

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF MAKING THE GREATEST	)	Ordinance No. 10-1244B
PLACE AND PROVIDING CAPACITY FOR	)	
HOUSING AND EMPLOYMENT TO THE YEAR	)	Introduced by Chief Operating Officer
2030; AMENDING THE REGIONAL FRAMEWORK	)	Michael Jordan with the Concurrence of
PLAN AND THE METRO CODE; AND DECLARING	)	Council President Carlotta Collette
AN EMERGENCY	)	

WHEREAS, Metro, the cities and counties of the region and many other public and private partners have been joining efforts to make our communities into “the Greatest Place”; and

WHEREAS, state law requires Metro to assess the capacity of the urban growth boundary (UGB) on a periodic basis and, if necessary, increase the region’s capacity for housing and employment for the next 20 years; and

WHEREAS, Metro forecasted the likely range of population and growth in the region to the year 2030; and

WHEREAS, Metro assessed the capacity of the UGB to accommodate the forecasted growth, assuming continuation of existing policies and investment strategies, and determined that the UGB did not provide sufficient and satisfactory capacity for the next 20 years; and

WHEREAS, the Metro Council, with the advice and support of the Metro Policy Advisory Committee (MPAC), established six desired outcomes to use as the basis for comparing optional amendments to policies and strategies to increase the region’s capacity; and

WHEREAS, the outcomes reflect the region’s desire to develop vibrant, prosperous and sustainable communities with reliable transportation choices that minimize carbon emissions and to distribute the benefits and burdens of development equitably in the region; and

WHEREAS, Metro undertook an extensive process to consult its partner local governments and the public on optional ways to increase the region’s capacity and achieve the desired outcomes; and

WHEREAS, joint efforts to make the region “the Greatest Place” not only improve our communities but also increase our capacity to accommodate growth and achieve the desired outcomes; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

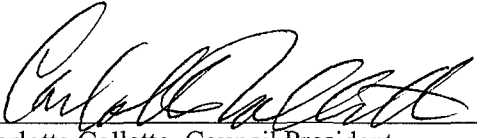
1. The Regional Framework Plan (RFP) is hereby amended, as indicated by Exhibit A, attached and incorporated into this ordinance, to adopt: desired outcomes toward which the Metro Council will direct its policies and efforts; new policies on performance measurement to measure progress toward achievement of the outcomes; new policies on efficient use of land, public works and other public services; and new policies on investment in Centers, Corridors, Station Communities, Main Streets and Employment Areas.

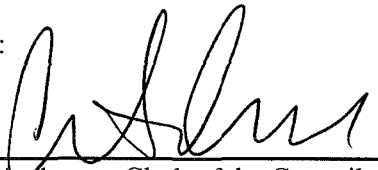
2. Title 1 (Housing) of the UGMFP is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet housing needs to year 2030.
3. Title 4 (Industrial and Other Employment Areas) of the UGMFP is hereby amended, as indicated in Exhibit C, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet employment needs to year 2030.
4. The Title 4 Industrial and Other Employment Areas Map is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to show changes to design-type designations to conform to new comprehensive plan designations by cities and counties pursuant to Title 11 of the UGMFP, to respond to needs identified in the 2009 Urban Growth Report, and to make corrections requested by local governments to reflect development on the ground.
5. Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP is hereby amended, as indicated in Exhibit E, attached and incorporated into this ordinance, to implement new policies and investment strategies in those places.
6. The Title 6 Centers, Corridors, Station Communities and Main Streets Map is hereby adopted, as shown on Exhibit F, attached and incorporated into this ordinance, to implement Title 6 and other functional plan requirements.
7. Title 8 (Compliance Procedures) of the UGMFP is hereby amended, as indicated in Exhibit G, attached and incorporated into this ordinance, to reduce procedural burdens on local governments and Metro.
8. Title 9 (Performance Measures) is hereby repealed, as indicated in Exhibit H, to be consistent with new policies on performance measurement.
9. Title 10 (Functional Plan Definitions) of the UGMFP is hereby amended, as indicated in Exhibit I, attached and incorporated into this ordinance, to conform to the definitions to the use of terms in the amended UGMFP.
10. Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended, as indicated in Exhibit J, attached and incorporated into this ordinance, to provide more specific guidance on planning for affordable housing in new urban areas.
11. Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) is hereby repealed, as indicated in Exhibit K, to be replaced by new Title 14 adopted by section 11 of this ordinance.
12. Title 14 (Urban Growth Boundary) is hereby adopted and added to the UGMFP, as indicated in Exhibit L, attached and incorporated into this ordinance, with amendments from Metro Code Chapter 3.01 to provide a faster process to add large sites to the UGB for industrial use.
13. The urban growth boundary (UGB), as shown on the attached Exhibit M, is hereby adopted by this ordinance as the official depiction of the UGB and part of Title 14 of the Urban Growth Management Functional Plan (UGMFP). The Council intends to amend the UGB in 2011 to add approximately 310 acres of land suitable for industrial

development in order to accommodate the demand identified in the 2009 UGR for large sites, and to add land to accommodate any remaining need for residential capacity not provided by the actions taken by the ordinance.


14. Metro Code Chapter 3.09 (Local Government Boundary Changes) is hereby amended, as indicated in Exhibit N, attached and incorporated into this ordinance, to conform to revisions to ORS 268.390 and adoption of urban and rural reserves pursuant to ORS 195.141, and to ensure newly incorporated cities have the capability to become great communities.
15. The 2040 Growth Concept Map, the non-regulatory illustration of the 2040 Growth Concept in the RFP, is hereby amended, as shown on Exhibit O, attached and incorporated into this ordinance, to show new configurations of 2040 Growth Concept design-type designations and transportation improvements.
16. *The Urban Growth Report 2009-2030* and the *20 and 50 Year Regional Population and Employment Range Forecasts*, approved by the Metro Council by Resolution No. 09-4094 on December 17, 2009, and the Staff Report dated November 19, 2010, are adopted to support the decisions made by this ordinance. The Council determines that, for the reasons set forth in the 2010 Growth Management Assessment, August, 2010, it will direct its capacity decisions to a point between the low end and the high end of the middle third of the forecast range.
17. The Council adopts the Community Investment Strategy recommended by the Chief Operating Officer in the 2010 Growth Management Assessment, August 10, 2010, including the investments set forth at pages 8-21 of the Introduction to Volume 1; Assessment, pages 18-20; Appendix 1 of the Assessment, pages 32-33; and Appendix 3 of the Assessment, as a component of its overall strategy to increase the capacity of land inside the UGB by using land more efficiently.
18. The Findings of Fact and Conclusions of Law in Exhibit P, attached and incorporated into this ordinance, explain how the actions taken by the Council in this ordinance provide capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030 and how they comply with state law and the Regional Framework Plan.
19. This ordinance is necessary for the immediate preservation of public health, safety and welfare because it repeals and re-adopts provisions of the Metro Code that govern changes to local government boundaries that may be under consideration during the ordinary 90-day period prior to effectiveness. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 16th day of December, 2010.

