

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE )  
SECTIONS 3.01.015, 3.01.025, 3.01.065 AND 3.09.050 ) ORDINANCE NO. 02-964  
TO ALLOW EXPANSION OF THE URBAN )  
GROWTH BOUNDARY ONTO LAND OUTSIDE )  
THE DISTRICT PRIOR TO ANNEXATION ON )  
CONDITION THAT THE TERRITORY BE )  
ANNEXED PRIOR TO URBANIZATION; AND ) Introduced by Councilor Park  
DECLARING AN EMERGENCY )

WHEREAS, sections 3.01.015, 3.01.025, 3.01.065, and 3.09.050 of the Metro Code require annexation of territory to the Metropolitan Service District prior to its inclusion within the urban growth boundary; and

WHEREAS, this requirement causes Metro and the Metro Council to undertake a duplicative, time-consuming and expensive sequence of procedures in order to amend the urban growth boundary; and

WHEREAS, this requirement prevents the Metro Council from taking timely final action to amend the urban growth boundary in a legislative process, which may delay compliance with state planning laws; and

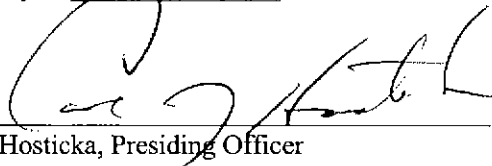
WHEREAS, the policy objective to ensure that urbanization does not precede annexation of territory to the district can be accomplished by conditioning urbanization of territory added to the urban growth boundary upon annexation to the district; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

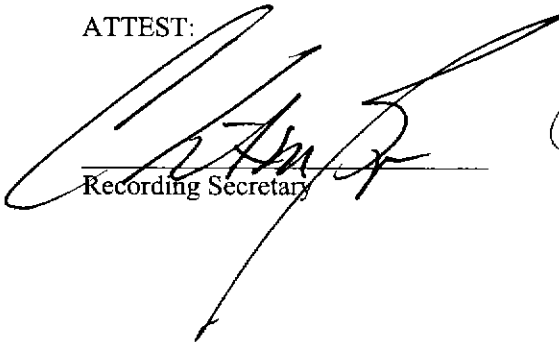
1. Section 3.01.015 of the Metro Code is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance, to remove the requirement that the Metro Council annex territory to the district prior to inclusion of the territory in the urban growth boundary, and to establish a new requirement that the local government with land use jurisdiction over the territory agree to limit urbanization of the territory until the Council annexes it.
2. Section 3.01.025 of the Metro Code is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to remove the requirement that any application for a major amendment to the urban growth boundary be accompanied by a petition for annexation to the district.
3. Section 3.01.065 of the Metro Code is hereby amended, as indicated in Exhibit C, attached and incorporated into this ordinance, to remove the requirement that the Council adopt a resolution expressing intent to include territory in the urban growth boundary prior to inclusion in the boundary by major amendment or minor adjustment.
4. Section 3.09.050 of the Metro Code is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to conform to amendments made by sections 1, 2, and 3 of this ordinance.

5. Section 3.07.1120 of the Metro Code is hereby amended, as indicated in Exhibit E, attached and incorporated in this ordinance, to ensure comprehensive plans provide for annexation of territory to the district prior to urbanization if the territory is not part of the district at the time it is added to the urban growth boundary.
6. The Findings of Fact and Conclusions of Law in Exhibit F, attached and incorporated into this ordinance, demonstrate that the ordinance complies with the Regional Framework Plan and the statewide planning goals.
7. This ordinance is necessary for the immediate preservation of public health, safety and welfare because Metro must, under ORS 197.296, 197.296(6), and 197.628 through 197.650, provide a 20-year supply of buildable land for needed housing within its urban growth boundary by December 20, 2002. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

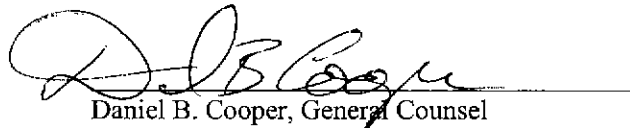
ADOPTED by the Metro Council this 14<sup>th</sup> day of November 2002.

