

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING TITLE III ) ORDINANCE NO. 02-972A  
PLANNING OF THE METRO CODE (CHAPTER 3.01 )  
through CHAPTER 3.09), TO CONFORM TO THE METRO )  
CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, ) Introduced by the Council  
2000, AND DECLARING AN EMERGENCY ) Governmental Affairs Committee

WHEREAS, on November 7, 2000, the electors of Metro approved Ballot Measure 26-10 amending the Metro Charter; and

WHEREAS, the Metro Charter Amendments, created the Office of Council President and abolished the Office of the Executive Officer; and

WHEREAS, the Metro Council amended Metro Code Chapter 2.01 to reflect the creation of the office of Metro Council President pursuant to Ordinance No. 02-954A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Metro Council to create the Office of the Chief Operating Officer; and

WHEREAS, the Metro Charter Amendments, added Metro Code Chapter 2.20 to create the office of Chief Operating Officer and to define the duties and responsibilities of the Chief Operating Officer, pursuant to Ordinance No. 02-942A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Council to create the Office of the Metro Attorney; and

WHEREAS, the Metro Council amended Chapter 2.08 of the Metro Code to create the office of the Metro Attorney and to define the duties and responsibilities of the Metro Attorney, pursuant to Ordinance No. 02-953A on June 27, 2002; and

WHEREAS, it is necessary to amend the following Chapters of Title III Planning of the Metro Code to conform to the Metro Charter Amendments adopted on November 7, 2000:

Exhibit	Chapter	Title III Planning
A	3.01	Urban Growth Boundary and Urban Reserve Procedures
B	3.02	Waste Water Management Plan
C	3.03	Housing Goals & Objectives
D	3.04	Regional Stormwater Management Plan
E	3.06	Planning Procedure for Designating Functional Planning Areas and Activities
F	3.07	Urban Growth Management Functional Plan
G	3.09	Local Government Boundary Changes

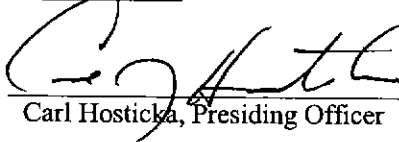
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro Code Chapters are amended as provided for and are attached as follows:

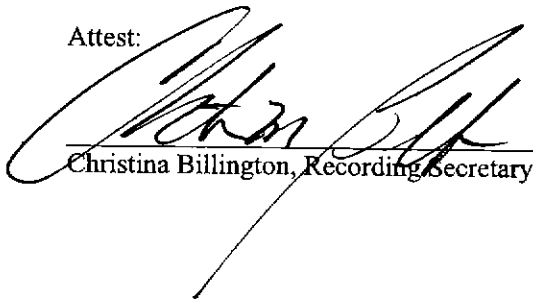
Exhibit	Chapter	Title III Planning
A	3.01	Urban Growth Boundary and Urban Reserve Procedures
B	3.02	Waste Water Management Plan
C	3.03	Housing Goals & Objectives [Repealed]
D	3.04	Regional Stormwater Management Plan [Repealed]
E	3.06	Planning Procedure for Designating Functional Planning Areas and Activities
F	3.07	Urban Growth Management Functional Plan
G	3.09	Local Government Boundary Changes

2. The Metro Charter Amendments to Title III Planning of the Metro Code adopted by this ordinance shall take effect on January 6, 2003.

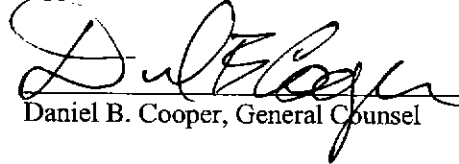
ADOPTED by the Metro Council this 21<sup>st</sup> day of November 2002.

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

Attest:

  
\_\_\_\_\_  
Christina Billington, Recording Secretary

Approved as to Form:

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

**Exhibit A**  
**Metro Charter 2003 Amendments to Metro Code**

**Chapter 3.01**

**URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES**

SECTIONS	TITLE
3.01.005	Purpose
3.01.010	Definitions
3.01.012	Urban Reserve Areas
3.01.015	Legislative Amendment Procedures
3.01.020	Legislative Amendment Criteria
3.01.025	Major Amendment Procedures
3.01.030	Criteria for Major Amendment
3.01.033	Minor Adjustment Procedures
3.01.035	Criteria for Minor Adjustments
3.01.037	Roadway Realignment - Administrative Adjustments (repealed Ord. 01-929A §10)
3.01.040	Metro Conditions of Approval
3.01.045	Fees
3.01.050	Hearing Notice Requirements
3.01.055	Public Hearing Rules Before the Hearings Officer
3.01.060	Exceptions to Hearing Officer Decision
3.01.065	Council Action on Quasi-Judicial Amendments
3.01.070	Final Action Notice Requirements
3.01.075	Boundary Line Location Interpretation (repealed Ord. 01-929A §11)
3.01.080	Chapter Regulation Review
3.01.085	Severability

3.01.005 Purpose

(a) This chapter is established to provide procedures to be used by Metro in making amendments to the Metro Urban Growth Boundary (UGB) adopted pursuant to ORS 268.390(3) and 197.005 through 197.430. The chapter is intended to interpret all criteria and standards for boundary amendments pertaining to Statewide Planning Goals 2 and 14, and the Regional Urban Growth Goals and Objectives. Unique circumstances associated with a proposed amendment may require consideration of statewide planning goals other than Goals 2 and 14. This chapter is also established to be used for the establishment and management of Urban Reserves, pursuant to OAR 660-021-000 to 660-21-0100 and RUGGO Objective 22.

(b) The objectives of the UGB are to:

(1) Provide sufficient urban land for accommodating the forecast 20-year urban land need, reevaluated at least every five years as set forth in Sections 3.01.015-3.01.020;

- (2) Provide for an efficient urban growth form which reduces sprawl;
  - (3) Provide a clear distinction between urban and rural lands;
  - (4) Encourage appropriate infill and redevelopment in all parts of the urban region.
- (c) The objectives of the Urban Reserves are to:
- (1) Identify sufficient land suitable for urbanization sufficient to accommodate the forecast needs for a 30 to 50-year interval, reevaluated at least every 15 years;
  - (2) Limit the areas which are eligible to apply for inclusion to the Urban Growth Boundary consistent with ORS 197.298, and protect resource lands outside the urban reserve areas;
  - (3) Protect lands designated as urban reserves for their eventual urbanization, and insure their efficient urbanization consistent with the 2040 Growth Concept, the RUGGOs and the Urban Growth Management Functional Plan;
  - (4) Provide for coordination between cities, counties, school districts, and special districts for planning for the urban reserve areas;
  - (5) Ensure a smooth transition to urban development by planning for general governance, public facilities, land uses, and planning for financing the capital needs of the urban development.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1)

3.01.010 Definitions

- (a) "Council" has the same meaning as in Chapter 1.01 of the Metro Code.
- (b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.
- ~~(c) "District" has the same meaning as in chapter 1.01.~~
- (d) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.
- (de) "Gross developable vacant land" means the total buildable land area within the UGB, as compiled by Metro for the purpose of determining the need for changes in the urban land supply. These are lands that can be shown to lack significant barriers to development. Gross developable vacant lands include, but are not limited to, all recorded lots on file with the county assessors equal to or larger than either the minimum lot size of the zone in which the lot is located or the minimum lot size which will be applied in an urban holding zone which:

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

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

- (1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and
- (2) All recorded lots on file with the county assessors that are 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment properties will be developed by ~~the district~~ Metro to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that ~~the district~~ Metro substitute that data for inclusion in the gross developable land inventory.

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

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

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

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

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

- (1) Any developed road rights-of-way through or on the edge of the proposed UGB amendment; and
- (2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected in the comprehensive plans of cities and counties

in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and,

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

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

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

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

(ne) “Nonurban land” means land currently outside the UGB.

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

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

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

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

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

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

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

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

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

(xy) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 97-711, Sec. 2; Ordinance No. 99-818A, Sec. 1; Ordinance No. 00-871A, Sec. 3; Ordinance No. 01-929A, Sec. 7.)

### 3.01.012 Urban Reserve Areas

(a) Purpose. The purpose of this section is to comply with ORS 197.298 by identifying lands designated urban reserve land by Metro as the first priority land for inclusion in the Metro Urban Growth Boundary.

(b) Designation of Urban Reserves.

- (1) The Council shall designate the amount of urban reserves estimated to accommodate the forecast need.
- (2) The areas designated as urban reserves shall be sufficient to accommodate expected urban development for a 30 to 50-year period, taking into account an estimate of all potential developable and redevelopable land within the current Urban Growth Boundary.
- (3) The Council shall estimate the capacity of the urban reserves consistent with the procedures for estimating capacity of the urban area set forth in Section 3.01.020.
- (4) The minimum residential density to be used in estimating the capacity of the areas designated as urban reserves shall be an average of at least 10 dwelling units per net developable acre or lower densities which conform to the 2040 Growth Concept design type designation for the urban reserve area.
- (5) The Council may designate a portion of the land required for urban reserves in order to phase designation of urban reserves.
- (6) Metro has designated as urban reserve areas those lands indicated on the 2040 Growth Concept map which was adopted as part of the Regional Urban Growth Goals and Objectives.

(c) Plans For Urban Reserve Areas. Subject to applicable law, cities and counties may prepare and adopt comprehensive plan amendments for urban reserve areas consistent with all provisions of the Urban Growth Management Functional Plan prior to the inclusion of an urban reserve area within the Urban Growth Boundary. Prior to the preparation and adoption of any such comprehensive plan

amendments, at the request of a city or county, the Council shall establish the 2040 Growth Concept design types and the boundaries of the area to be planned, if it has not previously done so.

(Ordinance No. 96-655E, Sec. 1. Amended by Ordinance No. 98-772B, Sec. 1; Ordinance No. 99-818A, Sec. 1.)

### 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 in the Metro Area 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~~ Metro 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~~Metro's regional boundary, the Council shall annex the territory to ~~the district~~Metro. 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.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No 98-772B, Sec. 1; Ordinance No. 99-818A, Sec. 1.)

### 3.01.020 Legislative Amendment Criteria

(a) The purpose of this section is to address ORS 197.298, Goals 2 and 14 of the statewide planning goals and ~~RUGG~~the Regional Framework Plan. This section details a process which is intended to interpret Goals 2 and 14 for specific application to ~~the district~~Metro UGB. Compliance with this section shall constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the ~~Regional Urban Growth Goals and Objectives~~Framework Plan.

(b) While all of the following Goal 14 factors must be addressed, the factors cannot be evaluated without reference to each other. Rigid separation of the factors ignores obvious overlaps between them. Demonstration of compliance with one factor or subfactor may not constitute a sufficient showing of compliance with the goal, to the exclusion of the other factors when making an overall determination of compliance or conflict with the goal. For legislative amendments, if need has been addressed, ~~the district~~Metro shall demonstrate that the priorities of ORS 197.298 have been followed and that the recommended site was better than alternative sites, balancing Ffactors 3 through 7.

- (1) Factor 1: Demonstrated need to accommodate long-range urban population growth.
- (A) ~~The district~~Metro shall develop 20-year Regional Forecasts of Population and Employment, which shall include a forecast of net developable land need, providing for coordination with cities, counties, special districts and other interested parties, and review and comment by the public. After deliberation upon all relevant facts, ~~the district~~Metro shall adopt a forecast. This forecast shall be completed at least every five years or at the time of periodic review, whichever is sooner. Concurrent with the adoption of ~~the district~~Metro's 20-year Regional Forecast, ~~the district~~Metro shall complete an inventory of net developable land calculating the supply of buildable land within the Uurban Growth Boundary by applying the variables set forth in Chapter 1 of the Regional Framework Plan. ~~The district~~Metro shall provide the opportunity for review and comment by all cities and counties in the districtMetro Area, and by the public.

- (i) In calculating the supply of buildable lands in the Urban Growth Boundary, ~~the districtMetro~~ shall estimate the effect, based on the best information available, of changes to zoned capacity that have been adopted and implemented by local governments to comply with the Region 2040 Growth Concept and all titles of the Urban Growth Management Functional Plan.
- (ii) ~~The districtMetro~~ shall estimate the number of gross vacant buildable acres within the Urban Growth Boundary.
- (iii) ~~The districtMetro~~ shall estimate the number of net vacant buildable acres within the Urban Growth Boundary from the gross vacant buildable acres. The number of acres estimated to be unavailable for housing development shall be subtracted to estimate the net acres, including, but not limited to:
  - (I) Lands in environmentally sensitive areas and lands with slopes equal to or exceeding 25 percent, provided those lands are zoned so as to be unavailable for housing development.
  - (II) Lands for streets, schools, parks, churches and social organizations.
  - (III) Vacant legally buildable lots zoned for single-family residential use.
- (iv) ~~The districtMetro~~ shall estimate the number of net vacant buildable acres that are available for residential use based on current local government zoning designations. ~~The districtMetro~~ shall also estimate the number of dwelling units that these residentially zoned lands can accommodate under existing zoning designations.
- (v) ~~The districtMetro~~ shall reduce the estimated number of dwelling units that can be accommodated on vacant residential lands to account for the following:
  - (I) The number of dwelling units estimated to be lost when property owners do not develop to maximum residential densities, taking into account zoned minimum densities; and
  - (II) If Metro adopts additional measures to increase residential densities inside the existing Urban Growth Boundary, the number of additional dwelling units

estimated to be accommodated as the result of the new measures.

- (vi) ~~The district~~Metro shall increase the estimated number of dwelling units that may be accommodated on vacant residential lands due to changes in zoning or development patterns, including but not limited to, the following:
  - (I) Local adoption of mixed use zoning designations;
  - (II) Local adoption of increased residential densities to meet Region 2040 Growth Concept and Title 1 of the Urban Growth Management Functional Plan;
  - (III) The estimated number of dwelling units that may be accommodated as a result of redevelopment and infill development and accessory dwelling units;
  - (IV) The estimated number of dwelling units allowed on legally buildable lots in environmentally constrained areas.
  - (V) Development on vacant and legally buildable lots zoned for single family at a rate of one dwelling unit per lot.

(B) The forecast and inventory, along with all other appropriate data shall be considered by ~~the district~~Metro in determining the need for net developable land. Appropriate data includes, but is not limited to, estimates of the actual density and the actual average mix of housing types of residential development that have occurred within the Urban Growth Boundary since the last periodic review of the Urban Growth Boundary or last five years, whichever is greater. The results of the inventory and forecast shall be compared, and if the net developable land equals or is larger than the need forecast, then ~~the district~~Metro ~~council~~ Council shall hold a public hearing, providing the opportunity for comment. The Council may conclude that there is no need to move the UGB and set the date of the next five-year review or may direct staff to address any issues or facts which are raised at the public hearing.

(C) If the inventory of net developable land is insufficient to accommodate the housing need identified in the 20-year Regional Forecast at the actual developed density that has occurred since the last periodic review of the Urban Growth Boundary, ~~the district~~Metro shall

- (i) Conduct a further analysis of the inventory of net developable land to determine whether the identified need can reasonably be met within the Urban Growth Boundary including a consideration of whether any significant surplus of developable land in one or more land use categories could be suitable to address the unmet forecasted need;
  - (ii) Estimate city and county progress toward meeting the target capacities for dwelling units and employment set forth in Title 1 of the Urban Growth Management Functional Plan (Metro Code, Table 3.07-1);
  - (iii) Consider amendments to the Urban Growth Management Functional Plan that would increase the number of dwelling units that can be accommodated on residential and mixed-use land within the Urban Growth Boundary;
  - (iv) Adopt amendments to the Urban Growth Management Functional Plan that the Metro Council determines are appropriate;
  - (v) Estimate whether the increased number of dwelling units accommodated within the Urban Growth Boundary due to amendments to the Urban Growth Management Functional Plan will provide a sufficient number of dwelling units to satisfy the forecasted need;
  - (vi) The Metro Council shall hold a public hearing prior to its determination of whether any estimated deficit of net developable land is sufficient to justify an analysis of locations for a legislative amendment of the UGB.
- (D) For consideration of a legislative UGB amendment, ~~the district~~ Metro Council shall review an analysis of land outside the present UGB to determine those areas best suited for expansion of the UGB to meet the identified need.
- (E) ~~The district~~ Metro must find that the identified need cannot reasonably be met within the UGB, consistent with the following considerations:
- (i) That there is not a suitable site with an appropriate comprehensive plan designation.
  - (ii) All net developable land with the appropriate plan designation within the existing UGB shall be presumed to be available for urban use during the planning period.

- (iii) Market availability and level of parcelization shall not render an alternative site unsuitable unless justified by findings consistent with the following criteria:
  - (I) Land shall be presumed to be available for use at some time during the planning period of the UGB unless legal impediments, such as deed restrictions, make it unavailable for the use in question.
  - (II) A parcel with some development on it shall be considered unavailable if the market value of the improvements is not significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment will be developed by ~~the district~~ Metro to provide a means to define what is significant when comparing structure value and land values. When a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that ~~the district~~ Metro substitute that data in ~~the district~~ Metro gross developable land inventory.
  - (III) Properly designated land in more than one ownership shall be considered suitable and available unless the current pattern or level of parcelization makes land assembly during the planning period unfeasible for the use proposed.

(2) Factor 2: Need for housing, employment opportunities and livability may be addressed under either subsection (A) or (B) or both, as described below.

- (A) For a proposed amendment to the UGB based upon housing or employment opportunities ~~the district~~ Metro must demonstrate that a need based upon an economic analysis can only be met through a change in the location of the UGB. For housing, the proposed amendment must meet an unmet need according to statewide planning Goal 10 and its associated administrative rules. For employment opportunities, the proposed amendment must meet an unmet long-term need according to statewide planning Goal 9 and its associated administrative rules. The amendment must consider adopted comprehensive plan policies of jurisdictions adjacent to the site, when identified by a jurisdiction and must be consistent with ~~the district~~ Metro's adopted policies on urban growth management, transportation, housing, solid waste, and water quality management.

- (B) To assert a need for a UGB amendment based on livability, the ~~district~~Metro must:
- (i) Factually define the livability need, including its basis in adopted local, regional, state, or federal policy;
  - (ii) Factually demonstrate how the livability need can best be remedied through a change in the location of the UGB;
  - (iii) Identify both positive and negative aspects of the proposed UGB amendment on both the livability need and on other aspects of livability; and
  - (iv) Demonstrate that, on balance, the net result of addressing the livability need by amending the UGB will be positive.
- (3) Factor 3: Orderly and economic provision of public facilities and services. An evaluation of this factor shall be based upon the following:
- (A) For the purposes of this section, economic provision shall mean the lowest public cost provision of urban services. When comparing alternative sites with regard to Factor 3, the best site shall be that site which has the lowest net increase in the total cost for provision of all urban services. In addition, the comparison may show how the proposal minimizes the cost burden to other areas outside the subject area proposed to be brought into the boundary.
  - (B) For the purposes of this section, orderly shall mean the extension of services from existing serviced areas to those areas which are immediately adjacent and which are consistent with the manner of service provision. For the provision of gravity sanitary sewers, this could mean a higher rating for an area within an already served drainage basin. For the provision of transit, this would mean a higher rating for an area which could be served by the extension of an existing route rather than an area which would require an entirely new route.
- (4) Factor 4: Maximum efficiency of land uses within and on the fringe of the existing urban area. An evaluation of this factor shall be based on at least the following:
- (A) The subject area can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and the ability to provide for a mix of land uses to meet the needs of residents

and employees. If it can be shown that the above factors of compact form can be accommodated more readily in one area than others, the area shall be more favorably considered.

- (B) The proposed UGB amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with local comprehensive plan policies and regional functional plans, by assisting with achieving residential and employment densities capable of supporting transit service; supporting the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improving the likelihood of realizing a mix of land uses to meet the needs of residents and employees.

- (5) Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall be based upon consideration of at least the following:

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

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

- (C) The long-term environmental, energy, economic, and social consequences resulting from the use at the proposed site. Adverse impacts shall not be significantly more adverse than would typically result from the needed lands being located in other areas requiring an amendment of the UGB.

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

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

- (i) Expansion on rural lands excepted from statewide planning Goals 3 and 4 in adopted and acknowledged county comprehensive plans. Small amounts of rural resource land adjacent to or surrounded by those "exception lands" may be included with them to improve the efficiency of the boundary

amendment. The smallest amount of resource land necessary to achieve improved efficiency shall be included;

- (ii) If there is not enough land as described in (i) above to meet demonstrated need, secondary or equivalent lands, as defined by the state, should be considered;
  - (iii) If there is not enough land as described in either (i) or (ii) above, to meet demonstrated need, secondary agricultural resource lands, as defined by the state should be considered;
  - (iv) If there is not enough land as described in either (i), (ii) or (iii) above, to meet demonstrated need, primary forest resource lands, as defined by the state, should be considered;
  - (v) If there is not enough land as described in either (i), (ii), (iii) or (iv) above, to meet demonstrated need, primary agricultural lands, as defined by the state, may be considered.
- (B) After urban reserves are designated and adopted, consideration of Factor 6 shall be considered satisfied if the proposed amendment is wholly within an area designated as an urban reserve.
- (C) After urban reserves are designated and adopted, a proposed amendment for land not wholly within an urban reserve must also demonstrate that the need cannot be satisfied within urban reserves.
- (7) Factor 7: Compatibility of proposed urban development with nearby agricultural activities.

The record shall include an analysis of the potential impact on nearby agricultural activities including the following:

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



(c) The requirements of statewide planning Goal 2 will be met by addressing all of the requirements of Section 3.01.020(b), above, and by factually demonstrating that:

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

(d) The proposed location for the UGB shall result in a clear transition between urban and rural lands, using natural and built features, such as roads, drainage divides, floodplains, powerlines, major topographic features, and historic patterns of land use or settlement.

(e) Satisfaction of the requirements of Section 3.01.020(a) and (b) does not mean that other statewide planning goals do not need to be considered. If the proposed amendment involves other statewide planning goals, they shall be addressed.

(f) Sections 3.01.020(a), (b), (c) and (d) shall be considered to be consistent with and in conformance with the Regional Urban Growth Goals and Objectives.

(g) Where efficiencies in the future development of an existing urban reserve are demonstrated, the Metro Council may amend the urban reserve in the same UGB amendment process to include additional adjacent nonresource lands up to 10 percent of the total acreage. Any urban reserve amendment shall demonstrate compliance with the Urban Reserve Rule (OAR 660-021-0030).

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 97-711, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 00-871A, Sec. 3.)

### 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~~Chief Operating 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~~Chief Operating 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~~Chief Operating 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~~Chief Operating Officer. The ~~Executive Officer~~Chief Operating 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~~Chief Operating 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 districtMetro and in writing to each city and county in the districtMetro. 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~~Chief Operating 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~~Chief Operating 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~~Chief Operating 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~~Chief Operating Officer may postpone the hearing for no more than 90 days. If the ~~Executive Officer~~Chief Operating Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the ~~Executive Officer~~Chief Operating Officer shall return the portion of the fee deposit not required for costs assessed pursuant to Section 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~~Chief Operating Officer and any city or county whose municipal boundary or urban planning area boundary abuts the area; and
  - (B) Provide the ~~Executive Officer~~Chief Operating 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~~the Council may ~~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~~Metro Area shall not be accepted unless accompanied by a copy of a petition for annexation to the ~~district~~Metro Area.

- (2) A city or county may approve a plan or zone change to implement the proposed amendment prior to a change in the ~~district~~ Metro UGB if:
  - (A) The ~~Executive Officer-Council~~ receives notice of the local action;
  - (B) The local action is contingent upon subsequent action by the Metro Council to amend its UGB; and
  - (C) The local action to amend the local plan or zoning map becomes effective only if the Metro Council amends the UGB consistent with the local action.
- (3) If the Metro Council approves the application, the local government shall amend its plan or map within one year to be consistent with the amendment.

