~(z)~~(x) "Urban land" means that land inside the UGB. |

~~(aa)~~(y) "Urban reserve" means an area designated as an urban reserve pursuant to section |  
3.01.012 of this code and applicable statutes and administrative rules.

**Exhibit H to Ordinance No. 01-929  
December 11, 2001**

Amend section 3.07.1120(I) of the Metro Code as follows:

I. A conceptual school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the Urban Growth Boundary UGB. The estimates of need shall be coordinated among with affected school districts, the affected city or county, and affected special districts consistent with the applicable procedures in ORS 195.110(3), (4) and (7) local governments and special districts.

**Exhibit I to Ordinance No. 01-929  
December 11, 2001**

Amend section 3.01.040, 3.01.045, 3.01.050, 3.01.055, 3.01.060, and 3.01.065 of the Metro Code as follows:

**3.01.040 Metro Conditions of Approval**

(a) ~~All~~ Land added to the ~~Urban Growth Boundary~~ UGB by legislative amendment pursuant to 3.01.015 or by major amendment pursuant to 3.01.025 shall be subject to the Urban Growth Boundary area comprehensive plan requirements of Title 11 of the Urban Growth Management Functional Plan (Metro Code section 3.07.1110 et seq.).

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

- (1) The Council shall consult with affected local governments and MPAC to determine whether local governments have agreed, pursuant to ORS 195.065 to 195.085 or otherwise, which local government shall adopt comprehensive plan amendments for the area consistent with requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code section 3.07.1110 et seq.). Where the affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate. If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.
- (2) The Council shall establish the 2040 Growth Concept design type designations applicable to the land added to the Urban Growth Boundary, including the special land need, if any, that is the basis for the amendment.
- (3) The Council shall establish the boundaries of the area that shall be included in the conceptual level of planning required by Title 11 of the Urban Growth Management Functional Plan (Metro Code section 3.07.1110 et seq.). The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) The Council shall also establish the time period for city or county compliance with the requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11

thereof (Metro Code section 3.07.1110 et seq.); however, the time period shall not be less than two (2) years from the time a local government is designated pursuant to section 3.01.040(b)(1) above.

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

### 3.01.045 Fees

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

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

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

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

(e) The unexpended portion of ~~petitioner's~~ an applicant's deposit, if any, shall be returned to the ~~petitioner~~ applicant at the time of a final disposition of the ~~petition~~ application.

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

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

### 3.01.050 Hearing Notice Requirements

(a) 45-Day Notice. A proposal to amend the UGB by a legislative amendment, under 3.01.015 or by major amendment under 3.01.025 ~~or locational adjustment~~ shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the ~~final~~ first public hearing on adoption ~~the matter~~. The notice shall be accompanied by the

appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.

(b) Newspaper Ads. A 1/8 page advertisement in a newspaper of general circulation of the district for all legislative amendments and major amendments. For legislative amendments and major amendments the initial newspaper advertisements shall be published at least 45 days prior to the public hearing and shall include the same information listed in subsection (a). ~~For locational adjustments, a newspaper advertisement shall be published not more than 20, nor less than 10 calendar days prior to the hearing.~~

(c) Notice of public hearing shall include:

- (1) The time, date and place of the hearing.
- (2) A description of the property reasonably calculated to give notice as to its actual location. A street address or other easily understood geographical reference can be utilized if available.
- (3) For major amendments ~~and locational adjustments,~~
  - (A) An explanation of the proposed action, including the nature of the application and the proposed boundary change.
  - (B) A list of the applicable criteria for approval of the petition at issue.
  - (C) A statement that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (4) Notice that interested persons may submit written comments at the hearing and appear and be heard.
- (5) Notice that the hearing will be conducted pursuant to district rules and before the hearings officer unless that requirement is waived by the Metro council;
- (6) Include the name of the Metro staff to contact and telephone number for more information;
- (7) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the final hearing, and that a copy will be made available at no cost or reasonable cost. Further that if

additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing; and

- (8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and

(d) Not less than 20 calendar days before the hearing, notice shall be mailed to the following persons:

- (1) The ~~petitioner(s)~~ applicant and to owners of record of property on the most recent property tax roll where the property is located.
- (2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify owners of record.
- (3) Cities and counties in the district, or cities and counties whose jurisdictional boundaries either include or are adjacent to the subject property, and affected agencies who request regular notice.
- (4) The neighborhood association, community planning organization or other citizen group, if any, which has been recognized by the city or county with land use jurisdiction for the subject property.
- (5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to participate in land use planning processes by the cities and counties whose jurisdictional boundaries either include or are adjacent to the site.
- (6) The regional representatives of the director of the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation.
- (7) Any other person requesting notification of UGB changes.

