

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENACTING THE ) ORDINANCE NO 02-935  
COMMUNITY PRESERVATION ACT AND )  
ESTABLISHING A PERIODIC POPULAR ) Introduced by Councilor Bill Atherton  
VOTE THAT SETS METRO FISCAL POLICY )  
RELATING TO PAYING FOR THE COST )  
IMPACTS OF GROWTH )

WHEREAS, increased population can add new apartments, row-houses, and condominiums to established residential neighborhoods and

WHEREAS, increased population disrupts existing neighborhoods and destroys open spaces; and

WHEREAS, increased population growth causes tremendous increases in traffic congestion, commute times, and air pollution; and

WHEREAS, increased population limits land available for neighborhood parks and open spaces, and increases the demand on existing parks and open spaces; and

WHEREAS, increased population increases the demand on existing public services, including fire, ambulance, and police services; and

WHEREAS, increased population increases the demand on existing water and sewer systems, many of which may not be designed to handle the demand caused by increased population; and

WHEREAS, increased population increases the demand on our existing schools and school facilities; and

WHEREAS; increased population costs taxpayers money; and

WHEREAS, most Metro area residents have expressed their desire that Metro slow population growth; and

WHEREAS, economic, environmental, and social conditions in the region can change and a periodic popular vote on the question of promoting or not promoting population growth with economic subsidies provides a consistent process for responding to changing needs of the region; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the following Chapter, "Community Preservation Act" is hereby added to the Metro Code:

**Section 010: Purpose and Intent.**

This chapter is intended to enhance citizens' control of the fiscal impacts of growth and to substantially remove uncertainty regarding how public sector economic costs of population growth will be paid. Furthermore, it is the purpose of this chapter to promote effective decision-making through the democratic process by ensuring that the public is informed about cost-of-growth issues that affect them in significant ways.

This chapter establishes an election process for the citizens of the region to periodically choose a fiscal policy to guide Metro's use of regional funds for paying costs of accommodating increased

population in the region. By their vote, citizens will specify the nature and extent of spending and taxing choices Metro may make that relate to the fiscal impacts of growth. A growth-neutral policy, if adopted by voters, would have the effect of moderating growth by reducing the level of specified public subsidies. Conversely, if voters reject a growth-neutral policy and choose to promote growth; then this chapter would allow Metro to maintain or increase subsidies, or reduce standards of service, to promote population growth in the region.

## **Section 020: Definitions**

Capital Costs: Capital costs are the costs for the structures, land, equipment, planning, design, engineering, and financing of a regional facility or to increase the capacity of a regional facility.

Growth-Neutral Policy: Growth-neutral policy is the policy adopted when a majority of voters vote in favor of the question at an election held pursuant to this chapter.

Growth-Related Expenditures: Growth-related expenditures are those expenditures of regional funds used to pay the capital costs of regional facilities designed to accommodate an increase in population in the region and include the following:

- a) Expenditures to pay the capital costs associated with creating or increasing the capacity of a regional facility or regional service if the capital costs are not reimbursed through system development charges, local improvement district assessments or fees, or other user or impact fees that are not regional funds. Where regional facilities and regional services are expanded or improved, only the portion of the expansion or improvement that increases capacity designed to accommodate growth in population shall be used to calculate the amount of a growth-related expenditure. Growth-related expenditures do not include expenditures to maintain, operate, or improve the level of service or quality of a regional public facility or service.
- b) Expenditures to provide grants to local jurisdictions to prepare local plans or conduct local planning activities, or use Metro facilities or staff to do local plans or planning activities without full reimbursement to Metro for the costs of this service.
- c) Expenditures or the allocation, programming, or reservation of federal or state revenues or grants, including transportation tax revenues, to pay the capital costs of facilities designed to accommodate actual or forecast increases in population in the region.
- d) Expenditures for advertising, tax abatements, or grants designed to promote migration to the region or provide subsidies to private or government entities to locate or conduct operations in the region

Local Planning Activities: Local planning activities are planning activities designed to prepare or amend a Comprehensive Plan as required by ORS Chapters 195 and 197, to annex land by a local jurisdiction, or to carry out requirements of any Metro Regional Functional Plan.

Region: The region is the Metro jurisdictional area.

