

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER)
APPROVING EXTENSIONS OF TIME FOR)
COMPLIANCE WITH NEW REQUIREMENTS IN) Resolution No. 08-4000
TITLE 4 OF THE URBAN GROWTH MANAGEMENT)
FUNCTIONAL PLAN FOR CLACKAMAS COUNTY)
AND THE CITIES OF BEAVERTON, DAMASCUS,)
DURHAM, FAIRVIEW, GRESHAM, HAPPY) Introduced by Chief Operating Officer
VALLEY, LAKE OSWEGO, MILWAUKIE, OREGON) Michael Jordan with the concurrence of
CITY, PORTLAND, SHERWOOD, TIGARD, AND) Council President David Bragdon
WOOD VILLAGE)

WHEREAS, the Metro Council revised requirements to protect Industrial and Regionally Significant Industrial Areas in Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (UGMFP) by Ordinance No. 04-1040B (For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code to Increase the Capacity of the Boundary to Accommodate Growth in Industrial Employment) on June 24, 2004; and

WHEREAS, the Land Conservation and Development Commission acknowledged the revisions to Title 4 in Periodic Review Task 2 Partial Approval and Remand Order 05-WKTASK-001673 on July 22, 2005; and

WHEREAS, the deadline for cities and counties in the region to revise their land use regulations to comply with the 2004 revisions to Title 4 was July 22, 2007, two years following acknowledgement of the revisions by LCDC; and

WHEREAS, the local governments named in the caption of this resolution have not yet completed the revision of their land use regulations to comply with Title 4 and have asked the Council for more time to complete the revisions; and

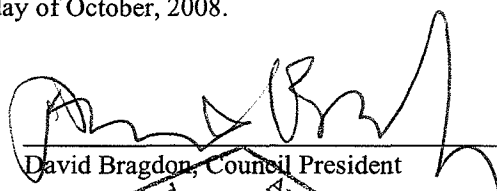
WHEREAS, section 3.07.850 authorizes the Metro Council to extend the time for compliance with Title 4 for the reason that (1) the city or county is making progress toward revision of its regulations or (2) there is good cause for the city's or county's failure to complete the revision; and

WHEREAS, The Council held a public hearing on the proposed extensions on October 16, 2008; now, therefore

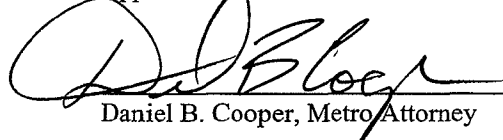
BE IT RESOLVED that the Metro Council

1. Enters Order 08-048 attached to this resolution as Exhibit A, which approves extensions of time for compliance with Title 4 of the UGMFP for the county and cities in the caption of this resolution.
2. Directs the Chief Operating Officer to send a copy of Order No. 08-048, to the county and cities, the Metropolitan Policy Advisory Committee, the Oregon Department of Land Conservation and Development and any person who participated in the public hearing on the extension.

ADOPTED by the Metro Council this 16th day of October, 2008.


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney

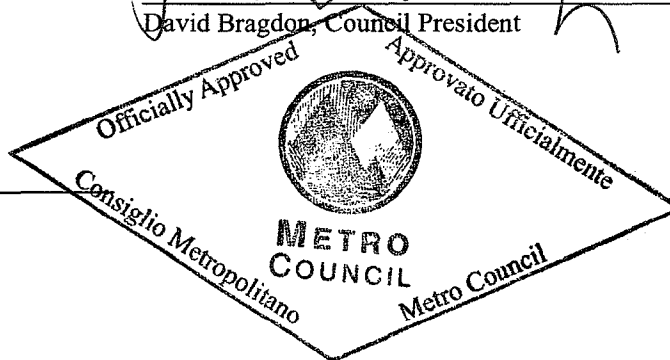


Exhibit "A" to Resolution No. 08-4000
Order No. 08-048

**RELATING TO THE REQUEST BY CLACKAMAS COUNTY AND THE CITIES OF
BEAVERTON, DAMASCUS, DURHAM, FAIRVIEW, GRESHAM, HAPPY VALLEY, LAKE
OSWEGO, MILWAUKIE, OREGON CITY, PORTLAND, SHERWOOD, TIGARD, AND WOOD
VILLAGE TO EXTEND THE TIME FOR COMPLIANCE WITH TITLE 4 OF THE URBAN
GROWTH MANAGEMENT FUNCTIONAL PLAN**

