

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DETERMINING THAT) ORDINANCE NO. 08-1204A
IMPLEMENTING TRANSIT-ORIENTED)
DEVELOPMENT IS A MATTER OF)
METROPOLITAN CONCERN) Introduced by Councilor Robert Liberty

WHEREAS, on May 16, 1996, the Metro Council adopted Resolution No. 96-2279 (For the Purpose of Authorizing an Intergovernmental Agreement with TriMet to assist in establishing a Transit-Oriented Development and Implementation Program at Metro) to authorize entry into an Intergovernmental Agreement with TriMet transferring TriMet authority to establish and implement a Transit-Oriented Development Program at Metro; and

WHEREAS, on November 18, 1999, the Metro Council adopted Resolution No. 99-2858 (For the Purpose of Authorizing a Revenue Neutral Intergovernmental Agreement with TriMet Concerning Transit-Oriented Development and Increasing the Level of Transit Service), which determined that implementing Transit-Oriented Development is a cost-effective means of increasing ridership for transit, reducing congestion and improving air quality, and thus is an important component in realizing the Region 2040 Growth Concept and authorized entry into an Intergovernmental Agreement with TriMet exchanging Federal STP Flexible Funds allocated to the Transit Oriented Development Program for TriMet general funds; and

WHEREAS, the TOD Work Plan was amended: (1) to include a site improvements project category by Resolution 00-2906 (For the Purpose of Amending the TOD Program Procedures to Facilitate TOD Projects Including the Round at Beaverton Central,) adopted March 9, 2000; (2) to include additional light rail corridors, streetcar, frequent bus, urban centers and green buildings by Resolution No. 04-3479 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Expand the TOD Program Area and Initiate An Urban Centers Program,) adopted July 15, 2004; (3) to add selection criteria for frequent bus line projects by Resolution No. 05-3563 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Apply Additional Selection Criteria to TOD Program Frequent Bus Line Projects), adopted May 19,2005; and (4) to allow a process for unsolicited proposals by Resolution No. 05-3617 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Allow a Process for Consideration of Unsolicited Development Proposals for Metro TOD & Centers Program Owned Land), adopted September 13, 2005 to designate focus centers, establish an urban living infrastructure program, and make technical changes as set forth in Exhibit A; and

WHEREAS, Section 4 of the Metro Charter, entitled “Jurisdiction of Metro,” provides that, “Metro has jurisdiction over matters of metropolitan concern. Matters of metropolitan concern include . . . those matters the Council by ordinance determines to be of metropolitan concern.”; and

WHEREAS, Section 7 (1) of the Metro Charter, entitled “Assumption Ordinance,” provides that “The Council shall approve by ordinance the undertaking by Metro of any function not authorized by Sections 5 and 6 of this charter. The ordinance shall contain a finding that the function is of metropolitan concern and the reasons it is appropriate for Metro to undertake it.”; and

WHEREAS, implementing Transit-Oriented Development is a cost-effective means of encouraging higher density and mixed-use development, increasing ridership for transit, reducing congestion and improving air quality, and thus is an important component in realizing the vision, policies

and fundamental goals in Metro's Region 2040 Growth Concept, Regional Framework Plan and the Metro Code set forth herein below; and

WHEREAS, Fundamental 2 of the Regional Framework Plan charges Metro to "Encourage the efficient use of land within the UGB including buildable industrial and commercial land and focus development in 2040 mixed use centers and corridors."; and

WHEREAS, Fundamental 7 of the Regional Framework Plan charges Metro to "Enable communities to provide diverse housing options for all residents by providing a mix of housing types as well as affordable housing in every jurisdiction."; and