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

3.01.055 Public Hearing Rules before the Hearings Officer

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

- (1) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (2) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
- (3) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- (4) At the discretion of the applicant, ~~Metro~~ the Executive Officer shall also provide notice to the Department of Land Conservation and Development.
- (5) The notice shall:
  - (A) Explain the nature of the application and the proposed use or uses which could be authorized;
  - (B) List the applicable criteria from the ordinance and the regional framework plan that apply to the application at issue;
  - (C) Set forth the street address or other easily understood geographical reference to the subject property;
  - (D) State the date, time and location of the hearing;
  - (E) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
  - (F) Be mailed at least:
    - (i) Twenty days before the evidentiary hearing; or
    - (ii) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;



- (G) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;
- (H) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
- (I) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
- (J) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

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

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

- (1) Hearings officers shall be selected by the district pursuant to the provisions of section 2.05.025(a) of the Metro Code.
- (2) Parties to the case shall be defined as being any individual, agency, or organization who participates orally or in writing in the creation of the record used by the hearings officer in making a decision. If an individual represents an organization orally and/or in writing, that individual must indicate the date of the organization meeting in which the position presented was adopted. The hearings officer may request that the representative explain the method used by the organization to adopt the position presented. Parties need not be represented by an attorney at any point in the process outlined in this subsection and elsewhere in this chapter.
- (3) At the time of the commencement of a hearing, the hearings officer shall provide the following information to parties:
  - (A) A list and statement of the applicable substantive criteria and procedures for notice and conduct of local quasi-judicial land use

hearings provided that failure to provide copies to all those present shall not constitute noncompliance with this subsection; and

- (B) A statement that testimony and evidence must be directed toward the criteria or other specific criteria which the person believes apply to the decision; and
  - (C) A statement that the failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal.
- (4) (A) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The hearing may be continued for a reasonable period as determined by the hearings officer. The hearings officer shall grant such request by continuing the public hearing pursuant to paragraph (B) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (C) of this subsection.
- (B) If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.
  - (C) If the hearings officer leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the hearings officer for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings officer shall reopen the record pursuant to subsection (11) of this section.
  - (D) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

- (5) Failure of the ~~petitioner~~ applicant to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the ~~petition~~ application.
- (6) The hearing shall be conducted in the following order:
  - (A) Staff report.
  - (B) Statement and evidence by the ~~petitioner~~ applicant in support of a petition.
  - (C) Statement and evidence of affected persons, agencies, and/or organizations opposing or supporting the petition, and/or anyone else wishing to give testimony.
  - (D) Rebuttal testimony by the ~~petitioner~~ applicant.
- (7) The hearings officer shall have the right to question any participant in the hearing. Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.
- (8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.
- (9) A verbatim audio tape or video tape, written, or other mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.
- (10) The burden of presenting evidence in support of a fact or position in the contested case rests on the ~~petitioner~~ applicant. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with all applicable standards.
- (11) The hearings officer may reopen a record to receive evidence not available or offered at the hearing. If the record is reopened, any person may raise new issues which relate to the new evidence before the record is closed.
- (12) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Metro Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.

- (13) All documents or evidence relied upon by the applicant shall be submitted to ~~Metro~~ the Executive Officer and be made available to the public.
- (14) ~~UGB petitions~~ Applications may be consolidated by the hearings officer for hearings where appropriate. Following consultation with district staff and prospective ~~petitioners~~ applicants, the hearings officer shall issue rules for the consolidation of related cases and allocation of charges. These rules shall be designed to avoid duplicative or inconsistent findings, promote an informed decision-making process, protect the due process rights of all parties, and allocate the charges on the basis of cost incurred by each party.