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-929A, Sec. 3.)

### 3.01.030 Criteria for Major Amendment

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

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

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

particular location, or in a particular part of the region, in order to secure an employment or livability opportunity that cannot await the next legislative review of the UGB required by ORS 197.299(1), or to ensure the livability of that part of the region.

- (3) Orderly and economic provision of public facilities and services. The Metro Council will consider, based upon evidence in the record, whether adding the subject land to the UGB, as compared with other land that might be added, will result in a more logical extension of public facilities and services and reduce the overall cost of public facilities and services to land already within the UGB.
- (4) Maximum efficiency of land uses within and on the fringe of the existing urban area. The Metro Council will consider, based upon evidence in the record, whether, in comparison with other land that might be added to the UGB, addition of the subject land will better achieve the residential and employment targets and transportation objectives in the 2040 Growth Concept that apply to nearby land within the UGB.
- (5) Environmental, energy, economic and social consequences. The Metro Council will consider, based upon evidence in the record, whether the consequences of addition of the subject land would be, on the whole, more positive than not including the land, and more positive than including other land.
- (6) Retention of agricultural and forest land. The Metro Council will consider, based upon evidence in the record, addition of land designated for agriculture or forestry pursuant to a statewide Goal 3 (Agricultural Land) or Goal 4 (Forest Land) only under the following circumstances:
  - (A) There is no land designated as urban reserve land pursuant to OAR 660, Division 021, as exception land pursuant to ORS 197.732(1)(a) or (b), or as marginal land pursuant to ORS 197.247 (1991 Edition) available to accommodate the subject need; or
  - (B) There is no land designated urban reserve available to accommodate the subject need, the subject land is not high-value farmland as described in ORS 215.710, and the subject land is completely surrounded by exception land; or
  - (C) The application identifies a specific type of land need that cannot reasonably be accommodated on land described in (A) or (B) of this paragraph; or
  - (D) Future urban services could not reasonably be provided to land described in (A) or (B) of this paragraph.

- (7) Compatibility of proposed urban development with nearby agricultural activities. The Metro Council will consider, based upon evidence in the record, whether urban development on the subject land would likely cause a change in farm practices, or an increase in the cost of farm practices, on farms in areas designated for agriculture or forestry pursuant to a statewide planning goal within one mile of the subject land, based upon an inventory and analysis of those practices. The Metro Council will also consider measures that might eliminate or alleviate the potential conflicts with farm practices.
- (c) The applicant shall demonstrate that:
- (1) There is no land within the existing UGB that can reasonably accommodate the subject need;
  - (2) The long-term environmental, economic, social and energy consequences of addition of the subject land would not be significantly more adverse than the consequence of adding other land; and
  - (3) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land.
  - (4) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB.
  - (5) The amendment complies with applicable statewide planning goals.
  - (6) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

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

(e) Compliance with the criteria in subsections (b) and (c) of this section shall constitute conformance with the Regional Urban Growth Goals and Objectives.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 01-929A, Sec. 4.)

### 3.01.033 Minor Adjustment Procedures

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

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

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

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

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 98-732, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-902, Secs. 1 and 3; Ordinance No. 01-929A, Sec. 5.)

### 3.01.035 Criteria for Minor Adjustments

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

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

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

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

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

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

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



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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 98-732, Sec. 2; Ordinance No. 99-818A, Sec. 1; Ordinance No 01-902, Sec. 2; Ordinance No. 01-929A, Sec. 6.)

#### 3.01.040 Metro Conditions of Approval

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

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

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

from the time a local government is designated pursuant to Section 3.01.040(b)(1) above.

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-929A, Sec. 9.)

### 3.01.045 Fees

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

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

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

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

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

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

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 01-929A, Sec. 9.)

### 3.01.050 Hearing Notice Requirements

(a) 45-Day Notice. A proposal to amend the UGB by legislative amendment under Section 3.01.015 or by major amendment under Section 3.01.025 shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the matter. The notice shall be accompanied by the appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.

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

(c) Notice of public hearing shall include:

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

available at no cost or reasonable cost. Further that if additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing, ~~and~~

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

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

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

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-929A, Sec. 9.)

3.01.055 Public Hearing Rules before the Hearings Officer

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

- (1) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (2) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
- (3) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- (4) ~~If required at the discretion of the applicant, the Executive Officer~~Chief Operating Officer shall also provide notice to the Department of Land Conservation and Development.
- (5) The notice shall:
  - (A) Explain the nature of the application and the proposed use or uses which could be authorized;
  - (B) List the applicable criteria from the ordinance and the regional framework plan that apply to the application at issue;
  - (C) Set forth the street address or other easily understood geographical reference to the subject property;
  - (D) State the date, time and location of the hearing;
  - (E) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
  - (F) Be mailed at least:
    - (i) ~~Twenty~~20 days before the evidentiary hearing; or
    - (ii) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;
  - (G) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;

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

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

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

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

- (C) Statement and evidence of affected persons, agencies, and/or organizations opposing or supporting the petition, and/or anyone else wishing to give testimony.
- (D) Rebuttal testimony by the applicant.
- (7) The hearings officer shall have the right to question any participant in the hearing. Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.
- (8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.
- (9) A verbatim audio tape or video tape, written, or other mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.
- (10) The burden of presenting evidence in support of a fact or position in the contested case rests on the applicant. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with all applicable standards.
- (11) The hearings officer may reopen a record to receive evidence not available or offered at the hearing. If the record is reopened, any person may raise new issues which relate to the new evidence before the record is closed.
- (12) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Metro Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.
- (13) All documents or evidence relied upon by the applicant shall be submitted to the ~~Executive Officer~~ Chief Operating Officer and be made available to the public.
- (14) Applications may be consolidated by the hearings officer for hearings where appropriate. Following consultation with ~~district~~ Metro staff and prospective applicants, the hearings officer shall issue rules for the consolidation of related cases and allocation of charges. These rules shall be designed to avoid duplicative or inconsistent findings, promote an informed decision-making process, protect the due process rights of all parties, and allocate the charges on the basis of cost incurred by each party.



(c) Within 30 calendar days following the close of the record, the hearings officer shall prepare and submit a proposed order and findings, together with the record compiled in the hearing and a list of parties to the case, to the ~~executive officer~~ Chief Operating Officer. Within seven (7) working days of receiving the materials from the hearings officer, the ~~executive officer~~ Chief Operating Officer, or designate, shall furnish the proposed order and findings to all parties to the case. Accompanying the proposed order and findings shall be notification to parties which includes:

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

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 98-732, Sec. 1; Ordinance No. 01-929A, Sec. 9.)

### 3.01.060 Exceptions to Hearing Officer Decision

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

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

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 01-929A, Sec. 9.)

### 3.01.065 Council Action On Quasi-Judicial Amendments

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

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

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

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

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

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

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

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 98-732, Sec. 1; Ordinance No. 01-929A, Sec. 9.)

#### 3.01.070 Final Action Notice Requirements

(a) ~~The districtMetro~~ shall give each county and city in ~~the districtMetro~~ notice of each amendment of the UGB. Mailing the notice required by Ballot Measure 56 (Nov. 1998) [ORS Chapter 268] or ORS 197.615 shall satisfy this subsection.

(b) For the local government designated as having the responsibility for land use planning for the area(s) added to the UGB, ~~the districtMetro~~ shall provide an additional notice stating the time period for completing comprehensive plan amendments for the area.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 99-818A, Sec. 1.)

#### 3.01.080 Chapter Regulation Review

The procedures in this chapter shall be reviewed by ~~the districtMetro~~ every five years, and can be modified by the Council at any time to correct any deficiencies which may arise. This chapter shall be submitted upon adoption to the Land Conservation and Development Commission for acknowledgment pursuant to ORS 197.251, as an implementing measure to ~~the districtMetro~~ UGB. Amendments to this chapter shall be submitted to the Department of Land Conservation and Development pursuant to the requirements of OAR 660 Divisions 18 and 19 as appropriate.

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

#### 3.01.085 Severability

Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall continue in full force and effect.

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

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**Exhibit B**  
**Metro Charter 2003 Amendments to Metro Code**

**Chapter 3.02**

**WASTE WATER MANAGEMENT PLAN**

SECTIONS	TITLE
3.02.001	Authority and Purpose
3.02.002	Adoption
3.02.003	Conformity to the Regional Plan
3.02.004	Review of Violations of the Waste Treatment Management Component
3.02.005	Change of Waste Treatment Management Component Study Areas
3.02.006	Study Areas
3.02.008	Project Prioritization
3.02.009	Continuing Planning Process
3.02.010	Application of Rules
3.02.011	Severability

3.02.001 Authority and Purpose

(a) This chapter is adopted pursuant to ORS 268.390(1)(b) and 268.390(2) for the purpose of adopting and implementing the Regional Waste Water Management Plan, hereinafter referred to as the "Regional Plan." The Regional Plan shall include the Regional Waste Water Management Plan Text, Sewerage Transmission and Treatment Service Areas Map and Collection System Service Areas Map.

(b) These rules shall become effective 45 days after the date of adoption. As a result of Metro's continuing "208" Water Quality Program, the Council hereby designates water quality and waste treatment management as an activity having significant impact upon the orderly and responsible development of the region.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 1; Ordinance No. 84-184, Sec. 1; Ordinance No. 86-206, Sec. 1; Ordinance No. 88-275, Sec. 1)

3.02.002 Adoption

The Regional Waste Water Management Plan, as amended, copies of which are on file at Metro offices, is adopted and shall be implemented as required by this chapter.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 2; Ordinance No. 84-184, Sec. 1; Ordinance No. 86-206, Sec. 1; Ordinance No. 87-229, Sec. 1; Ordinance No. 88-275, Sec. 1)

### 3.02.003 Conformity to the Regional Plan

(a) Management agencies shall not take any land use related action or any action related to development or provision of public facilities or services which are not in conformance with the Regional Plan.

(b) For purposes of this chapter "management agencies" shall mean all cities, counties and special districts involved with the treatment of liquid wastes within the Metro jurisdiction.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 3; Ordinance No. 86-203, Sec. 1)

### 3.02.004 Review of Violations of the Regional Plan

(a) Any member management agency, interested person or group may petition the Council for review of any action, referred to in Section 3.02.003 of this chapter, by any management agency within 30 days after the date of such action.

(b) Petitions filed pursuant to this section must allege and show that the subject action is of substantial regional significance and that the action violates the Regional Plan.

(c) Upon receipt of a petition for review, the Council shall decide, without hearing, whether the petition alleges a violation of the Regional Plan and whether such violation is of substantial regional significance and, if so, shall accept the petition for review. The Council shall reach a decision about whether to accept the petition within 30 days of the filing of such petition. If the Council decides not to accept the petition, it shall notify the petitioner in writing of the reasons for rejecting said petition. If the Council decides to accept the petition, it shall schedule a hearing to be held within 30 days of its decision. A hearing on the petition shall be conducted in accordance with applicable procedural rules.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 4)

### 3.02.005 Regional Plan Amendments

(a) Revisions in the Regional Plan shall be in accordance with procedural rules adopted by the Council.

(b) Mistakes discovered in the Regional Plan may be corrected administratively without petition, notice or hearing. Such corrections may be made by order of the Council upon determination of the existence of a mistake and of the nature of the correction to be made.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 5; Ordinance No. 86-203, Sec. 1)

### 3.02.006 Study Areas

(a) Treatment System Study Areas:

(1) Certain areas may be designated on the Treatment System Service Area Map as "Treatment System Study Areas." Such designations are temporary and indicate areas requiring designation of that land to which each management agency

intends to provide wastewater treatment services, as identified in an acceptable facilities plan.

- (2) Wastewater treatment facilities within treatment system study areas shall be allowed only if:
    - (A) Required to alleviate a public health hazard or water pollution problem in an area officially designated by the appropriate state agency;
    - (B) Needed for parks or recreation lands which are consistent with the protection of natural resources or for housing necessary for the conduct of resource-related activities; or
    - (C) Facilities have received state approval of a Step 1 Facilities Plan, as defined by the U. S. Environmental Protection Agency regulations (Section 201, PL 92-500), prior to the effective date of this chapter.
  - (3) Facilities planning for a designated treatment system study area shall include investigation of the regional alternative recommended in the support documents accepted by the Regional Plan. Such investigations shall be conducted in accordance with Article V, Section 1, (A)(2)(a)(iv) of the Regional Plan text.
  - (4) No federal or state grants or loans for design or construction of any major expansion or modification of treatment facilities shall be made available to or used by agencies serving designated treatment system study areas until such time as a state approved facilities plan has been completed.
  - (5) Upon completion of a facilities plan and acknowledgment by Metro of compliance with the Regional Plan, a treatment system study area shall become a designated treatment system service area and shall be eligible to apply for Step 2 and Step 3 construction grants. The treatment system service area shall be incorporated by amendment into the Regional Plan and all appropriate support documents pursuant to Section 3.02.009 of this chapter.
- (b) Collection System Study Areas:
- (1) Certain areas are designated on the Collection System Service Area Map as "Collection System Study Areas." Such designations are temporary and exist only until such time as each member and special district designates that land to which it intends to provide sewage collection services. At the time of designation, collection system study areas shall become designated collection system service areas. The Regional Plan and the appropriate support documents shall be amended to incorporate the collection system service area pursuant to Section 3.02.009 of this chapter.
  - (2) Designation as a collection system study area shall not be construed to interfere with any grants or loans for facility planning, design or construction.

(Adopted by CRAG Rule; amended by Ordinance No. 80-102, Sec. 6, and Ordinance No. 86-206, Sec. 1)

3.02.008 Project Prioritization

Metro shall review each publication of the DEQ grant priorities list and shall have the opportunity to comment thereon.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 8; Ordinance No. 86-206, Sec. 1)

3.02.009 Continuing Planning Process

(a) For the purpose of implementing Article V, Section 1 (A)(2)(b)(i) of the Regional Plan, the continuing planning process shall follow, but not be limited to, the procedure shown below.

- (1) Evaluation of new information with respect to its impact on the Regional Plan. Regional Plan changes shall be based upon:
  - (A) Changes in custody, maintenance and/or distribution of any portion of the waste treatment component;
  - (B) Changes in population forecasts and/or wasteload projections;
  - (C) Changes in state goals or regional goals or objectives;
  - (D) Changes in existing treatment requirements;
  - (E) Implementation of new technology or completion of additional study efforts; development of more energy-efficient wastewater treatment facilities; or
  - (F) Other circumstances which because of the impact on water quality are deemed to effect the waste treatment component.
- (2) Adequate public review and comment on the change.
- (3) Adoption of Regional Plan change by Metro Council.
- (4) Submittal of change to DEQ for approval and state certification.
- (5) EPA approval of change.

(b) For the purpose of amending support documents referenced in Article I, Section 3(F) of the Regional Plan, the process shall be as shown below:

- (1) Any proposed change to the support documents shall be presented to the Metro Council with the following information:

- (A) Reasons for proposed action;
  - (B) Basis of data;
  - (C) Method of obtaining data;
  - (D) Period in which the data was obtained;
  - (E) Source of the data;
  - (F) Alternatives considered; and
  - (G) Advantages and disadvantages of the proposed action.
- (2) Following approval by the Metro Council, amendments to the support documents shall be attached to appropriate documents with the following information:
- (A) Approved change and replacement text for the document;
  - (B) Specific location of change within the document;
  - (C) Reasons for the change; and
  - (D) Date of Council action approving the change.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 9; Ordinance No. 86-206, Sec. 1)

#### 3.02.010 Application of Ordinance

This chapter shall apply to all portions of Clackamas, Washington and Multnomah counties within the jurisdiction of Metro.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 10)

#### 3.02.011 Severability

(a) The sections of this chapter shall be severable, and any action or judgment by any state agency or court of competent jurisdiction invalidating any section of this chapter shall not affect the validity of any other section.

(b) The sections of the Regional Plan shall also be severable and shall be subject to the provisions of subsection (a) of this section.



(c) For purposes of this section, the maps included in the Regional Plan shall be considered as severable sections, and any section or portion of the maps which may be invalidated as in subsection (a) above shall not affect the validity of any other section or portion of the maps.

(Adopted by CRAG Rule. Amended by Ordinance No. 80-102, Sec. 11)

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Exhibit C  
Metro Charter 2003 Amendments to Metro Code

Chapter 3.03

HOUSING GOALS & OBJECTIVES—REPEAL CHAPTER 3.03

SECTIONS — TITLE

- 3.03.010 — Authority and Purpose
- 3.03.020 — Adoption
- 3.03.030 — Implementation
- 3.03.040 — Periodic Review

3.03.010 Authority and Purpose

This chapter is adopted pursuant to ORS 268.380 (1) and (2) for the purpose of adopting and implementing region-wide land use planning goals and objectives related to housing.

(Ordinance No. 80-98, Sec. 1)

3.03.020 Adoption

The document entitled "Metro Housing Goals and Objectives," September 4, 1980, attached hereto and incorporated herein, or on file at Metro offices, is hereby adopted.

(Ordinance No. 80-98, Sec. 2) Note: The "Metro Housing Goals and Objectives" were amended by Ordinance No. 80-104.

3.03.030 Implementation

The Metro Housing Goals and Objectives adopted herein are considered interim and shall be implemented as provided in the Introduction and Background section of the Goals and Objectives document referred to in section 3.03.020 of this chapter.

(Ordinance No. 80-98, Sec. 3)

3.03.040 Periodic Review

The Metro Housing Goals and Objectives shall be subject to regular review, and amendment where appropriate, every four years from the date of adoption.

(Ordinance No. 80-98, Sec. 4)

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**Exhibit D**  
**Metro Charter 2003 Amendments to Metro Code**

**Chapter 3.04**

**REGIONAL STORMWATER MANAGEMENT PLAN**

**SECTIONS — TITLE**

- 3.04.010 — Authority and Purpose
- 3.04.020 — Adoption
- 3.04.030 — Regional Drainage Basin Designations
- 3.04.040 — Policies and Guidelines
- 3.04.050 — Drainage Management Agencies
- 3.04.060 — Plan Amendments
- 3.04.070 — Continuing Planning Process
- 3.04.080 — Scope and Application

3.04.010 Authority and Purpose

(a) This chapter is adopted pursuant to ORS 268.310(3) and 268.390(4)(b) for the purpose of adopting and implementing a Regional Stormwater Management Plan, hereinafter referred to as the "Plan." The Plan shall include the Plan Text, dated February 1982, the eight Regional Drainage Basin Maps, dated February 1982, and the following supporting documents:

- (1) Regional Stormwater Management Inventory, Metropolitan Service District, April 1980
- (2) Technical Supplement 3, Stormwater Management Design Manual, Metropolitan Service District, Spring 1980
- (3) Technical Report #1, Basic Data Report, Portland State University, 1981
- (4) Technical Report #2, Instream Water Quality, Portland State University, 1981
- (5) Technical Report #3, Effectiveness of Selected Management Practices, Portland State University, 1981
- (6) Technical Report #4, Regional Drainage Basins Report, Portland State University, 1981
- (7) Technical Report #5, Monitoring Report, Portland State University, 1981

(b) The Plan shall become effective 90 days after the date of adoption. As a result of Metro's continuing "208" Water Quality Program, the council hereby designates water quality and stormwater

management as an activity having significant impact upon the orderly and responsible development of the region.

(Ordinance No. 82-128, Sec. 1)

3.04.020 Adoption

The Regional Stormwater Management Plan, dated February 1982, copies of which are on file at Metro offices, is adopted and shall be implemented as required in this chapter.

(Ordinance No. 82-128, Sec. 2)

3.04.030 Regional Drainage Basin Designations

(a) Eight minor drainage basins in the Metro region are hereby determined to be regional drainage basins for the purposes of the Plan. These basins have been selected because they:

- (1) Encompass three or more local jurisdictions (city or county); and
- (2) They currently have stormwater management problems or a high potential for such problems due to increased development.

(b) The regional drainage basins are shown on the regional drainage basin maps and are listed below:

- (1) Beaver/Kelly Creek
- (2) Fairview Creek
- (3) Kellogg/Mt. Scott Creek
- (4) Tryon Creek
- (5) Fanno Creek
- (6) Beaverton/Cedar Mill Creek
- (7) Rock Creek
- (8) Johnson Creek

(c) In addition to drainage issues within the regional drainage basins, the Metro council can choose to address other drainage and water quality issues outside of the regional drainage basins if those issues involve three or more jurisdictions (city, county or state) and arise, or have the potential to arise, as the result of increased development.

(Ordinance No. 82-128, Sec 3)

3.04.040 Policies and Guidelines

In order to help meet the regional objectives prescribed in ORS 268.310(3) and ORS 268.390(1)(b) the following Drainage Management Policies and Guidelines are established.