WHEREAS, the Regional Framework Plan provides that it is the Policy of the Metro Council to: "Balance the region's growth by . . . targeting public investments to reinforce compact urban form." (*Urban Form Policy 1.1.1 (d)*); "Manage the urban land supply in a manner consistent with state law by encouraging the evolution of an efficient urban growth form." (*Growth Management Policy 1.6.1 (a)*); "Support the identity and functioning of communities in the region through . . . ensuring that incentives and regulations guiding the development and redevelopment of the urban area promote a settlement pattern that . . . includes concentrated, high-density mixed-use urban centers developed in relation to the region's transit system." (*Urban Design Policy 1.10.1 (c)(v)*); "Encourage pedestrian and transit supportive building patterns in order to minimize the need for auto trips and to create a development pattern conducive to face-to-face community interaction." (*Urban Design Policy 1.10.2*); "Develop a regional strategy for enhancement of Centers, Station Communities and Main Streets in the region . . . placing a high priority on investments in Centers by Metro and efforts by Metro to secure complementary investments by others." (*Centers Policy 1.15.2. (b)*); "Increase walking for short trips and improve pedestrian access to the region's public transportation system through pedestrian improvements and changes in land use patterns, designs and densities." (*Regional Pedestrian Mode Share Policy 2.25.1*); and

WHEREAS, Metro Code Chapter 3.07, Title 6, entitled "Central City, Regional Centers, Town Centers and Station Communities," Section 3.07.610 - "Purpose and Intent," addresses the maintenance and enhancement of Centers by encouraging development in Centers that will improve the critical roles they play in the region, in aid of the accomplishment of the 2040 growth concept; and

WHEREAS, Metro Code Chapter 3.07, Title 9, entitled "Performance Measures," Section 3.07.910 - "Purpose and Intent," establishes a summary of fundamental goals of the region, one of which is to "Encourage efficient use of land within the UGB by focusing on development of 2040 mixed use centers and corridors."; and

WHEREAS, in determining that providing for the implementation of Transit-Oriented Development is a matter of metropolitan concern, the Metro Council does not wish to exercise any authority to direct or regulate local government efforts to provide for the implementation of transit-oriented development, and therefore concludes that Metro is not providing or regulating any existing service provided by local governments; and

WHEREAS, pursuant to Section 7 (3) of the Metro Charter, "Assumption of Other Service Functions, the Council shall seek the advice of the MPAC before adopting an ordinance authorizing provision or regulation by Metro of a service, which is not a local government service."; and

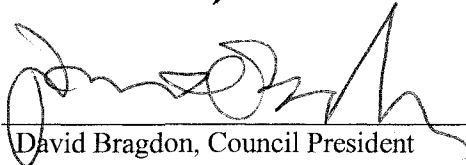
WHEREAS, this ordinance has been submitted to MPAC in its advisory capacity prior to being considered by the Metro Council; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

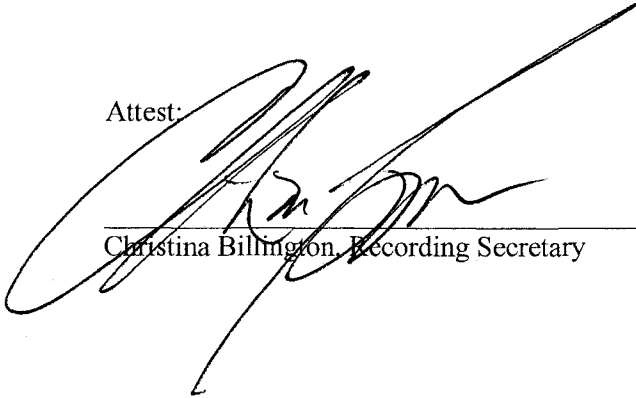
1. The continued implementation of Transit-Oriented Development throughout the Metro Region is a metropolitan concern and the Metro Council finds, pursuant to Section 4 of the Metro Charter, that the Council shall exercise jurisdiction over the matter by providing for the implementation of Transit-Oriented Development through the Metro Transit-Oriented Development and Urban Centers Implementation Program, using federal, state, and regional, financial resources, as said resources become available and as the Metro Council shall further identify and direct.