Regional Funds: Regional funds are all broad-based taxes, levies, and fees collected in the region by Metro; sale or rental of any Metro facility at below market value; or any state or federal funds under the control, direction, programming, or allocation authority of Metro. Regional funds do not include system development charges (SDCs); construction excise taxes, assessments and fees related to any Metro

local improvement district (LID); or any Metro development impact fee or any funds resulting from sale of General Obligation Bonds approved by voters in the region.

Regional Facilities: Regional facilities are the Oregon Convention Center; the Metropolitan Exposition Center and the Oregon Zoo; those facilities managed or owned by Metro to provide for solid waste management; transportation facilities identified as regional facilities in the Regional Transportation Plan, but not facilities developed in a Transportation Oriented Development (TOD) program; and parks, green spaces, cemeteries, and pathways owned or managed by Metro.

Regional Planning Activities: Regional planning activities are those planning activities called for in Section 5 of the Metro Charter and designed to: a) establish a regional facility; b) manage the urban growth boundary; c) evaluate the impacts of local government actions or decisions, especially the cumulative impacts of local government actions or decisions on air quality; water quality; flood protection and prevention, or the ability to mitigate or prevent other hazardous conditions; agricultural and open space lands, natural and wildlife areas or pathways that are regional facilities; or regional transportation facilities as identified in the Regional Transportation Plan; and d) other planning activities to protect individual communities in the region from development actions or land use decisions by neighboring jurisdictions in the region or outside the region. Regional planning activities do not include planning activities that local jurisdictions normally undertake to prepare comprehensive plans used to grant permits for development, construction, annexations, changes in areas or levels of municipal service, or to prepare plans or assessments for any application to move the urban growth boundary.

### **Section 030: Elections**

The initial election to carry out the purposes of this chapter will be the regular primary election in May 2002. Subsequent elections will take place at the next available regularly scheduled general or primary election after receipt by Metro of notice of periodic review by the Oregon Department of Land Conservation and Development, or at a regularly scheduled general or primary election as called for by the Metro Council.

Elections on the question shall be held no less than once every ten years but no earlier than four years from the date of the previous election.

The question to be placed before the voters shall read: "Shall Metro adopt a growth-neutral policy regarding expenditures of regional funds and resources?" (*law limits to 20 words*)

The Ballot title for the election shall read: "Establishes Fiscal Policy of METRO Regarding Subsidies for Growth." (*law limits to 10 words*)

### **Section 040: Election by Voters to Adopt Growth-Neutral Policy**

If a majority of voters vote in favor of the question, a Growth-Neutral Policy is in effect and Metro shall not use regional funds to pay for growth-related expenditures as defined and governed by this chapter. Furthermore, during the time when a Growth-Neutral Policy is adopted and in effect, Metro shall not adopt any standards of quality or service level for regional facilities below the standards of quality or service level existing at the time of the election.

The Growth-Neutral Policy shall remain in effect until an election at which a majority of voters do not vote in favor of the question.

**Section 050: Payment for Regional Planning Activities**

The regional planning function required by Section 5 of the Metro Charter is Metro's primary fiscal responsibility and Metro shall ensure that adequate funds are available for this function.

**Section 060: Enforcement**

Plaintiffs who prevail in actions to compel Metro to comply with this chapter are entitled to reasonable attorney fees and Metro may establish and maintain a special fund for this purpose.

**Section 070: Growth Cost Accounting and Reporting**

Metro will identify and report growth-related expenditures in a manner that allows these expenditures to be readily distinguished by a layperson from non-growth-related expenditures in all annual budgets and budget forecasts. The accounting and reporting of growth-related expenditures shall be based on costs necessary to maintain standards of service or quality of regional facilities at or above the standards existing at the time of the election held pursuant to this chapter.

**Section 080: Urban Growth Report**

During the time that a Growth-Neutral Policy is adopted and in effect, any forecast of growth used by Metro to comply with ORS Chapter 197 shall factor into the Urban Growth Report the impact of removing subsidies to growth covered by this chapter as well as any actions by local jurisdictions or the state to remove subsidies to growth.

**Section 090: Severability**

The provisions of this ordinance are separate and severable. The invalidity of any clause, sentence, paragraph, section, subsection, or portion of this ordinance or the invalidity of the application thereof to any city, county, person, or circumstance shall not affect the validity of the remaining provisions of this ordinance or its application to other cities, counties, persons, or circumstances.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2002

WITHDRAWN  
Carl J. Hosticka, Presiding Officer

ATTEST:

Approved as to Form:

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

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

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## STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 02-935, FOR THE PURPOSE OF ENACTING THE COMMUNITY PRESERVATION ACT AND ESTABLISHING A PERIODIC POPULAR VOTE THAT SETS METRO FISCAL POLICY RELATING TO THE COST IMPACTS OF GROWTH.

