

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER	)	RESOLUTION NO. 09-4085
APPROVING TIME EXTENSIONS FOR THE CITIES OF	)	
FAIRVIEW, LAKE OSWEGO, MILWAUKIE AND	)	Introduced by Chief Operating
PORTLAND TO COMPLY WITH TITLE 13 OF THE	)	Officer Michael Jordan with the
URBAN GROWTH MANAGEMENT FUNCTIONAL	)	concurrence of Council President
PLAN: NATURE IN NEIGHBORHOODS	)	David Bragdon

WHEREAS, the Metro Council adopted Ordinance No. 05-1077C on September 29, 2005 which amended the Urban Growth Management Functional Plan to adopt Title 13: Nature in Neighborhoods; and

WHEREAS, the Land Conservation and Development Commission acknowledged Title 13 Nature in Neighborhoods on January 5, 2007, thereby requiring local jurisdictions to amend their comprehensive plans and implementing ordinances to comply with the requirements of Title 13 by January 5, 2009; and

WHEREAS, Metro Code Section 3.07.850A of the Urban Growth Management Functional Plan provides that the Metro Council may grant extensions of time for compliance with Functional Plan deadlines if the city or county demonstrates progress toward compliance or good cause for failure to comply by the deadline; and

WHEREAS, the Cities of Fairview, Lake Oswego, Milwaukie and Portland have requested a time extension to complete planning work to comply with Title 13; now therefore


BE IT RESOLVED that the Metro Council

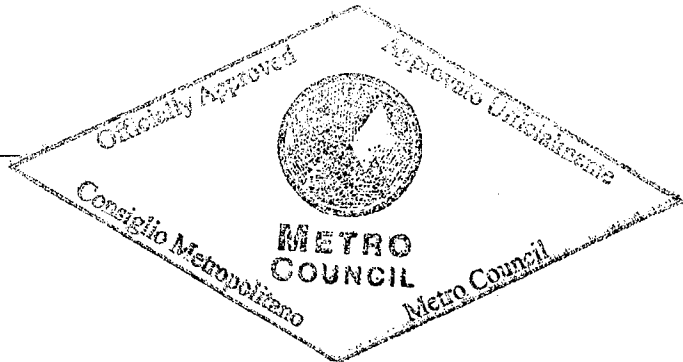
1. Enters Order 09-051, attached to this resolution as Exhibit A, which approves the extension of time for the Cities of Fairview, Lake Oswego, Milwaukie and Portland to comply with Functional Plan Title 13: Nature in Neighborhoods.
2. Directs the Chief Operating Officer to send a copy of Resolution No. 09-4085, with Exhibit A attached, to the Cities of Fairview, Lake Oswego, Milwaukie, and Portland, the Metropolitan Policy Advisory Committee, the Oregon Department of Land Conservation and Development and any other person who participated in the public hearing on the extension.

ADOPTED by the Metro Council this 12<sup>th</sup> day of November, 2009

  
 David Bragdon, Council President

Approved as to form:

  
 Daniel B. Cooper, Metro Attorney



**Exhibit A to Resolution No. 09-4085  
Order No. 09-051**

**RELATING TO THE REQUEST FOR AN EXTENSION OF TIME FOR  
THE CITIES OF FAIRVIEW, LAKE OSWEGO, MILWAUKIE AND  
PORTLAND TO COMPLY WITH TITLE 13 OF THE URBAN GROWTH  
MANAGEMENT FUNCTIONAL PLAN**

**Applicable Law**

The cities of Fairview, Lake Oswego, Milwaukie and Portland have requested an extension of time to comply with the requirements of Title 13 of the Urban Growth Management Functional Plan (“UGMFP”). Metro Code section 3.07.850 sets for the process and criteria for an extension of time for compliance with a functional plan requirement:

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

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

**Findings Of Fact And Conclusions Of Law**

The Metro Council adopted Ordinance No. 05-1077C on September 29, 2005, which amended the UGMFP to adopt Title 13: Nature in Neighborhoods. The Land Conservation and Development Commission acknowledged Title 13 on January 5, 2007, thereby requiring local jurisdictions to amend their comprehensive plans and implementing ordinances to comply with its requirements by January 5, 2009.

The City of Fairview has met with Metro staff and provided a work program and schedule for completing Title 13 requirements. The city process has been delayed due to budgetary and staffing issues.

The City of Lake Oswego has worked with Metro staff over the last year and has convened a task force, in response to citizen input, to review the requirements of Title 13 as they relate to the city’s existing Sensitive Lands Ordinance.

The City of Milwaukie has met with Metro staff and provided a work program and schedule for completing Title 13 requirements. The process has been delayed due to budgetary and staffing issues.

The City of Portland is undertaking a phased environmental program update process that relies on its strong existing regulatory programs, active non-regulatory programs, the adoption of a new resource inventory and baseline standards and the development of area specific projects (district plans) for the Willamette Corridor, Portland International Airport and Hayden Island. The North Reach of the Willamette River Plan will be considered for adoption by the Portland City Council in December, 2009. Work has begun on the Central Reach of the Willamette River Plan component. The Portland City Council adopted interim protection measures to directly apply Title 13 to major land use decisions.

The extension will also support the city's efforts to meet state periodic review requirements and to complete a more extensive update of the Comprehensive Plan through the Portland Plan project.