2. In determining that providing for the implementation of Transit-Oriented Development is a matter of metropolitan concern, the Metro Council finds that ~~Metro shall not exercise any authority to the implementation of Transit-Oriented Development by Metro through the Metro Transit-Oriented Development and Urban Centers Implementation Program~~ does not preempt, direct or regulate local government efforts to provide for the implementation of Transit-Oriented Development, and therefore concludes that Metro is not providing or regulating any existing service provided by local governments. Therefore this ordinance is not subject to approval by either the Metro Policy Advisory Committee or the voters of the Metro Area.

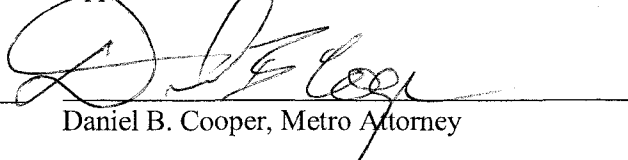
ADOPTED by the Metro Council this 15th day of January 2009.

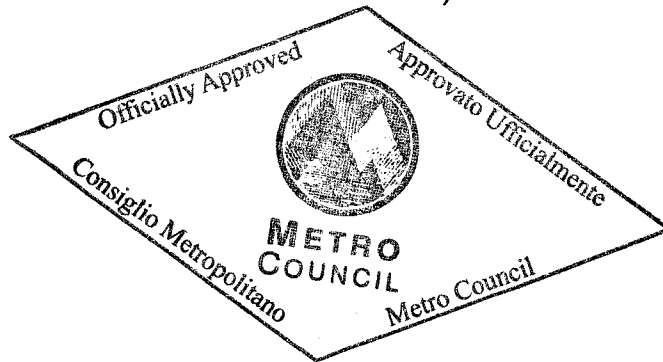

David Bragdon, Council President

Attest:


Christina Billington, Recording Secretary

Approved as to Form:


Daniel B. Cooper, Metro Attorney



BEFORE THE METRO COUNCIL

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WHEREAS, on May 16, 1996, the Metro Council adopted Resolution No. 96-2279 (For the Purpose of Authorizing an Intergovernmental Agreement with TriMet to assist in establishing a Transit-Oriented Development and Implementation Program at Metro) to authorize entry into an Intergovernmental Agreement with TriMet transferring TriMet authority to establish and implement a Transit-Oriented Development Program at Metro; and

WHEREAS, on November 18, 1999, the Metro Council adopted Resolution No. 99-2858 (For the Purpose of Authorizing a Revenue Neutral Intergovernmental Agreement with TriMet Concerning Transit-Oriented Development and Increasing the Level of Transit Service), which determined that implementing Transit-Oriented Development is a cost-effective means of increasing ridership for transit, reducing congestion and improving air quality, and thus is an important component in realizing the Region 2040 Growth Concept and authorized entry into an Intergovernmental Agreement with TriMet exchanging Federal STP Flexible Funds allocated to the Transit Oriented Development Program for TriMet general funds; and

WHEREAS, the TOD Work Plan was amended: (1) to include a site improvements project category by Resolution 00-2906 (For the Purpose of Amending the TOD Program Procedures to Facilitate TOD Projects Including the Round at Beaverton Central,) adopted March 9, 2000; (2) to include additional light rail corridors, streetcar, frequent bus, urban centers and green buildings by Resolution No. 04-3479 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Expand the TOD Program Area and Initiate An Urban Centers Program,) adopted July 15, 2004; (3) to add selection criteria for frequent bus line projects by Resolution No. 05-3563 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Apply Additional Selection Criteria to TOD Program Frequent Bus Line Projects), adopted May 19,2005; and (4) to allow a process for unsolicited proposals by Resolution No. 05-3617 (For the Purpose of Amending the Transit-Oriented Development (TOD) Program Work Plan to Allow a Process for Consideration of Unsolicited Development Proposals for Metro TOD & Centers Program Owned Land), adopted September 13, 2005 to designate focus centers, establish an urban living infrastructure program, and make technical changes as set forth in Exhibit A; and