~~(a) Policy. To minimize on-site erosion during site preparation as part of an overall site drainage plan for all new development on slopes in excess of 12 percent.~~

~~(1) Temporary Erosion Control Plans (TECP) should be considered as part of an overall site drainage plan for all new development on slopes in excess of 12 percent.~~

~~(2) Chapter 70 (Excavation and Grading) of the State of Oregon Structural Specialty Code and Fire and Life Safety Code should be adopted by all local jurisdictions within the Metro region.~~

~~(3) For developments which do not require a TECP, removal of vegetation during the construction period should be minimized, with replacement and/or enhancement of vegetation upon completion of construction.~~

~~(b) Policy. To minimize streambank and channel erosion by controlling the amount and rate of stormwater runoff. To implement this policy, the following guidelines are suggested.~~

~~(1) Stormwater drainage systems should place emphasis on maximizing natural water percolation. Runoff which cannot be accommodated by soil percolation should be directed to natural drainage ways so as not to degrade instream water quality or contribute to the peak flood flow.~~

~~(2) Natural drainage ways should be riprapped or otherwise stabilized as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.~~

~~(3) Erosion protection should be provided the full length of any channel section in which water velocity exceeds the scour velocity of the natural channel materials.~~

~~(4) Riparian vegetation that protects streambanks from eroding should be maintained and enhanced.~~

~~(5) Removal of fill material or construction within stream channels and floodways should be accomplished so that:~~

~~(A) There is not increase in suspended sediment or turbidity above background level; and~~

~~(B) There is no decrease in channel capacity.~~

~~(c) Policy. To manage the 100-year floodplain and floodway in order to protect their natural function, and minimize water quality degradation and property damage. To implement this policy, the following guidelines are suggested:~~

- ~~(1) Local drainage management agencies as identified in Table III-1, are encouraged to establish regional drainage councils to coordinate basin-wide drainage management.~~
- ~~(2) Drainage plans and policies within regional drainage basins should be coordinated by all local drainage management agencies within the basin.~~
- ~~(3) All local drainage management agencies should adopt and maintain regulations necessary to qualify for the National Flood Insurance Program.~~
- ~~(4) Local drainage management agencies are encouraged wherever possible to retain floodway and floodplain lands as open space used for flood storage recreation and wildlife habitat.~~

~~(d) Policy. To protect and enhance the capacity of urban streams to provide habitat for fish and other aquatic organisms. To implement this policy, the following guidelines are suggested:~~

- ~~(1) The removal of fill material or construction in fish spawning areas shall be in accordance with the policies of the State Department of Fish and Wildlife and the Division of State Lands.~~
- ~~(2) Canopy forming riparian vegetation should be preserved or replaced along all year-round streams.~~
- ~~(3) Community education programs should be developed to help minimize the disposal of harmful or toxic materials in storm drains.~~
- ~~(4) Cooperative fish enhancement programs between civic groups, local jurisdictions and the Oregon Department of Fish and Wildlife are encouraged.~~

~~(Ordinance No. 82-128, Sec. 4)~~

#### ~~3.04.050 Drainage Management Agencies~~

~~For the purposes of this chapter the following Management Agencies have been designated:~~

- ~~(a) Region-wide Planning and Coordination shall be done by the Metropolitan Service District.~~
- ~~(b) Regional Drainage Basin Management should be coordinated within each of the following basins by the respective jurisdictions:~~
  - ~~(1) Rock Creek Basin:~~

- ~~\_\_\_\_\_ (A) Hillsboro~~
- ~~\_\_\_\_\_ (B) Portland~~
- ~~\_\_\_\_\_ (C) Multnomah County~~
- ~~\_\_\_\_\_ (D) Washington County~~
- ~~(2) Beaverton/Cedar Mill Creek Basin:~~
  - ~~\_\_\_\_\_ (A) Beaverton~~
  - ~~\_\_\_\_\_ (B) Portland~~
  - ~~\_\_\_\_\_ (C) Multnomah County~~
  - ~~\_\_\_\_\_ (D) Washington County~~
- ~~(3) Fanno Creek Basin:~~
  - ~~\_\_\_\_\_ (A) Beaverton~~
  - ~~\_\_\_\_\_ (B) Durham~~
  - ~~\_\_\_\_\_ (C) Lake Oswego~~
  - ~~\_\_\_\_\_ (D) Portland~~
  - ~~\_\_\_\_\_ (E) Tigard~~
  - ~~\_\_\_\_\_ (F) Tualatin~~
  - ~~\_\_\_\_\_ (G) Clackamas County~~
  - ~~\_\_\_\_\_ (H) Multnomah County~~
  - ~~\_\_\_\_\_ (I) Washington County~~
- ~~(4) Fryon Creek Basin:~~
  - ~~\_\_\_\_\_ (A) Lake Oswego~~
  - ~~\_\_\_\_\_ (B) Portland~~
  - ~~\_\_\_\_\_ (C) Clackamas County~~

Repeal 1

- \_\_\_\_\_ (D) Multnomah County
- \_\_\_\_\_ (5) Kellogg/Mt. Scott Creek Basin:
- \_\_\_\_\_ (A) Gladstone
- \_\_\_\_\_ (B) Happy Valley
- \_\_\_\_\_ (C) Milwaukie
- \_\_\_\_\_ (D) Clackamas County
- \_\_\_\_\_ (E) Washington County
- \_\_\_\_\_ (6) Johnson Creek Basin:
- \_\_\_\_\_ (A) Gresham
- \_\_\_\_\_ (B) Happy Valley
- \_\_\_\_\_ (C) Milwaukie
- \_\_\_\_\_ (D) Portland
- \_\_\_\_\_ (E) Clackamas County
- \_\_\_\_\_ (F) Multnomah County
- \_\_\_\_\_ (7) Fairview Creek Basin:
- \_\_\_\_\_ (A) Fairview
- \_\_\_\_\_ (B) Gresham
- \_\_\_\_\_ (C) Troutdale
- \_\_\_\_\_ (D) Wood Village
- \_\_\_\_\_ (E) Multnomah County
- \_\_\_\_\_ (8) Beaver/Kelly Creeks:
- \_\_\_\_\_ (A) Gresham
- \_\_\_\_\_ (B) Troutdale
- \_\_\_\_\_ (C) Multnomah County

Repeal 1



(Ordinance No. 82-128, Sec. 5)

3.04.060 Plan Amendments

~~(a) Revisions in the Regional Plan shall be in accordance with procedural rules adopted by the council pertaining to review and amendment of functional plans.~~

~~(b) Mistakes discovered in the regional plan text or maps may be corrected administratively without petition, notice or hearing. Such corrections may be made by order of the council upon determination of the existence of a mistake and of the nature of the correction to be made.~~

(Ordinance No. 82-128, Sec. 6)

3.04.070 Continuing Planning Process

~~(a) Goals of the Continuing Planning Process are:~~

~~(1) To provide a forum for evaluating and refining the Regional Plan.~~

~~(2) To assist Metro with the evaluation and prioritization of its stormwater management activities.~~

~~(b) An annual workshop is to be held on or about the date of the annual meeting of the water resources policy alternatives committee. This workshop shall be designed to accomplish the following:~~

~~(1) Serve as a forum for evaluating Regional Plan performance and needs.~~

~~(2) Provide an annual community assessment of Metro's drainage program.~~

~~(c) The following ongoing program activities are proposed, subject to availability of financial resources, in support of the continuing planning process:~~

~~(1) Regional Planning Framework To facilitate a consistent regulatory framework for drainage management Metro will explore the formation of regional drainage councils comprised of the local management agencies designated in section 3.04.050.~~

~~(2) Regional Drainage Information Clearinghouse Metro should establish a regional technical information service to encourage and complement regional plan implementation efforts at the local level.~~

~~(3) Community Involvement Metro should maintain an ongoing public involvement program designed to establish a regional constituency for stormwater quality management.~~

(Ordinance No. 82-128, Sec. 7)

3.04.080 Scope and Application

~~This chapter shall apply to all land development within the eight regional drainage basins identified in section 3.04.030 and illustrated on maps contained in Part IV of the Regional Plan.~~

~~(Ordinance No. 82-128, Sec. 8)~~

\*\*\*\*\*

Repeal 1

**Exhibit E**  
**Metro Charter 2003 Amendments to Metro Code**

**Chapter 3.06**

**PLANNING PROCEDURE FOR DESIGNATING  
FUNCTIONAL PLANNING AREAS AND ACTIVITIES**

SECTIONS	TITLE
3.06.010	Policy and Purpose
3.06.020	Procedures and Implementation

3.06.010 Policy and Purpose

The Council recognizes its authority and responsibility pursuant to ORS 268.390 to prepare and adopt functional plans for areas and activities which have impact on air quality, water quality, transportation and other aspects of metropolitan area development identified by the Council.

This chapter is intended to define a planning procedure for identifying and designating those activities and areas in need of functional planning.

(Ordinance No. 91-408A, Sec. 1)

3.06.020 Procedures and Implementation

(a) The ~~executive officer~~ Chief Operating Officer from time to time shall report to the Council those aspects of development in addition to water quality, air quality, and transportation, which are related to the orderly and responsible development of the metropolitan area.

(b) As part of the Council standing committee recommendations from review of the ~~executive officer~~ Chief Operating Officer's annual proposed budget, the standing committees shall report to the Council whether there are aspects of development in addition to water quality, air quality and transportation, which are related to the orderly and responsible development of the metropolitan area.

(c) The Council may by resolution designate areas and activities having significant impact upon the orderly and responsible development of the metropolitan area, including, but not limited to, air quality, water quality, and transportation. The resolution shall state that the area or activity designated has a significant impact on metropolitan area development.

(d) The resolution shall direct the ~~executive officer~~ Chief Operating Officer to present to the Council a functional plan for the area and activity designated in the resolution.

(Ordinance No. 86-207. Replaced by Ordinance No. 91-408A, Sec. 1)

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**Exhibit F**  
**Metro Charter 2003 Amendments to Metro Code**

**Chapter 3.07**

**URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN**

**SECTIONS    TITLE**

- 3.07.010 Purpose
- 3.07.020 Regional Policy Basis
- 3.07.030 Structure of Requirements

**TITLE 1: REQUIREMENTS FOR HOUSING AND EMPLOYMENT ACCOMMODATION**

- 3.07.110 Intent
  - 3.07.120 Methods to Increase Calculated Capacity Required for All Cities and Counties
  - 3.07.130 Design Type Boundaries Requirement
  - 3.07.140 Requirements to Increase Capacity If Recent Development At Low Density
  - 3.07.150 Determination of Calculated Capacity of Housing Units and Jobs
  - 3.07.160 Local Plan Accommodation of Expected Growth Capacity for Housing and Employment—  
Performance Standard
  - 3.07.170 Design Type Density Recommendations
- Table 3.07-1 Target Capacity for Housing and Employment Units - Year 1994 to 2017**

**TITLE 2: REGIONAL PARKING POLICY**

- 3.07.210 Intent
  - 3.07.220 Performance Standard
- Table 3.07-2 - Regional Parking Ratios**

**TITLE 3: WATER QUALITY, FLOOD MANAGEMENT AND FISH AND WILDLIFE  
CONSERVATION**

- 3.07.310 Intent
  - 3.07.320 Applicability
  - 3.07.330 Implementation Alternatives for Cities and Counties
  - 3.07.340 Performance Standards
  - 3.07.350 Fish and Wildlife Habitat Conservation Area
  - 3.07.360 Metro Model Ordinance Required
  - 3.07.370 Variances
- Table 3.07-3 - Protected Water Features**

**TITLE 4: RETAIL IN EMPLOYMENT AND INDUSTRIAL AREAS**

- 3.07.410 Intent
  - 3.07.420 Comprehensive Plan and Implementing Ordinance Changes Required
  - 3.07.430 Exceptions
- Table 3.07-4**

**TITLE 5: NEIGHBOR CITIES AND RURAL RESERVES**

- 3.07.510 Intent
- 3.07.520 Rural Reserves and Green Corridors
- 3.07.530 Invitations for Intergovernmental Agreements
- 3.07.540 Metro Intent with Regard to Green Corridors

**TITLE 6: REGIONAL ACCESSIBILITY**

- 3.07.610 Intent
- 3.07.620 Regional Street Design Guidelines
- 3.07.630 Design Standards for Street Connectivity
- 3.07.640 Transportation Performance Standards

**Table 3.07-5 Motor Vehicle Level of Service Deficiency Thresholds and Operating Standards\***

**Table 3.07-6 Level-of-Service (LOS) Definitions for Freeways, Arterials and Signalized Intersections**

**Figure 3.07-1**

**TITLE 7: AFFORDABLE HOUSING**

- 3.07.710 Intent
  - 3.07.720 Voluntary Affordable Housing Production Goals
  - 3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance Changes
  - 3.07.740 Requirements for Progress Report
  - 3.07.750 Metro Assessment of Progress
  - 3.07.760 Recommendations to Implement Other Affordable Housing Strategies
- Table 3.07-7 Five-Year Voluntary Affordable Housing Production Goals**

**TITLE 8: COMPLIANCE PROCEDURES**

- 3.07.810 Compliance With the Functional Plan
- 3.07.820 Compliance Review by the ~~Executive Officer~~ Chief Operating Officer
- 3.07.830 Review of Compliance by Metropolitan Policy Advisory Committee
- 3.07.840 Review by Metro Council
- 3.07.850 Extension of Compliance Deadline
- 3.07.860 Exception from Compliance
- 3.07.870 Enforcement of Functional Plan
- 3.07.880 Compliance Report and Order
- 3.07.890 Citizen Involvement in Compliance Review

**TITLE 9: PERFORMANCE MEASURES**

- 3.07.910 Intent
- 3.07.920 Performance Measures Adoption

**TITLE 10: FUNCTIONAL PLAN DEFINITIONS**

- 3.07.1010 Definitions

**TITLE 11: URBAN GROWTH BOUNDARY AMENDMENT URBAN RESERVE PLAN REQUIREMENTS**

- 3.07.1105 Purpose and Intent

- 3.07.1110 Interim Protection of Areas Brought Inside Urban Growth Boundary
- 3.07.1120 Urban Growth Boundary Amendment Urban Reserve Plan Requirements
- 3.07.1130 Implementation of Urban Growth Boundary Amendment Urban Reserve Plan Requirements
- 3.07.1140 Effective Date and Notification Requirements

**NOTE:** The Urban Growth Management Functional Plan was adopted by the Metro Council by Ordinance No. 96-647C, and amended by Ordinance No. 97-691C, prior to being codified as Metro Code Chapter 3.07 by Ordinance No. 97-715B.

### 3.07.010 Purpose

The regional policies which are adopted by this Urban Growth Management Functional Plan recommend and require changes to city and county comprehensive plans and implementing ordinances. The purpose of this functional plan is to implement regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO), including the Metro 2040 Growth Concept and the Regional Framework Plan. The comprehensive plan changes and related actions, including implementing regulations, required by this functional plan as a component of the Regional Framework Plan, shall be complied with by cities and counties as required by Section 5(e)(2) of the Metro Charter.

Any city or county determination not to incorporate all required functional plan policies into comprehensive plans shall be subject to the conflict resolution and mediation processes included within the RUGGO, Goal I provisions, prior to the final adoption of inconsistent policies or actions.

(Ordinance No. 97-715B, Sec. 1.)

### 3.07.020 Regional Policy Basis

The regional policies adopted in this Urban Growth Management Functional Plan functional plan are formulated from, and are consistent with, the RUGGOs, including the Metro 2040 Growth Concept. The overall principles of the Greenspaces Master Plan are also incorporated within this functional plan. In addition, the updated Regional Transportation Plan (RTP)<sup>1</sup>, when adopted, will serve as the primary transportation policy implementation of the 2040 Growth Concept. However, early implementation land use policies in this functional plan are integrated with early implementation transportation policies derived from preparation of the 1996 Regional Transportation Plan, and consistent with the Metro 2040 Growth Concept.

(Ordinance No. 97-715B, Sec. 1.)

### 3.07.030 Structure of Requirements

The Urban Growth Management Functional Plan is a regional functional plan which contains "requirements" that are binding on cities and counties of the region as well as recommendations that are not binding. "Shall" or other directive words are used with requirements. The words "should" or "may" are used with recommendations. In general, the plan is structured so that local jurisdictions may choose either performance standard requirements or prescriptive requirements. The intent of the requirements is to assure that cities and counties have a significant amount of flexibility as to how they meet requirements. Performance standards are included in most titles. If local jurisdictions demonstrate to Metro that they meet the performance standard, they have met that requirement of the title. Standard methods of compliance are also included in the plan to establish one very specific way that jurisdictions may meet a title requirement, but these standard methods are not the only way a city or county may show compliance. In addition, certain mandatory requirements that apply to all cities and counties are established by this functional plan.

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<sup>1</sup> Metro has an adopted Regional Transportation Plan. However, because of changing local and regional conditions, as well as state and federal requirements, the RTP is scheduled to be amended in 1997.

(Ordinance No. 97-715B, Sec. 1.)



## REGIONAL FUNCTIONAL PLAN REQUIREMENTS

### **TITLE 1: REQUIREMENTS FOR HOUSING AND EMPLOYMENT ACCOMMODATION**

#### 3.07.110 Intent

State law and Metro Code require that the Metro Urban Growth Boundary (UGB) have sufficient capacity to accommodate the expected growth for 20 years. It is Metro policy to minimize the amount of urban growth boundary expansion required for the expected population and employment growth by the year 2017 consistent with all Statewide Goals. To further that policy, it is beneficial and desirable for Metro to require actions intended to increase the capacity for development of land within the UGB. Increasing the capacity of land within the UGB will include requiring changes for appropriate locations in both the rate of development permitted per acre (zoned density) and the rate at which housing and employment are actually built within the UGB. Development consistent with the design types of the Metro 2040 Growth Concept will focus these efforts. As a matter of regional policy, each city and county must contribute its fair share to increasing the development capacity of land within the UGB.

Metro will work with local jurisdictions to develop a set of region-wide community development code provisions, standards and other regulations which local jurisdictions may adopt that will help implement the 2040 Growth Concept and this functional plan. Included in this project will be a review of development standards in support of smaller lots and more flexible use of land, strategies to encourage land assembly, more flexible zoning and improvements in the pre-application process to ensure timely and thorough review and to provide for early involvement by the public to address neighborhood concerns and assure community acceptance of these changes.

(Ordinance No. 97-715B, Sec. 1.)

#### 3.07.120 Methods to Increase Calculated Capacity Required for All Cities and Counties

All cities and counties within Metro are required to include within their comprehensive plans and implementing ordinances the following provisions:

- A. Cities and counties shall apply a minimum density standard to all zones allowing residential use as follows:
  1. a. Provide that no development application, including a subdivision, may be approved unless the development will result in the building of 80 percent or more of the maximum number of dwelling units per net acre permitted by the zoning designation for the site; or
  - b. Adopt minimum density standards that apply to each development application that vary from the requirements of subsection 1.a., above. However, for the purpose of compliance with Table 3.07-1, only those dwelling units that are allowed at these minimum density standards shall be counted for compliance with the calculated capacities of Table 3.07-1.
2. The minimum density standard may be achieved by use of a small lot district where an average lot size of 5,000 to 6,200 square feet allows flexibility within that range on

development applications, so long as the ~~district~~ Metro remains in compliance with the minimum density standard used to calculate capacities for compliance with Table 3.07-1 capacities.

3. No comprehensive plan provision, implementing ordinance or local process (such as site or design review) may be applied and no condition of approval may be imposed that would have the effect of reducing the minimum density standard.
  4. For high density zones with maximum zoned density higher than 37 dwelling units per net acre, the minimum residential density may be 30 dwelling units per net acre.
  5. This minimum density requirement does not apply (1) outside the urban growth boundary, (2) inside areas designated as open space on the attached Open Spaces Map<sup>2</sup>, and (3) inside areas designated as unbuildable on the attached Open Spaces Map. The maximum zoned density does not include the density bonus for zones that allow them.
- B. Cities and counties shall not prohibit partitioning or subdividing inside the Metro Urban Growth Boundary where existing lot sizes are two or more times that of the minimum lot size in the development code.
- C. Cities and counties shall not prohibit the construction of at least one accessory unit within any detached single family dwelling that is permitted to be built in any zone inside the Urban Growth Boundary. Reasonable regulations of accessory units may include, but are not limited to, size, lighting, entrances and owner occupancy of the primary unit, but shall not prohibit rental occupancy, separate access, and full kitchens in the accessory units.

(Ordinance No. 97-715B, Sec. 1.)

### 3.07.130 Design Type Boundaries Requirement

For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map:

Central City--Downtown Portland is the Central City which serves as the major regional center, an employment and cultural center for the metropolitan area.

Regional Centers--Nine regional centers will become the focus of compact development, redevelopment and high-quality transit service and multimodal street networks.

Station Communities--Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature a high-quality pedestrian environment.

Town Centers--Local retail and services will be provided in town centers with compact development and transit service.

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<sup>2</sup> All "attached" documents referenced in this chapter are on file in the Metro Council office.

Main Streets--Neighborhoods will be served by main streets with retail and service developments served by transit.

Corridors--Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities.

Employment Areas--Various types of employment and some residential development are encouraged in employment areas with limited commercial uses.

Industrial Areas--Industrial areas are set aside primarily for industrial activities with limited supporting uses.

Inner Neighborhoods--Residential areas accessible to jobs and neighborhood businesses with smaller lot sizes are inner neighborhoods.

Outer Neighborhoods--Residential neighborhoods farther away from large employment centers with larger lot sizes and lower densities are outer neighborhoods.

(Ordinance No. 97-715B, Sec. 1.)

#### 3.07.140 Requirements to Increase Capacity If Recent Development At Low Density

- A. All cities and counties shall determine whether actual built densities for housing during 1990-1995 were less than 80 percent of maximum zoned densities. The 1990-1995 actual built densities within cities and counties inside the Urban Growth Boundary shall be compared with zoned densities for housing units during that period.

Residential developments to be analyzed shall be those which were permitted by a land use action and constructed during the period from 1990 to 1995, and residential density shall be measured in households per net developed acre.<sup>3</sup>

- B. If the comparison of actual built densities to maximum zoned densities for the period 1990-1995 indicates that actual built densities were less than 80 percent of maximum zoned densities, the city or county shall also demonstrate that it has considered and adopted at least two of the following methods to increase capacity:
1. Financial incentives for higher density housing;
  2. Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer;
  3. Removal or easing of approval standards or procedures;
  4. Redevelopment and infill strategies; and

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<sup>3</sup> See Title 10, Definitions.

5. Authorization of housing types not previously allowed by the plan or regulations.

(Ordinance No. 97-715B, Sec. 1.)

### 3.07.150 Determination of Calculated Capacity of Housing Units and Jobs

The purpose of this section is to require each city and county within the Metro region to determine the housing and employment capacity of its existing comprehensive plan and implementing ordinances, determine calculated capacity for dwelling units and jobs by the method in this section, and increase calculated capacity, if necessary, to achieve the functional plan capacities in Table 3.07-1. Each city and county within the Metro region is hereby required to complete the following steps:

- A. Determine the calculated capacity of dwelling units and jobs by the year 2017 using the zoned capacity<sup>4</sup> of its current comprehensive plan and implementing ordinances.
  1. Cities and counties shall use Metro estimates of vacant land, and land likely to redevelop, unless they have data that they believe is more accurate. In this case, the city or county may provide Metro the following:
    - a. The source of the data;
    - b. The reasons that the locally developed data is a more accurate estimate than the Metro estimate of vacant and redevelopable land;
    - c. The database from which the above were derived;
    - d. The database of committed development lands.

Cities and counties may use their data, subject to acceptance by the Metro Council or its designee, after the ~~Executive Officer~~Chief Operating Officer determines that the city or county data may be more accurate than the Metro data. The ~~Executive Officer~~Chief Operating Officer shall notify the Metro Council of each instance in which the data submitted by a city or county is determined by the ~~Executive Officer~~Chief Operating Officer to be less accurate than Metro data.
  2. In determining the calculated capacity of existing comprehensive plans and implementing ordinances, cities and counties shall not use a calculated capacity for dwelling units of more than 80 percent of maximum zoned residential density, unless:
    - a. Actual experience in the jurisdiction since 1990 has shown that development has occurred at density greater than 80 percent of -zoned residential density; or

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<sup>4</sup> See Title 10, Definitions, "zoned density" and "calculated capacity."

- b. Minimum density standards are adopted or proposed for adoption in the zoning code that require residential development at greater than 80 percent of maximum zoned residential density.
  3. Cities and counties calculating capacity through the use of density bonus provisions may consider transfers, including off-site transfers, only upon demonstration that previous approvals of all density transfers within the past 5 years have resulted in an average of at least 80 percent of maximum zoned densities actually being built.
  4. The capacity calculation shall use only those development types that are allowed in the development code. Any discretionary decision must not diminish the zoned density if it is to be counted as a part of calculated capacity; and
  5. Cities and counties, in coordination with special districts, shall demonstrate that they have reviewed their public facility capacities and plans to assure that planned public facilities can be provided, to accommodate the calculated capacity within the plan period.
- B. Calculate the increases in dwelling unit and job capacities by the year 2017 from any proposed changes to the current comprehensive plans and implementing ordinances that must be adopted to comply with Section 3.07.120 of this title and add the increases to the calculation of expected capacities.
- C. Determine the effect of each of the following on calculated capacities, and include any resulting increase or decrease in calculated capacities:
  1. Required dedications for public streets, consistent with the Regional Accessibility Title;
  2. Off-street parking requirements, consistent with this functional plan;
  3. Landscaping, setback, and maximum lot coverage requirements;
  4. The effects of tree preservation ordinances, environmental protection ordinances, view preservation ordinances, solar access ordinances, or any other regulations that may have the effect of reducing the capacity of the land to develop at the zoned density;
  5. The effects of areas dedicated to bio-swales, storm-water retention, open space dedications, and other requirements of local codes that may reduce the capacity of the land to develop at the zoned density.
- D. If any of the calculated capacities are determined to be less than any of the city or county target dwelling unit and job capacities in Table 3.07-1, either jurisdiction-wide or in mixed-use areas, or both, then the city or county shall comply with the performance standards in Section 3.07.160 of this title by amending its comprehensive plans and implementing ordinances to increase calculated capacities, as needed, to comply with the calculated capacities required in Table 3.07-1.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 4.)

3.07.160 Local Plan Accommodation of Expected Growth Capacity for Housing and Employment—  
Performance Standard

All cities and counties within Metro shall demonstrate that:

- A. The provisions required in Section 3.07.120 of this title have been included in comprehensive plans and implementing ordinances; and that
- B. Using the computation method in Section 3.07.150, including the minimum residential density provisions required in Section 3.07.120, that calculated capacities will achieve the target capacities for dwelling units and full-time and part-time jobs contained in Table 3.07-1, including both jurisdiction-wide expected capacities and capacities for mixed-use areas; and that
- C. Effective measures have been taken to reasonably assure that the calculated capacities will be built for dwelling units and jobs; and that
- D. Expected development has been permitted at locations and densities likely to be achieved during the 20-year planning period by the private market or assisted housing programs, once all new regulations are in effect.