  
\_\_\_\_\_  
Carl Hosticka, Presiding Officer

ATTEST:

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

Approved as to Form:

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

## Exhibit A to Ordinance No. 02-964

### 3.01.015 Legislative Amendment Procedures

- (a) The process for determination of need and location of lands for amendment of the UGB is provided in section 3.01.020.
- (b) Notice shall be provided as described in section 3.01.050.
- (c) The Council shall initiate Legislative Amendments when it determines pursuant to Goal 14 and section 3.01.020 that there is a need to add land to the Urban Growth Boundary.
- (d) Before adopting any legislative amendment, Metro shall consult with cities, counties and MPAC to determine which cities and counties, if any, are prepared to initiate comprehensive plan amendments for urban reserve areas, if they are included, within the Urban Growth Boundary.
- (e) Where a city or county has adopted comprehensive plan amendments for an urban reserve area pursuant to section 3.01.012(c), the Metro Council shall rely upon the planned status of that urban reserve in considering applicable criteria.
- (f) Legislative amendment decisions shall be based upon substantial evidence in the decision record which demonstrates how the amendment complies with applicable state and local law and statewide goals as interpreted by section 3.01.020.
- (g) The following public hearings process shall be followed for legislative amendments:
- (1) The district council shall refer a proposed amendment to the appropriate council committee at the first council reading of the ordinance.
  - (2) The committee shall take public testimony at as many public hearings as necessary. At the conclusion of public testimony, the committee shall deliberate and make recommendations to the council.
  - (3) The council shall take public testimony at its second reading of the ordinance, discuss the proposed amendment, and approve the ordinance with or without revisions or conditions, or refer the proposed legislative amendment to the council committee for additional consideration.
  - (4) Testimony before the council or the committee shall be directed to Goal 14 and Goal 2 considerations interpreted at section 3.01.020 of this chapter.
  - (5) ~~Prior to the council acting to approve a legislative amendment, including land outside the district, the council shall annex the territory to the district. The annexation decision shall be consistent with the requirements of section 3.09.120 of this code. If the annexation decision becomes the subject of a contested case pursuant to chapter 3.09 of this code, the Legislative amendment to the Urban Growth Boundary shall not be approved until the contested case is either withdrawn or the annexation is approved by the Boundary Appeals Commission, whichever occurs first.~~

(h) The council may approve expansion of the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to that land until Metro annexes the land to the district. A city or county may approve an amendment to its comprehensive plan pursuant to section 3.07.1120 of the Metro Code so long as the amendment does not become applicable to the subject land until Metro annexes that land to the district.

**Exhibit B to Ordinance No. 02-964**

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.~~

(i) The council may approve expansion of the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code until Metro annexes the subject land to the district. A city or county may approve an amendment to its comprehensive plan, pursuant to section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to the district.

(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. 02-964**

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 with a condition that requires~~ annexation to a city ~~and/or, a service district(s) and or 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 city, the district or Tri-Met within six months of the date of adoption of the ~~R~~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 D to Ordinance No. 02-964**

**3.09.050 Uniform Hearing and Decision Requirements for Final Decisions Other Than Expedited Decisions**

(a) The following minimum requirements for hearings on boundary change decisions operate in addition to all procedural requirements for boundary changes provided for under ORS chapters 198, 221 and 222. Nothing in this chapter allows an approving entity to dispense with a public hearing on a proposed boundary change when the public hearing is required by applicable state statutes or is required by the approving entity's charter, ordinances or resolutions.

(b) Not later than 15 days prior to the date set for a boundary change decision, the approving entity shall make available to the public a report that addresses the criteria in subsections (d) and (g) below, and that includes at a minimum the following:

- (1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;
- (2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;
- (3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;
- (4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (5) The proposed effective date of the decision.

(c) In order to have standing to appeal a boundary change decision pursuant to section 3.09.070 a necessary party must appear at the hearing in person or in writing and state reasons why the necessary party believes the boundary change is inconsistent with the approval criteria. A necessary party may not contest a boundary change where the boundary change is explicitly authorized by an urban services agreement adopted pursuant to ORS 195.065. At any public hearing, the persons or entities proposing the boundary change shall have the burden to prove that the petition meets the criteria for a boundary change.

(d) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

- (1) Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065;
- (2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;

- (3) Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans;
- (4) Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;
- (5) Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;
- (6) ~~If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that~~ The territory should be included in lies within the Urban Growth Boundary shall be the primary criterion for approval; and
- (7) Consistency with other applicable criteria for the boundary change in question under state and local law.