WHEREAS, Section 4 of the Metro Charter, entitled “Jurisdiction of Metro,” provides that, “Metro has jurisdiction over matters of metropolitan concern. Matters of metropolitan concern include . . . those matters the Council by ordinance determines to be of metropolitan concern.”; and

WHEREAS, Section 7 (1) of the Metro Charter, entitled “Assumption Ordinance,” provides that “The Council shall approve by ordinance the undertaking by Metro of any function not authorized by Sections 5 and 6 of this charter. The ordinance shall contain a finding that the function is of metropolitan concern and the reasons it is appropriate for Metro to undertake it.”; and

WHEREAS, implementing Transit-Oriented Development is a cost-effective means of encouraging higher density and mixed-use development, increasing ridership for transit, reducing congestion and improving air quality, and thus is an important component in realizing the vision, policies

and fundamental goals in Metro's Region 2040 Growth Concept, Regional Framework Plan and the Metro Code set forth herein below; and

WHEREAS, Fundamental 2 of the Regional Framework Plan charges Metro to "Encourage the efficient use of land within the UGB including buildable industrial and commercial land and focus development in 2040 mixed use centers and corridors."; and

WHEREAS, Fundamental 7 of the Regional Framework Plan charges Metro to "Enable communities to provide diverse housing options for all residents by providing a mix of housing types as well as affordable housing in every jurisdiction."; and

WHEREAS, the Regional Framework Plan provides that it is the Policy of the Metro Council to: "Balance the region's growth by . . . targeting public investments to reinforce compact urban form." (*Urban Form Policy 1.1.1 (d)*); "Manage the urban land supply in a manner consistent with state law by encouraging the evolution of an efficient urban growth form." (*Growth Management Policy 1.6.1 (a)*); "Support the identity and functioning of communities in the region through . . . ensuring that incentives and regulations guiding the development and redevelopment of the urban area promote a settlement pattern that . . . includes concentrated, high-density mixed-use urban centers developed in relation to the region's transit system." (*Urban Design Policy 1.10.1 (c)(v)*); "Encourage pedestrian and transit supportive building patterns in order to minimize the need for auto trips and to create a development pattern conducive to face-to-face community interaction." (*Urban Design Policy 1.10.2*); "Develop a regional strategy for enhancement of Centers, Station Communities and Main Streets in the region . . . placing a high priority on investments in Centers by Metro and efforts by Metro to secure complementary investments by others." (*Centers Policy 1.15.2. (b)*); "Increase walking for short trips and improve pedestrian access to the region's public transportation system through pedestrian improvements and changes in land use patterns, designs and densities." (*Regional Pedestrian Mode Share Policy 2.25.1*); and

WHEREAS, Metro Code Chapter 3.07, Title 6, entitled "Central City, Regional Centers, Town Centers and Station Communities," Section 3.07.610 - "Purpose and Intent," addresses the maintenance and enhancement of Centers by encouraging development in Centers that will improve the critical roles they play in the region, in aid of the accomplishment of the 2040 growth concept; and

WHEREAS, Metro Code Chapter 3.07, Title 9, entitled "Performance Measures," Section 3.07.910 - "Purpose and Intent," establishes a summary of fundamental goals of the region, one of which is to "Encourage efficient use of land within the UGB by focusing on development of 2040 mixed use centers and corridors."; and

WHEREAS, in determining that providing for the implementation of Transit-Oriented Development is a matter of metropolitan concern, the Metro Council does not wish to exercise any authority to direct or regulate local government efforts to provide for the implementation of transit-oriented development, and therefore concludes that Metro is not providing or regulating any existing service provided by local governments; and

WHEREAS, pursuant to Section 7 (3) of the Metro Charter, "Assumption of Other Service Functions, the Council shall seek the advice of the MPAC before adopting an ordinance authorizing provision or regulation by Metro of a service, which is not a local government service."; and

WHEREAS, this ordinance has been submitted to MPAC in its advisory capacity prior to being considered by the Metro Council; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The continued implementation of Transit-Oriented Development throughout the Metro Region is a metropolitan concern and the Metro Council finds, pursuant to Section 4 of the Metro Charter, that the Council shall exercise jurisdiction over the matter by providing for the implementation of Transit-Oriented Development through the Metro Transit-Oriented Development and Urban Centers Implementation Program, using federal, state, and regional, financial resources, as said resources become available and as the Metro Council shall further identify and direct.