(Ordinance No. 97-715B, Sec. 1.)

3.07.170 Design Type Density Recommendations

- A. For the area of each of the 2040 Growth Concept design types, the following average densities for housing and employment are recommended to cities and counties:

- Central City - 250 persons per acre
- Regional Centers - 60 persons per acre
- Station Communities - 45 persons per acre
- Town Centers - 40 persons per acre
- Main Streets - 39 persons per acre
- Corridor - 25 persons per acre
- Employment Areas - 20 persons per acre
- Industrial Areas - 9 employees per acre
- Inner Neighborhoods - 14 persons per acre
- Outer Neighborhoods - 13 persons per acre

(Ordinance No. 97-715B, Sec. 1.)

<b>Table 3.07-1</b> <b>Target Capacity for Housing and Employment Units - Year 1994 to 2017</b> (Section 3.07.120(A)(1)(b))				
City or County	Dwelling Unit Capacity <sup>1</sup>	Job Capacity	Mixed Use Areas <sup>2</sup>	
			Dwelling Unit Capacity	Job Increase
Beaverton	15,021	25,122	9,019	19,084
Cornelius	1,019	2,812	48	335
Durham	262	498	0	0
Fairview	2,921	5,689	635	2,745
Forest Grove	2,873	5,488	67	628
Gladstone	600	1,530	20	140
Gresham	16,817	23,753	3,146	9,695
Happy Valley	2,030	1,767	52	245
Hillsboro	14,812	58,247	9,758	20,338
Johnson City	168	180	0	0
King City	182	241	55	184
Lake Oswego	3,353	8,179	446	3,022
Maywood Park	27	5	0	0
Milwaukie	3,514	7,478	2,571	6,444
Oregon City	6,157	8,185	341	2,341
Portland	70,704	158,503	26,960	100,087
River Grove	(15)	41	0	0
Sherwood	5,010	8,156	1,108	3,585
Tigard	6,073	14,901	981	8,026
Troutdale	3,789	5,570	107	267
Tualatin	3,635	9,794	1,248	2,069
West Linn	2,577	2,114	0	594
Wilsonville	4,425	15,030	743	4,952
Wood Village	423	736	68	211
Clackamas County <sup>3</sup>	19,530	42,685	1,661	13,886
Multnomah County <sup>3</sup>	3,089	2,381	0	0
Washington County <sup>3</sup>	54,999	52,578	13,273	25,450
	243,993	461,633		

<sup>1</sup> Based on Housing Needs Analysis. Applies to existing city limits as of June, 1996. Annexations to cities would include the city assuming responsibility for Target Capacity previously accommodated in unincorporated county.

<sup>2</sup> Mixed use areas are: Central City - about 250 persons per acre; regional centers - about 60 ppa; town centers - 40 ppa; station communities - about 45 ppa; main streets - about 39 ppa.

<sup>3</sup> Standards apply to the urban unincorporated portion of the county only. At the request of cities, Metro may also supply targets for planning areas for cities in addition to the existing boundary targets cited above.

(Ordinance No. 97-715B, Sec. 1.)

## **TITLE 2: REGIONAL PARKING POLICY**

### 3.07.210 Intent

The State's Transportation Planning Rule calls for reductions in vehicle miles traveled per capita and restrictions on construction of new parking spaces as a means of responding to transportation and land use impacts of growth. The Metro 2040 Growth Concept calls for more compact development as a means to encourage more efficient use of land, promote non-auto trips and protect air quality. In addition, the federally mandated air quality plan adopted by the state relies on the 2040 Growth Concept fully achieving its transportation objectives. Notably, the air quality plan relies upon reducing vehicle trips per capita and related parking spaces through minimum and maximum parking ratios. This title addresses these state and federal requirements and preserves the quality of life of the region.

A compact urban form requires that each use of land is carefully considered and that more efficient forms are favored over less efficient ones. Parking, especially that provided in new developments, can result in a less efficient land usage and lower floor to area ratios. Parking also has implications for transportation. In areas where transit is provided or other non-auto modes (walking, biking) are convenient, less parking can be provided and still allow accessibility and mobility for all modes, including autos. Reductions in auto trips when substituted by non-auto modes can reduce congestion and increase air quality.

(Ordinance No. 97-715B, Sec. 1.)

### 3.07.220 Performance Standard

- A. Cities and counties are hereby required to amend their comprehensive plans and implementing regulations, if necessary, to meet or exceed the following minimum standards:
1. Cities and counties shall require no more parking than the minimum as shown on Table 3.07-2, Regional Parking Ratios, attached hereto; and
  2. Cities and counties shall establish parking maximums at ratios no greater than those listed in the Regional Parking Ratios Table and as illustrated in the Parking Maximum Map. The designation of A and B zones on the Parking Maximum Map should be reviewed after the completion of the Regional Transportation Plan and every three years thereafter. If 20-minute peak hour transit service has become available to an area within a one-quarter mile walking distance for bus transit or one-half mile walking distance for light rail transit, that area shall be added to Zone A. If 20-minute peak hour transit service is



no longer available to an area within a one-quarter mile walking distance for bus transit or one-half mile walking distance for light rail transit, that area shall be removed from Zone A. Cities and counties should designate Zone A parking ratios in areas with good pedestrian access to commercial or employment areas (within 1/3 mile walk) from adjacent residential areas.

3. Cities and counties shall establish an administrative or public hearing process for considering ratios for individual or joint developments to allow a variance for parking when a development application is received which may result in approval of construction of parking spaces either in excess of the maximum parking ratios; or less than the minimum parking ratios.

Cities and counties may grant a variance from any maximum parking ratios through a variance process.

- B. Free surface parking spaces shall be subject to the regional parking maximums provided for Zone A and Zone B. Parking spaces in parking structures, fleet parking, parking for vehicles that are for sale, lease, or rent, employee car pool parking spaces, dedicated valet parking spaces, spaces that are user paid, market rate parking or other high-efficiency parking management alternatives may be exempted from maximum parking standards by cities and counties. Sites that are proposed for redevelopment may be allowed to phase in reductions as a local option. Where mixed land uses are proposed, cities and counties shall provide for blended parking rates. It is recommended that cities and counties count adjacent on-street parking spaces, nearby public parking and shared parking toward required parking minimum standards.
- C. Cities and counties may use categories or measurement standards other than those in the Regional Parking Ratios Table, but must provide findings that the effect of the local regulations will be substantially the same as the application of the Regional Parking Ratios.
- D. Cities and counties shall monitor and provide the following data to Metro on an annual basis:
  1. The number and location of newly developed parking spaces; and
  2. Demonstration of compliance with the minimum and maximum parking standards, including the application of any variances to the regional standards in this title. Coordination with Metro collection of other building data should be encouraged.

(Ordinance No. 97-715B, Sec. 1.)

<b>Table 3.07-2 - Regional Parking Ratios</b> (Section 3.07.220(A)(1)) (parking ratios are based on spaces per 1,000 sq. ft of gross leasable area unless otherwise stated)			
Land Use	Minimum Parking Requirements (See Central City Transportation Management Plan for downtown Portland stds)	Maximum Permitted Parking - Zone A:	Maximum Permitted Parking Ratios - Zone B:
	Requirements May Not Exceed	Transit and Pedestrian Accessible Areas <sup>1</sup>	Rest of Region
General Office (includes Office Park, "Flex-Space", Government Office & misc. Services) (gsf)	2.7	3.4	4.1
Light Industrial Industrial Park Manufacturing (gsf)	1.6	None	None
Warehouse (gross square feet; parking ratios apply to warehouses 150,000 gsf or greater)	0.3	0.4	0.5
Schools: College/ University & High School (spaces/# of students and staff)	0.2	0.3	0.3
Tennis Racquetball Court	1.0	1.3	1.5
Sports Club/Recreation Facilities	4.3	5.4	6.5
Retail/Commercial, including shopping centers	4.1	5.1	6.2
Bank with Drive-In	4.3	5.4	6.5
Movie Theater (spaces/number of seats)	0.3	0.4	0.5
Fast Food with Drive Thru	9.9	12.4	14.9
Other Restaurants	15.3	19.1	23
Place of Worship (spaces/seats)	0.5	0.6	0.8
Medical/Dental Clinic	3.9	4.9	5.9
<b>Residential Uses</b>			
Hotel/Motel	1	none	none
Single Family Detached	1	none	none
Residential unit, less than 500 square feet per unit, one bedroom	1	none	none
Multi-family, townhouse, one bedroom	1.25	none	none
Multi-family, townhouse, two bedroom	1.5	none	none
Multi-family, townhouse, three bedroom	1.75	none	none

<sup>1</sup> Ratios for uses not included in this table would be determined by cities and counties. In the event that a local government proposes a different measure, for example, spaces per seating area for a restaurant instead of gross leasable area, Metro may grant approval upon a demonstration by the local government that the parking space requirement is substantially similar to the regional standard.

(Ordinance No. 97-715B, Sec. 1.)

**TITLE 3: WATER QUALITY, FLOOD MANAGEMENT AND FISH AND WILDLIFE CONSERVATION**

3.07.310 Intent

To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities, protecting life and property from dangers associated with flooding and working toward a regional coordination program of protection for Fish and Wildlife Habitat Areas.

(Ordinance No. 97-715B, Sec. 1. Replaced by Ordinance No. 98-730C, Sec. 1. Readopted by Ordinance No. 00-839, Sec. 1.)

3.07.320 Applicability

A. ~~This Title 3~~ applies to:

1. Development in Water Quality Resource and Flood Management Areas.
2. Development which may cause temporary or permanent erosion on any property within the Metro Boundary.
3. Development in Fish and Wildlife Habitat Conservation Areas when Metro's Section 3.07.350 analysis and mapping are completed.

B. ~~This Title 3~~ does not apply to work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that after the emergency has passed, adverse impacts are mitigated in accordance with the performance standards in Section 3.07.340.

(Ordinance No. 97-715B, Sec. 1. Replaced by Ordinance No. 98-730C, Sec. 1. Readopted by Ordinance No. 00-839, Sec. 1.)

3.07.330 Implementation Alternatives for Cities and Counties

A. Cities and counties shall comply with this title in one of the following ways:

1. Amend their comprehensive plans and implementing ordinances to adopt all or part of the Title 3 Model Ordinance or code language that substantially complies with the performance standards in Section 3.07.340 and the intent of this title, and adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map. Cities and counties may choose one of the following options for applying this section:
  - a. Adopt code language implementing this title which prevails over the map -and uses the map as reference; or

- b. Adopt a city or county field verified map of Water Quality and Flood Management Areas based on the Metro Water Quality and Flood Management map, updated according to Section 3.07.370, implementing this title which prevails over adopted code language.

Field verification is a process of identifying or delineating Protected Water Features, Water Quality Resource Areas and Flood Management Areas shown on the Metro Water Quality and Flood Management Areas map. This process includes examination of information such as site visit reports, wetlands inventory maps, aerial photographs, and public input and review. The field verification process shall result in a locally adopted Water Quality and Flood Management Areas map which:

- i. Applies the Title 10 definitions of Protected Water Feature, Water Quality Resource Areas and Flood Management Areas to all those protected areas on the Metro Water Quality and Flood Management Areas map to show the specific boundaries of those protected areas on the locally adopted Water Quality and Flood Management Areas map; and
  - ii. Is subject to amendment by applying adopted code language to add Protected Water Features, Water Quality Resource Areas and Flood Management Areas and to correct errors in the local Water Quality and Flood Management Areas map as required by Section 3.07.370 and consistent with Section 3.07.330(D).
- 2. Demonstrate that existing city and county comprehensive plans and implementing ordinances substantially comply with the performance standards in Section 3.07.340 and the intent of this title.
  - 3. Any combination of (1) and (2) above that substantially complies with all performance standards in Section 3.07.340.
- B. Cities and counties shall hold at least one public hearing prior to adopting comprehensive plan amendments, ordinances and maps implementing the performance standards in Section 3.07.340 of this title or demonstrating that existing city or county comprehensive plans and implementing ordinances substantially comply with Section 3.07.340, to add Protected Water Features, and wetlands which meet the criteria in Section 3.07.340(E)(3), to their Water Quality and Flood Management Area map. The proposed comprehensive plan amendments, implementing ordinances and maps shall be available for public review at least 45 days prior to the public hearing.
  - C. Cities and counties shall conduct a review of their Water Quality and Flood Management Areas map concurrent with local periodic review required by ORS 197.633-~~(1997)~~.
  - D. Some areas which would otherwise be mapped as Protected Water Features, Water Quality Resource Areas and Flood Management Areas do not appear on the Metro Water Quality and Flood Management Areas map because streams had been culverted, wetlands had been filled or a fill permit had been approved, or the area was demonstrated to have existing conflicting water

dependent uses, or existing plans or agreements for such uses, or the area was developed or committed to other uses.

Notwithstanding any other provision of this title, cities and counties are not required to establish Protected Water Features, Water Quality Resource Areas and Flood Management Areas through adopted code provisions or mapping for areas which were examined but not included on the Water Quality and Flood Management Areas map adopted by the Metro Council.

(Ordinance No. 97-715B, Sec. 1. Replaced by Ordinance No. 98-730C, Sec. 1. Readopted by Ordinance No. 00-839, Sec. 1.)

### 3.07.340 Performance Standards

#### A. Flood Management Performance Standards.

1. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.
2. All development, excavation and fill in the Flood Management Areas shall conform to the following performance standards:
  - a. Development, excavation and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.
  - b. All fill placed at or below the design flood elevation in Flood Management Areas shall be balanced with at least an equal amount of soil material removal.
  - c. Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.
  - d. Minimum finished floor elevations for new habitable structures in the Flood Management Areas shall be at least one foot above the design flood elevation.
  - e. Temporary fills permitted during construction shall be removed.
  - f. Uncontained areas of hazardous materials as defined by DEQ in the Flood Management Area shall be prohibited.
3. The following uses and activities are not subject to the requirements of subsection 2:
  - a. Excavation and fill necessary to plant new trees or vegetation.

- b. Excavation and fill required for the construction of detention facilities or structures, and other facilities such as levees specifically designed to reduce or mitigate flood impacts. Levees shall not be used to create vacant buildable lands.
- c. New culverts, stream crossings, and transportation projects may be permitted if designed as balanced cut and fill projects or designed to not significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossing shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

**B. Water Quality Performance Standards.**

- 1. The purpose of these standards is to: (1) protect and improve water quality to support the designated beneficial water uses as defined in Title 10, and (2) protect the functions and values of the Water Quality Resource Area which include, but are not limited to:
  - a. Providing a vegetated corridor to separate Protected Water Features from development;
  - b. Maintaining or reducing stream temperatures;
  - c. Maintaining natural stream corridors;
  - d. Minimizing erosion, nutrient and pollutant loading into water;
  - e. Filtering, infiltration and natural water purification; and
  - f. Stabilizing slopes to prevent landslides contributing to sedimentation of water features.
- 2. Local codes shall require all development in Water Quality Resource Areas to conform to the following performance standards:
  - a. The Water Quality Resource Area is the vegetated corridor and the Protected Water Feature. The width of the vegetated corridor is specified in Table 3.07-3. At least three slope measurements along the water feature, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the width of the property, the width of the vegetated corridor will vary.
  - b. Water Quality Resource Areas shall be protected, maintained, enhanced or restored as specified in Section 3.07.340(B)(2).
  - c. Prohibit development that will have a significant negative impact on the functions and values of the Water Quality Resource Area, which cannot be mitigated in accordance with subsection 2(f).

- d. ~~Vegetative cover native to the Portland metropolitan region~~ Metro Area shall be maintained, enhanced or restored, if disturbed, in the Water Quality Resource Area. Invasive non-native vegetation may be removed from the Water Quality Resource Area and replaced with native cover. Only native vegetation shall be used to enhance or restore the Water Quality Resource Area. This shall not preclude construction of energy dissipaters at outfalls consistent with watershed enhancement, and as approved by local surface water management agencies.
  - e. Uncontained areas of hazardous materials as defined by DEQ in the Water Quality Resource Area shall be prohibited.
  - f. Cities and counties may allow development in Water Quality Resource Areas provided that the governing body, or its designate, implement procedures which:
    - i. Demonstrate that no practicable alternatives to the requested development exist which will not disturb the Water Quality Resource Area; and
    - ii. If there is no practicable alternative, limit the development to reduce the impact associated with the proposed use; and
    - iii. Where the development occurs, require mitigation to ensure that the functions and values of the Water Quality Resource Area are restored.
  - g. Cities and counties may allow development for repair, replacement or improvement of utility facilities so long as the Water Quality Resource Area is restored consistent with Section 3.07.340(B)(2)(d).
  - h. The performance standards of Section 3.07.340(B)(2) do not apply to routine repair and maintenance of existing structures, roadways, driveways, utilities, accessory uses and other development.
3. For lots or parcels which are fully or predominantly within the Water Quality Resource Area and are demonstrated to be unbuildable by the vegetative corridor regulations, cities and counties shall reduce or remove vegetative corridor regulations to assure the lot or parcel will be buildable while still providing the maximum vegetated corridor practicable. Cities and counties shall encourage landowners to voluntarily protect these areas through various means, such as conservation easements and incentive programs.

C. Erosion and Sediment Control.

- 1. The purpose of this section is to require erosion prevention measures and sediment control practices during and after construction to prevent the discharge of sediments.
- 2. Erosion prevention techniques shall be designed to prevent visible and measurable erosion as defined in Title 10.



3. To the extent erosion cannot be completely prevented, sediment control measures shall be designed to capture, and retain on-site, soil particles that have become dislodged by erosion.

D. Implementation Tools to Protect Water Quality and Flood Management Areas.

1. Cities and counties shall either adopt land use regulations, which authorize transfer of permitted units and floor area to mitigate the effects of development restrictions in Water Quality and Flood Management Areas, or adopt other measures that mitigate the effects of development restrictions.
2. Metro encourages local governments to require that approvals of applications for partitions, subdivisions and design review actions be conditioned upon one of the following:
  - a. Protection of Water Quality and Flood Management Areas with a conservation easement;
  - b. Platting Water Quality and Flood Management Areas as common open space; or
  - c. Offer of sale or donation of property to public agencies or private non-profits for preservation where feasible.
3. Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development in the Water Quality and Flood Management Area may be allowed provided that:
  - a. The addition, alteration, rehabilitation or replacement is not inconsistent with applicable city and county regulations, and
  - b. The addition, alteration, rehabilitation or replacement does not encroach closer to the Protected Water Feature than the existing structures, roadways, driveways or accessory uses and development, and
  - c. The addition, alteration, rehabilitation or replacement satisfies Section 3.07.340(C) of this title.
  - d. In determining appropriate conditions of approval, the affected city or county shall require the applicant to:
    - i. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
    - ii. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its

disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and

- iii. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.
4. Cities and counties may choose not to apply the Water Quality and Flood Management Area performance standards of Section 3.07.340 to development necessary for the placement of structures when it does not require a grading or building permit.
5. Metro encourages cities and counties to provide for restoration and enhancement of degraded Water Quality Resource Areas through conditions of approval when development is proposed, or through incentives or other means.
6. Cities and counties shall apply the performance standards of this title to Title 3 Wetlands as shown on the Metro Water Quality and Flood Management Areas Map and locally adopted Water Quality and Flood Management Areas maps. Cities and counties may also apply the performance standards of this title to other wetlands.

E. Map Administration.

Cities and counties shall amend their comprehensive plans and implementing ordinances to provide a process for each of the following:

1. Amendments to city and county adopted Water Quality and Flood Management Area maps to correct the location of Protected Water Features, Water Quality Resource Areas and Flood Management Areas. Amendments shall be initiated within 90 days of the date the city or county receives information establishing a possible map error.
2. Modification of the Water Quality Resource Area upon demonstration that the modification will offer the same or better protection of water quality, the Water Quality and Flood Management Area and Protected Water Feature.
3. Amendments to city and county adopted Water Quality and Flood Management Area maps to add Title 3 Wetlands when the city or county receives significant evidence that a wetland meets any one of the following criteria:

- a. The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size;

or the wetland qualifies as having "intact water quality function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

- b. The wetland is in the Flood Management Area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet;

or the wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

- c. The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of "water quality limited water body" in OAR Chapter 340, Division 41 (1996).

Examples of significant evidence that a wetland exists that may meet the criteria above are a wetland assessment conducted using the 1996 Oregon Freshwater Wetland Assessment Methodology, or correspondence from the Division of State Lands that a wetland determination or delineation has been submitted or completed for property in the city or county.

- 4. Cities and counties are not required to apply the criteria in Section 3.07.340(E)(3) to water quality or stormwater detention facilities.

(Ordinance No. 97-715B, Sec. 1. Replaced by Ordinance No. 98-730C, Sec. 1. Readopted by Ordinance No. 00-839, Sec. 1.)

### 3.07.350 Fish and Wildlife Habitat Conservation Area

- A. The purpose of these standards is to conserve, protect, and enhance fish and wildlife habitat within the fish and wildlife habitat conservation areas to be identified on the water quality and flood management area map by establishing performance standards and promoting coordination by Metro of regional urban water sheds.

- B. Fish and Wildlife Habitat Conservation Area Recommendations.

These areas shall be shown on the Water Quality and Flood Management Area Map. Fish and Wildlife Habitat Conservation Areas generally include and/or go beyond the Water Quality and Flood Management Areas. These areas to be shown on the map will be Metro's inventory of significant fish and wildlife habitat conservation areas. Metro hereby recommends that local jurisdictions adopt the following temporary standards:

- 1. Prohibit development in fish and wildlife conservation areas that adversely impacts fish and wildlife habitat.

Exceptions: It is recognized that urban development will, at times, necessitate development activities within or adjacent to Fish and Wildlife Habitat Conservation Areas. The following Fish and Wildlife Habitat Conservation Mitigation Policy, except for emergency situations, applies to all the following exceptions:

A project alternatives analysis, where public need for the project has been established, will be required for any of the exceptions listed below. The alternatives analysis must seek to avoid adverse environmental impacts by demonstrating there are no practicable, less environmentally damaging alternatives available. In those cases where there are no practicable, less environmentally damaging alternatives, the project proponent will seek alternatives which reduce or minimize adverse environmental impacts. Where impacts are unavoidable, compensation, by complete replacement of the impacted site's ecological attributes or, where appropriate, substitute resources of equal or greater value will be provided in accordance with the Metro Water Quality and Flood Management model ordinance.

- a. Utility construction within a maximum construction zone width established by cities and counties.
  - b. Overhead or underground electric power, telecommunications and cable television lines within a sewer or stormwater right-of-way or within a maximum construction zone width established by cities and counties.
  - c. Trails, boardwalks and viewing areas construction.
  - d. Transportation crossings and widenings. Transportation crossings and widenings shall be designed to minimize disturbance, allow for fish and wildlife passage and crossings should be preferably at right angles to the stream channel.
2. Limit the clearing or removal of native vegetation from the Fish and Wildlife Habitat Conservation Area to ensure its long term survival and health. Allow and encourage enhancement and restoration projects for the benefit of fish and wildlife.
  3. Require the revegetation of disturbed areas with native plants to 90 percent cover within three years. Disturbed areas should be replanted with native plants on the Metro Plant List or an approved locally adopted plant list. Planting or propagation of plants listed on the Metro Prohibited Plant List within the Conservation Area shall be prohibited.
  4. Require compliance with Oregon Department of Fish and Wildlife (ODFW) seasonal restrictions for in-stream work. Limit development activities that would impair fish and wildlife during key life-cycle events according to the guidelines contained in ODFW's "Oregon Guidelines for Timing of In-water Work to Protect Fish and Wildlife Resources."