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

- (1) The procedure for filing an exception and filing deadlines for submitting an exception to the proposed order and findings of the hearings officer. Parties filing an exception with the district must furnish a copy of their exception to all parties to the case and the hearings officer.
- (2) A copy of the form to be used for filing an exception.
- (3) A description of the grounds upon which exceptions can be based.
- (4) A description of the procedure to be used to file a written request to submit evidence that was not offered at the hearing, consistent with Metro Code sections 2.05.035(c) and (d).
- (5) A list of all parties to the case.

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

### 3.01.060 Exceptions to Hearing Officer Decision

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

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

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

### 3.01.065 Council Action On Quasi-Judicial Amendments

(a) The council may act to approve, remand or deny a ~~petition~~ an application in whole or in part. When the council renders a decision that reverses or modifies the proposed order of the hearings officer, then, in its order, it shall set forth its findings and state its reasons for taking the action.

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

(c) Final council action following the opportunity for parties to comment orally to council on the proposed order shall be as provided in Code section 2.05.045. Parties shall be notified of their right to review before the Land Use Board of Appeals pursuant to 1979 Oregon Laws, chapter 772.

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

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

(f) When the council acts to approve an application in whole or in part ~~a petition~~ by requiring annexation to a city and/or service district(s) and Tri-Met and whenever ~~a petition~~ an application includes land outside the district:

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

(g) When the council is considering an ordinance to approve ~~a petition~~ an application, it shall take all public comment at its first reading of the ordinance, discuss the case, and then either pass the ordinance to second reading or remand the proposed order and findings of the hearings officer to the executive officer or the hearings officer for new or amended findings. If new or amended findings are prepared, parties to the case shall be provided a copy of the new order and findings by mail no less than seven calendar days prior to the date upon which the council will consider the new order and findings, and parties will be given the opportunity to provide the council with oral or written testimony regarding the new order and findings.

**Exhibit J to Ordinance No. 01-929  
December 11, 2001**

Repeal section 3.01.037 of the Metro Code.

~~3.01.037 Roadway Realignment—Administrative Adjustments~~

- ~~(a) Applications for administrative adjustments.~~
- ~~(1) All petitions for administrative adjustments filed pursuant to this chapter must be submitted on forms provided by the district.~~
- ~~(2) Administrative amendments may be filed by:
  - ~~(A) a county with jurisdiction over the property; or~~
  - ~~(B) a city whose corporate boundary or planning area is contiguous to the property.~~~~
- ~~(3) Completed petitions for Administrative Adjustments may be filed with the district at any time. The district will determine not later than seven calendar days after submittal of the petition whether a petition is complete and notify the petitioner. The petitioner must remedy any identified deficiencies within 14 calendar days of notification. Completeness of petitions shall be the petitioner's responsibility.~~
- ~~(4) Applications for Administrative Adjustments shall be approved or denied by the executive officer within 90 calendar days of determining that a petition is complete. All petitions shall be reviewed by district staff and a report and recommendation submitted to the executive officer. The staff report shall be completed within 60 calendar days, of determination that the petition is complete and mailed to the petitioner, those within the required notice area and any other persons who have requested copies. Any person may submit comments or responses within 80 calendar days of the determination that a petition is complete.~~
- ~~(5) Notice of the proposed change shall be provided to the parties listed in section 3.01.050(d)(1 through 7).~~
- ~~(6) Within 10 calendar days of the final decision of the executive officer, the district shall furnish the final order and findings to all parties to the case. The notice shall contain the information listed in section 3.01.055(e)(1-5).~~

~~(7) The executive officer's final decision may be appealed to the district council by any party to the case. Such appeal must be filed with the district within 14 calendar days of the executive officer's final decision.~~

~~(8) Petitions for land outside the district boundary shall be subject to the provisions of section 3.01.065(f).~~

~~(b) Administrative Adjustment Criteria~~

~~(1) Petitions for administrative adjustments shall meet the following criteria:~~

~~(A) The adjustment is necessary in order to accommodate modification or expansion of a transportation facility presently located on the UGB line and the transportation facility is a component of an adopted transportation system plan;~~

~~(B) The proposed amendment includes findings derived from a city or county transportation project development process which considered alternatives through the evaluation and balancing of relevant transportation, environmental and land use impacts; and~~

~~(C) The land proposed to be added to the district UGB is the minimum needed to accommodate the transportation facility modification or expansion; and~~

~~(D) The land to be included within the UGB is less than five net acres.~~

~~(Ordinance No. 92-450A, Sec. 1)~~



**Exhibit K to Ordinance No. 01-929  
December 11, 2001**

Repeal section 3.01.075 of the Metro Code.