(e) When there is no urban service agreement adopted pursuant to ORS 195.065 that is applicable, and a boundary change decision is contested by a necessary party, the approving entity shall also address and consider, information on the following factors in determining whether the proposed boundary change meets the criteria of sections 3.09.050(d) and (g). The findings and conclusions adopted by the approving entity shall explain how these factors have been considered.

- (1) The relative financial, operational and managerial capacities of alternative providers of the disputed urban services to the affected area;
- (2) The quality and quantity of the urban services at issue with alternative providers of the urban services, including differences in cost and allocations of costs of the services and accountability of the alternative providers;
- (3) Physical factors related to the provision of urban services by alternative providers;
- (4) For proposals to create a new entity the feasibility of creating the new entity.
- (5) The elimination or avoidance of unnecessary duplication of facilities;
- (6) Economic, demographic and sociological trends and projections relevant to the provision of the urban services;
- (7) Matching the recipients of tax supported urban services with the payers of the tax;
- (8) The equitable allocation of costs to alternative urban service providers between new development and prior development; and
- (9) Economies of scale.
- (10) Where a proposed decision is inconsistent with an adopted intergovernmental agreement, that the decision better fulfills the criteria of section 3.09.050(d) considering factors (1) through (9) above.

(f) A final boundary change decision by an approving entity shall state the effective date, which date shall be no earlier than 10 days following the date that the decision is reduced to writing, and mailed to all necessary parties. However, a decision that has not been contested by any necessary party may become effective upon adoption.

(g) Only territory already within the defined Metro Urban Growth Boundary at the time a petition is complete may be annexed to a city or included in territory proposed for incorporation into a new city. However, cities may annex individual tax lots partially within and without the Urban Growth Boundary.

## Exhibit E to Ordinance No. 02-964

### 3.07.1120 Urban Growth Boundary Amendment Urban Reserve Plan Requirements

All territory added to the Urban Growth Boundary as either a major amendment or a legislative amendment pursuant to Metro Code chapter 3.01 shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. The comprehensive plan provisions shall contain an urban growth plan diagram and policies that demonstrate compliance with the RUGGO, including the Metro Council adopted 2040 Growth Concept design types. Comprehensive plan amendments shall include:

- A. Provision for annexation to the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all required urban services.
- B. Provision for 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 design type designation for the area.
- C. Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.
- D. Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.
- E. Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.
- F. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.
- G. Identification, mapping and a funding strategy for protecting areas from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. A natural resource protection plan to protect fish and wildlife

habitat, water quality enhancement areas and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, or easement dedication to ensure that all significant natural resources are protected.

- H. A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.
- 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.
- J. An urban growth diagram for the designated planning area showing, at least, the following, when applicable:
  - 1. General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;
  - 2. Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;
  - 3. General locations for mixed use areas, commercial and industrial lands;
  - 4. General locations for single and multi-family housing;
  - 5. General locations for public open space, plazas and neighborhood centers; and
  - 6. General locations or alternative locations for any needed school, park or fire hall sites.
- K. The plan amendments shall be coordinated among the city, county, school district and other service districts.

## Exhibit F to Ordinance No. 02-964

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

#### Statewide Planning Goals

Goal 1 – Citizen Involvement: Metro submitted proposed Ordinance No. 02-964 to the Department of Land Conservation and Development in compliance with ORS 197.610(1). Metro also provided public notice required by the Metro Charter and held a public hearing. Metro's ordinance complies with Goal 1.

Goal 2 – Land Use Planning: Ordinance No. 02-964 complies with the Regional Framework Plan, as set forth below. Metro coordinated the proposed revisions to its annexation process with local governments in the region. Metro's ordinance complies with Goal 2.

Goal 3 – Agricultural Land: Ordinance No. 02-964 affects only land within the urban growth boundary. Goal 3 does not apply to the land subject to the ordinance.

Goal 4 – Forest Land: Ordinance No. 02-964 affects only land within the urban growth boundary. Goal 4 does not apply to the land subject to the ordinance.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Ordinance No. 02-964 does not affect Goal 5 resources. If Metro includes land within the urban growth boundary (UGB) under the revisions to this ordinance, Metro will apply Goal 5 at the time of expansion of the UGB. Metro's ordinance complies with Goal 5.