C. Fish and Wildlife Habitat Protection.

Within eighteen (18) months from the effective date of this functional plan, Metro shall complete the following regional coordination program by adoption of functional plan provisions.

1. Metro shall establish criteria to define and identify regionally significant fish and wildlife habitat areas.

2. Metro shall adopt a map of regionally significant fish and wildlife areas after a) examining existing Goal 5 data, reports and regulation from cities and counties, and b) holding public hearings.
3. Metro shall identify inadequate or inconsistent data and protection in existing Goal 5 data, reports and regulations on fish and wildlife habitat. City and county comprehensive plan provisions where inventories of significant resources were completed and accepted by a LCDC Periodic Review Order after January 1, 1993, shall not be required to comply until their next periodic review.
4. Metro shall complete Goal 5 economic, social, environmental and energy (ESEE) analyses for mapped regionally significant fish and wildlife habitat areas only for those areas where inadequate or inconsistent data or protection has been identified.
5. Metro shall establish performance standards for protection of regionally significant fish and wildlife habitat that must be met by the plans implementing ordinances of cities and counties.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sec. 2. Readopted by Ordinance No. 00-839, Sec. 1.)

#### 3.07.360 Metro Model Ordinance Required

Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance and map. The Model Ordinance shall represent one method of complying with this title. The Model Ordinance shall be advisory, and cities and counties are not required to adopt the Model Ordinance, or any part thereof, to substantially comply with this title. However, cities and counties which adopt the Model Ordinance in its entirety and a Water Quality and Flood Management Areas Map shall be deemed to have substantially complied with the requirements of this title.

Section 3.07.350 of this title shall be implemented by adoption of new functional plan provisions. The Metro Council may adopt a Fish and Wildlife Habitat Conservation Areas Model Ordinance and Map for protection of regionally significant fish and wildlife habitat.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sec. 2. Readopted and amended by Ordinance No. 00-839, Sec. 1.)

#### 3.07.370 Variances

City and county comprehensive plans and implementing regulations are hereby required to include procedures to consider claims of map error and hardship variances to reduce or remove Fish and Wildlife Habitat Protection for any property demonstrated to be converted to an unbuildable lot by application of Fish and Wildlife Habitat Protection regulations.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sec. 2. Readopted by Ordinance No. 00-839, Sec. 1.)

**Table 3.07-3 - Protected Water Features**  
(Section 3.07.340(B)(2)(a))

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor
Primary Protected Water Features <sup>1</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
Primary Protected Water Features <sup>1</sup>	≥ 25% for 150 feet or more <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	200 feet
Primary Protected Water Features <sup>1</sup>	≥ 25% for less than 150 feet <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	Distance from starting point of measurement to top of ravine (break in ≥25% slope) <sup>3</sup> , plus 50 feet. <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	15 feet
Secondary Protected Water Features <sup>2</sup>	≥ 25% <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankfull flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet

<sup>1</sup>**Primary Protected Water Features** include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs

<sup>2</sup>**Secondary Protected Water Features** include intermittent streams draining 50-100 acres.

<sup>3</sup>Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the  $\geq 25\%$  slope (see slope measurement in Appendix).

<sup>4</sup>A maximum reduction of 25 feet may be permitted in the width of vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

<sup>5</sup>Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the *uphill* direction from the protected water feature.

(Ordinance No. 98-730C, Sec. 1.)

## **TITLE 4: RETAIL IN EMPLOYMENT AND INDUSTRIAL AREAS**

### **3.07.410 Intent**

It is the intent of the Metro 2040 Growth Concept that Employment and Industrial Areas contain supportive retail development. Employment and Industrial areas would be expected to include some limited retail commercial uses primarily to serve the needs of people working or living in the immediate Employment or Industrial Areas; not larger market areas outside the Employment or Industrial Areas.

(Ordinance No. 97-715B, Sec. 1.)

### **3.07.420 Comprehensive Plan and Implementing Ordinance Changes Required**

- A. Cities and counties are hereby required to amend their comprehensive plans and implementing regulations, if necessary, to prohibit retail uses larger than 60,000 square feet of gross leasable area per building or business in the Industrial Areas designated on the attached Employment and Industrial Areas Map<sup>5</sup>.
- B. This subsection applies to city and county comprehensive plan designations and zoning ordinances acknowledged by the effective date of this functional plan, which allow retail uses larger than 60,000 square feet of gross leasable area per building or business in Employment Areas designated on the attached Employment and Industrial Areas Map. These cities and counties may continue to allow the extent and location of retail uses allowed in Employment Areas on the effective date of this Functional Plan for the specific zones in acknowledged land use regulations listed in Table 3.07-4. For all other zones in Employment Areas, these cities and counties are hereby required to amend their comprehensive plans and implementing regulations, if necessary, to require a process resulting in a land use decision for any retail uses larger than 60,000 square feet of gross leasable area per building or business on those lands where such uses are currently allowed by any process. The standards for the land use decision to allow any such retail uses shall require (1) a demonstration in the record that transportation facilities adequate to serve the retail use, consistent with Metro's functional plans for transportation, will be in place at the time the retail use begins operation; and (2) a demonstration that transportation facilities adequate to meet the transportation need for the other planned uses in the Employment Areas are included in the applicable comprehensive plan provisions. If the city and county comprehensive plan designations and zoning ordinances which allow retail uses larger than 60,000 square feet of gross leasable area per building or business in Employment Areas have not been acknowledged by the effective date of this functional plan, subsection 3.07.420(C) of this title shall apply.
- C. City or county comprehensive plan designations and zoning ordinances acknowledged by the effective date of this functional plan which do not allow retail uses larger than 60,000 square feet of gross leasable area per building or business in Employment Areas designated on the attached Employment and Industrial Areas Map shall continue to prohibit them unless an exception is established under Section 3.07.430 of this title pursuant to the compliance procedures of Title 8.

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<sup>5</sup> On file in the Metro Council office.



(Ordinance No. 97-715B, Sec. 1.)

3.07.430 Exceptions

Exceptions to this standard for Employment Areas may be included in local compliance plans for:

- A. Low traffic generating, land-consumptive commercial uses with low parking demand which have a community or region-wide market; or
- B. Specific Employment Areas which have substantially developed retail areas or which are proposed to be or have been locally designated, but not acknowledged by the effective date of this functional plan, as retail areas, may allow new or redeveloped retail uses where adequate transportation facilities capacity is demonstrated in local compliance plans as provided in Title 8.

(Ordinance No. 97-715B, Sec. 1.)

**Table 3.07-4**  
**(Section 3.07.420(B))**

Clackamas County unincorporated  
Commercial  
Commercial Industrial

Lake Oswego  
General Commercial  
Highway Commercial

Troutdale  
General Commercial

Hillsboro  
General Commercial

Sherwood  
General Commercial

Tigard  
General Commercial  
Commercial Professional

Tualatin  
Commercial General

Wilsonville  
Planned Development Commercial

(Ordinance No. 97-715B, Sec. 1.)

## **TITLE 5: NEIGHBOR CITIES AND RURAL RESERVES**

### 3.07.510 Intent

The intent of this title is to clearly define Metro policy with regard to areas outside the Metro Urban Growth Boundary. **NO PORTION OF THIS TITLE CAN REQUIRE ANY ACTIONS BY NEIGHBORING CITIES.** Metro, if neighboring cities jointly agree, will adopt or sign rural reserve agreements for those areas designated rural reserve in the Metro 2040 Growth Concept with Multnomah, Clackamas, and Washington County, and Neighbor City Agreements with Sandy, Canby, and North Plains. Metro would welcome discussion about agreements with other cities if they request such agreements.

In addition, counties and cities within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances within twenty-four months to reflect the rural reserves and green corridors policies described in the Metro 2040 Growth Concept.

(Ordinance No. 97-715B, Sec. 1.)

### 3.07.520 Rural Reserves and Green Corridors

Metro shall attempt to designate and protect common rural reserves between Metro's Urban Growth Boundary and designated urban reserve areas and each neighbor city's urban growth boundary and designated urban reserves, and designate and protect common locations for green corridors along transportation corridors connecting the Metro region and each neighboring city. For areas within the Metro boundary, counties are hereby required to amend their comprehensive plans and implementing ordinances to identify and protect the rural reserves and green corridors described in the adopted 2040 Growth Concept and shown on the adopted 2040 Growth Concept Map. These rural lands shall maintain the rural character of the landscape and our agricultural economy. New rural commercial or industrial development shall be restricted to the extent allowed by law. Zoning shall be for resource protection on farm and forestry land, and very low-density residential (no greater average density than one unit for five acres) for exception land.

For areas outside the Metro boundary, Metro shall encourage intergovernmental agreements with the cities of Sandy, Canby and North Plains.

(Ordinance No. 97-715B, Sec. 1.)

### 3.07.530 Invitations for Intergovernmental Agreements

Metro shall invite the cities and counties outside the Metro boundary and named in Section 3.07.510 of this title to sign an Intergovernmental Agreement, similar to the draft agreements attached hereto<sup>6</sup>.

(Ordinance No. 97-715B, Sec. 1.)

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<sup>6</sup> On file in the Metro Council office.

3.07.540 Metro Intent with Regard to Green Corridors

Metro shall attempt to negotiate a Green Corridor Intergovernmental Agreement with Oregon Department of Transportation (ODOT) and the three counties (Clackamas, Multnomah and Washington) to designate and protect areas along transportation corridors connecting Metro and neighboring cities.

(Ordinance No. 97-715B, Sec. 1.)

## TITLE 6: REGIONAL ACCESSIBILITY

### 3.07.610 Intent

Implementation of the 2040 Growth Concept requires that the region identify key measures of transportation effectiveness which include all modes of transportation. Developing a full array of these measures will require additional analysis. Focusing development in the concentrated activity centers, including the central city, regional centers, town centers and station communities, requires the use of alternative modes of transportation in order to avoid unacceptable levels of congestion. The continued economic vitality of industrial areas and intermodal facilities is largely dependent on preserving or improving access to these areas and maintaining reasonable levels of freight mobility in the region. Therefore, regional congestion standards and other regional system performance measures shall be tailored to reinforce the specific development needs of the individual 2040 Growth Concept design types.

These regional standards are linked to a series of regional street design concepts that fully integrate transportation and land use needs for each of the 2040 land use design types in the Regional Framework Plan. The designs generally form a continuum; a network of throughways (freeway and highway designs) emphasize auto and freight mobility and connect major activity centers. Slower-speed boulevard designs within concentrated activity centers balance the multi-modal travel demands for each mode of transportation within these areas. Street and road designs complete the continuum, with multi-modal designs that reflect the land uses they serve, but also serving as moderate-speed vehicle connections between activity centers that complement the throughway system. It is intended that the entirety of these Title 6 standards will be supplemented by the 1998 Regional Transportation Plan (RTP).

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1.)

### 3.07.620 Regional Street Design Guidelines

Regional routes in each of the 2040 Design Types are designated as one of four major classifications on the Regional Street Design Map, attached<sup>7</sup>. The four classifications are: Throughways, Boulevards, Streets and Roads. All cities and counties within the Metro region shall consider the following regional street design elements when planning for improvements to these facilities, including those facilities built by ODOT, Tri-Met or the Port of Portland. "Creating Livable Streets: Street Design for 2040" (1997) is a resource for cities, counties, ODOT, Tri-Met and the Port of Portland to use when prioritizing street design elements within a constrained right-of-way.

- A. Throughways. Throughways connect the region's major activity centers within the region, including the central city, regional centers, industrial areas and intermodal facilities to one another and to points outside the region. Throughways are traffic oriented with designs that emphasize motor vehicle mobility. Throughways are divided into Freeway and Highways designs.
  - 1. Freeway Design. Freeways are designed to provide high speed travel for longer motor vehicle trips throughout the region. These designs usually include four to six vehicle lanes, with additional lanes in some situations. They are completely

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<sup>7</sup> On file in the Metro Council office.

divided, with no left turn lanes. Street connections always occur at separated grades with access controlled by ramps. Cities and counties shall amend their comprehensive plan and implementing ordinances, if necessary, to require consideration of the following Freeway design elements when proceeding with improvements to the right-of-way on regional routes designated on the regional street design map:

- a. High vehicle speeds;
- b. Improved pedestrian crossings on overpasses;
- c. Parallel facilities for bicycles;
- d. Motor vehicle lane widths that accommodate freight movement and high-speed travel.

2. Highway Design. Highways are designed to provide high speed travel for longer motor vehicle trips throughout the region while accommodating limited public transportation, bicycle and pedestrian travel. Highways are usually divided with a median, but also have left turn lanes where at grade intersections exist. These designs usually include four to six vehicle lanes, with additional lanes in some situations. Cities and counties shall amend their comprehensive plan and implementing ordinances, if necessary, to require consideration of the following Highway design elements when proceeding with improvements to the right-of-way on regional routes designated on the regional street design map:

- a. High vehicle speeds;
- b. Few or no driveways;
- c. Improved pedestrian crossings at overpasses and all intersections;
- d. Accommodation of bicycle travel through the use of a striped bikeway;
- e. Sidewalks where appropriate;
- f. Motor vehicle lane widths that accommodate freight movement and high-speed travel.

B. Boulevard Designs. Boulevards serve major centers of urban activity, including the Central City, Regional Centers, Station Communities, Town Centers and some Main Streets. Boulevards are designed with special amenities to favor public transportation, bicycle and pedestrian travel and balance the many travel demands of these areas. Boulevards are divided into regional and community scale designs on the Regional Street Design Map. Regional and Community Boulevards combine motor vehicle traffic with public transportation, bicycle and pedestrian travel where dense development is oriented to the street. Regional Boulevard designs usually include four vehicle lanes, with additional lanes or one-way couplets in some situations. Community

Boulevard designs may include up to four vehicle lanes and on-street parking. Fewer vehicle lanes may be appropriate in Community Boulevard designs in some situations, particularly when necessary to provide on-street parking. Cities and counties shall amend their comprehensive plan and implementing ordinances, if necessary, to require consideration of the following Regional and Community Boulevard design elements when proceeding with improvements to the right-of-way on regional routes designated on the regional street design map:

1. Low to moderate vehicle speeds on Regional Boulevard and low vehicle speeds on Community Boulevards;
2. The use of medians and curb extensions to enhance pedestrian crossings where wide streets make crossing difficult;
3. Combined driveways;
4. On-street parking where possible;
5. Wide sidewalks with pedestrian amenities such as benches, awnings and special lighting;
6. Landscape strips, street trees or other design features that create a pedestrian buffer between curb and sidewalk;
7. Improved pedestrian crossings at all intersections, and mid-block crossings where intersection spacing exceeds 530 feet;
8. Striped bikeways or shared outside lane;
9. Motor vehicle lane widths that consider the above improvements.

C. Street Designs. Streets serve the region's transit corridors, neighborhoods and some main streets. Streets are designed with special amenities to balance motor vehicle traffic with public transportation, bicycle and pedestrian travel in the 2040 Design Types they serve. Streets are divided into regional and community scale designs on the Regional Street Design Map. Regional Streets are designed to carry motor vehicle traffic while also providing for public transportation, bicycle and pedestrian travel. Regional street designs usually include four vehicle lanes, with additional lanes in some situations. Community Street designs may include up to four vehicle lanes. Fewer vehicle lanes may be appropriate in Community Street designs in some situations, particularly when necessary to provide on-street parking. Cities and counties shall amend their comprehensive plan and implementing ordinances, if necessary, to require consideration of the following Regional Street design elements when proceeding with improvements to the right-of-way on regional routes designated on the Regional Street Design Map:

1. Moderate vehicle speeds;
2. The use of medians and curb extensions to enhance pedestrian crossings where wide streets make crossing difficult or to manage motor vehicle access;

3. Combined driveways;
4. On-street parking when appropriate;
5. Buffered sidewalks with pedestrian amenities such as special lighting and special crossing amenities tied to major transit stops;
6. Landscape strips, street trees or other design features that create a pedestrian buffer between curb and sidewalk;
7. Improved pedestrian crossings at signaled intersections on Regional Streets and improved pedestrian crossings at all intersections on Community Streets;
8. Striped bikeways or shared outside lane;
9. Motor vehicle lane widths that consider the above improvements.

D. Urban Roads. Urban Roads serve the region’s industrial areas, intermodal facilities and employment centers where buildings are less oriented to the street, and primarily emphasize motor vehicle mobility. Urban Roads are designed to carry significant motor vehicle traffic while providing for some public transportation, bicycle and pedestrian travel. These designs usually include four vehicle lanes, with additional lanes in some situations. Cities and counties shall amend their comprehensive plan and implementing ordinances, if necessary, to require consideration of the following Urban Road design elements when proceeding with improvements to the right-of-way on regional routes designated on the regional street design map:

1. Moderate vehicle speeds;
2. Few driveways;
3. Sidewalks;
4. Improved pedestrian crossings at major intersections;
5. Striped bikeways;
6. Center medians that manage access and control left turn movements;
7. Motor vehicle lane widths that consider the above improvements.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1.)

3.07.630 Design Standards for Street Connectivity

The design of local street systems, including “local” and “collector” functional classifications, is generally beyond the scope of the Regional Transportation Plan (RTP). However, the aggregate effect of



local street design impacts the effectiveness of the regional system when local travel is restricted by a lack of connecting routes, and local trips are forced onto the regional network. Therefore, streets should be designed to keep through trips on arterial streets and provide local trips with alternative routes. The following design and performance options are intended to improve local circulation in a manner that protects the integrity of the regional system.

Cities and counties within the Metro region are hereby required to amend their comprehensive plans and implementing ordinances, if necessary, to comply with or exceed one of the following options in the development review process:

- A. Design Option. Cities and counties shall ensure that their comprehensive plans, implementing ordinances and administrative codes require demonstration of compliance with the following, consistent with regional street design policies:
1. For new residential and mixed-use development, all contiguous areas of vacant and primarily undeveloped land of five acres or more shall be identified by cities and counties and the following will be prepared, consistent with regional street design policies:

A map that identifies possible local street connections to adjacent developing areas. The map shall include:

    - a. Full street connections at intervals of no more than 530 feet, except where prevented by topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers. Street connections at intervals of no more than 330 feet are recommended in areas planned for the highest density mixed-use development.
    - b. Accessways for pedestrians, bicycles or emergency vehicles on public easements or right-of-way where full street connections are not possible, with spacing between full street or accessway connections of no more than 330 feet, except where prevented by topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers.
  2. New residential and mixed-use developments shall include local street plans that:
    - a. Encourage pedestrian and bicycle travel by providing short, direct public right-of-way routes to connect residential uses with nearby existing and planned commercial services, schools, parks and other neighborhood facilities; and
    - b. Include no cul-de-sac streets longer than 200 feet, and no more than 25 dwelling units on a closed-end street system except where topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers, prevent street extension; and
    - c. Provide bike and pedestrian connections on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 330 feet except where prevented by topography, barriers such as

railroads or freeways, or environmental constraints such as major streams and rivers; and

- d. Consider opportunities to incrementally extend and connect local streets in primarily developed areas; and
  - e. Serve a mix of land uses on contiguous local streets; and
  - f. Support posted speed limits; and
  - g. Consider narrow street design alternatives that feature total right-of-way of no more than 46 feet, including pavement widths of no more than 28 feet, curb-face to curb-face, sidewalk widths of at least 5 feet and landscaped pedestrian buffer strips that include street trees; and
  - h. Limit the use of cul-de-sac designs and closed street systems to situations where topography, pre-existing development or environmental constraints prevent full street extensions.
3. For redevelopment of existing land uses, cities and counties shall develop local approaches for dealing with connectivity.

B. **Performance Option.** For residential and mixed use areas, cities and counties shall amend their comprehensive plans, implementing ordinances and administrative codes, if necessary, to require demonstration of compliance with performance criteria in the following manner. Cities and counties shall develop local street design standards in text or maps or both with street intersection spacing to occur at intervals of no more than 530 feet except where prevented by topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers. Street connections at intervals of no more than 330 feet are recommended in areas planned for the highest density mixed-use development. Local street designs for new developments shall satisfy the following additional criteria:

1. **Performance Criterion:** minimize local traffic on the regional motor vehicle system, by demonstrating that local vehicle trips on a given regional facility do not exceed the 1995 arithmetic median of regional trips for facilities of the same motor vehicle system classification by more than 25 percent.
2. **Performance Criterion:** everyday local travel needs are served by direct, connected local street systems where: (1) the shortest motor vehicle trip over public streets from a local origin to a collector or greater facility is no more than twice the straight-line distance; and (2) the shortest pedestrian trip on public right-of-way is no more than one and one-half the straight-line distance.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1.)

### 3.07.640 Transportation Performance Standards

A process to identify transportation mode split targets, transportation needs and appropriate actions to address those targets and needs is included in this section. The intent is to provide guidance to cities, counties, ODOT, Tri-Met and the Port of Portland when developing a transportation system plan, defining a project, or evaluating the potential transportation impacts of a land use action.

A transportation need is identified when a particular transportation standard or threshold has been exceeded. Standards which may be used in identifying transportation needs include: safety, statewide mobility as identified in the Oregon Transportation Plan, mode splits, motor vehicle congestion analysis, freight mobility or demonstration that lack of access is limiting development of a priority regional land use. Needs are generally identified either through a comprehensive plan amendment review or as result of a system-planning analysis which evaluates forecast travel demand.

Subsequent to the identification of a need, an appropriate transportation strategy or solution is identified through a two-phased multi-modal planning and project development process. The first phase is multi-modal system-level planning. The purpose of system-level planning is to examine a number of transportation alternatives over a large geographic area such as a corridor or sub-area, or through a local or regional Transportation System Plan (TSP). The purpose of the multi-modal system-level planning step is to (1) consider alternative modes, corridors, and strategies to address identified needs; and (2) determine a recommended set of transportation projects, actions, or strategies and the appropriate modes and corridors to address identified needs in the system-level study area.

The second phase is project-level planning (also referred to as project development). The purpose of project-level planning is to develop project design details and select a project alignment, as necessary, after evaluating engineering and design details and environmental impacts.

The following sub-sections (A-D): (1) require that cities and counties establish regional mode split targets for all 2040 design types that will be used to guide transportation system improvements; (2) establish optional performance standards and deficiency thresholds intended to identify transportation needs through multi-modal system-level planning and (3) establish the process to identify appropriate recommended solutions to address those needs identified through multi-modal system-level planning and project-level planning.

#### A. Alternative Mode Analysis.

1. Person travel represents the largest share of trips for all modes of travel. Improvement in mode split will be used as the key regional measure for assessing transportation system improvements in the Central City, Regional Centers, Town Centers and Station Communities. For other 2040 Growth Concept design types, mode split will be used as an important factor in assessing transportation system improvements. Each jurisdiction shall establish an alternative mode split target (defined as non-Single Occupancy Vehicle person-trips as a percentage of all person-trips for all modes of transportation) for trips into, out of and within all 2040 Growth Concept land use design types within its boundaries one year after adoption of the 1998 Regional Transportation Plan. The alternative mode split target shall be no less than the regional targets for these 2040

Growth Concept land use design types to be established in the 1998 Regional Transportation Plan.

2. Cities and counties shall identify actions which will implement the mode split targets one year after adoption of the 1998 Regional Transportation Plan. These actions should include consideration of the maximum parking ratios adopted as part of Title 2, Section 3.07.220; Regional Street Design considerations in this title; and transit's role in serving the area.