Date: January 17, 2002

Prepared by: Michael Morrissey

**Proposed Action:** Ordinance No. 02-935 amends Metro code, adding a new chapter entitled "Community Preservation Act." Ordinance 02-935 also creates an election process, beginning in May 2002, and continuing periodically thereafter. The elections will allow citizens to choose between a growth neutral or a pro-growth fiscal policy for Metro, the outcome of which will impact the expenditure of certain identified Metro funds and the established standards for level of service for Metro facilities, such as transportation.

**Factual Background and Analysis:** The 1992 Metro charter defines in its preamble [the establishment of] a regional government that "...undertakes, as its most important service, planning and policy making to preserve and enhance the quality of life and the environment for ourselves and future generations..." The charter also states in Section 4 that Metro has jurisdiction over matters of metropolitan concern. The amount, location and effects of growth in the metropolitan region are anticipated in the Metro Charter.

State law and Metro code require periodic (approximately every five year) analysis of the Metro urban growth boundary (UGB). The review analyzes the capacity of the UGB to accommodate forecasted housing need for a 20-year period. Metro is currently engaged in a periodic review of the UGB, under procedures jointly approved with the Department of Land Conservation and Development that will culminate in a UGB decision in the fall of 2002.

Metro is also required to periodically issue a forecast of projected growth for the region. For example, for the period 2000-2025, the four county population of Clackamas, Clark, Multnomah and Washington Counties is anticipated to grow by about 800,000 people, based on a recent draft staff report. Based on a capture rate of about 70%, the share of that increase that is expected to be contained in Metro's jurisdictional boundaries will be about 560,000. About one-third of this growth is due to natural increase of people already in the region. i.e. births/deaths. The rest is due to an estimated net in-migration. Regional growth increase is calculated to be about 1.5% per year for the 2000-2025 time period, which is double the national average.

These calculations, however, are predicated on certain assumptions that individuals and organizations make concerning, among other things, how urban services and facilities, such as transportation facilities, schools, public safety or utilities will be paid for. Ordinance 02-935 will reassess the process for calculating regional growth, if voters choose a growth neutral approach.

Ordinance 02-935 intends to provide citizens a greater opportunity to understand the mechanisms and policies underlying the costs of growth. It creates the opportunity for voters to periodically indicate either a growth-neutral or pro-growth Metro fiscal policy, as defined in this ordinance. In general, a growth-neutral vote is meant to indicate public disfavor for government subsidization of growth, and support for financing options like system development charges, local improvement districts and user fees.

The results of the vote will impact the expenditure of Metro's "regional funds" for identified "growth-related expenditures," such as those associated with non-reimbursed capital costs for facilities, assistance for local planning, and activities designed to produce in-migration of jobs and population.

Should voters adopt a growth-neutral policy, regional funds would not be allowed to be used for growth-related expenditures, as defined. However, Metro's charter-mandated regional planning activities shall continue to receive "adequate funds" (section 5).

As a practical matter, the net effect of precluding the expenditure of federal or regional funds for defined capital costs could largely be expected to relate to transportation facilities, to the extent they are expected to accommodate growth. This type of expenditure is most likely to be associated with Metro's Metropolitan Transportation Improvement Plan (MTIP) process and Regional Transportation Plan.

Metro assistance to local jurisdictions for local planning, through grants or direct Metro staff assistance, is also called out. Limiting these expenditures will impact both the growth management and transportation activities of the Planning department. For example, Transportation Growth Management (TGM) grant coordination, functional plan compliance assistance and urban reserve planning could be impacted.

In addition, a growth-neutral policy would disallow the adoption by Metro of any lesser standards of quality, or service level existing at the time of the election. For example, this could be applied to level-of-service standards adopted in the Regional Transportation Plan, or parks standards, which are currently under development.

**Budget Impact**

Elections costs associated with a district-wide ballot measure are estimated at approximately \$150,000.

The fiscal and budgetary impact of the limitations directed by a growth-neutral policy are unclear at this time. Further dialogue with the Community Planning department will help clarify this issue. Expenditures from Parks and other departments could also be affected.

**Known Opposition**

None known.