

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE) Ordinance No. 03-1003
REGIONAL FRAMEWORK PLAN AND THE)
METRO CODE TO IMPLEMENT MEASURE) Introduced by Councilor Burkholder
26-29; AND DECLARING AN EMERGENCY)

WHEREAS, the voters of the Metropolitan Service District adopted Measure 26-29 on May 21, 2002;
and


WHEREAS, the measure requires the Metro Council to prepare a report on the effects of a proposed amendment of the urban growth boundary prior to making the amendment if it would add more than 100 acres of territory to the boundary, and to provide copies of the report to households within one mile of the territory and to cities and counties in the district; and

WHEREAS, the measure directs the Metro Council to implement the requirement within one year after adoption of the measure; now, therefore


THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

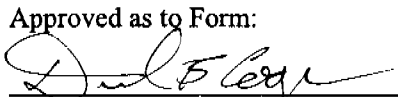
1. Policy 1.9.3 of the Regional Framework Plan is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance, to make it the policy of the Council to prepare a report on the effects of any proposed amendment of the urban growth boundary (UGB) that would add more than 100 acres of territory prior to making the amendment, and to provide copies of the report to households within one mile of the territory and to all cities and counties in the district.
2. Section 3.01.015 of Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserve Procedures) is hereby amended as indicated in Exhibit B, attached and incorporated into this ordinance, to implement the policy adopted by section 1 for legislative amendments to the UGB.
3. Section 3.01.025 of Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserve Procedures) is hereby amended as indicated in Exhibit C, attached and incorporated into this ordinance, to implement the policy adopted by section 1 for major amendments to the UGB.
4. The Findings of Fact and Conclusions of Law in Exhibit D, attached and incorporated into this ordinance, explain how this ordinance complies with state law and the Regional Framework Plan.
5. This ordinance is necessary for the immediate preservation of public health, safety and welfare in order to ensure that the Regional Framework Plan and the Metro Code provisions on amendment of the urban growth boundary conform to Measure 26-29 within one year of adoption of that measure by voters of the district. An emergency is therefore declared to exist. This ordinance shall take effect immediately, pursuant to Metro Charter 39(1).

ADOPTED by the Metro Council this 15th day of May, 2003


David Bragdon, Council President

ATTEST:


Recording Secretary

Approved as to Form:

Daniel B. Cooper, Metro Attorney

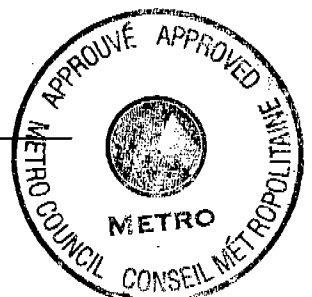


Exhibit A to Ordinance No. 03-1003

Amendment to Regional Framework Plan Policy 1.9.3 to Implement Measure 26-29

- **Report on Effects of Proposed Urban Growth Boundary Amendment.** Prior to approving any amendment or amendments of the urban growth boundary in excess of 100 acres the Council shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Copies of the completed report shall be provided to all households located within one mile of the proposed urban growth boundary amendment area and to all cities and counties within the district. The report shall address:
 - **Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;**
 - **Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and**
 - **The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.**

Exhibit B to Ordinance No. 03-1003

CHAPTER 3.01: URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

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) 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.

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

(i) At least 20 days prior to approving any amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Copies of the completed report shall be provided to all households located within one mile of the proposed amendment area and to all cities and counties within the district. The report shall address:

- (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
- (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
- (3) The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.

Exhibit C to Ordinance No. 03-1003

CHAPTER 3.01: URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

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 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 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 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 Chief Operating Officer. The 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 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 Metro and in writing to each city and county in Metro. 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 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 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 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 Chief Operating Officer may postpone the hearing for no more than 90 days. If the Chief Operating Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the 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 Chief Operating Officer and any city or county whose municipal boundary or urban planning area boundary abuts the area; and
 - (B) Provide the 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, the Council may 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) The Council may approve expansion of the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to the district. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to the district.

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

(k) At least 30 days prior to the first public hearing on an application to amend the UGB to include in excess of 100 acres, the applicant shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Metro shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:

- (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
- (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
- (3) The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.

**Exhibit D to Ordinance No. 03-1003
Findings of Fact, Conclusions of Law**

Ordinance No. 03-1003 amends the Regional Framework Plan (RFP) and the Metro Code to implement Measure 26-29 provisions requiring preparation and publication of a report on the effects of proposed amendments to the urban growth boundary (UGB).

I. Statewide Planning Goals

Goal 1 - Citizen Involvement: Metro followed its procedures for amendment to the UGMFP, including notification to the Oregon Department of Land Conservation and Development 45 days prior to Metro's first public hearing on Ordinance No. 03-1003 and review of the proposed amendments by Metro's Metropolitan Policy Advisory Committee and its Metropolitan Technical Advisory Committee. The Metro Council held a public hearing on the ordinance on May 15, 2003.

The report and its publication required by Ordinance No. 03-1003 will improve public understanding of the consequences of expansion of the UGB and, thereby, enhance the participation of citizens in the UGB expansion process. Ordinance No. 03-1003 complies with Goal 1.

Goal 2 - Land Use Planning: Metro notified and sought review of the proposed amendments from Metro's Metropolitan Policy Advisory Committee and its Metropolitan Technical Advisory Committee (both bodies composed largely of elected or appointed officials of cities and counties of the region). Metro considered and accommodated the interests and concerns of cities and counties in the formulation of the amendments.

The proposed amendments revise the RFP to bring it into conformance with the Metro Charter, as amended by Measure 26-29. Ordinance No. 03-1003 complies with Goal 2.