  
\_\_\_\_\_  
Carlotta Collette, Council President

Attest:   
\_\_\_\_\_  
Tony Andersen, Clerk of the Council

Approved as to form:

  
\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney



**Exhibit A to Ordinance No. 10-1244B**

**AMENDMENTS TO THE REGIONAL FRAMEWORK PLAN**

**A. Add the following:**

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, work and play in vibrant communities where their everyday needs are easily accessible.
2. Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
3. People have safe and reliable transportation choices that enhance their quality of life.
4. The region is a leader in minimizing contributions to global warming.
5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
6. The benefits and burdens of growth and change are distributed equitably.

It is also the policy of the Metro Council to:

Use performance measures and performance targets to:

- a. Evaluate the effectiveness of proposed policies, strategies and actions to achieve the desired Outcomes;
- b. Inform the people of the region about progress toward achieving the Outcomes;
- c. Evaluate the effectiveness of adopted policies, strategies and actions and guide the consideration of revision or replacement of the policies, strategies and actions; and
- d. Publish a report on progress toward achieving the desired Outcomes on a periodic basis.

**B. Amend Chapter 1 (Land Use) Policy 1.1 as follows:**

**1.1 Compact Urban Form**

It is the policy of the Metro Council to:

- 1.1.1 Ensure and maintain a compact urban form within the UGB.
- 1.1.2 Adopt and implement a strategy of investments and incentives to use land within the UGB more efficiently and to create a compact urban form.
- 1.1.3 Facilitate infill and re-development, particularly within Centers, Corridors, Station Communities, Main Streets and Employment Areas, to use land and urban services efficiently, to support public transit, to promote successful, walkable communities and to create equitable and vibrant communities.
- 1.1.4 Encourage elimination of unnecessary barriers to compact, mixed-use, pedestrian-friendly and transit-supportive development within Centers, Corridors, Station Communities and Main Streets.
- 1.1.5 Promote the distinctiveness of the region's cities and the stability of its neighborhoods.
- 1.1.6 Enhance compact urban form by developing the Intertwine, an interconnected system of parks, greenspaces and trails readily accessible to people of the region.
- 1.1.7 Promote excellence in community design.
- 1.1.8 Promote a compact urban form as a key climate action strategy to reduce greenhouse gas emissions.

**C. Amend Chapter 1 (Land Use) Policy 1.2 as follows:**

**1.2 Centers, Corridors, Station Communities and Main Streets**

It is the policy of the Metro Council to:

- 1.2.1 Recognize that the success of the 2040 Growth Concept depends upon the success of the region's Centers, Corridors, Station Communities and Main Streets as the principal centers of urban life in the region. Recognize that each Center, Corridor, Station Community and Main Street has its own character and stage of development and its own aspirations; each needs its own strategy for success.
- 1.2.2 Work with local governments, community leaders and state and federal agencies to develop an investment strategy for Centers, Corridors, Station Communities and Main

Streets with a program of investments in public works, essential services and community assets, that will enhance their roles as the centers of urban life in the region. The strategy shall:

- a. Give priority in allocation of Metro's investment funds to Centers, Corridors, Station Communities and Main Streets;
- b. To the extent practicable, link Metro's investments so they reinforce one another and maximize contributions to Centers, Corridors, Station Communities and Main Streets;
- c. To the extent practicable, coordinate Metro's investments with complementary investments of local governments and with state and federal agencies so the investments reinforce one another, maximize contributions to Centers, Corridors, Station Communities and Main Streets and help achieve local aspirations; and
- d. Include an analysis of barriers to the success of investments in particular Centers, Corridors, Station Communities and Main Streets.

1.2.3 Encourage employment opportunities in Centers, Corridors, Station Communities and Main Streets by:

- a. Improving access within and between Centers, Corridors, Station Communities and Main Streets;
- b. Encouraging cities and counties to allow a wide range of employment uses and building types, a wide range of floor-to-area ratios and a mix of employment and residential uses; and
- c. Encourage investment by cities, counties and all private sectors by complementing their investments with investments by Metro.

1.2.4 Work with local governments, community leaders and state and federal agencies to employ financial incentives to enhance the roles of Centers, Corridors, Station Communities and Main Streets and maintain a catalogue of incentives and other tools that would complement and enhance investments in particular Centers, Corridors, Station Communities and Main Streets.

1.2.5 Measure the success of regional efforts to improve Centers and Centers, Corridors, Station Communities and Main Streets and report results to the region and the state and revise strategies, if performance so indicates, to improve the results of investments and incentives.

**D. Amend Chapter 1 (Land Use) Policy 1.3 as follows:**

**1.3 Housing Choices and Opportunities**

It is the policy of the Metro Council to:

- 1.3.1 Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices.
- 1.3.2 As part of the effort to provide housing choices, encourage local governments to ensure that their land use regulations:
  - a. Allow a diverse range of housing types;
  - b. Make housing choices available to households of all income levels; and
  - c. Allow affordable housing, particularly in Centers and Corridors and other areas well-served with public services.
- 1.3.3 Reduce the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation.
- 1.3.4 Maintain voluntary affordable housing production goals for the region, to be revised over time as new information becomes available and displayed in Chapter 8 (Implementation), and encourage their adoption by the cities and counties of the region.
- 1.3.5 Encourage local governments to consider the following tools and strategies to achieve the affordable housing production goals:
  - a. Density bonuses for affordable housing;
  - b. A no-net-loss affordable housing policy to be applied to quasi-judicial amendments to the comprehensive plan;
  - c. A voluntary inclusionary zoning policy;
  - d. A transferable development credits program for affordable housing;
  - e. Policies to accommodate the housing needs of the elderly and disabled;
  - f. Removal of regulatory constraints on the provision of affordable housing; and
  - g. Policies to ensure that parking requirements do not discourage the provision of affordable housing.
- 1.3.6 Require local governments in the region to report progress towards increasing the supply of affordable housing and seek their assistance in periodic inventories of the supply of affordable housing.