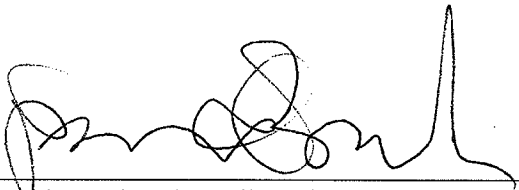
Criterion 1: The cities of Fairview, Lake Oswego, Milwaukie and Portland are now making progress toward to complying with the requirements of Title 13 of the UGMFP.

Criterion 2: The City of Fairview and the City of Milwaukie's delay in completing Functional Plan compliance requirements for Title 13 are due to budgetary and staffing issues. The City of Lake Oswego's delay in completing Functional Plan compliance is due to additional work in response to citizen concerns related to their existing Sensitive Lands Ordinance. The City of Portland's delay in completing Functional Plan compliance requirements is due to the size of the city, the necessity to develop district plans for large urban areas and the necessity to coordinate with other state and federal requirements. There is good cause for the cities of Fairview, Lake Oswego, Milwaukie and Portland's failure to complete the Title 13 compliance requirements by January 5, 2009.

**IT IS HEREBY ORDERED THAT:**

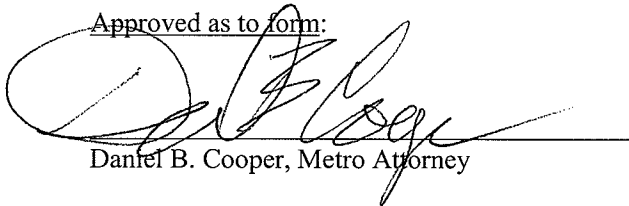
The requests of the cities of Fairview, Lake Oswego, Milwaukie and Portland for extensions of time under Metro Code 3.07.850 to complete requirements pursuant to Title 13 of the UGMFP is approved, as a one-year time extension from the date indicated below.

ENTERED this 2th day of November, 2009.



David Bragdon, Council President

Approved as to form:



Daniel B. Cooper, Metro Attorney

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 09-4085, FOR THE PURPOSE OF ENTERING AN ORDER APPROVING TIME EXTENSIONS FOR THE CITIES OF FAIRVIEW, LAKE OSWEGO, MILWAUKIE AND PORTLAND TO COMPLY WITH URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TITLE 13: NATURE IN NEIGHBORHOODS

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Date: October 20, 2009

Prepared by: Tim O'Brien, 503-797-1840

## BACKGROUND

On November 18, 2008 staff provided an update to the Metro Council on local jurisdiction compliance status with Urban Growth Management Functional Plan Title 13: Nature in Neighborhoods. At that time, staff noted that the Tualatin Basin Natural Resources Coordinating Committee jurisdictions were in compliance with Title 13 and that Gresham and Clackamas County had final hearings scheduled prior to the January 5, 2009 compliance deadline. Staff also noted that a number of jurisdictions had a first half of 2009 target date for submittal of compliance materials. The Council directed staff to continue assisting local jurisdictions with compliance issues and to provide a second update to the Council in mid 2009. On August 11, 2009, staff presented a second compliance update to the Council. As a result of the discussion, Council directed staff to proceed with compliance extension requests for four cities: the City of Fairview, the City of Lake Oswego, the City of Milwaukie and the City of Portland.

### **Compliance Status for Fairview, Lake Oswego, Milwaukie and Portland**

The following represents the current status of compliance activities for Title 13:

- The City of Fairview has submitted an extension request. The City recently completed Title 4 requirements and is now focused on Title 13 compliance. The City is expected to complete the compliance process in early 2010.
- The City of Lake Oswego has submitted an extension request. The City has convened a task force that is reviewing the requirements of Title 13 as they relate to the City's existing Sensitive Lands Ordinance. The City is expected to complete this review in spring 2010.
- The City of Milwaukie has submitted an extension request. The City has set in place a process to directly apply Title 13 to major land use decisions as required by the Functional Plan. The City expects to complete the compliance process in early 2010.
- The City of Portland has submitted an extension request based on their proposal to address Title 13 via a District Planning process. The City requests an extension until June 30, 2011. On June 24, 2009, the Portland City Council adopted interim protection measures to directly apply Title 13 to major land use decisions. The North Reach of the Willamette River Plan will be considered for adoption by the Portland City Council in December 2009, which would bring this portion of the Willamette River into compliance with Title 13 regulatory requirements.

## **ANALYSIS/INFORMATION**

1. **Known Opposition** There is no known opposition to the proposed legislation.
2. **Legal Antecedents** Metro Code Chapter 3.07.850 provides a process for the Metro Council to consider Functional Plan compliance extension requests. Metro Code limits extensions to one year.
3. **Anticipated Effects** Adoption of Resolution No. 09-4085 provides the cities of Fairview, Lake Oswego, Milwaukie and Portland additional time to complete development code and map amendments to meet the requirements of Title 13. Since the cities have designated plans in place to directly implement Title 13 in the absence of adopted programs, the resource protection intent of Title 13 will be met.
4. **Budget Impacts** There is no additional budget impact to implement the proposed legislation as staff time is budgeted for Functional Plan compliance.

## **RECOMMENDED ACTION**

Staff recommends adoption of Resolution No. 09-4085, granting one-year time extensions for complying with Functional Plan Title 13: Nature in Neighborhoods to the Cities of Fairview, Lake Oswego, Milwaukie and Portland.