3.01.075 Boundary Line Location Interpretation

~~—— (a) —— When the UGB map and the legal description of the UGB are found to be inconsistent, the executive officer is hereby authorized to determine and interpret whether the map or the legal description correctly establishes the UGB location as adopted and to correct the map or description if necessary. In determining where the adopted UGB is located, the executive officer shall review the record to determine legislative intent. The map location should be preferred over the legal description in absence of clear evidence to the contrary, provided that for those recent adjustments or amendments where a legal description was used as an exhibit at the public hearing, the legal metes and bounds description shall be the accepted boundary.~~

~~—— (b) —— A city, county or special district whose municipal or planning area boundary includes the property, or a property owner who would be included or excluded from the urban area depending on whether the map or legal description controls, may request that the executive officer render an interpretation under this section. If the request is submitted in writing, the executive officer shall make the requested interpretation within 60 calendar days after the request is submitted.~~

~~—— (c) —— Within 10 working days of rendering the interpretation, the executive officer, or designate, shall provide a written notice and explanation of the decision to each city or county whose municipal or planning area boundaries include the area affected, owners of property in the area affected, and the council.~~

~~—— (d) —— Any party eligible to request an interpretation under subsection (b) may appeal to the council for a determination of where the UGB is located if that party disagrees with the executive officer's interpretation or if the executive officer fails to render an interpretation requested under subsection (b). Such appeal must be filed with the district within 20 calendar days of receipt of the executive officer's interpretation or within 80 calendar days after submission of the request for interpretation to the executive officer, whichever is later.~~

~~(Ordinance No. 92-450A, Sec. 1)~~

**Exhibit L**  
**To Ordinance No. 01-929**  
**December 5, 2001**

**Findings of Fact and Conclusions of Law**

**Statewide Planning Goals**

**Goal 1 - Citizen Involvement:** Ordinance No. 01-929 provides opportunities for citizen involvement in the major amendment and minor adjustment processes. The ordinance complies with Goal 1.

**Goal 2 – Land Use Planning:** Ordinance No. 01-929 is consistent with the Regional Framework Plan, as demonstrated below. The Metro Council held a public hearing on the ordinance on December 13, 2001. The Council also submitted the ordinance to its Metropolitan Policy Advisory Committee (on November 28, 2001) and its Metropolitan Technical Advisory Committee (on December 5, 2001) for comment and coordination. The ordinance complies with Goal 2.

**Goal 3 – Agricultural Lands:** There are no agricultural lands as defined by Goal 3 within the Metro UGB. If an application were filed for a major amendment to add agricultural land to the UGB, Metro would apply Goal 3 at that time. The ordinance complies with Goal 3.

**Goal 4 – Forest Lands:** There are no forest lands as defined by Goal 4 within the Metro UGB. If an application were filed for a major amendment to add forest land to the UGB, Metro would apply Goal 4 at that time. The ordinance complies with Goal 4.

**Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:** Ordinance No. 01-929 does not affect any Goal 5 resources. Goal 5 would apply to any amendment of the UGB under this ordinance. The ordinance complies with Goal 5.

**Goal 6 – Air, Water and Land Resources Quality:** Ordinance No. 01-929 does not affect Goal 6 resources. Goal 6 would apply to any amendment of the UGB under this ordinance. The ordinance complies with Goal 6.

**Goal 7 – Areas Subject to Natural Disasters and Hazards:** Ordinance No. 01-929 does not affect any Goal 7 areas. Goal 7 would apply to any amendment of the UGB under this ordinance. The ordinance complies with Goal 7.

**Goal 8 – Recreational Needs:** Ordinance No. 01-929 does not affect recreational resources or needs. Goal 8 may apply to an amendment to the UGB under the ordinance. The ordinance complies with Goal 8.

**Goal 9 – Economic Development:** Goal 9 does not expressly apply to Ordinance No. 01-929 because Goal 9 is directed toward comprehensive plans. Neither the Regional Framework Plan nor the Metro Code are comprehensive plans. Nonetheless, the ordinance authorizes expansion of the UGB by major amendment to respond to employment needs under certain circumstances. The ordinance complies with Goal 9.