B. Motor Vehicle Congestion Analysis.

1. Motor Vehicle Level-Of-Service (LOS) is a measurement of congestion as a share of designed motor vehicle capacity of a road. Table 3.07-5, Motor Vehicle Level Of Service Deficiency Thresholds and Operating Standards, may be incorporated into local comprehensive plans and implementing ordinances to replace current methods of determining motor vehicle congestion on regional facilities, if a city or county determines that this change is needed to permit Title 1, Table 3.07-1 capacities for the 2040 design types and facilities.
2. Analysis. A transportation need is identified in a given location when analysis indicates that congestion has reached the level indicated in the "exceeds deficiency threshold" column of Table 3.07-5 and that this level of congestion will negatively impact accessibility, as determined through Section 3.07.640(B)(4), below. The analysis should consider a mid-day hour appropriate for the study area and the appropriate two-hour peak-hour condition, either A.M. or P.M. or both to address the problem. Other non-peak hours of the day, such as mid-day on Saturday, should also be considered to determine whether congestion is consistent with the acceptable or preferred operating standards identified in Table 3.07-5. The lead agency or jurisdictions will be responsible for determining the appropriate peak and non-peak analysis periods. The lead agency or jurisdictions will be responsible for determining the appropriate peak analysis period.

An appropriate solution to the need is determined through multi-modal system-level planning considerations listed in Section 3.07.640(C), below. For regional transportation planning purposes, the recommended solution should be consistent with the acceptable or preferred operating standards identified in Table 3.07-5. A city or county may choose a higher level-of-service operating standard where findings of consistency with Section 3.07.640(C) have been developed.

3. Regional Highways. Figure 3.07-1 identifies the Regional Highways specified in Table 3.07-5. Each corridor will be evaluated on a case-by-case basis through system-level refinement studies. The studies will identify the performance and operating expectations for each corridor based on their unique operating and geographic characteristics. Appropriate multi-modal solutions to needs identified through these studies will be forwarded for inclusion in the Regional Transportation Plan.
4. Accessibility. If a deficiency threshold is exceeded on the regional transportation system as identified in Table 3.07-5, cities and counties shall evaluate the impact of the

congestion on regional accessibility using the best available quantitative or qualitative methods. If a determination is made by Metro that exceeding the deficiency threshold negatively impacts regional accessibility, cities and counties shall follow the transportation systems analysis and transportation project analysis procedures identified in 3.07.640(C) and (D) below.

5. Consistency. The identified function or the identified capacity of a road may be significantly affected by planning for 2040 Growth Concept design types. Cities and counties shall take actions described in Section 3.07.640(C) and (D) below, including amendment of their transportation plans and implementing ordinances, if necessary, to preserve the identified function and identified capacity of the road, and to retain consistency between allowed land uses and planning for transportation facilities.

- C. Transportation Systems Analysis. This section applies to city and county comprehensive plan amendments or to any studies that would recommend or require an amendment to the Regional Transportation Plan to add significant single occupancy vehicle (SOV) capacity to multi-modal arterials and/or highways.

Consistent with Federal Congestion Management System requirements (23 CFR Part 500) and TPR system planning requirements (~~660-12~~) OAR 660 Division 12, the following actions shall be considered through the Regional Transportation Plan when recommendations are made to revise the Regional Transportation Plan and/or local transportation system plans to define the need, mode, corridor and function to address an identified transportation need consistent with Table 3.07-5, and recommendations are made to add significant SOV capacity:

1. Regional transportation demand strategies;
2. Regional transportation system management strategies, including intelligent transportation systems (ITS);
3. High occupancy vehicle (HOV) strategies;
4. Regional transit, bicycle and pedestrian system improvements to improve mode split;
5. Unintended land use and transportation effects resulting from a proposed SOV project or projects;
6. Effects of latent demand from other modes, routes or time of day from a proposed SOV project or projects;
7. If upon a demonstration that the above considerations do not adequately and cost-effectively address the problem, a significant capacity improvement may be included in the regional transportation plan.

Consistent with Federal Congestion Management System requirements (23 CFR Part 500) and TPR system planning requirements (660-12), the following actions shall be considered when

local transportation system plans (TSPs), multi-modal corridor and sub-area studies, mode specific plans or special studies (including land use actions) are developed:

1. Transportation demand strategies that further refine or implement a regional strategy identified in the RTP;
2. Transportation system management strategies, including intelligent Transportation Systems (ITS), that refine or implement a regional strategy identified in the RTP;
3. Sub-area or local transit, bicycle and pedestrian system improvements to improve mode split;
4. The effect of a comprehensive plan change on mode split targets and actions to ensure the overall mode split target for the local TSP is being achieved;
5. Improvements to parallel arterials, collectors, or local streets, consistent with connectivity standards contained in Section 3.07.620 of this title, as appropriate, to address the transportation need and to keep through trips on arterial streets and provide local trips with alternative routes;
6. Traffic calming techniques or changes to the motor vehicle functional classification, to maintain appropriate motor vehicle functional classification;
7. If upon a demonstration that the above considerations do not adequately and cost-effectively address the problem, a significant capacity improvement may be included in the comprehensive plan.

Upon a demonstration that the above considerations do not adequately and cost-effectively address the problem and where accessibility is significantly hindered, Metro and the affected city or county shall consider:

1. Amendments to the boundaries of a 2040 Growth Concept design type;
2. Amendments or exceptions to land use functional plan requirements; and/or
3. Amendments to the 2040 Growth Concept.

Demonstration of compliance will be included in the required congestion management system compliance report submitted to Metro by cities and counties as part of system-level planning and through findings consistent with the TPR in the case of amendments to applicable plans.

- D. Transportation Project Analysis. The TPR and Metro's Interim Congestion Management System (CMS) document require that measures to improve operational efficiency be addressed at the project level. Section 3.07.620 of this title requires that street design guidelines be considered as part of the project-level planning process. Therefore, cities, counties, Tri-Met, ODOT, and the Port of Portland shall address the following operational and design considerations during transportation project analysis:

1. Transportation system management (e.g., access management, signal inter-ties, lane channelization, etc.) to address or preserve existing street capacity.
2. Guidelines contained in "Creating Livable Streets: Street Design Guidelines for 2040" (1997) and other similar resources to address regional street design policies.

The project need, mode, corridor, and function do not need to be addressed at the project level. This section 3.07.640(D) does not apply to locally funded projects on facilities not designated on the Regional Motor Vehicle System Map or the Regional Street Design Map. Demonstration of compliance will be included in the required Congestion Management System project-level compliance report submitted to Metro as part of project-level planning and development.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1.)

**Table 3.07-5  
Motor Vehicle Level of Service Deficiency Thresholds and Operating Standards\*  
(Section 3.07.640(B)(1))**

Location	Mid-Day On-Hour Peak			A.M./P.M. On-Hour Peak		
	Preferred Operating Standard	Acceptable Operating Standard	Exceeds Deficiency Threshold	Preferred Operating Standard	Acceptable Operating Standard	Exceeds Deficiency Threshold
Central City, Regional Centers, Town Centers, Main Streets and Station Communities	C	E		1 <sup>st</sup> hour E 2 <sup>nd</sup> hour E	1 <sup>st</sup> hour F 2 <sup>nd</sup> hour E	
Corridors, Industrial Areas and Intermodal Facilities, Employment Areas and Inner and Outer Neighborhoods	C	D		1 <sup>st</sup> hour E 2 <sup>nd</sup> hour D	1 <sup>st</sup> hour E 2 <sup>nd</sup> hour E	
Regional Highway Corridors	identify and evaluate on a case-by-case basis** to balance regional and local mobility and accessibility objectives			identify and evaluate on a case-by-case basis** to balance regional and local mobility and accessibility objectives		

\*Level-of-Service is determined by using either the latest edition of the Highway Capacity Manual (Transportation Research Board) or through volume to capacity ratio equivalencies as follows: LOS C = .8 or better; LOS D = .8 to .9; LOS E = .9 to 1.0; and LOS F = 1.0 to 1.1. A copy of the Level of Service Tables from the Highway Capacity Manual is attached as Table 3.07-6. Regional Highway Corridors are identified in the map attached as Figure 3.07-1.

\*\* See Section 3.07.640(B)(3).

(Ordinance No. 98-721A, Sec. 1.)



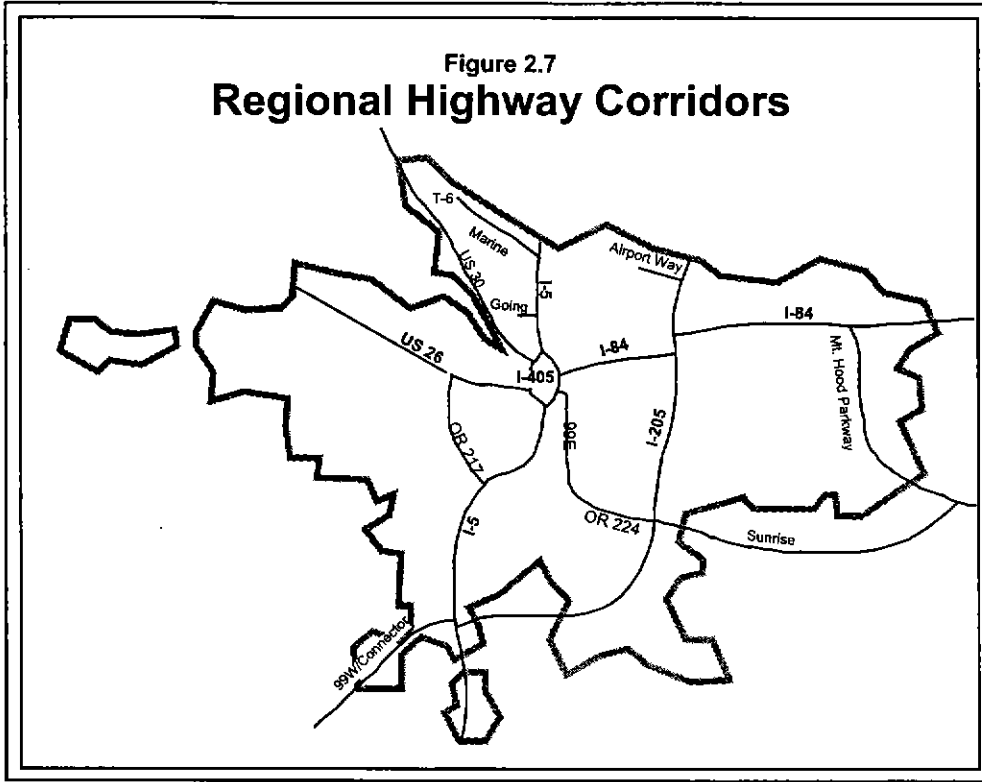
**Table 3.07-6  
Level-of-Service (LOS) Definitions for Freeways, Arterials and Signalized Intersections  
(Section 3.07.640(B)(1))**

<b>LOS</b>	<b>Freeways (average travel speed assuming 70 mph design speed)</b>	<b>Arterials (average travel speed assuming a typical free flow speed of 40 mph)</b>	<b>Signalized Intersections (stopped delay per vehicle)</b>	<b>Traffic Flow Characteristics</b>
<b>A</b>	Greater than 60 mph  Average spacing: 22 car-lengths	Greater than 35 mph	Less than 5 seconds; most vehicles do not stop at all	Virtually free flow; completely unimpeded  Volume/capacity ratio less than or equal to .60
<b>B</b>	57 to 60 mph  Average spacing: 13 car-lengths	28 to 35 mph	5.1 to 15 seconds; more vehicles stop than for LOS A	Stable flow with slight delays; reasonably unimpeded  Volume/capacity ratio .61 to .70
<b>C</b>	54 to 57 mph  Average spacing: 9 car-lengths	22 to 28 mph	15.1 to 25 seconds; individual cycle failures may begin to appear	Stable flow with delays; less freedom to maneuver  Volume/capacity ratio of .71 to .80
<b>D</b>	46 to 54 mph  Average spacing: 6 car-lengths	17 to 22 mph	25.1 to 40 seconds; individual cycle failures are noticeable	High density, but stable flow  Volume/capacity ratio of .81 to .90
<b>E</b>	30 to 46 mph  Average spacing: 4 car-lengths	13 to 17 mph	40.1 to 60 seconds; individual cycle failures are frequent; poor progression	Operating conditions at or near capacity; unstable flow  Volume/capacity ratio of .91 to 1.00
<b>F</b>	Less than 30 mph  Average spacing: bumper-to-bumper	Less than 13 mph	Greater than 60 seconds; not acceptable for most drivers	Forced flow, breakdown conditions  Volume/capacity ratio of greater than 1.00
<b>F</b>	Demand exceeds roadway capacity, limiting volume that can be carried and forcing excess demand onto parallel routes and extending the peak period			Demand/capacity ratios of greater than 1.10

Source: 1985 Highway Capacity Manual (A through F descriptions); Metro (>F description)

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1.)

**Figure 3.07-1**  
(Section 3.07.640(B)(3))



9-12-97

(Ordinance No. 98-721A, Sec. 1.)

## TITLE 7: AFFORDABLE HOUSING

### 3.07.710 Intent

The Regional Framework Plan stated the need to provide affordable housing opportunities through: a) a diverse range of housing types, available within the region, and within cities and counties inside Metro's Urban Growth Boundary; b) sufficient and affordable housing opportunities available to households of all income levels that live or have a member working in each jurisdiction and subregion; c) an appropriate balance of jobs and housing of all types within subregions; d) addressing current and future need for and supply of affordable housing in the process used to determine affordable housing production goals; and e) minimizing any concentration of poverty. The Regional Framework Plan directs that Metro's Urban Growth Management Functional Plan include voluntary affordable housing production goals to be adopted by local jurisdictions in the region as well as land use and non-land use affordable housing tools and strategies. The Regional Framework Plan also directs that Metro's Urban Growth Management Functional Plan include local governments' reporting progress towards increasing the supply of affordable housing.

Title 1 of this functional plan requires cities and counties to change their zoning to accommodate development at higher densities in locations supportive of the transportation system. Increasing allowable densities and requiring minimum densities encourage compact communities, more efficient use of land and should result in additional affordable housing opportunities. These Title 1 requirements are parts of the regional affordable housing strategy.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 00-882C, Sec. 2.)

### 3.07.720 Voluntary Affordable Housing Production Goals

Each city and county within the Metro region should adopt the Affordable Housing Production Goal indicated in Table 3.07-7 for their city or county as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% median household income in their jurisdiction.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 00-882C, Sec. 2.)

### 3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance Changes

- A. Cities and counties within the Metro region shall ensure that their comprehensive plans and implementing ordinances:
1. Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
  2. Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.

3. Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.
- B. Cities and counties within the Metro region shall consider amendment of their comprehensive plans and implementing ordinances with the following affordable housing land use tools and strategies identified below. Compliance with this subsection is achieved when a city or county undertakes and completes its consideration of the plan or ordinance amendment.
1. Density Bonus. A density bonus is an incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.
  2. Replacement Housing. No-Net-Loss housing policies for local jurisdictional review of requested quasi-judicial Comprehensive Plan Map amendments with approval criteria that would require the replacement of existing housing that would be lost through the Plan Map amendment.
  3. Inclusionary Housing.
    - a. Implement voluntary inclusionary housing programs tied to the provision of incentives such as Density Bonus incentives to facilitate the development of affordable housing.
    - b. Develop housing design requirements for housing components such as single-car garages and maximum square footage that tend to result in affordable housing.
    - c. Consider impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change.
  4. Transfer of Development Rights.
    - a. Implement TDR programs tailored to the specific conditions of a local jurisdiction.
    - b. Implement TDR programs in Main Street or Town Center areas that involve upzoning.
  5. Elderly and People with Disabilities. Examine zoning codes for conflicts in meeting locational needs of these populations.
  6. Local Regulatory Constraints; Discrepancies in Planning and Zoning Codes; Local Permitting or Approval Process.
    - a. Revise the permitting process (conditional use permits, etc.).

- b. Review development and design standards for impact on affordable housing.
  - c. Consider using a cost/benefit analysis to determine impact of new regulations on housing production.
  - d. Regularly review existing codes for usefulness and conflicts.
  - e. Reduce number of land use appeal opportunities.
  - f. Allow fast tracking of affordable housing.
7. Parking.
- a. Review parking requirements to ensure they meet the needs of residents of all types of housing.
  - b. Coordinate strategies with developers, transportation planners and other regional efforts so as to reduce the cost of providing parking in affordable housing developments.
- C. The “requirement to consider” means local governments shall report what actions were taken or not taken, including but not limited to the seven land use tools listed above in order to carry out Comprehensive Plan affordable housing policies, and also report on tools considered but not adopted, and why these tools were not adopted.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 00-882C, Sec. 2.)

3.07.740 Requirements for Progress Report

Progress made by local jurisdictions in amending comprehensive plans and consideration of land use related affordable housing tools and strategies to meet the voluntary affordable housing production goals shall be reported according to the following schedule:

- A. Within 12 months from the adoption of this requirement, cities and counties within the Metro region shall submit a brief status report to Metro as to what items they have considered and which items remain to be considered. This analysis could include identification of affordable housing land use tools currently in use as well as consideration of the land use tools in Section 3.07.730(B).
- B. Within 24 months from the adoption of this requirement, cities and counties within the Metro region shall provide a report to Metro on the status of their comprehensive plans amendments and adoption of land use-related affordable housing tools.
- C. Within 36 months from the adoption of this requirement, cities and counties within the Metro region shall report to Metro on the amendments to their comprehensive plans, the outcomes of affordable housing tools and implemented, and any other affordable housing developed and expected.

(Ordinance No. 00-882C, Sec. 2.)

3.07.750 Metro Assessment of Progress

- A. Metro Council and MPAC shall review progress reports submitted by cities and counties and may provide comments to the jurisdictions.
- B. Metro Council shall, in 2003:
  - 1. Formally assess the region's progress toward achieving the affordable housing production goals in Table 3.07-7 using 2000 U.S. Census data and local data;
  - 2. Review and assess affordable housing tools and strategies implemented by local jurisdictions;
  - 3. Examine federal and state legislative changes;
  - 4. Review the availability of a regional funding source; and
  - 5. Re-analyze affordable housing need and decide whether any changes are warranted to the process, tools and strategies, funding plans or goals to ensure that significant progress is made toward providing affordable housing for those most in need.

(Ordinance No. 00-882C, Sec. 2.)

3.07.760 Recommendations to Implement Other Affordable Housing Strategies

- A. Local jurisdictions are encouraged to consider implementation of the following affordable housing land use tools to increase the inventory of affordable housing throughout the region. Additional information on these strategies and other land use strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes.
  - 1. Replacement Housing. Consider policies to prevent the loss of affordable housing through demolition in urban renewal areas by implementing a replacement housing ordinance specific to urban renewal zones
  - 2. Inclusionary Housing. When creating urban renewal districts that include housing, include voluntary inclusionary housing requirements where appropriate
- B. Local jurisdictions are encouraged to analyze, adopt and apply locally-appropriate non-land use tools, including fee waivers or funding incentives as a means to make progress toward the Affordable Housing Production Goal. Non-land use tools and strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes. Cities and Counties are also encouraged to report on the analysis, adoption

and application of non-land use tools at the same intervals that they are reporting on land-use tools (in Section 3.07.740)

- C. Local jurisdictions are also encouraged to continue their efforts to promote housing affordable to other households with incomes 50% to 80% and 80% to 120% of the regional median household income.
- D. Local jurisdictions are encouraged to consider joint coordination or action to meet their combined affordable housing production goals.

(Ordinance No. 00-882C, Sec. 2.)

**Table 3.07-7  
Five-Year Voluntary Affordable Housing Production Goals  
(Section 3.07.720)**

<b>Jurisdiction</b>	<b>2001-2006 Affordable Housing Production Goals</b>		
	<i>Needed new housing units for households earning less than 30% of median household income</i>	<i>Needed new housing units for households earning 30-50% of median household income</i>	<i>Total</i>
Beaverton	427	229	656
Cornelius	40	10	50
Durham	6	4	10
Fairview	42	31	73
Forest Grove	55	10	65
Gladstone	43	10	53
Gresham	454	102	556
Happy Valley	29	28	57
Hillsboro	302	211	513
Johnson City	0	0	0
King City	5	0	5
Lake Oswego	185	154	339
Maywood Park	0	0	0
Milwaukie	102	0	102
Oregon City	123	35	158
Portland	1,791	0	1,791
Rivergrove	1	1	2
Sherwood	67	56	123
Tigard	216	103	319
Troutdale	75	56	131
Tualatin	120	69	189
West Linn	98	71	169
Wilsonville	100	80	180
Wood Village	16	1	17
Clackamas County, Urban, Unincorporated	729	374	1,103
Multnomah County, Urban, Unincorporated	81	53	134
Washington County, Urban Unincorporated	1,312	940	2,252
<b>Total</b>	<b>6,419</b>	<b>2,628</b>	<b>9,047</b>

(Ordinance No. 00-882C, Sec. 2.)



## TITLE 8: COMPLIANCE PROCEDURES

### 3.07.810 Compliance With the Functional Plan

- A. The purpose of this section is to establish a process for determining whether city or county comprehensive plans and land use regulations comply with requirements of the Urban Growth Management Functional Plan. The Council intends the process to be efficient and cost-effective and to provide an opportunity for the Metro Council to interpret the requirements of its functional plan. Where the terms “compliance” and “comply” appear in this title, the terms shall have the meaning given to “substantial compliance” in 3.07.1010(rrr).
- B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan within two years after its acknowledgement by the Land Conservation and Development Commission, or after such other date specified in the functional plan. The ~~Executive Officer~~ Chief Operating Officer shall notify cities and counties of the compliance date.
- C. Notwithstanding subsection A of this section, cities and counties shall amend their comprehensive plans and land use regulations to comply with Sections 3.07.310 to 3.07.340 of Title 3 of the Urban Growth Management Functional Plan by January 31, 2000, and with the requirements in Sections 3.07.710 to 3.07.760 of Title 7 of the Urban Growth Management Functional Plan by January 18, 2003.
- D. Cities and counties that amend their comprehensive plans or land use regulations after the effective date of the functional plan shall make the amendments in compliance with the functional plan. The ~~Executive Officer~~ Chief Operating Officer shall notify cities and counties of the effective date.
- E. Cities and counties whose comprehensive plans and land use regulations do not yet comply with a functional plan requirement adopted or amended prior to December 12, 1997, shall make land use decisions consistent with that requirement. If the functional plan requirement was adopted or amended by the Metro Council after December 12, 1997, cities and counties whose comprehensive plans and land use regulations do not yet comply with the requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with that requirement. The ~~Executive Officer~~ Chief Operating Officer shall notify cities and counties of the date upon which functional plan requirements become applicable to land use decisions at least 120 days before that date. The notice shall specify which functional plan requirements become applicable to land use decisions in each city and county. For the purposes of this subsection, “land use decision” shall have the meaning of that term as defined in ORS 197.015(10).
- F. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9), or if the amendment is acknowledged in periodic review pursuant to ORS 197.633 or 197.644. If an appeal is made and the amendment is affirmed, the amendment shall be deemed to comply with the functional plan upon the final

decision on appeal. Once the amendment is deemed to comply with the functional plan, the functional plan shall no longer apply to land use decisions made in conformance with the amendment.

- G. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan as provided in subsection F only if the city or county provided notice to the ~~Executive Officer~~ Chief Operating Officer as required by Section 3.07.820(A).

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sec. 4. Readopted and amended by Ordinance No. 00-839, Sec. 1. Amended by Ordinance No. 00-882C, Sec. 2; Ordinance No. 01-925E, Sec. 1.)