- 1.3.7 Work in cooperation with local governments, state government, business groups, non-profit groups and citizens to create an affordable housing fund available region wide in order to leverage other affordable housing resources.
- 1.3.8 Provide technical assistance to local governments to help them do their part in achieving regional goals for the production and preservation of housing choice and affordable housing.
- 1.3.9 Integrate Metro efforts to expand housing choices with other Metro activities, including transportation planning, land use planning and planning for parks and greenspaces.
- 1.3.10 When expanding the Urban Growth Boundary, assigning or amending 2040 Growth Concept design type designations or making other discretionary decisions, seek agreements with local governments and others to improve the balance of housing choices with particular attention to affordable housing.
- 1.3.11 Consider incentives, such as priority for planning grants and transportation funding, to local governments that obtain agreements from landowners and others to devote a portion of new residential capacity to affordable housing.
- 1.3.12 Help ensure opportunities for low-income housing types throughout the region so that families of modest means are not obliged to live concentrated in a few neighborhoods, because concentrating poverty is not desirable for the residents or the region.
- 1.3.13 Consider investment in transit, pedestrian and bicycle facilities and multi-modal streets as an affordable housing tool to reduce household transportation costs to leave more household income available for housing.
- 1.3.14 For purposes of these policies, “affordable housing” means housing that families earning less than 50 percent of the median household income for the region can reasonably afford to rent and earn as much as or less than 100 percent of the median household income for the region can reasonably afford to buy.

**E. Amend Chapter 1 (Land Use) Policy 1.4 as follows:**

**1.4 Employment Choices and Opportunities**

It is the policy of the Metro Council to:

- 1.4.1 Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion.

- 1.4.2 Balance the number and wage level of jobs within each subregion with housing cost and availability within that subregion. Strategies are to be coordinated with the planning and implementation activities of this element with Policy 1.3, Housing Choices and Opportunities and Policy 1.8, Developed Urban Land.
- 1.4.3 Designate, with the aid of leaders in the business and development community and local governments in the region, as Regionally Significant Industrial Areas those areas with site characteristics that make them especially suitable for the particular requirements of industries that offer the best opportunities for family-wage jobs.
- 1.4.4 Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.
- 1.4.5 Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services, including brownfield sites and sites that are re-developable.
- 1.4.6 Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

**Repeal Chapter 1 (Land Use) Policy 1.6**

**Repeal Chapter 1 (Land Use) Policy 1.15**

## **Exhibit B to Ordinance No. 10-1244B**

### **TITLE 1: HOUSING CAPACITY**

#### 3.07.110 Purpose and Intent

The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

#### 3.07.120 Housing Capacity

- A. A city or county may reduce the minimum zoned capacity of the Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street under subsection D or E. A city or county may reduce its minimum zoned capacity in other locations under subsections C, D or E.
- B. Each city and county shall adopt a minimum dwelling unit density for each zone in which dwelling units are authorized except for zones that authorize mixed-use as defined in section 3.07.1010(hh). If a city or county has not adopted a minimum density for such a zone prior to March 16, 2011, the city or county shall adopt a minimum density that is at least 80 percent of the maximum density.
- C. A city or county may reduce its minimum zoned capacity by one of the following actions if it increases minimum zoned capacity by an equal or greater amount in other places where the increase is reasonably likely to be realized within the 20-year planning period of Metro’s last capacity analysis under ORS 197.299:
  - 1. Reduce the minimum dwelling unit density, described in subsection B, for one or more zones;
  - 2. Revise the development criteria or standards for one or more zones; or
  - 3. Change its zoning map such that the city’s or county’s minimum zoned capacity would be reduced.

Action to reduce minimum zoned capacity may be taken any time within two years after action to increase capacity.

- D. A city or county may reduce the minimum zoned capacity of a zone without increasing minimum zoned capacity in another zone for one or more of the following purposes:
  - 1. To re-zone the area to allow industrial use under Title 4 of this chapter or an educational or medical facility similar in scale to those listed in section 3.07.1340D(5)(i) of Title 13 of this chapter; or

2. To protect natural resources pursuant to Titles 3 or 13 of this chapter.
- E. A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city's or county's overall minimum zoned residential capacity.
- F. A city or county may amend its comprehensive plan and land use regulations to transfer minimum zoned capacity to another city or county upon a demonstration that:
1. A transfer between designated Centers, Corridors or Station Communities does not result in a net reduction in the minimum zoned capacities of the Centers, Corridors or Station Communities involved in the transfer; and
  2. The increase in minimum zoned capacity is reasonably likely to be realized within the 20-year planning period of Metro's last capacity analysis under ORS 197.299
- G. A city or county shall authorize the establishment of at least one accessory dwelling unit for each detached single-family dwelling unit in each zone that authorizes detached single-family dwellings. The authorization may be subject to reasonable regulation for siting and design purposes.



## **Exhibit C to Ordinance No. 10-1244B**

### **TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS**

#### 3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

#### 3.07.420 Protection of Regionally Significant Industrial Areas

A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.

C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan or require added road capacity to prevent falling below the standards.

D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.

E. No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and Industrial Areas Map to authorize uses described in subsection B that were not authorized prior to July 1, 2004.

F. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph 2 of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B of this section.
4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
  - a. To provide public facilities and services;
  - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

- c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
- d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

G. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

### 3.07.430 Protection of Industrial Areas

A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

- 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
- 2. Training facilities whose primary purpose is to provide training to meet industrial needs.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.

D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.
4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
  - a. To provide public facilities and services;
  - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
  - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
  - d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

#### 3.07.440 Protection of Employment Areas

A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.

B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.

C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.

D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:

1. The ordinance authorized those uses on January 1, 2003;
2. Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and
3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.

E. A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:

1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
2. Meet the Maximum Permitted Parking – Zone A requirements set forth in Table 3.08-3 of Title 4 of the Regional Transportation Functional Plan.

#### 3.07.450 Employment and Industrial Areas Map

A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.