**Goal 10 – Housing:** Ordinance No. 01-929 does not itself affect the supply of housing within the Metro UGB. However, Goal 10 may apply to an amendment to the UGB under the ordinance. The ordinance amends the code to disallow significant expansions to the UGB to accommodate housing by quasi-judicial amendment. The code continues to allow expansion of the UGB by legislative amendment in section 3.01.020. The ordinance complies with Goal 10.

**Goal 11 – Public Facilities and Services:** Ordinance No. 01-929 authorizes expansion of the UGB in order to facilitate the timely, orderly and efficient provision of services in the Metro area. Goal 11 may apply at the time of expansion of the UGB under this ordinance. The ordinance complies with Goal 11.

Goal 12 – Transportation: Ordinance No. 01-929 authorizes expansion of the UGB in order to facilitate the timely, orderly and efficient provision of road services in the Metro area. Goal 12 may apply at the time of expansion of the UGB under this ordinance. The ordinance complies with Goal 12.

Goal 13 – Energy Conservation: Ordinance No. 01-929 makes it more likely that land within the UGB will be managed and controlled to maximize the conservation of energy by encouraging more efficient use of land. The ordinance complies with Goal 13.

Goal 14 – Urbanization: Ordinance No. 01-929 brings the code on quasi-judicial amendments to the UGB into compliance with Goal 14 by ensuring that expansion to add a significant amount of land for housing or employment is subject to all Goal 14 factors through the major amendment process. Goal 14 will apply at the time of expansion of the UGB under this ordinance. The ordinance complies with Goal 14.

Goals 15-19 do not apply to Ordinance No. 01-929

### **Regional Framework Plan**

Policy 1.9 – Urban Growth Boundary: the policy requires Metro to locate the UGB in a manner consistent with the statewide planning goals. As noted in the finding for Goal 14, Ordinance No. 01-929 brings the code on quasi-judicial amendments to the UGB into compliance with Goal 14 by ensuring that expansion to add a significant amount of land for housing or employment is subject to all Goal 14 factors through the major amendment process. The ordinance amends RFP Policy 1.9.2 to change the scope of major amendments and locational adjustments to more fully conform to Policy 1.9 and the statewide planning goals. The ordinance complies with Policy 1.9.

Policy 1.14 – School Siting: The policy requires Metro to coordinate its planning with local governments and special districts to provide land for school facilities. Ordinance No. 01-929 amends Policy 1.14.2 to remove a potential obstacle to expansion of the UGB for land for schools 9 (or other purposes). As amended, the policy will not require development of a concept plan a prerequisite for UGB expansion. But it requires coordination with local governments and school districts on school facility plans to ensure a sufficient supply of land for schools.

## STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 01-929 FOR THE PURPOSE OF AMENDING THE REGIONAL FRAMEWORK PLAN ORDINANCE NO. 97-715B AND METRO CODE SECTIONS 3.01.010, 3.01.025, 3.01.030, 3.01.035, 3.01.040, 3.01.045, 3.01.050, 3.01.055, 3.01.060, 3.01.065 AND 3.01.120 AND REPEALING METRO CODE SECTIONS 3.01.037 AND 3.01.375 TO REVISE THE SCOPE AND CRITERIA FOR QUASI JUDICIAL AMENDMENTS TO THE URBAN GROWTH BOUNDARY, AND DECLARING AN EMERGENCY

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Date: November 28, 2001

Presented by: Dick Benner

### DESCRIPTION

Ordinance 01-929 amends the Regional Framework Plan and Metro code with regard to non-legislative amendments to the urban growth boundary, ie. Major and minor amendments and administrative adjustments.

### BACKGROUND AND ANALYSIS

Five principal objectives are accomplished through this ordinance.