Goal 3 - Agricultural Land: Goal 3 does not apply to these amendments, which do not affect the use of agricultural land. Ordinance No. 03-1003 complies with Goal 3.

Goal 4 - Forest Land: Goal 4 does not apply to these amendments, which do not affect the use of forest land. Ordinance No. 03-1003 complies with Goal 4.

Goal 5 - Open Spaces, Scenic and Historic Areas and Natural Resources: Goal 5 does not apply to these amendments, which do not affect resources protected by Goal 5. Ordinance No. 03-1003 complies with Goal 5.

Goal 6 - Air, Water and Land Resources Quality: Goal 6 does not apply to these amendments, which do not affect resources protected by Goal 6. Ordinance No. 03-1003 complies with Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards: Goal 7 does not apply to these amendments, which do not affect resources protected by Goal 7. Ordinance No. 03-1003 complies with Goal 7.

Goal 8 - Recreational Needs: These revisions do not affect recreational needs in the region. Ordinance No. 03-1003 complies with Goal 8.

Goal 9 - Economic Development: These revisions do not affect local economic development plans or economic development in the region. Ordinance No. 03-1003 complies with Goal 9.

**Exhibit D to Ordinance No. 03-1003
Findings of Fact, Conclusions of Law**

Goal 10 – Housing: These revisions do not affect the supply of land for needed housing or the standards or criteria for review of needed housing. Ordinance No. 03-1003 complies with Goal 10.

Goal 11 - Public Facilities and Services: These revisions do not affect local plans for public facilities and services or the ability of cities or counties to provide services. The report and its publication will, however, improve public understanding of the consequences of expansion of the UGB on the provision of services in the region. Ordinance No. 03-1003 complies with Goal 11.

Goal 12 – Transportation: These revisions do not affect local plans for transportation facilities or the facilities themselves. The report and its publication will, however, improve public understanding of the consequences of expansion of the UGB on the region’s transportation facilities. Ordinance No. 03-1003 complies with Goal 12.

Goal 13 - Energy Conservation: These revisions do not affect energy resources protected by Goal 13. Ordinance No. 03-1003 complies with Goal 13.

Goal 14 – Urbanization: These revisions do not affect the supply of land for housing or employment in the region or the conversion of urbanizable land to urban use. The report and its publication will, however, improve public understanding of the consequences of expansion of the UGB. Ordinance No. 03-1003 complies with Goal 14.

Goal 15 - Willamette River Greenway: The revisions to Title 7 do not affect the Willamette River Greenway. Ordinance No. 03-1003 complies with Goal 15.

II. Regional Framework Plan

Ordinance No. 03-1003 amends the RFP to bring it into conformance with the Metro Charter, which was revised by Measure 26-29, adopted by voters of the region on May 21, 2002. Measure 26-29 added requirements to the charter to prepare a report on the effects of any proposed addition of 100 acres of more to the UGB and to send the report to households within one mile of the territory to be added.

Policy 1.13 – Participation of Citizens: The report and its publication required by Ordinance No. 03-1003 will improve public understanding of the consequences of expansion of the UGB and, thereby, enhance the participation of citizens in the UGB expansion process. Ordinance No. 03-1003 complies with Policy 1.13.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 03-1003 FOR THE PURPOSE OF AMENDING THE REGIONAL FRAMEWORK PLAN AND THE METRO CODE TO IMPLEMENT MEASURE 26-29; AND DECLARING AN EMERGENCY

Date: April 8, 2003

Prepared by: Sherry Oeser

BACKGROUND

At the primary election held May 21, 2002, voters within the Metropolitan Service District adopted Measure 26-29. Measure 26-29 requires that before approving any amendment to the Urban Growth Boundary (UGB) of 100 acres or more, the Metro Council must prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The report must address traffic patterns and any resulting increase in traffic congestion, commute times and air quality; the potential addition of parks and open space protection to benefit existing and future residents of the added territory; and the costs to existing residents of providing public services and infrastructure to the additional area. The report must be provided to all households within one mile of the proposed UGB amendment area and to all cities and counties within Metro. Measure 26-29 also directed the Metro Council to implement the requirement within one year after the adoption of the measure. Ordinance No. 03-1003 implements these requirements of Measure 26-29.

ANALYSIS/INFORMATION

To implement Measure 26-29, Ordinance No. 03-1003 amends the Regional Framework Plan and Metro Code. The amendment to the Regional Framework Plan establishes the Metro Council's policy to prepare the report cited above. The amendments to Metro Code implement this policy for legislative amendments and for major amendments to the UGB. For legislative amendments to the UGB, Metro would prepare the report and provide it to all households within one mile of the proposed UGB amendment area and to all cities and counties within Metro. For major amendments to the UGB, the applicant is required to prepare the report but Metro would provide the report to all households within one mile of the proposed UGB amendment area and to all cities and counties within Metro.

1. **Known Opposition:** None.
2. **Legal Antecedents:** Measure 26-29 adopted by voters on May 21, 2002.
3. **Anticipated Effects:** Ordinance No. 03-1003 will implement a voter-approved measure and establish Metro Council policy.
4. **Budget Impacts:** As part of Task 3 of the Periodic Review Work Program, it is anticipated that over 2,000 acres of land will be added to the UGB for industrial purposes during FY 04. These lands will likely be subject to the report and notice requirements contained in Measure 26-29. Printing and postage costs are estimated to be \$30,000 for FY 04 and are included in the Planning Department's proposed FY 04 budget. The department will reprioritize staff time in the Regional Planning, Data Research Center and Travel Forecasting Divisions to prepare the necessary report and comply with the notice requirements.

RECOMMENDED ACTION

Approval of Ordinance No. 03-1003.