B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer (COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.

C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:

1. The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
2. The amendment will not reduce the employment capacity of the city or county;
3. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
4. The amendment would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;
5. The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and
6. If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:

1. The entire property is not buildable due to environmental constraints; or
2. The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and
3. The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by this title, exceeds the assessed value of the land by a ratio of 1.5 to 1.

E. The COO shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C or D of this section within 30 days after notification by the city or county that no appeal of the amendment was filed

pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

F. After consultation with MPAC, the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis", reduced by an equal annual increment for the number of years since the report.

G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.

H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:

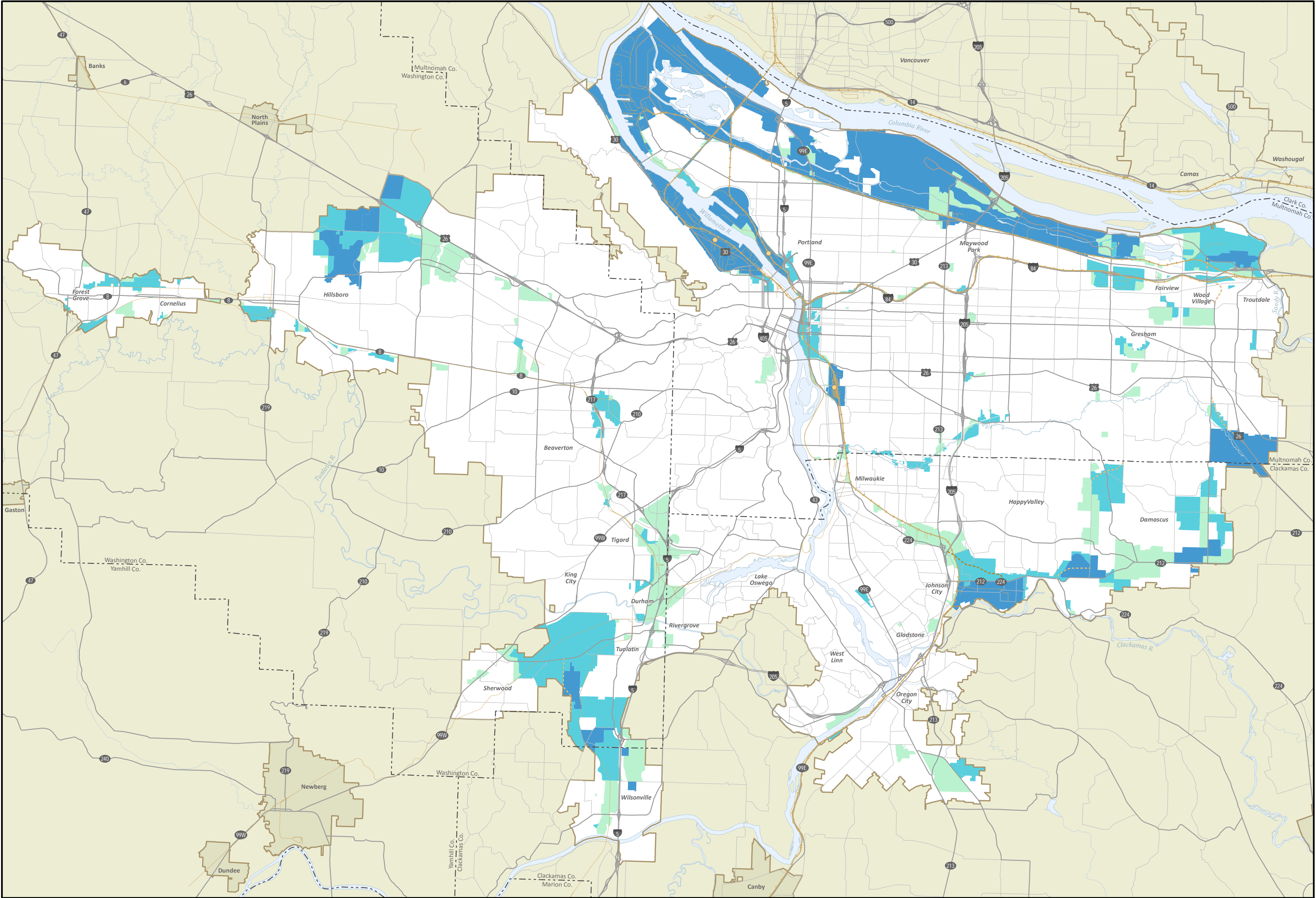
1. Would not reduce the employment capacity of the city or county;
2. Would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;
3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
4. Would not reduce the integrity or viability of a traded sector cluster of industries;
5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and
6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.

J. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.

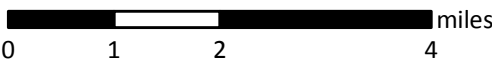
K. By January 31 of each year, the COO (COO) shall submit a written report to the Council and MPAC on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.





# Title 4, Industrial and Other Employment Areas

ORDINANCE 10-1244B, EXHIBIT D  
December 16, 2010



- |   |                              |                         |
|---|------------------------------|-------------------------|
| Employment areas                        | Proposed main roadway routes | Rail yards              |
| Industrial areas                        | Proposed road connectors     | County boundaries       |
| Regionally significant industrial areas | Mainline freight             | Urban growth boundaries |
|   | Branch line freight          | Neighbor cities         |



## **Exhibit E of Ordinance No. 10-1244B**

### **TITLE 6: CENTERS, CORRIDORS, STATION COMMUNITIES AND MAIN STREETS**

#### 3.07.610 Purpose

The Regional Framework Plan (RFP) identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

#### 3.07.620 Actions and Investments in Centers, Corridors, Station Communities and Main Streets

- A. In order to be eligible for a regional investment in a Center, Corridor, Station Community or Main Street, or a portion thereof, a city or county shall take the following actions:
  - 1. Establish a boundary for the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection B;
  - 2. Perform an assessment of the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection C; and
  - 3. Adopt a plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection D.
- B. The boundary of a Center, Corridor, Station Community or Main Street, or portion thereof, shall:
  - 1. Be consistent with the general location shown in the RFP except, for a proposed new Station Community, be consistent with Metro's land use final order for a light rail transit project;
  - 2. For a Corridor with existing high-capacity transit service, include at least those segments of the Corridor that pass through a Regional Center or Town Center;
  - 3. For a Corridor designated for future high-capacity transit in the Regional Transportation Plan (RTP), include the area identified during the system expansion planning process in the RTP; and
  - 4. Be adopted and may be revised by the city council or county board following notice of the proposed boundary action to the Oregon Department of Transportation and Metro in the manner set forth in subsection A of section 3.07.820 of this chapter.