1. Scope. The ordinance reduces the scope of changes to the UGB that Metro will consider between its regular, five-year analyses of the supply of buildable land. The ordinance is based upon this assumption: given Metro's statutory responsibility to ensure that the UGB has a 20-year supply of buildable land at the completion of each five-year review, there is generally no need to add land between five-year cycles. The ordinance consolidates four separate procedures for quasi-judicial expansion of the UGB – major amendments, locational adjustments, roadway realignments and boundary line location interpretations – into two procedures: major amendments and minor amendments. The scope of major amendments is limited to non-housing needs, such as public schools, public facilities and services and natural areas. The scope includes a limited opportunity for expansion for employment land. The scope of minor amendments is limited to public facility lines and roads and land trades.
2. Consolidation. The ordinance combines code provisions for locational adjustments and various boundary line adjustments into a single new category called “minor adjustments.” This will make the code more understandable and user-friendly. The minor adjustment process is easier than the major amendment process. Metro staff can make an initial decision on minor adjustments. This decision would be the final decision unless it is appealed to the Metro Council. This distinction is similar to that in the present code (major amendments and locational adjustments require Council decision; roadway realignments and boundary line location interpretations go before the Council only upon appeal).
3. Schools. The Regional Framework Plan (RFP) requires a “conceptual school plan.” Policy 1.14.2. The corresponding code provision makes references to ORS 195.110, suggesting that a “conceptual school plan” is the same thing as a “school facility Plan.” 3.07.1120I. This may have the unintended effect of requiring completion of all school facility plans, and incorporation of those plans into the comprehensive plans of appropriate local governments,

before Metro makes any expansion of the UGB. This was not the intent of the RFP Policy 1.14.2. The ordinance amends the RFP and the code to remove the confusion.

4. Land Trades. The ordinance keeps land trades within the scope of possible quasi-judicial expansions of the UGB. Trades that would involve addition of resource land to the boundary are treated as major amendments, for which “need” must be demonstrated. Trades that involve only exception land are treated as minor amendments. In either case, a trade can result in a net addition of land (limited to 20 acres for a minor adjustment).
5. Limitation on Major Amendments. The present code provides for an annual window for the filing of applications for major amendments. 3.01.033(c). The ordinance closes that window in the calendar year in which Metro is conducting its five-year analysis of buildable land supply.

**Rationale:** The code on expansions of the UGB was written prior to enactment of ORS 197.299(1) (1997). That statute requires Metro to recalculate its need for land for housing and to make necessary expansions to the UGB every five years. This regular, required replenishment of supply of capacity for housing makes it less important for Metro to consider expansion of the UGB between five-year cycles. Given the considerable time and expense involved in quasi-judicial amendments, the Council wants to limit their scope. More important, significant expansion of the UGB between five-year cycles of replenishment of land supply undermines the effectiveness of the UGB as a tool to help accomplish the objectives of the 2040 Growth Concept.

There are other reasons to revise the code. The code was also written prior to enactment of ORS 197.296. That statute requires Metro to undertake a comprehensive inventory of buildable land and assessment of UGB capacity for housing each time Metro enters periodic review and every time it considers a “legislative” review of its UGB. Large expansions of the UGB for housing, allowed by the major amendment process in 3.01.025 and 3.01.030, probably qualify as “legislative” reviews under the statute because they require consideration of the region’s long-range supply of land for housing [3.01.030(b)(1)(A)]. Hence, Metro would have to conduct the comprehensive inventory of buildable land and assessment of UGB capacity for housing required by ORS 197.296 each time it considered a significant expansion of the boundary to add land for housing.

Finally, the code was written prior to enactment of ORS 197.298 (1995). The locational adjustment process allows expansion of the UGB onto resource land without regard to the priorities established in that statute.

**Timing:** Metro is in the midst of one of the statutorily required five-year cycles of inventory, analysis and replenishment of capacity to accommodate 20 years of forecast growth. The Council wants to focus its staff and resources on this important task rather than on proposed quasi-judicial amendments to the UGB that would likely be accommodated in response to Metro’s five-year analysis.

**Existing Law:** Changes to the Regional Framework Plan and Metro code are consistent with state land use law, ORS chapter 197. Section 1.9.3 (urban growth boundary amendment process) of the Regional Framework Plan is amended, changing the scope of quasi-judicial amendments. Section 1.14.2 School Siting) of the Regional Framework Plan is amended, clarifying that a school facility plan is not a prerequisite for a UGB expansion. Several sections of Metro code 3.01 (Urban Growth Boundary and Urban Reserve Procedures) are also amended.

**Budget Impact:** No budget impact is anticipated.