APPLICABLE LAW

The local governments named in the caption of this order requested an extension of time to complete revisions to their land use regulations to comply with Title 4 of the Urban Growth Management Functional Plan, due for completion by July 22, 2007. Metro Code section 3.07.850 sets for the process and criteria for an extension of time for compliance with a requirement of the Urban Growth Management Functional Plan:

"The Council may grant an extension only if it finds that:

- (1) the city or county is making progress toward accomplishment of its compliance work; or
- (2) there is good cause for failure to meet the deadline for compliance."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Metro Council revised requirements to protect Industrial and Regionally Significant Industrial Areas in Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (UGMFP) by Ordinance No. 04-1040B on June 24, 2004. LCDC acknowledged the revisions to Title 4 on July 22, 2005. By operation of law, cities and counties had two years following acknowledgement to bring their land use regulations into compliance with the revisions to Title 4. ORS 268.390(5)(a). Compliance was due July 22, 2007.

The named county and cities have not completed the required revisions to their land use regulations. For the reasons set forth in the Staff Report dated September 29, 2008, the Council grants the extensions.

IT IS HEREBY ORDERED THAT:

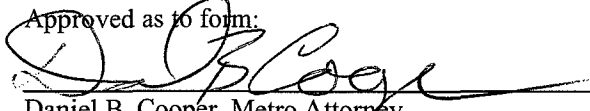
The request of Clackamas County and the Cities of Beaverton, Damascus, Durham, Fairview, Gresham, Happy Valley, Lake Oswego, Milwaukie, Oregon City, Portland, Sherwood, Tigard, and Wood Village for extensions of time under Metro Code section 3.07.850 to complete revisions to their land use regulations to comply with Title 4 of the Urban Growth Management Functional Plan are approved. The new deadline for Damascus is July 31, 2009. For all other local governments, the new deadline is April 3, 2009.

ENTERED this 16th day of October, 2008.



David Bragdon, Council President

Approved as to form:



Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-4000, FOR THE PURPOSE OF ENTERING AN ORDER APPROVING EXTENSIONS OF TIME FOR COMPLIANCE WITH NEW REQUIREMENTS IN TITLE 4 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN FOR CLACKAMAS COUNTY AND THE CITIES OF BEAVERTON, DAMASCUS, DURHAM, FAIRVIEW, GRESHAM, HAPPY VALLEY, LAKE OSWEGO, MILWAUKIE, OREGON CITY, PORTLAND, SHERWOOD, TIGARD, AND WOOD VILLAGE

Date: September 29, 2008

Prepared by: Sherry Oeser

BACKGROUND

The Regional Framework Plan calls for a strong economic climate in this region by balancing economic growth throughout the region and by encouraging the efficient use of land for industrial and commercial uses. To improve the region's economic climate, Title 4 of the Urban Growth Management Functional Plan requires local governments to provide and protect the supply of sites for jobs as well as to protect the capacity and efficiency of the region's transportation system to move goods and services. As part of the June 2004 urban growth boundary (UGB) decision to add employment land, the Council amended Title 4 and limited the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs) and Industrial Areas. The Council and the Land Conservation and Development Commission (LCDC) relied upon these limits on non-industrial uses to provide some of the needed capacity for industrial use and to reduce the need to expand the UGB.

To comply with the new Title 4 requirements, local governments with either a designated RSIA or Industrial Area need to review and, if necessary, revise their land use regulations and submit documentation. The deadline for compliance with Title 4 was July 22, 2007, two years after acknowledgement by the state Land Conservation and Development Commission of the Council's decision.

A city or county may seek an extension of time for compliance with the functional plan. Title 8 of the Functional Plan details the process for an extension request. The Council may grant an extension if it finds that 1) the city or county is making progress toward complying with the requirement, or 2) there is good cause for failure to meet the deadline for compliance. The Council must issue an order on the request.

Of the 21 jurisdictions in the region that have either an RSIA or an Industrial Area, 14 are requesting extensions. Resolution 08-4000 grants an extension to all those jurisdictions requesting one and Attachment 1 details the reason the Council grants the extension.