- C. An assessment of a Center, Corridor, Station Community or Main Street, or portion thereof, shall analyze the following:
1. Physical and market conditions in the area;
  2. Physical and regulatory barriers to mixed-use, pedestrian-friendly and transit-supportive development in the area;
  3. The city or county development code that applies to the area to determine how the code might be revised to encourage mixed-use, pedestrian-friendly and transit-supportive development;
  4. Existing and potential incentives to encourage mixed-use pedestrian-friendly and transit-supportive development in the area; and
  5. For Corridors and Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area under Title 4 of this chapter, barriers to a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP.
- D. A plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street shall consider the assessment completed under subsection C and include at least the following elements:
1. Actions to eliminate, overcome or reduce regulatory and other barriers to mixed-use, pedestrian-friendly and transit-supportive development;
  2. Revisions to its comprehensive plan and land use regulations, if necessary, to allow:
    - a. In Regional Centers, Town Centers, Station Communities and Main Streets, the mix and intensity of uses specified in section 3.07.640; and
    - b. In Corridors and those Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area in Title 4 of this chapter, a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP;
  3. Public investments and incentives to support mixed-use pedestrian-friendly and transit-supportive development; and
  4. A plan to achieve the non-SOV mode share targets, adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:
    - a. The transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;

- b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and
  - c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.
- E. A city or county that has completed all or some of the requirements of subsections B, C and D may seek recognition of that compliance from Metro by written request to the Chief Operating Officer (COO).
- F. Compliance with the requirements of this section is not a prerequisite to:
  - 1. Investments in Centers, Corridors, Station Communities or Main Streets that are not regional investments; or
  - 2. Investments in areas other than Centers, Corridors, Station Communities and Main Streets.

3.07.630 Eligibility Actions for Lower Mobility Standards and Trip Generation Rates

- A. A city or county is eligible to use the higher volume-to-capacity standards in Table 7 of the 1999 Oregon Highway Plan when considering an amendment to its comprehensive plan or land use regulations in a Center, Corridor, Station Community or Main Street, or portion thereof, if it has taken the following actions:
  - 1. Established a boundary pursuant to subsection B of section 3.07.620; and
  - 2. Adopted land use regulations to allow the mix and intensity of uses specified in section 3.07.640.
- B. A city or county is eligible for an automatic reduction of 30 percent below the vehicular trip generation rates reported by the Institute of Traffic Engineers when analyzing the traffic impacts, pursuant to OAR 660-012-0060, of a plan amendment in a Center, Corridor, Main Street or Station Community, or portion thereof, if it has taken the following actions:
  - 1. Established a boundary pursuant to subsection B of section 3.07.620;
  - 2. Revised its comprehensive plan and land use regulations, if necessary, to allow the mix and intensity of uses specified in section 3.07.640 and to prohibit new auto-dependent uses that rely principally on auto trips, such as gas stations, car washes and auto sales lots; and
  - 3. Adopted a plan to achieve the non-SOV mode share targets adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:

- a. Transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;
- b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and
- c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.

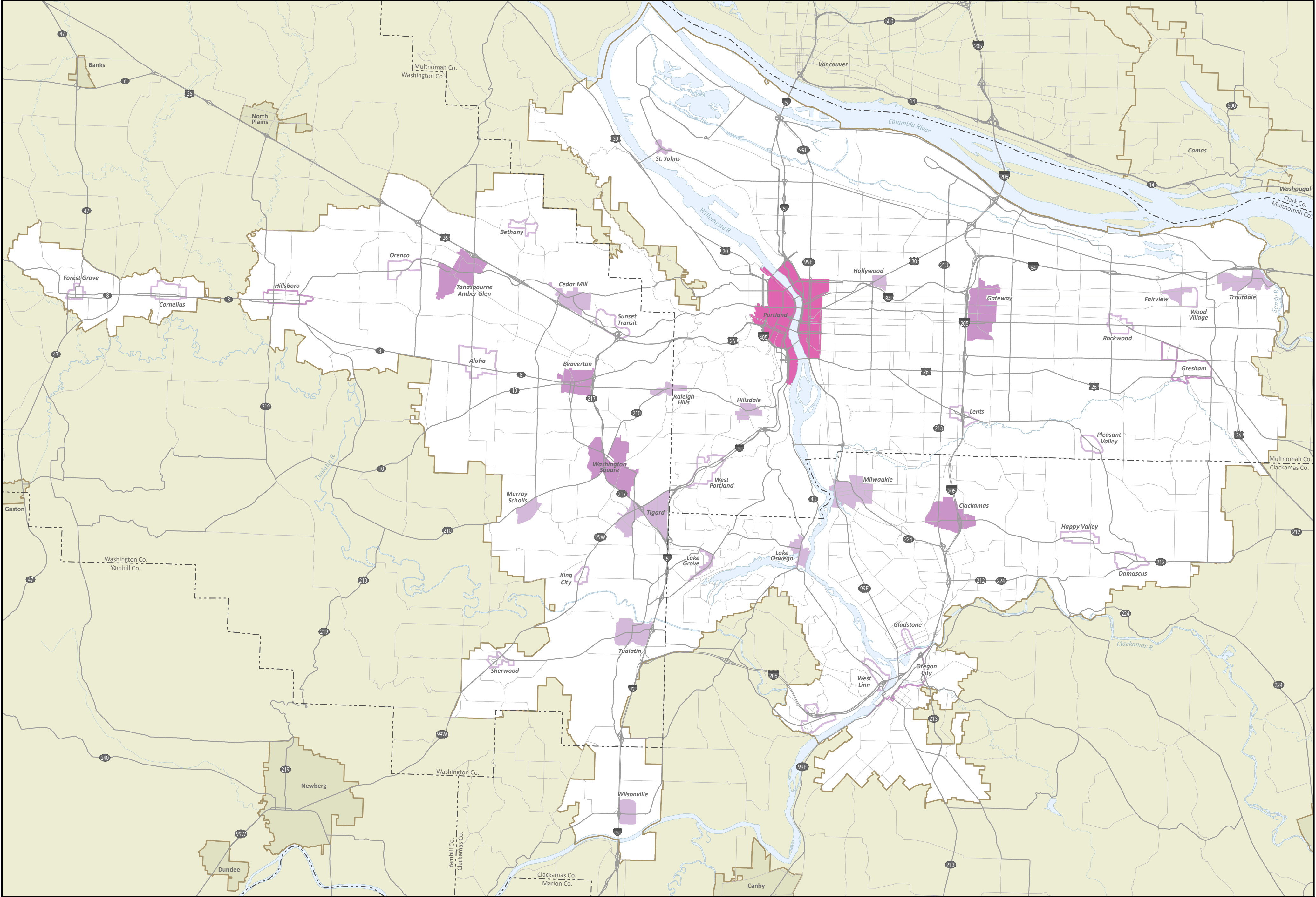
### 3.07.640 Activity Levels for Centers, Corridors, Station Communities and Main Streets