3.07.820 Compliance Review by the ~~Executive Officer~~ Chief Operating Officer

- A. At least 45 days prior to the first evidentiary hearing on an amendment to a comprehensive plan or land use regulation which a city or county must submit to the Department of Land Conservation and Development pursuant to ORS 197.610(1) or OAR 660-025-0130(1), the city or county shall submit the proposed amendment to the ~~Executive Officer~~ Chief Operating Officer. The ~~Executive Officer~~ Chief Operating Officer shall review the proposed amendment for compliance with the functional plan. The ~~Executive Officer~~ Chief Operating Officer may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the ~~Executive Officer~~ Chief Operating Officer submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with functional plan requirements. The ~~Executive Officer~~ Chief Operating Officer shall send a copy of its analysis and recommendation to those persons who have requested a copy.
- B. If the ~~Executive Officer~~ Chief Operating Officer concludes that the proposed amendment does not comply with the functional plan, the ~~Executive Officer~~ Chief Operating Officer shall advise the city or county that it may (1) revise the proposed amendment as recommended in the ~~Executive Officer~~ Chief Operating Officer's analysis; (2) seek an extension of time, pursuant to Section 3.07.850, to bring the proposed amendment into compliance with the functional plan; or (3) seek review of the noncompliance by MPAC and the Metro Council, pursuant to Sections 3.07.830 and 3.07.840.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Secs. 5, 6, 7; Ordinance No. 98-727C, Sec. 1. Readopted by Ordinance No. 00-839, Sec. 1. Amended by Ordinance No. 00-882C, Sec. 2; Ordinance No. 01-925E, Sec. 1.)

3.07.830 Review of Compliance by Metropolitan Policy Advisory Committee

- A. A city or county may seek review of the ~~Executive Officer~~ Chief Operating Officer's conclusion of noncompliance under Section 3.07.820B by MPAC and the Metro Council. The city or county shall file an application for MPAC review on a form provided for that purpose by the ~~Executive Officer~~ Chief Operating Officer. Upon receipt of a completed application, the ~~Executive~~

~~Officer~~Chief Operating Officer shall set the matter on the MPAC agenda and notify those persons who request notification of MPAC reviews.

- B. The ~~Executive Officer~~Chief Operating Officer may seek review of city or county compliance with a functional plan requirement by MPAC and the Metro Council after the deadline for compliance with that requirement. The ~~Executive Officer~~Chief Operating Officer shall file an application for MPAC review on the form described in subsection A and shall set the matter on the MPAC agenda. The ~~Executive Officer~~Council President shall notify the city or county and those persons who request notification of MPAC reviews.
- C. MPAC may hold a public hearing on the issue of compliance. If MPAC holds a hearing, any person may testify. MPAC shall attempt to resolve any apparent or potential inconsistency between the proposed amendment and the functional plan. MPAC shall prepare a report to the Metro Council that sets forth reasons for the inconsistency. The ~~Executive Officer~~Chief Operating Officer shall send a copy of the report to the city or county and those persons who request a copy.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-727C, Sec. 2; Ordinance No. 01-925E, Sec. 1.)

#### 3.07.840 Review by Metro Council

- A. Upon receipt of a report from MPAC under Section 3.07.830, the ~~Executive Officer~~Chief Operating Officer shall set the matter for a public hearing before the Metro Council and notify the city or county and those persons who request notification of Council reviews.
- B. A person who requested a copy under Section 3.07.820A may seek review by the Metro Council of an ~~Executive Officer~~Chief Operating Officer conclusion of compliance of a proposed amendment with the functional plan. The person shall file an application for Council review on a form provided for that purpose by the ~~Executive Officer~~Chief Operating Officer. The ~~Executive Officer~~Council President shall set the matter for a public hearing before the Council and notify the city or county, the Department of Land Conservation and Development and those persons who request notification of Council reviews.
- C. The Council shall hold a public hearing on the matter within 90 days after receipt of a report from MPAC under subsection A or within 90 days after the filing of a complete application under subsection B. Any person may testify at the hearing. The Council shall issue an order of compliance or noncompliance with its analysis and conclusion and send a copy to the city or county, MPAC, the Department of Land Conservation and Development and those persons who participated in the proceeding.
- D. If the Council finds that the proposed amendment does not comply with the functional plan, the Council shall advise the city or county that it may (1) revise and adopt the proposed amendment as recommended in the Council order; (2) seek an extension of time, pursuant to Section 3.07.850, to bring the proposed amendment into compliance with the functional plan; or (3) seek an exception from the functional plan, pursuant to Section 3.07.860. If the Council determines

that an amendment of the functional plan is necessary to resolve the noncompliance, the Council shall include that determination in its order.

- E. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1.)

#### 3.07.850 Extension of Compliance Deadline

- A. A city or county may seek an extension of time for compliance with the functional plan. The city or county shall file an application for an extension on a form provided for that purpose by the ~~Executive Officer~~ Chief Operating Officer. Upon receipt of an application, the ~~Executive Officer~~ Council President shall set the matter for a public hearing before the Metro Council and shall notify the city or county, MPAC, the Department of Land Conservation and Development and those persons who request notification of applications for extensions.
- B. The Metro Council shall hold a public hearing to consider the extension. Any person may testify at the hearing. The Council may grant an extension if it finds that: (1) the city or county is making progress toward accomplishment of its compliance work program; or (2) there is good cause for failure to meet the deadline for compliance.
- C. The Metro Council may establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the functional plan requirement or of the region to achieve the 2040 Growth Concept. A term or condition must relate to the requirement of the functional plan to which the Council grants the extension. The Council shall incorporate the terms and conditions into its order on the extension. The Council shall not grant more than two extensions of time to a city or a county. The Council shall not grant an extension of time for more than one year.
- D. The Metro Council shall issue an order with its conclusion and analysis and send a copy to the city or county, MPAC, the Department of Land Conservation and Development and those persons who participated in the proceeding. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1.)

#### 3.07.860 Exception from Compliance

- A. A city or county may seek an exception from compliance with a functional plan requirement by filing an application on a form provided for that purpose by the ~~Executive Officer~~ Chief Operating Officer. An application for an exception to the requirement in subsection 3.07.150D to increase dwelling unit and job capacity to the targets set forth in Table 3.07-1 must be filed between March 1 and March 31 of each calendar year in order to allow the Metro Council to consider the application concurrently with other such applications. Upon receipt of an application, the

~~Executive Officer-Council President~~ shall set the matter for a public hearing before the Metro Council and shall notify MPAC, the Department of Land Conservation and Development and those persons who request notification of requests for exceptions.

- B. The Metro Council shall hold a public hearing to determine whether the exception meets the following criteria:
1. Except as provided in paragraph (2) of this subsection, the Council may grant an exception if it finds:
    - a. it is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;
    - b. this exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;
    - c. the exception will not reduce the ability of another city or county to comply with the requirement; and
    - d. the city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.
  2. The Council may grant an exception to the requirement in subsection 3.07.150D to increase dwelling unit and job capacity to the targets set forth in Table 3.07-1 if it finds:
    - a. the city or county has completed the analysis of capacity for dwelling units and jobs required by subsections 3.07.150A, B and C;
    - b. it is not possible to achieve the targets due to topographic or other physical constraints, an existing development pattern that precludes achievement of the 2040 Growth Concept, or protection of environmentally sensitive land; and
    - c. this exception and other exceptions to the targets will not render the targets unachievable region-wide.
- C. The Council may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the 2040 Growth Concept. A term or condition must relate to the requirement of the functional plan to which the Council grants the exception. The Council shall incorporate the terms and conditions into its order on the exception.
- D. The Council shall issue an order with its conclusion and analysis and send a copy to the city or county, MPAC, the Department of Land Conservation and those persons who have requested a copy of the order. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1.)

### 3.07.870 Enforcement of Functional Plan

- A. The Metro Council may initiate enforcement proceedings under this section if a city or county has failed to meet a deadline in an extension granted pursuant to Ssection 3.07.850 or if it has good cause to believe that a city or county is engaging in a pattern or a practice of decision-making that is inconsistent with the functional plan or local ordinances adopted by the city or county to implement the plan, or with the terms or conditions in an extension. The Council may consider whether to initiate enforcement proceedings upon the request of the ~~Executive Officer~~Chief Operating Officer or a Councilor. The Council shall consult with the city or county before it determines there is good cause to proceed to a hearing under subsection B of this section.
- B. If the Metro Council concludes that there is good cause pursuant to subsection A of this section, the ~~Executive Officer~~Council President shall set the matter for a public hearing before the Council within 90 days of its conclusion. The ~~Executive Officer~~Chief Operating Officer shall publish notice of the hearing in a newspaper of general circulation in the city or county and send notice to the city or county, MPAC, the Department of Land Conservation and Development and any person who requests a copy of such notices.
- C. The ~~Executive Officer~~Chief Operating Officer shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the Metro Council. The ~~Executive Officer~~Chief Operating Officer shall publish the report at least 14 days prior to the public hearing and send a copy to the city or county and any person who requests a copy.
- D. If the Metro Council concludes that the city or county has not engaged in a pattern or practice of decision-making that that is inconsistent with the functional plan or local ordinances adopted by the city or county to implement the plan or with terms or conditions of an extension granted pursuant to Ssection 3.07.850, the Council shall enter an order dismissing the matter. If the Council concludes that the city or county has engaged in such a pattern or practice of decision-making, the Council shall issue an order that sets forth the noncompliance and directs changes in the city or county ordinances necessary to remedy the pattern or practice. The Council shall issue its order, with analysis and conclusions, not later than 30 days following the public hearing on the matter. The ~~Executive Officer~~Chief Operating Officer shall send a copy of the order to the city or county, MPAC, the Department of Land Conservation and Development and any person who requests a copy.

(Ordinance No. 01-925E, Sec. 2.)

### 3.07.880 Compliance Report and Order

- A. The ~~Executive Officer~~Chief Operating Officer shall submit a report to the Metro Council by December 31 of each calendar year on compliance by cities and counties with the Urban Growth Management Function Plan. The report shall include an accounting of compliance with each requirement of the functional plan by each city and county in ~~the district~~Metro. The report shall recommend action that would bring a city or county into compliance with the functional plan requirement and shall advise the city or county whether it may seek an extension pursuant to Ssection 3.07.850 or an exception pursuant to Ssection 3.07.860. The report shall also include an

evaluation of the implementation of this chapter and its effectiveness in helping achieve the 2040 Growth Concept.

- B. Upon receipt of the compliance report, the Metro Council shall set a public hearing for the purpose of receiving testimony on the report and determining whether a city or county has complied with the requirements of the functional plan. The ~~Executive Officer~~ Chief Operating Officer shall notify all cities and counties, the Department of Land Conservation and Development and any person who requests notification of the hearing of the date, time and place of the hearing. The notification shall state that the Council does not have jurisdiction (1) to determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections F and G of Ssection 3.07.810 or (2) to reconsider a determination in a prior order issued pursuant to subsection C that a city or county complies with a requirement of the functional plan. Any person may testify, orally or in writing, at the public hearing.
- C. Following the public hearing, the Metro Council shall enter an order that determines with which functional plan requirements each city and county complies. The order shall be based upon the ~~Executive Officer~~ Chief Operating Officer's report submitted pursuant to subsection A and upon testimony at the public hearing pursuant to subsection B, with which functional plan requirements each city and county complies. The order may rely upon the report for its findings of fact and conclusions of compliance with a functional plan requirement. If the Council receives testimony during its public hearing that takes exception to the report on the question of compliance, the order shall include supplemental findings and conclusions to address the testimony. The ~~Executive Officer~~ Chief Operating Officer shall send a copy of its order to cities and counties and any person who testifies, orally or in writing, at the public hearing.
- D. Omission from the order of recognition by the Council of compliance by a city or county with a functional plan requirement shall not constitute a determination under Ssection 3.07.870A that the city or county has engaged in a pattern or practice of decision-making that is inconsistent with the requirement.
- E. A city or county or a person who testified, orally or in writing, at the public hearing, may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

**(Ordinance No. 01-925E, Sec. 2.)**

3.07.890 Citizen Involvement in Compliance Review

- A. Any citizen may contact Metro staff or the ~~Executive Officer~~ Chief Operating Officer or appear before the Metro Council to raise issues regarding local functional plan compliance, to request ~~Executive Officer~~ Metro participation in the local process, or to request the Metro Council to appeal a local enactment for which notice is required to be given to the ~~Executive Officer~~ Chief Operating Officer pursuant to Ssection 3.07.820A ~~3.07.870A~~. Such contact may be oral or in writing and may be made at any time during or at the conclusion of any city or county proceeding to amend a comprehensive plan or implementing ordinance for which notice is required to be given to the ~~Executive Officer~~ Chief Operating Officer. All such requests to participate or appeal made in writing shall be forwarded to the Metro Council.

- B. In addition to considering requests as described in A above, the Metro Council shall at every regularly scheduled Council meeting provide an opportunity for citizens to address the Council on any matter related to this functional plan. The ~~Executive Officer~~Chief Operating Officer shall maintain a list of persons who request notice of reviews and copies of reports and orders and shall send requested documents as provided in this chapter.
  
- C. Cities, counties and the Metro Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The ~~Executive Officer~~Chief Operating Officer shall at least annually publish and distribute a Citizen Involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that fully describes all opportunities for citizen involvement in Metro's Regional Growth Management Process as well as the implementation and enforcement of this functional plan.

(Ordinance No. 01-925E, Sec. 2.)

**TITLE 9: PERFORMANCE MEASURES**

3.07.910 Intent

In order to monitor progress in implementation of this functional plan, and in order to implement Objective 10 of RUGGO, Metro shall establish performance measures related to the achievement and expected outcome resulting from the implementation of this functional plan.

(Ordinance No. 97-715B, Sec. 1.)

3.07.920 Performance Measures Adoption

- A. Within three months of the adoption of this functional plan, the Metro ~~Executive Officer~~Chief Operating Officer shall submit to the Council the ~~Executive Officer~~Chief Operating Officer's recommendations for:
  - 1. Performance measures to be used in evaluating the progress of the region in implementation of this functional plan; and
  - 2. Policies for corrective action should the performance measures indicate that the goals contained in the functional plan are not being achieved.

In developing these performance measures and policies, the ~~Executive Officer~~Chief Operating Officer shall use the best technology available to Metro, and shall, in addition, submit the current and recent historic levels for the proposed performance measures.

- B. The Council, after receiving advice and comment from the Metropolitan Policy Advisory Committee, shall adopt a list of performance measures that will be used to monitor and evaluate this functional plan. The performance measures will be evaluated at least by regional level, by Growth Concept design types, by regional and town center market areas, and by jurisdiction. The



performance measures shall include a biennial goal for the next six years, and shall be accompanied by policies for adjusting the regional plans based on actual performance.

C. The performance measures shall include, but shall not be limited to the following:

1. Amount of land converted from vacant to other uses, according to jurisdiction, Growth Concept design type, and zoning;
2. Number and types of housing constructed, their location, density, and costs, according to jurisdiction, Growth Concept design type, and zoning;
3. The number of new jobs created in the region, according to jurisdiction, Growth Concept design type, and zoning;
4. The amount of development of both jobs and housing that occurred as redevelopment or infill, according to jurisdiction, Growth Concept design type, and zoning;
5. The amount of land that is environmentally sensitive that is permanently protected, and the amount that is developed;
6. Other measures that can be reliably measured and will measure progress in implementation in key areas;
7. Cost of land based on lot prices according to jurisdiction, Growth Concept design type, and zoning; and according to redeveloped and vacant classifications;
8. The average vacancy rate for all residential units.

D. Use of the performance measures.

1. The performance measures will contain both the current level of achievement, and the proposed level necessary to implement this functional plan and achieve the Metro 2040 Growth Concept adopted in the Regional Urban Growth Goals and Objectives (RUGGO). The performance measures will be used to evaluate and adjust, as necessary, Metro's functional plans, Urban Growth Boundary, and other regional plans.
2. By March 1 of every other year beginning March 1, 1999, the ~~Executive Officer~~ Chief Operating Officer shall report to the Council an assessment of the regional performance measures, and recommend corrective actions, as necessary, consistent with the Metro Council's policies.
3. The Council shall refer the recommendations to the Hearing Officer, who shall hold a hearing to review the data in the ~~Executive Officer~~ Chief Operating Officer's report on the performance measures, and gather additional data from any interested party. The Hearing officer shall review all of the information presented on the performance measures. The complete record of information, findings of fact, and a recommendation shall be forwarded to the Council by the Hearing Officer.

4. The Council shall hold a hearing on the record, adopt findings of fact, and take any necessary corrective action by September 1 of the year.

(Ordinance No. 97-715B, Sec. 1.)

## **TITLE 10: FUNCTIONAL PLAN DEFINITIONS**

### **3.07.1010 Definitions**

For the purpose of this functional plan, the following definitions shall apply:

- (a) "Accessibility" means the amount of time required to reach a given location or service by any mode of travel.
- (b) "Accessway" means right-of-way or easement designed for public access by bicycles and pedestrians, and may include emergency vehicle passage.
- (c) "Alternative modes" means alternative methods of travel to the automobile, including public transportation (light rail, bus and other forms of public transportation), bicycles and walking.
- (d) "Balanced cut and fill" means no net increase in fill within the floodplain.
- (e) "Bikeway" means separated bike paths, striped bike lanes, or wide outside lanes that accommodate bicycles and motor vehicles.
- (f) "Boulevard design" means a design concept that emphasizes pedestrian travel, bicycling and the use of public transportation, and accommodates motor vehicle travel.
- (g) "Calculated capacity" means the number of dwelling units and jobs that can be contained in an area based on the calculation required by this functional plan.
- (h) "Capacity expansion" means constructed or operational improvements to the regional motor vehicle system that increase the capacity of the system.
- (i) "Comprehensive plan" means the all inclusive, generalized, coordinated land use map and policy statement of cities and counties defined in ORS 197.015(5).
- (j) "Connectivity" means the degree to which the local and regional street systems in a given area are interconnected.
- (k) "DBH" means the diameter of a tree measured at breast height.
- (l) "Design flood elevation" means the elevation of the 100-year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped flood prone soils or similar methodologies.
- (m) "Design type" means the conceptual areas described in the Metro 2040 Growth Concept text and map in Metro's regional goals and objectives, including central city, regional centers, town centers, station communities, corridors, main streets, inner and outer neighborhoods, industrial areas, and employment areas.

- (n) "Designated beneficial water uses" means the same as the term as defined by the Oregon Department of Water Resources, which is: an instream public use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stockwater and wildlife uses.
- (o) "Development" means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3 except that more than 10 percent removal of vegetation on a lot must comply with Section 3.07.340(C) - Erosion and Sediment Control. Development does not include the following: (1) Stream enhancement or restoration projects approved by cities and counties; (2) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2) (1995).
- (p) "Development application" means an application for a land use decision, limited land decision including expedited land divisions, but excluding partitions as defined in ORS 92.010(7) and ministerial decisions such as a building permit.
- (q) "DLCD Goal 5 ESEE" means a decision process local governments carry out under OAR 660-023-0040.
- (r) "Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- (s) "Enhancement" means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.
- (t) "Fill" means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.
- (u) "Fish and Wildlife Habitat Conservation Area" means the area defined on the Metro Water Quality and Flood Management Area Map to be completed and attached hereto<sup>8</sup>. These include all Water Quality and Flood Management Areas that require regulation in order to protect fish and wildlife habitat. This area has been mapped to generally include the area 200 feet from top of bank of streams in undeveloped areas with less than 25% slope, and 100 feet from edge of mapped wetland on undeveloped land.

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<sup>8</sup> On file in the Metro Council office.

- (v) "Flood Management Areas" means all lands contained within the 100-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.
- (w) "Floodplain" means land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events
- (x) "Full street connection" means right-of-way designed for public access by motor vehicles, pedestrians and bicycles.
- (y) "Functions and values of stream corridors" means stream corridors have the following functions and values: water quality retention and enhancement, flood attenuation, fish and wildlife habitat, recreation, erosion control, education, aesthetic, open space and wildlife corridor.
- (z) "Growth Concept Map" means the conceptual map demonstrating the 2040 Growth Concept design types attached to this plan<sup>9</sup>.
- (aa) "Hazardous materials" means materials described as hazardous by Oregon Department of Environmental Quality.
- (bb) "Implementing ordinances or regulations" means any city or county land use regulation as defined by ORS 197.015(11) which includes zoning, land division or other ordinances which establish standards for implementing a comprehensive plan.
- (cc) "Improved pedestrian crossing." An improved pedestrian crossing is marked and may include signage, signalization, curb extensions and a pedestrian refuge such as a landscaped median.
- (dd) "Invasive non-native or noxious vegetation" means plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities, or which are not listed on the Metro Native Plant List as adopted by Metro Council resolution.
- (ee) "Landscape strip" means the portion of public right-of-way located between the sidewalk and curb.
- (ff) "Level-of-service (LOS)" means the ratio of the volume of motor vehicle demand to the capacity of the motor vehicle system during a specific increment of time.
- (gg) "Local trips." Local vehicle trips are trips that are five miles or shorter in length.
- (hh) "Median" means the center portion of public right-of-way, located between opposing directions of motor vehicle travel lanes. A median is usually raised and may be landscaped, and usually incorporates left turn lanes for motor vehicles at intersections and major access points.

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<sup>9</sup> On file in the Metro Council office.

- (ii) “Metro” means the regional government of the metropolitan area, the elected Metro Council as the policy setting body of the government.
- (jj) “Metro boundary” means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.
- (kk) “Metro Urban Growth Boundary” means the urban growth boundary as adopted and amended by the Metro Council, consistent with state law.
- (ll) “Mitigation” means the reduction of adverse effects of a proposed project by considering, in the following order: (1) avoiding the impact all together by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating or restoring the effected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (5) compensating for the impact by replacing or providing comparable substitute water quality resource areas.
- (mm) “Mixed use” means comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.
- (nn) “Mixed-use development” includes areas of a mix of at least two of the following land uses and includes multiple tenants or ownerships: residential, retail and office. This definition excludes large, single-use land uses such as colleges, hospitals, and business campuses. Minor incidental land uses that are accessory to the primary land use should not result in a development being designated as “mixed-use development.” The size and definition of minor incidental, accessory land uses allowed within large, single-use developments should be determined by cities and counties through their comprehensive plans and implementing ordinances.
- (oo) “Mobility” means the speed at which a given mode of travel operates in a specific location.
- (pp) “Mode-split target” means the individual percentage of public transportation, pedestrian, bicycle and shared-ride trips expressed as a share of total person-trips.
- (qq) “Motor vehicle” means automobiles, vans, public and private buses, trucks and semi-trucks, motorcycles and mopeds.
- (rr) “Multi-modal” means transportation facilities or programs designed to serve many or all methods of travel, including all forms of motor vehicles, public transportation, bicycles and walking.
- (ss) “Narrow street design” means streets with less than 46 feet of total right-of-way and no more than 28 feet of pavement width between curbs.
- (tt) “Native vegetation” means any vegetation native to the Portland metropolitan area or listed on the Metro Native Plant list as adopted by Metro Council resolution.

- (uu) "Net acre" means an area measuring 43,560 square feet which excludes:
- Any developed road rights-of-way through or on the edge of the land; and
  - Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected under statewide planning Goal 5 in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a Federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and
  - All publicly-owned land designated for park and open spaces uses.
- (vv) "Net developed acre" consists of 43,560 square feet of land, after excluding present and future rights-of-way, school lands and other public uses.
- (ww) "Perennial streams" means all primary and secondary perennial water ways as mapped by the U.S. Geological Survey.
- (xx) "Performance measure" means a measurement derived from technical analysis aimed at determining whether a planning policy is achieving the expected outcome or intent associated with the policy.
- (yy) "Person-trips" means the total number of discrete trips by individuals using any mode of travel.
- (zz) "Persons per acre" means the intensity of building development by combining residents per net acre and employees per net acre.
- (aaa) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.
- (bbb) "Primarily developed" means areas where less than 10% of parcels are either vacant or underdeveloped.
- (ccc) "Protected Water Features"

Primary Protected Water Features shall include:

- Title 3 wetlands; and
- Rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow); and
- Streams carrying year-round flow; and
- Springs which feed streams and wetlands and have year-round flow; and

- Natural lakes.