Goal 6 – Air, Water and Land Resources Quality: Ordinance No. 02-964 does not affect Goal 6 resources. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 6 at the time of expansion of the UGB. Metro's ordinance complies with Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards: Ordinance No. 02-964 does not affect Goal 7 resources. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 7 at the time of expansion of the UGB. Metro's ordinance complies with Goal 7.

Goal 8 – Recreational Needs: Ordinance No. 02-964 does not affect recreational needs. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 8 at the time of expansion of the UGB. Metro's ordinance complies with Goal 8.

Goal 9 – Economic Development: Ordinance No. 02-964 will indirectly improve the climate for economic development by streamlining the process for adding land that lies outside the district boundary to the UGB. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 9 at the time of expansion of the UGB. Metro’s ordinance complies with Goal 9.

Goal 10 – Housing: Ordinance No. 02-964 does not affect the supply of land for housing, but it will indirectly reduce the cost of housing by streamlining the process for adding land that lies outside the district boundary to the UGB. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 10 at the time of expansion of the UGB. Metro’s ordinance complies with Goal 10.

Goal 11 – Public Facilities and Services: Ordinance No. 02-964 does not affect the provision of public facilities and services. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 11 at the time of expansion of the UGB. Metro’s ordinance complies with Goal 11.

Goal 12 – Transportation: Ordinance No. 02-964 does not affect the region’s transportation system or the provision of transportation services. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 12 at the time of expansion of the UGB. Metro’s ordinance complies with Goal 12.

Goal 13- Energy Conservation: Ordinance No. 02-964 does not affect the region’s energy resources. If Metro includes land within the UGB under the revisions to this ordinance, Metro will apply Goal 13 at the time of expansion of the UGB. Metro’s ordinance complies with Goal 13.

Goal 14 – Urbanization: Ordinance No. 02-964 neither adds land to, nor subtracts land from, the UGB. However, the ordinance will make the transition of land from rural to urban use more orderly and efficient by streamlining the process for adding land that lies outside the district boundary to the UGB. Metro’s ordinance complies with Goal 14.

### **Regional Framework Plan**

Policy 1.4 - Economic Opportunity: This policy calls upon Metro to maintain a strong economic climate in the region. Ordinance No. 02-964 will indirectly improve the climate for economic development by streamlining the process for adding land that lies outside the district boundary to the UGB. Metro’s ordinance complies with Policy 1.4.

Policy 1.6 – Growth Management: This policy requires Metro to manage the supply of urban land to achieve an efficient urban form, to provide a distinction between rural and urban land, to achieve redevelopment objectives, and to be consistent with the 2040 Growth Concept. Ordinance No. 02-964 will make the transition of land from rural to urban use more orderly and efficient by streamlining the process for adding land that lies outside the district boundary to the UGB. Metro’s ordinance complies with Goal 14.

## **COMMUNITY PLANNING COMMITTEE REPORT**

CONSIDERATION OF ORDINANCE NO. 02-964, FOR THE PURPOSE OF AMENDING METRO CODE SECTIONS 3.01.015, 3.01.025, 3.01.065 AND 3.09.050 TO ALLOW EXPANSION OF THE URBAN GROWTH BOUNDARY ONTO LAND OUTSIDE THE DISTRICT PRIOR TO ANNEXATION ON CONDITION THAT THE TERRITORY TO BE ANNEXED PRIOR TO URBANIZATION; AND DECLARING AN EMERGENCY

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Date: November 15, 2002

Presented by: Councilor Park

**Committee Action:** At its November 12 meeting, the Community Planning Committee voted 4-0 to recommend Council adoption of Ordinance 02-964. Voting in favor: Councilors Burkholder, Hosticka, McLain, and Park.

**Background:** Current Metro code requires Metro to first amend the Metro jurisdictional boundary to include areas, prior to those areas being amended into the urban growth boundary (ugb). Ordinance 02-964 revises code to permit the ugb to be expanded outside the Metro boundary without first moving the jurisdictional boundary. In such a situation, conditions would be attached to the amendment such that urbanization of the area could not take place until the area was annexed to a city. Annexation to Metro would then follow. Furthermore, the expansion would not take place until a written agreement was executed with the current local government exercising jurisdiction (generally a county), applying title 11 protection until annexation to Metro.

The new method is required in part to satisfy LCDC that lands added to the UGB actually meet the requirements for housing need. Memorandums of understanding are being prepared with Washington and Clackamas counties to ensure their willingness to apply the Title 11 protections for sites that meet the situation described above.