- A. Centers, Corridors, Station Communities and Main Streets need a critical number of residents and workers to be vibrant and successful. The following average number of residents and workers per acre is recommended for each:
  1. Central City - 250 persons
  2. Regional Centers - 60 persons
  3. Station Communities - 45 persons
  4. Corridors - 45 persons
  5. Town Centers - 40 persons
  6. Main Streets - 39 persons
- B. Centers, Corridors, Station Communities and Main Streets need a mix of uses to be vibrant and walkable. The following mix of uses is recommended for each:
  1. The land uses listed in *State of the Centers: Investing in Our Communities*, January, 2009, such as grocery stores and restaurants;
  2. Institutional uses, including schools, colleges, universities, hospitals, medical offices and facilities;
  3. Civic uses, including government offices open to and serving the general public, libraries, city halls and public spaces.
- C. Centers, Corridors, Station Communities and Main Streets need a mix of housings types to be vibrant and successful. The following mix of housing types is recommended for each:
  1. The types of housing listed in the “needed housing” statute, ORS 197.303(1);
  2. The types of housing identified in the city’s or county’s housing need analysis done pursuant to ORS 197.296 or statewide planning Goal 10 (Housing); and
  3. Accessory dwellings pursuant to section 3.07.120 of this chapter.

### 3.07.650 Centers, Corridors, Station Communities and Main Streets Map

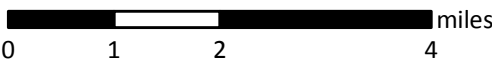
- A. The Centers, Corridors, Station Communities and Main Streets Map is incorporated in this title and is Metro's official depiction of their boundaries. The map shows the boundaries established pursuant to this title.
- B. A city or county may revise the boundary of a Center, Corridor, Station Community or Main Street so long as the boundary is consistent with the general location on the 2040 Growth Concept Map in the RFP. The city or county shall provide notice of its proposed revision as prescribed in subsection B of section 3.07.620.
- C. The COO shall revise the Centers, Corridors, Station Communities and Main Streets Map by order to conform the map to establishment or revision of a boundary under this title.





# Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries

ORDINANCE 10-1244B, EXHIBIT F  
December 16, 2010



- |                                   |                                      |                         |
|-----------------------------------|--------------------------------------|-------------------------|
| Central city, adopted boundary    | Regional center, conceptual boundary | County boundaries       |
| Regional center, adopted boundary | Town center, conceptual boundary     | Urban growth boundaries |
| Town center, adopted boundary     |                                      | Neighbor cities         |



## TITLE 8: COMPLIANCE PROCEDURES

### 3.07.810 Compliance with the Functional Plan

A. The purposes of this chapter are to establish a process for ensuring city or county compliance with requirements of the Urban Growth Management Functional Plan and for evaluating and informing the region about the effectiveness of those requirements. Where the terms "compliance" and "comply" appear in this title, the terms shall have the meaning given to "substantial compliance" in section 3.07.1010.

B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after acknowledgement of the functional plan or amendment, or after any later date specified by the Metro Council in the ordinance adopting or amending the functional plan. The Chief Operating Officer (COO) shall notify cities and counties of the acknowledgment date and compliance dates described in subsections C and D.

C. After one year following acknowledgment of a functional plan requirement, cities and counties that amend their comprehensive plans and land use regulations shall make such amendments in compliance with the new functional plan requirement.

D. Cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO 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. For the purposes of this subsection, "land use decision" shall have the meaning of that term as defined in ORS 197.015(10).

E. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan upon the expiration of the appropriate appeal period specified in ORS 197.830 or 197.650 or, if an appeal is made, upon the final decision on appeal. Once the amendment is deemed to comply, the functional plan requirement shall no longer apply to land use decisions made in conformance with the amendment.

F. 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 E only if the city or county provided notice to the COO as required by subsection A of section 3.07.820.

### 3.07.820 Review by the Chief Operating Officer

A. A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least 45 days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO 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 the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.

B. If the COO concludes that the proposed amendment does not comply with the functional plan, the COO shall advise the city or county that it may:

1. Revise the proposed amendment as recommended in the COO's analysis;
2. Seek an extension of time, pursuant to section 3.07.830, to bring the proposed amendment into compliance with the functional plan; or
3. Seek an exception pursuant to section 3.07.840.

#### 3.07.830 Extension of Compliance Deadline

A. A city or county may seek an extension of time for compliance with a functional plan requirement. The city or county shall file an application for an extension on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county and those persons who request notification of applications for extensions. Any person may file a written comment in support of or opposition to the extension.

B. The COO may grant an extension if the city or county is making progress toward compliance or there is good cause for failure to meet the deadline for compliance. Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time. The COO shall send the order to the city or county and any person who filed a written comment.

C. The COO 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. A term or condition must relate to the requirement of the functional plan to which the COO has granted the extension.

D. The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall send copies to the applicant and any person who participated in the hearing. 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).

#### 3.07.840 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 by the COO. Upon receipt of an

application, the COO shall notify the city or county and those persons who request notification of requests for exceptions. Any person may file a written comment in support of or opposition to the exception.