The new deadline to comply with Title 4 is April 3, 2009 for all jurisdictions except the City of Damascus. The deadline for the City of Damascus is July 31, 2009.

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition
2. **Legal Antecedents:** Ordinance 04-1040B, Ordinance 02-969B
3. **Anticipated Effects:** The extension would provide local jurisdictions additional time to bring their land use regulations into compliance with Title 4. In the interim, local jurisdictions must apply Title 4 requirements to land use applications they receive, so granting these extensions will not adversely affect protection of RSIA's or Industrial Areas.
4. **Budget Impacts:** There is no overall budget impact. Staff time will be required to review the documentation submitted by each local government which was not assumed in the FY 08-09 budget. Depending on the complexity of the documentation submitted and the extent to which Metro staff must work with local staff, these reviews are estimated to take between 100 to 300 hours for all jurisdictions. Staff time will be reallocated from local government technical assistance to functional plan compliance so that these Title 4 reviews are completed.

RECOMMENDED ACTION

Adoption of Resolution No. 08-4000

Title 4 Extension Requests – Revised 9/29/08

Jurisdiction	Extension Request	Reason for Request
Beaverton	Yes	The City is making progress. City is currently preparing to update Development Code and will include Title 4 changes as part of larger Code update project.
Cornelius	No	(In compliance)
Damascus	Yes	The City is making progress. City is working on a comprehensive plan framework map, Goal 5 ESEE analysis, Goal 9 (Economic Development) and Goal 10 (Housing). Cannot fully address Title 4 until comprehensive planning work is completed
Durham	Yes	The City has good cause for not meeting the deadline. The city has limited funds and staff to complete work. The city wants to integrate all revisions of Land Use Code at one time rather than amend it piecemeal and, given the city's limited staff, most of the work must be performed by consultants. Funds are included in the 08-09 budget.
Fairview	Yes	The City has good cause for not meeting the deadline. The city has limited staff resources and competing departmental priorities. The city is starting a process to identify needed corrections to Title 4 map.
Forest Grove	No	(In compliance)
Gresham	Yes	The City is making progress. City is working on an Industrial Land Use Assessment project this year. Staff turnover and limited staffing prevented this project from getting underway in 2007.
Happy Valley	Yes	The City is making progress. The city has begun working on the East Happy Valley Comprehensive Plan and hired a consultant to assist in this project.
Hillsboro	No	Metro staff is reviewing documentation

Jurisdiction	Extension Request	Reason for Request
Lake Oswego	Yes	The City has not met the deadline because it believes there is a mapping error and will use the extension to request a map amendment to change the designation from "industrial" to "employment".
Milwaukie	Yes	The City has good cause for not meeting the deadline. Staff only recently became aware that a code amendment would be necessary. The work program for 2008-09 includes a number of code amendments including Title 4.
Oregon City	Yes	The City is making progress and is in the process of changing its code for industrial uses proposed in the concept plan for Beaver Creek Road. Current code conforms to Title 4 requirements.
Portland	Yes	The City has made progress on meeting Title 4 requirements but needs more time to comply with two sections of Title 4, those restricting retail and commercial uses and the partition of large lots in RSIA and Industrial Areas.
Sherwood	Yes	The City has good cause for not meeting the deadline. The city's Planning Department has been understaffed and has seen significant staff turnover in recent years. The city has audited its development Code and is starting a process to address Title 4 requirements.
Tigard	Yes	The City is making progress on Title 4 compliance, having recently updated policies in the Comprehensive Plan. The city believes there is a mapping error and is requesting clarification from Metro on the process to amend the Title 4 map.
Troutdale	No	(In compliance)
Tualatin	No	(In compliance)
Wilsonville	No	(In compliance)

Jurisdiction	Extension Request	Reason for Request
Wood Village	Yes	The City is making progress. The city is starting a process for code changes for Titles 4 and 13 and will be receiving a state technical assistance grant to fund a two-year process for code changes.
Clackamas County	Yes	The County is making progress. The county believes that it is in compliance with Title 4 requirements except for the section relating to standards for land divisions of parcels that are greater than 50 acres.
Washington County	No	(In compliance)

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