2. In determining that providing for the implementation of Transit-Oriented Development is a matter of metropolitan concern, the Metro Council finds that Metro shall not exercise any authority to preempt, direct or regulate local government efforts to provide for the implementation of Transit-Oriented Development, and therefore concludes that Metro is not providing or regulating any existing service provided by local governments. Therefore this ordinance is not subject to approval by either the Metro Policy Advisory Committee or the voters of the Metro Area.

ADOPTED by the Metro Council this _____ day of _____ 2008.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1204, FOR THE PURPOSE OF DETERMINING THAT IMPLEMENTING TRANSIT-ORIENTED DEVELOPMENT IS A MATTER OF METROPOLITAN CONCERN

Date: December 18, 2008

Prepared by: Robin McArthur and Megan Gibb

BACKGROUND

The Metro Transit-Oriented Development and Urban Centers Implementation Program (“TOD Program”) originated in 1996, as a result of Metro Council adoption of Resolution No. 96-2279, on May 16, 1996, “For the Purpose of Authorizing an Intergovernmental Agreement with TriMet to Assist in Establishing a Transit-Oriented Development and Implementation Program at Metro.” Subsequent Council Resolutions detailed below authorized the execution of an Intergovernmental Agreement that established the delegation to Metro of TriMet’s authority to implement Transit-Oriented Development, and provided for a coordinated Metro – TriMet approach to Transit-Oriented Development, including a funding exchange between Metro and TriMet to improve the efficiency of the new Metro TOD Program. The Intergovernmental Agreement has been extended on four occasions, most recently in 2005, and is now nearing expiration. During that time, as set forth in the Metro TOD Program Workplan, (established via Metro Council Resolution No. 98-2619 “For the Purpose of Authorizing Start-up activities for the Transit-Oriented Development Program at Metro”) Metro Council has exercised primary oversight on the implementation of Transit-Oriented Development. Metro and TriMet propose to enter into a new long-term IGA to coordinate Transit-Oriented Development and Urban Centers Implementation that requires no recurring extensions of term by Metro Council and no delegation of authority from TriMet. This IGA would maintain the current level of Metro – TriMet coordination and funding exchange, but eliminates any need for TriMet to duplicate Metro Council’s oversight of the TOD Program by eliminating the delegation of authority. This proposed arrangement requires that the Council exercise independent jurisdiction over Transit-Oriented Development and Urban Centers Implementation by declaring it to be a matter of “metropolitan concern.”

This ordinance provides a Metro Council determination that Transit-Oriented Development and Urban Centers Implementation is a matter of metropolitan concern and is thus within Metro’s jurisdiction. Metro Council’s determination is supported by its prior recognition of the fact that Transit-Oriented Development is a cost-effective means of encouraging higher density and mixed-use development, increasing ridership for transit, reducing congestion and improving air quality, and is an important component in realizing the following policies and fundamental goals of the Metro Region 2040 Growth Concept, Regional Framework Plan and the Metro Code:

Fundamental 2 of the Regional Framework Plan charges Metro to: “Encourage the efficient use of land within the UGB including buildable industrial and commercial land and focus development in 2040 mixed use centers and corridors.”

Fundamental 7 of the Regional Framework Plan charges Metro to: “Enable communities to provide diverse housing options for all residents by providing a mix of housing types as well as affordable housing in every jurisdiction.”