B. Except as provided in subsection C, the COO may grant an exception if:

1. it is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;
2. this exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;
3. the exception will not reduce the ability of another city or county to comply with the requirement; and
4. the city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

C. The COO may grant an exception to the housing capacity requirements in section 3.07.120 if:

1. the city or county has completed the analysis of capacity for dwelling units required by section 3.07.120;
2. it is not possible to comply with the requirements due to topographic or other physical constraints, an existing development pattern, or protection of natural resources pursuant to Titles 3 or 13 of this chapter; and
3. this exception and other similar exceptions will not render the targets unachievable region-wide.

D. The COO 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 purposes of the requirement. A term or condition must relate to the requirement of the functional plan to which the COO grants the exception. The COO shall incorporate the terms and conditions into the order on the exception.

E. The city or county applicant or a person who filed a written comment on the exception may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. 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).

### 3.07.850 Enforcement of Functional Plan

A. The Metro Council may initiate enforcement if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the Council has good cause to believe that a city or county is engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or the terms or conditions in an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the COO 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.

B. If the Council decides there is good cause, the Council President shall set the matter for a public hearing before the Council within 90 days of its decision. The COO 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 and any person who requests a copy of such notices.

C. The COO shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the Council. The COO 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. At the conclusion of the hearing, the Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. If the Council decides the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or terms or conditions of an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively, the Council may adopt an order that:

1. Directs changes in the city or county ordinances necessary to remedy the pattern or practice; or
2. Includes a remedy authorized in ORS 268.390(7).

E. The Council shall issue its order not later than 30 days following the hearing and send copies to the city or county, MPAC and any person who requests a copy.

### 3.07.860 Citizen Involvement in Compliance Review

A. Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection A of section 3.07.820. Such contact may be oral or in writing and may be made at any time.

B. In addition to considering requests as described in A above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any

matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.

C. Cities, counties and the 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 COO shall publish a citizen involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

### 3.07.870 Compliance Report

A. The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Function Plan. The COO shall send a copy of the report to MPAC, JPACT, MCCI and each city and county within Metro.

B. A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, MCCI, the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to:

1. 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 E and F of section 3.07.810; or
2. Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.

C. Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

D. A city or county or a person who participated, 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).

**Exhibit H to Ordinance No. 10-1244B**

**TITLE 9: PERFORMANCE MEASURES**

Title 9 is repealed.

## **Exhibit I to Ordinance No. 10-1244B**

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

#### 3.07.1010 Definitions

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

- (a) "Balanced cut and fill" means no net increase in fill within the floodplain.
- (b) "COO" means Metro's Chief Operating Officer.
- (c) "Comprehensive plan" means the all inclusive, generalized, coordinated land use map and policy statement of cities and counties defined in ORS 197.015(5).
- (d) "DBH" means the diameter of a tree measured at breast height.
- (e) "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.
- (f) "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.
- (g) "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.
- (h) "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 less than 10 percent removal of vegetation on a lot must comply with section 3.07.340(C) - Erosion and Sediment Control. In addition, any other activity that results in the removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot is defined as development, for the purpose of Title 13. 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 Titles 3 and 13 of this functional plan; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

- (i) "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.
- (j) "Division" means a partition or a subdivision as those terms are defined in ORS chapter 92.
- (k) "Ecological functions" means the biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.
- (l) "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.
- (m) "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.
- (n) "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.
- (o) "Flood Areas" means those areas contained within the 100-year floodplain and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and all lands that were inundated in the February 1996 flood.
- (p) "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.
- (q) "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.

- (r) "Growth Concept Map" means the conceptual map demonstrating the 2040 Growth Concept design types attached to this plan<sup>1</sup>.
- (s) "Habitat Conservation Area" or "HCA" means an area identified on the Habitat Conservation Areas Map and subject to the performance standards and best management practices described in Metro Code section 3.07.1340.
- (t) "Habitat-friendly development" means a method of developing property that has less detrimental impact on fish and wildlife habitat than does traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.
- (u) "Habitats of Concern" means the following unique or unusually important wildlife habitat areas as identified based on cite specific information provided by local wildlife or habitat experts: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.
- (v) "Hazardous materials" means materials described as hazardous by Oregon Department of Environmental Quality.
- (w) "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.
- (x) "Invasive non-native or noxious vegetation" means plants listed as nuisance plants or prohibited plants on the Metro Native Plant List as adopted by Metro Council resolution because they are 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.
- (y) "Land Conservation and Development Commission" or "LCDC" means the Oregon Land Conservation and Development Commission.
- (z) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan, as defined in ORS 197.015.
- (aa) "Large-format retail commercial buildings" means a building intended for retail commercial use with more than 60,000 square feet of gross leasable area, or that amount or more of retail sales area on a single lot or parcel, or that amount or more on contiguous lots or parcels including lots or parcels separated only by a transportation right-of-way.

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<sup>1</sup> On file in the Metro Council office.



- (bb) "Local program effective date" means the effective date of a city's or county's new or amended comprehensive plan and implementing ordinances adopted to comply with Title 13 of the Urban Growth Management Functional Plan, Metro Code sections 3.07.1310 to 3.07.1370. If a city or county is found to be in substantial compliance with Title 13 without making any amendments to its comprehensive plan or land use regulations, then the local program effective date shall be December 28, 2005. If a city or county amends its comprehensive plan or land use regulations to comply with Title 13, then the local program effective date shall be the effective date of the city's or county's amendments to its comprehensive plan or land use regulations, but in no event shall the local program effective date be later than two years after Title 13 is acknowledged by LCDC. For territory brought within the Metro UGB after December 28, 2005, the local program effective date shall be the effective date of the ordinance adopted by the Metro Council to bring such territory within the Metro UGB.
- (cc) "Metro" means the regional government of the metropolitan area, the elected Metro Council as the policy setting body of the government.
- (dd) "Metro boundary" means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.
- (ee) "MCCI" means the Metro Committee for Citizen Involvement.
- (ff) "MPAC" means the Metropolitan Advisory Committee established pursuant to Metro Charter, Chapter V, Section 27.
- (gg) "Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order: (1) avoiding the impact altogether 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 affected 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 or habitat conservation areas.
- (hh) "Mixed use" means comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.
- (ii) "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.