Secondary Protected Water Features shall include intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

- (ddd) “Redevelopable land” means land on which development has already occurred which, due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period.
- (eee) “Regional Goals and Objectives” are the land use goals and objectives that Metro is required to adopt under ORS 268.380(1).
- (fff) “Regional vehicle trips” are trips that are greater than five miles in length.
- (ggg) “Restoration” means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.
- (hhh) “Retail” means activities which include the sale, lease or rent of new or used products to the general public or the provision of product repair or services for consumer and business goods. Hotels or motels, restaurants or firms involved in the provision of personal services or office space are not considered retail uses.
- (iii) “Riparian area” means the water influenced area adjacent to a river, lake or stream consisting of the area of transition from an hydric ecosystem to a terrestrial ecosystem where the presence of water directly influences the soil-vegetation complex and the soil-vegetation complex directly influences the water body. It can be identified primarily by a combination of geomorphologic and ecologic characteristics.
- (jjj) “Routine repair and maintenance” means activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.
- (kkk) “Shared-ride” means private passenger vehicles carrying more than one occupant.
- (lll) “Significant increase in Single Occupancy Vehicle (SOV) capacity for multi-modal arterials.” An increase in SOV capacity created by the construction of additional general purpose lanes totaling ½ lane miles or more in length. General purpose lanes are defined as through travel lanes or multiple turn lanes. This also includes the construction of a new general purpose highway facility on a new location. Lane tapers are not included as part of the general purpose lane. Significant increases in SOV capacity should be assessed for individual facilities rather than for the planning area.
- (mmm) “Significant increase in Single Occupancy Vehicle (SOV) capacity for regional through-route freeways.” Any increase in SOV capacity created by the construction of additional general purpose lanes other than that resulting from a safety project or a project solely intended to



eliminate a bottleneck. An increase in SOV capacity associated with the elimination of a bottleneck is considered significant only if such an increase provides a highway section SOV capacity greater than ten percent over that provided immediately upstream of the bottleneck. An increase in SOV capacity associated with a safety project is considered significant only if the safety deficiency is totally related to traffic congestion. Construction of a new general purpose highway facility on a new location also constitutes a significant increase in SOV capacity. Significant increase in SOV capacity should be assessed for individual facilities rather than for the planning area.

- (nnn) "Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the Water Quality Resource Area, to the point where existing water quality functions and values are degraded.
- (ooo) "Single occupancy vehicle (SOV)" means private passenger vehicles carrying one occupant.
- (ppp) "Straight-line distance" means the shortest distance measured between two points.
- (qqq) "Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- (rrr) "Substantial compliance" means city and county comprehensive plans and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.
- (sss) "Target capacities" means the capacities in Table 3.07-1 required to be demonstrated by cities and counties for compliance with Title 1, Section 3.07.120.
- (ttt) "Target densities" means the average combined household and employment densities established for each design type in the RUGGO 2040 Growth Concept.
- (uuu) "Title 3 Wetlands" means wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands added to city or county adopted Water Quality and Flood Management Area maps consistent with the criteria in Title 3, Section 3.07.340(E)(3). Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.
- (vvv) "Top of bank" means the same as "bankfull stage" defined in OAR 141-085-0010(2).
- (www) "Traffic calming" means street design or operational features intended to maintain a given motor vehicle travel speed.
- (xxx) "Underdeveloped parcels" means those parcels of land with less than 10% of the net acreage developed with permanent structures.

- (yyy) "Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television.
- (zzz) "Vacant land" means land identified in the Metro or local government inventory as undeveloped land.
- (aaaa) "Variance" means a discretionary decision to permit modification of the terms of an implementing ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.
- (bbbb) "Visible or measurable erosion." Visible or measurable erosion includes, but is not limited to:
- Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
  - Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
  - Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.
- (cccc) "Water Quality and Flood Management Area" means an area defined on the Metro Water Quality and Flood Management Area Map, to be attached hereto<sup>10</sup>. These are areas that require regulation in order to mitigate flood hazards and to preserve and enhance water quality. This area has been mapped to generally include the following: stream or river channels, known and mapped wetlands, areas with flood-prone soils adjacent to the stream, floodplains, and sensitive water areas. The sensitive areas are generally defined as 50 feet from top of bank of streams for areas of less than 25% slope, and 200 feet from top of bank on either side of the stream for areas greater than 25% slope, and 50 feet from the edge of a mapped wetland.
- (dddd) "Water Quality Resource Areas" means vegetated corridors and the adjacent water feature as established in Title 3.
- (eeee) "Wetlands." Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

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<sup>10</sup> On file in Metro Council office.

(ffff) "Zoned capacity" means the highest number of dwelling units or jobs that are allowed to be contained in an area by zoning and other city or county jurisdiction regulations.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1; Ordinance No. 98-730C, Sec. 10. Readopted by Ordinance No. 00-839, Sec. 1.)

## **TITLE 11: URBAN GROWTH BOUNDARY AMENDMENT URBAN RESERVE PLAN REQUIREMENTS**

### 3.07.1105 Purpose and Intent

It is the purpose of this Title 11 to require that all territory added to the Urban Growth Boundary shall be included within a city or county's comprehensive plan prior to urbanization. The comprehensive plan amendment must be consistent with the Functional Plan. The intent of this title is that comprehensive plan amendments shall promote the integration of the new land added to the Urban Growth Boundary into existing communities or provide for the establishment of new communities.

(Ordinance No. 99-818A, Sec. 3.)

### 3.07.1110 Interim Protection of Areas Brought Inside Urban Growth Boundary

Prior to the adoption by all local governments having jurisdiction over any territory added to the Urban Growth Boundary of comprehensive plan amendments consistent with all requirements set forth in this title, a city or county shall not approve of:

- A. Any land use regulation or zoning map amendments specific to the territory allowing higher residential density than allowed by acknowledged provisions in effect prior to the adoption of the Urban Growth Boundary amendment;
- B. Any land use regulation or zoning map amendments specific to the territory allowing commercial or industrial uses not allowed under acknowledged provisions in effect prior to the adoption of the Urban Growth Boundary Amendment;
- C. Any land division or partition that would result in the creation of any new parcel which would be less than 20 acres in total size.

(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3.)

### 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 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.

(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3; Ordinance No. 01-929A, Sec. 8.)

**3.07.1130. Implementation of Urban Growth Boundary Amendment Urban Reserve Plan Requirements**

- A. On or before 60 days prior to the adoption of any comprehensive plan amendment subject to this Title 11, the local government shall transmit to Metro the following:
  - 1. A copy of the comprehensive plan amendment proposed for adoption;
  - 2. An evaluation of the comprehensive plan amendment for compliance with the Functional Plan and 2040 Growth Concept design types requirements and any additional conditions of approval of the urban growth boundary amendment. This evaluation shall include an explanation of how the plan implements the 2040 Growth Concept;
  - 3. Copies of all applicable comprehensive plan provisions and implementing ordinances as proposed to be amended.

- B. The Council may grant an extension of time for adoption of the required Comprehensive Plan Amendment if the local government has demonstrated substantial progress or good cause for failing to adopt the amendment on time. Requests for extensions of time may accompany the transmittal under subsection A of this section.

(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3.)

3.07.1140 Effective Date and Notification Requirements

The provisions of this Title 11 are effective immediately. Prior to making any amendment to any comprehensive plan or implementing ordinance for any territory that has been added to the Urban Growth Boundary after the effective date of this code amendment, a city or county shall comply with the notice requirements of Section 3.07.830 and include in the required staff report an explanation of how the proposed amendment complies with the requirements of this Title 11 in addition to the other requirements of this functional plan.

(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3.)

**Exhibit G**  
**Metro Charter 2003 Amendments to Metro Code**

**Chapter 3.09**

**LOCAL GOVERNMENT BOUNDARY CHANGES**

SECTIONS	TITLE
3.09.010	Purpose and Applicability
3.09.020	Definitions
3.09.030	Uniform Notice Requirements for Final Decisions
3.09.040	Minimum Requirements for Petitions
3.09.045	Expedited Decisions
3.09.050	Uniform Hearing and Decision Requirements for Final Decisions Other Than Expedited Decisions
3.09.060	Creation of Boundary Appeals Commission
3.09.070	How Contested Case Filed
3.09.080	Alternate Resolution
3.09.090	Conduct of Hearing
3.09.100	Ex Parte Communications to the Boundary Appeals Commission
3.09.110	Ministerial Functions of Metro
3.09.120	Minor Boundary Changes to Metro's Boundary

3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS 268.354. This chapter applies to all boundary changes within the boundaries of Metro or any urban reserve designated by Metro prior to June 30, 1997. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary.

(Ordinance No 98-791, Sec. 1.)

3.09.020 Definitions

As used in this chapter, unless the context requires otherwise:

- (a) "Affected entity" means a county, city, or special district for which a boundary change is proposed or is ordered.
- (b) "Affected territory" means territory described in a petition.
- (c) "Approving entity" means the governing body of a city, county, city-county or district authorized to make a decision on a boundary change, or its designee.

(d) "Boundary change" means a major or minor boundary change, involving affected territory lying within the jurisdictional boundaries of Metro and the urban reserves designated by Metro prior to June 30, 1997.

(e) "Contested case" means a boundary change decision by a city, county or district that is contested or otherwise challenged by a necessary party.

(f) "District" means a district defined by ORS 198.710 or any district subject to the ~~district~~ Metro boundary procedure act under state law.

(g) "Final decision" means the action by an approving entity whether adopted by ordinance, resolution or other means which is the determination of compliance of the proposed boundary change with all applicable criteria and which requires no further discretionary decision or action by the approving entity other than any required referral to electors. "Final decision" does not include resolutions, ordinances or other actions whose sole purpose is to refer the boundary change to electors or to declare the results of an election.

(h) "Major boundary change" means the formation, merger, consolidation or dissolution of a city or district.

(i) "Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a city-county to a city. "Minor boundary change" also means an extra-territorial extension of water or sewer service by a city or district.

(j) "Necessary party" means: any county, city or district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory, Metro, and any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory.

(k) "Petition" means a petition, resolution or other form of initiatory action for a boundary change.

(l) "Uncontested case" means a boundary change decision by an approving entity that is not challenged by a necessary party to that decision.

(m) "Urban services" means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1.)

### 3.09.030 Uniform Notice Requirements for Final Decisions

(a) The following minimum requirements apply to all boundary change decisions by an approving entity. Approving entities may choose to provide more notice than required. These procedures are in addition to and do not supersede the applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter for boundary changes. Each approving entity shall provide for the manner of notice of boundary change decisions to affected persons.



(b) An approving entity shall set a time for deliberations on a boundary change within 30 days after the petition is completed. The approving entity shall give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 45 days prior to the date of decision for major boundary changes and for those minor boundary changes which are not within the scope of adopted urban service provider agreements and for which a shorter notice period has not been agreed to by all necessary parties. However, notice of minor boundary changes to special districts may be mailed and posted at least 40 days prior to the proposed date of decision. Notice shall be published as required by state law.

(c) The notice of the date of deliberations shall: describe the affected territory in a manner that allows certainty; state the date, time and place where the approving entity will consider the boundary change; and state the means by which any interested person may obtain a copy of the approving entity's report on the proposal. The notice shall state whether the approving entity intends to decide the boundary change without a public hearing unless a necessary party requests a public hearing.

(d) An approving entity may adjourn or continue its final decision on a proposed boundary change to another time. For a continuance later than 31 days after the time stated in the original notice, notice shall be reissued in the form required by subsection (b) of this section at least 15 days prior to the continued date of decision. For a continuance scheduled within 31 days of the previous date for decision, notice shall be adequate if it contains the date, time and place of the continued date of decision.

(e) An approving entity's final decision shall be reduced to writing and authenticated as its official act within 5 working days following the decision and mailed to Metro and to all necessary parties to the decision. The mailing to Metro shall include payment to Metro of the filing fee required pursuant to Section 3.09.110. The date of mailing shall constitute the date from which the time for appeal runs for appeal of the decision to the Metro Boundary Appeals Commission.

(f) Each county shall maintain a current map and list showing all necessary parties entitled to receive notice of proposed boundary changes. A county shall provide copies of the map, list, and any changes thereto, to Metro.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1.)

#### 3.09.040 Minimum Requirements for Petitions

(a) A petition for a boundary change shall be deemed complete if it includes the following information:

- (1) The jurisdiction of the approving entity to act on the petition;
- (2) A narrative, legal and graphical description of the affected territory in the form prescribed by the Metro ~~Executive Officer~~ Chief Operating Officer;

- (3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk;
- (4) A listing of the present providers of urban services to the affected territory;
- (5) A listing of the proposed providers of urban services to the affected territory following the proposed boundary change;
- (6) The current tax assessed value of the affected territory; and
- (7) Any other information required by state or local law.

(b) A city or county may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

(Ordinance No 98-791, Sec. 1.)

#### 3.09.045 Expedited Decisions

(a) Approving entities may establish an expedited decision process that does not require a public hearing consistent with this section. Expedited decisions are not subject to the requirements of Sections 3.09.030(b) and 3.09.050(a), (b), (c),(e) or (f). The expedited decision process may only be utilized for minor boundary changes where the petition initiating the minor boundary change is accompanied by the written consent of one hundred percent (100%) of the property owners and at least fifty percent (50%) of the electors, if any, within the affected territory.

(b) The expedited decision process must provide for a minimum of 20 days notice to all interested parties. The notice shall state that the petition is subject to the expedited process. The expedited process may not be utilized if a necessary party gives written notice of its intent to contest the decision prior to the date of the decision. A necessary party may not contest a minor boundary change where the minor boundary change is explicitly authorized by an urban services agreement adopted pursuant to ORS 195.065.

(c) At least seven days prior to the date of decision the approving entity shall make available to the public a brief report that addresses the factors listed in Section 3.09.050(b). The decision record shall demonstrate compliance with the criteria contained in Sections 3.09.050(d)and (g).

(d) Decisions made pursuant to an expedited process are not subject to appeal by a necessary party pursuant to Section 3.09.070.

(Ordinance No. 99-803, Sec. 1.)

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 the Urban Growth Boundary shall be the primary criterion for approval;
- (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 Ffactors (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.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1.)

3.09.060 Creation of Boundary Appeals Commission

(a) The Metro Boundary Appeals Commission is created to decide contested cases of final boundary change decisions made by approving entities. The Metro Council shall appoint the Commission which shall consist of three citizen members, one each to be appointed from a list of nominees provided to the Metro ~~Executive Officer~~ Council President at least 30 days prior to the commencement of each term by Clackamas, Multnomah and Washington counties, respectively. The Council shall appoint two of the members for a initial four-year term and one for a nominal two-year term, the initial terms to be decided by chance; thereafter, each commissioner shall serve a four year term. Each Commission member shall continue to serve in that position until replaced. Commission members may not hold any elective public office.

(b) The Metro ~~Executive Officer~~ Chief Operating Officer shall provide staff assistance to the Commission and shall prepare the Commission's annual budget for approval by the Metro Council.

(c) At its first meeting and again in its first meeting of each successive calendar year, the Commission shall adopt rules of procedure that address, among other things, the means by which a position is declared vacant and the means of filling a vacant position; and, the Commission at that first meeting shall elect a chairperson from among its membership, who shall serve in that position until a successor is elected and who shall preside over all proceedings before the Commission.

(Ordinance No 98-791, Sec. 1.)

### 3.09.070 How Contested Case Filed

(a) A necessary party to a final decision that has appeared in person or in writing as a party in the hearing before the approving entity decision may contest the decision before the Metro Boundary Appeals Commission. A contest shall be allowed only if notice of appeal is served on the approving entity no later than the close of business on the 10th day following the date that the decision is reduced to writing, authenticated and mailed to necessary parties. A copy of the notice of appeal shall be served on the same day on Metro together with proof of service on the approving entity, the affected entity and all necessary parties. The notice of appeal shall be accompanied by payment of Metro's prescribed appeal fee. Service of notice of appeal on the approving entity, the affected entity and all necessary parties by mail within the required time and payment of the prescribed appeal fee shall be jurisdictional as to Metro's consideration of the appeal.

(b) An approving entity shall prepare and certify to Metro, no later than 20 days following the date the notice of appeal is served upon it, the record of the boundary change proceedings.

(c) A contested case is a remedy available by right to a necessary party. When a notice of appeal is filed, a boundary change decision shall not be final until resolution of the contested case by the Commission.

(d) A final decision of an approving entity is subject to appeal to the Commission by a necessary party when it is the last action that needs to be taken by the approving entity prior to the referral of the boundary change to the electors in those cases where approval of the electors is required or permitted.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1.)

### 3.09.080 Alternate Resolution

(a) On stipulation of all parties to a contested case made at any time before the close of the hearing before the Commission, the Commission shall stay further proceedings before it for a reasonable time to allow the parties to attempt to resolve the contest by other means.

(b) A contested case that is not resolved by alternate means during the time allowed by the Commission shall be rescheduled for hearing in the normal course.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1.)

### 3.09.090 Conduct of Hearing

(a) The Commission shall schedule and conduct a hearing on a contested case no later than 30 days after certification of the record of the boundary change proceedings.

(b) The Commission shall hear and decide a contested case only on the certified record of the boundary change proceeding. No new evidence shall be allowed. The party bringing the appeal shall have the burden of persuasion.

(c) The Commission shall hear, in the following order, the Metro staff report, if any; argument by the approving entity and the affected entity; argument of the party that contests the decision below; and rebuttal argument by the approving entity and the affected entity. The Commission may question any person appearing before it. Metro staff shall not make a recommendation to the Commission on the disposition of a contested case.

(d) The deliberations of the Commission may be continued for a reasonable period not to exceed 30 days.

(e) The Chairperson may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial testimony. The Chairperson shall cause to be kept a verbatim oral, written, or mechanical record of all proceedings before the Commission.

(f) No later than 30 days following the close of a hearing before the Commission on a contested case, the Commission shall consider its proposed written final order and shall adopt the order by majority vote. The order shall include findings and conclusions on the criteria for decision listed in Section 3.09.050(d) and (g). The order shall be deemed final when reduced to writing in the form adopted, and served by mailing on all parties to the hearing.

(g) The Commission shall affirm or deny a final decision made below based on substantial evidence in the whole record. The Commission shall have no authority to remand a decision made below for further proceedings before the approving entity, and may only stay its proceedings to allow for alternate resolution as provided for in this chapter.

(Ordinance No 98-791, Sec. 1. Amended by Ordinance No. 99-803, Sec. 1.)

#### 3.09.100 Ex Parte Communications to the Boundary Appeals Commission

Commission members shall place in the record a statement of the substance of any written or oral ex parte communication on a fact in issue made to them during the pendency of the proceeding on a contested case. A party to the proceeding at its request shall be allowed a reasonable opportunity to rebut the substance of the communication.

(Ordinance No 98-791, Sec. 1.)

#### 3.09.110 Ministerial Functions of Metro

(a) Metro shall create and keep current maps of all service provider service areas and the jurisdictional boundaries of all cities, counties and special districts within Metro. The maps shall be made available to the public at a price that reimburses Metro for its costs. Additional information requested of Metro related to boundary changes shall be provided subject to applicable fees.

(b) The Metro ~~Executive~~ Chief Operating Officer shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor(s) and elections officer(s), the Secretary of State and the Oregon Department of Revenue.

(c) The Metro ~~Executive Officer~~Chief Operating Officer shall establish a fee structure for establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, appeals to the Boundary Appeals Commission and for related services. The fee schedule shall be filed with the Council Clerk and distributed to all cities, counties and special districts within the Metro region.

(Ordinance No 98-791, Sec. 1.)

3.09.120 Minor Boundary Changes to Metro's Boundary

(a) Minor boundary changes to the Metro Boundary may be initiated by property owners and electors, or as otherwise provided by law. Petitions shall meet the minimum requirements of Section 3.09.040 above. The ~~Executive Officer~~Chief Operating Officer shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.

(b) Notice of proposed minor boundary changes to the Metro Boundary shall be given as required pursuant to Section 3.09.030.

(c) Hearings will be conducted consistent with the requirements of Section 3.09.050. When it takes action on a minor boundary change, the Metro Council shall consider the requirements of Section 3.09.050 and all provisions of applicable law.

(d) Minor boundary changes to the Metro Boundary are not subject to an expedited process.

(e) Contested case appeals of decisions regarding minor boundary changes to the Metro Boundary are subject to appeal as provided in Section 3.09.070.

(Ordinance No. 99-818A, Sec. 5.)

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## STAFF REPORT

### IN CONSIDERATION OF

- ORDINANCE NO. 02-967 FOR THE PURPOSE OF AMENDING TITLE II ADMINISTRATION AND PROCEDURES (CHAPTERS 2.03, 2.05, 2.07, 2.09, 2.11, 2.12, 2.14, 2.15, 2.16, 2.17, AND 2.18), OF THE METRO CODE TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-972 FOR THE PURPOSE OF AMENDING TITLE III PLANNING OF THE METRO CODE (CHAPTER 3.01 THROUGH CHAPTER 3.09), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-973, FOR THE PURPOSE OF AMENDING TITLE IV OREGON ZOO OF THE METRO CODE (CHAPTER 4.01), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-975, FOR THE PURPOSE OF AMENDING TITLE VI COMMISSIONS OF THE METRO CODE (CHAPTER 6.01), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-977, FOR THE PURPOSE OF AMENDING TITLE IX ELECTIONS OF THE METRO CODE (CHAPTER 9.01 AND CHAPTER 9.02), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-978, FOR THE PURPOSE OF AMENDING TITLE X METRO REGIONAL PARKS AND GREENSPACES OF THE METRO CODE (CHAPTER 10.01 THROUGH CHAPTER 10.03), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY

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Date: October 10, 2002

Prepared by: Peggy Coats

### BACKGROUND

As a result of the passage by the voters of Ballot Measure 26-10 on November 7, 2000, various changes to Metro's existing code are in order to conform to the approved amendments to Metro's charter. The changes proposed in these ordinances to primarily remove references to the Executive Officer and Presiding Officer, whose offices will be abolished effective January 6, 2003; and create references to the Council President and the Chief Operating Officer, consistent with code amendments adopted by Council earlier this year (see "Legal Antecedents" below), along with minor grammatical and formatting corrections. The proposed ordinances make changes to the following code sections:

- Title II, Administration and Procedures (Chapters 2.03, 2.05, 2.07, 2.09, 2.11, 2.12, 2.14, 2.15, 2.16, 2.17, and 2.18)
- Title III Planning (Chapters 3.01 through 3.09)

- Title IV Oregon Zoo (Chapter 4.01)
- Title VI Commissions (Chapter 6.01)
- Title IX Elections (Chapters 9.01 and 9.02)
- Title X Metro Regional Parks and Greenspaces (Chapters 10.01 through 10.03)

**ANALYSIS/INFORMATION**

1. **Known Opposition** None
2. **Legal Antecedents** Resolution 00-2929A "For the Purpose of Submitting to the Voters an Amendment to the Metro Charter Abolishing the Office of Executive Officer, Creating the Office of Council President, and Making Related Changes"; Ordinance 02-942A "For the Purpose of Adding a New Chapter 2.20 to the Metro Code Creating the Office of Chief Operating Officer"; Ordinance 02-953A "For the Purpose of Creating the Office of Metro Attorney"; Ordinance 02-954A "For the Purpose of Reflecting the Creation of the Office of Metro Council President"; and Ordinance 02-955A "For the Purpose of Amending Chapter 2.19 of the Metro Code to Conform to Charter Amendments Adopted on November 7, 2000".
3. **Anticipated Effects** This ordinance will amend Chapters 2.03, 2.05, 2.06, 2.07, 2.09, 2.11, 2.12, 2.14, 2.15, 2.16, 2.17, 2.18, 3.01 through 3.09, 4.01, 6.01, 9.01, 9.02, and 10.01 through 10.03) of the Metro Code to conform to approved Charter amendments.
4. **Budget Impacts** None

**RECOMMENDED ACTION**

That Council approve adoption of Ordinances 02-967, 02-972, 02-973, 02-975, 02-977 and 02-978.