**Committee Issues/Discussion:** In response to committee questions, Mr. Benner said that if a county chose not to implement some or all title 11 protections, Metro would likely prevail in court, related to a move to change zoning in the affected site.

He also believed that in the case where the likely local government with annexation capability chose not to annex, Metro would still be able to count the housing and jobs capacity of the area towards Metro's forecasted need.

- Existing Law: Metro code 3.01.015, et. seq.
- Budget Impact: There is not budget impact associated with adoption of this ordinance.



## **STAFF REPORT**

CONSIDERATION OF ORDINANCE NO. 02-964 FOR THE PURPOSE OF AMENDING METRO CODE SECTIONS 3.01.015, 3.01.025, 3.01.065, AND 3.09.050 TO ALLOW EXPANSION OF THE URBAN GROWTH BOUNDARY ONTO LAND OUTSIDE THE DISTRICT PRIOR TO ANNEXATION ON CONDITION THAT THE TERRITORY BE ANNEXED PRIOR TO URBANIZATION

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Date: September, 2002

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Presented by: Richard Benner

## **PROPOSED ACTION**

Adoption of Ordinance No. 02-964 to amend Metro Code Sections 3.01.015, 3.01.025, 3.01.065 and 3.09.050 in order to allow for the expansion of the Urban Growth Boundary onto land outside of the Metro jurisdictional boundary prior to annexation on the condition that annexation occur prior to urbanization.

## **BACKGROUND**

The current Metro Code provides the following steps for expansion of the Urban Growth Boundary onto lands outside of the Metro jurisdictional boundary:

1. Council adopts a resolution to expand the Urban Growth Boundary.
2. Council annexes the territory into the Metro jurisdictional boundary.
3. Council expands the Urban Growth Boundary to include the newly annexed areas.

This sequence is time-consuming, expensive, and often confusing to the participants. More seriously, the sequence may frustrate the Land Conservation and Development Committee's (LCDC) acknowledgement of a legislative expansion to the Urban Growth Boundary undertaken in Task 2 of Metro's periodic review program. It is likely that a legislative expansion will include some lands outside of the Metro jurisdictional boundary. If the expansion has reached only the "resolution to expand" stage, the Land Conservation and Development Committee will not be able to conclude that Metro has complied with state requirements because the expansion will not be final.

## **PROCESS**

In order to resolve this issue, the Metro Code could be amended to allow the Metro Council to expand the Urban Growth Boundary onto lands outside of the jurisdictional boundary and simultaneously amend Title 11 of the Urban Growth Management Functional Plan to require annexation prior to urbanization. This would remove the contingency of annexation upon Urban Growth Boundary expansion and place the contingency on urbanization. Title 11 already imposes a planning contingency on urbanization.

For this solution to be fully effective, the interim protection standards of Title 11 must apply to limit development until the annexation and completion of concept planning requirements are met. While Metro does not have the authority to impose limits on development on land outside its jurisdictional boundary, Metro can condition Urban Growth Expansions on agreement by the

local government to abide by the condition that it apply the interim protections standards prior to annexation into the Metro jurisdictional boundary.

Five amendments to the Metro Code are proposed.

1. Section 3.01.015: remove the requirement that the Metro Council annex lands into the jurisdictional boundary prior to inclusion into the Urban Growth Boundary.
2. Section 3.01.025: remove the requirement that any application for a major amendment to the Urban Growth Boundary be accompanied by a petition for annexation into the jurisdictional boundary.
3. Section 3.01.065: remove the requirement that the Council adopt a resolution expressing intent to include land in the Urban Growth Boundary prior to inclusion in the jurisdictional boundary by major or minor adjustment.
4. Section 3.09.050: conform to the amendments made to Section 3.01.
5. Section 3.07.1120: ensure that local comprehensive plans provide for annexation of land into the Metro jurisdictional boundary at the time the land is added to the Urban Growth Boundary.

#### **BUDGET IMPACT**

Adoption of this ordinance has no budget impact.

#### **EXECUTIVE OFFICER'S RECOMMENDATION**

It is recommended that the Metro Council adopt the proposed amendments to Sections 3.01.015, 3.01.025, 3.01.065, 3.09.050, and 3.07.1120 of the Metro Code as described above.

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