The Regional Framework Plan provides that it is the policy of the Metro Council to: “Balance the Region’s growth by . . . targeting public investments to reinforce compact urban form.” (*Urban Form Policy 1.1.1 (d)*); “Manage the urban land supply in a manner consistent with state law by encouraging the evolution of an efficient urban growth form.” (*Growth Management Policy 1.6.1 (a)*); “Support the identity and functioning of communities in the region through . . . ensuring that incentives and regulations guiding the development and redevelopment of the urban area promote a settlement pattern that . . . includes concentrated, high density mixed use urban centers developed in relation to the region’s transit system.” (*Urban Design Policy 1.10.1 (c)(v)*); “Encourage pedestrian and transit supportive building patterns in order to minimize the need for auto trips and to create a development pattern conducive to face-to-face community interaction.” (*Urban Design Policy 1.10.2*); “Develop a regional strategy for enhancement of Centers, Station Communities and Main Streets in the region . . . placing a high priority on investments in Centers by Metro and efforts by Metro to secure complementary investments by others.” (*Centers Policy 1.15.2 (b)*); “Increase walking for short trips and improve pedestrian access to the region’s public transportation system through pedestrian improvements and changes in land use patterns designs and densities.” (*Regional Pedestrian Mode Share Policy 2.25.1*).

Metro Code Chapter 3.07, Title 6, entitled “Central City, Regional Centers, Town Centers and Station Communities,” Section 3.07.610 - “Purpose and Intent,” addresses the maintenance and enhancement of Centers by encouraging development in Centers that will improve the critical roles they play in the region, in aid of the accomplishment of the 2040 growth concept.

Metro Code Chapter 3.07, Title 9, entitled “Performance Measures,” Section 3.07.920 - “Purpose and Intent,” establishes a summary of fundamental goals of the region, one of which is to “Encourage efficient use of land within the UGB by focusing on development of 2040 mixed use centers and corridors.”

ANALYSIS/INFORMATION

- 1. Known Opposition.** None known.
- 2. Legal Antecedents.** Sections 4 and 7 of the Metro Charter provide that Metro has jurisdiction over “matters of metropolitan concern,” including those matters the Council determines to be of metropolitan concern by ordinance. Such an ordinance shall contain a finding that a function is of metropolitan concern and the reasons for which it is appropriate to be undertaken by Metro. Metro’s authority to implement Transit-Oriented Development and operate the Transit-Oriented Development and Urban Centers Implementation Program has heretofore been by delegation of authority from TriMet to Metro contained in an intergovernmental agreement (the “IGA”) approved by the Metro Council via Resolution No. 99-2858, “For the Purpose of Authorizing a Revenue Neutral Intergovernmental Agreement with TriMet Concerning Transit-Oriented Development and Increasing the Level of Transit Service,” adopted November 18, 1999, and four successive extension amendments approved by the Metro Council via Resolutions No. 99-2858, adopted November 18, 1999; No. 01-3114A, adopted November 8, 2001; No. 03-3314, adopted May 15, 2003; No. 04-3478, adopted July 15, 2004; and No. 05-3627, adopted October 27, 2005.
- 3. Anticipated Effects.** Metro Council will obtain jurisdiction over the implementation of Transit-Oriented Development as a matter of metropolitan concern. The delegation of TriMet’s authority to implement Transit-Oriented Development will no longer be necessary, and thus repetitive Metro Council authorization of amendments extending the delegation IGA will no longer be required. Concurrently with this ordinance, Metro Council will be asked to authorize the entry by Metro into a long-term IGA with TriMet, providing for periodic exchanges of TriMet general funds for TOD

Program federal transportation flexible funds in order to improve the efficiency of government. The ordinance is specifically not intended to exercise any authority to direct, regulate or preempt local government efforts to provide for the implementation of Transit-Oriented Development, and thus this ordinance will not result in Metro providing or regulating any existing service provided by local governments.

4. **Budget Impacts.** Future revenues and expenditures associated with the implementation of Transit-Oriented Development as a matter of metropolitan concern will be determined as part of the budget process.

RECOMMENDED ACTION

Metro staff recommends the adoption of Ordinance No. 08-1204.