- (jj) "Native vegetation" or "native plant" means any vegetation listed as a native plant on the Metro Native Plant List as adopted by Metro Council resolution and any other vegetation native to the Portland metropolitan area provided that it is not listed as a nuisance plant or a prohibited plant on the Metro Native Plant List.
- (kk) "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.
- (ll) "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.
- (mm) "Net vacant buildable land" means all vacant land less all land that is: (1) within Water Quality Resource Areas; (2) within Habitat Conservation Areas; (3) publicly owned by a local, state or federal government; (4) burdened by major utility easements; and (5) necessary for the provision of roads, schools, parks, churches, and other public facilities.
- (nn) "Perennial streams" means all primary and secondary perennial waterways as mapped by the U.S. Geological Survey.
- (oo) "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.
- (pp) "Person-trips" means the total number of discrete trips by individuals using any mode of travel.
- (qq) "Persons per acre" means the intensity of building development by combining residents per acre and employees per acre.

- (rr) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. As used in Title 13 of this functional plan, "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions.
- (ss) "Primarily developed" means areas where less than 10% of parcels are either vacant or underdeveloped.
- (tt) "Property owner" means a person who owns the primary legal or equitable interest in the property.
- (uu) "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.

- (vv) "Public facilities and services" means sewers, water service, stormwater services and transportation.
- (ww) "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.
- (xx) "Regionally significant fish and wildlife habitat" means those areas identified on the Regionally Significant Fish and Wildlife Habitat Inventory Map, adopted in Metro Code section 3.07.1320, as significant natural resource sites.
- (yy) "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.

- (zz) "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.
- (aaa) "Riparian area" means the water influenced area adjacent to a river, lake or stream consisting of the area of transition from a 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.
- (bbb) "Rural reserve" means an area designated rural reserve by Clackamas, Multnomah or Washington County pursuant to OAR 660-027.
- (ccc) "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.
- (ddd) "Straight-line distance" means the shortest distance measured between two points.
- (eee) "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.
- (fff) "Substantial compliance" means city and county comprehensive plans and implementing ordinances, on the whole, conforms 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.
- (ggg) "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.
- (hhh) "Top of bank" means the same as "bankfull stage" defined in OAR 141-085-0010(2).
- (iii) "Urban development value" means the economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs ("employment value"), and the Metro 2040 design type designation of property. The urban development value of all properties containing

regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map referenced in Metro Code section 3.07.1340(E).

- (jjj) "UGB" means an urban growth boundary adopted pursuant to ORS chapter 197.
- (kkk) "Underdeveloped parcels" means those parcels of land with less than 10% of the net acreage developed with permanent structures.
- (lll) "Urban reserve" means an area designated urban reserve by the Metro Council pursuant to OAR 660 Division 27.
- (mmm) "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.
- (nnn) "Vacant land" means land identified in the Metro or local government inventory as undeveloped land.
- (ooo) "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.
- (ppp) "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.
- (qqq) "Water feature" means all rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, Flood Management Areas, wetlands, and all other bodies of open water.
- (rrr) "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>2</sup>. These are areas that require regulation in order to mitigate flood hazards and to preserve and enhance water

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<sup>2</sup> On file in Metro Council office.

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.

- (sss) "Water Quality Resource Areas" means vegetated corridors and the adjacent water feature as established in Title 3.
- (ttt) "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.
- (uuu) "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.

## **Exhibit J to Ordinance No. 10-1244B**

### **TITLE 11: PLANNING FOR NEW URBAN AREAS**

#### 3.07.1105 Purpose and Intent

The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. It is the purpose of Title 11 to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of Title 11 to provide interim protection for areas added to the UGB until city or county amendments to land use regulations to allow urbanization become applicable to the areas.

#### 3.07.1110 Planning for Areas Designated Urban Reserve

- A. The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, shall, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435 of this chapter. The date for completion of a concept plan and the area of urban reserves to be planned will be jointly determined by Metro and the county and city or cities.
- B. A concept plan shall achieve, or contribute to the achievement of, the following outcomes:
  - 1. If the plan proposes a mix of residential and employment uses:
    - a. A mix and intensity of uses that will make efficient use of the public systems and facilities described in subsection C;
    - b. A development pattern that supports pedestrian and bicycle travel to retail, professional and civic services;
    - c. Opportunities for a range of needed housing types;
    - d. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
    - e. Well-connected systems of streets, bikeways, parks and other public open spaces, natural areas, recreational trails and public transit;
    - f. Protection of natural ecological systems and important natural landscape features; and
    - g. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.

2. If the plan involves fewer than 100 acres or proposes to accommodate only residential or employment needs, depending on the need to be accommodated:
  - a. Opportunities for a range of housing types;
  - b. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
  - c. Well-connected systems of streets, bikeways, pedestrian ways, parks, natural areas, recreation trails;
  - d. Protection of natural ecological systems and important natural landscape features; and
  - e. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.

C. A concept plan shall:

1. Show the general locations of any residential, commercial, industrial, institutional and public uses proposed for the area with sufficient detail to allow estimates of the cost of the public systems and facilities described in paragraph 2;
2. For proposed sewer, park and trail, water and storm-water systems and transportation facilities, provide the following:
  - a. The general locations of proposed sewer, park and trail, water and storm-water systems;
  - b. The mode, function and general location of any proposed state transportation facilities, arterial facilities, regional transit and trail facilities and freight intermodal facilities;
  - c. The proposed connections of these systems and facilities, if any, to existing systems;
  - d. Preliminary estimates of the costs of the systems and facilities in sufficient detail to determine feasibility and allow cost comparisons with other areas;
  - e. Proposed methods to finance the systems and facilities; and
  - f. Consideration for protection of the capacity, function and safe operation of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.



3. If the area subject to the concept plan calls for designation of land for industrial use, include an assessment of opportunities to create and protect parcels 50 acres or larger and to cluster uses that benefit from proximity to one another;
4. Show water quality resource areas, flood management areas and habitat conservation areas that will be subject to performance standards under Titles 3 and 13 of the Urban Growth Management Functional Plan;
5. Be coordinated with the comprehensive plans and land use regulations that apply to nearby lands already within the UGB;
6. Include an agreement between or among the county and the city or cities and service districts that preliminarily identifies which city, cities or districts will likely be the providers of urban services, as defined at ORS 195.065(4), when the area is urbanized;
7. Include an agreement between or among the county and the city or cities that preliminarily identifies the local government responsible for comprehensive planning of the area, and the city or cities that will have authority to annex the area, or portions of it, following addition to the UGB;
8. Provide that an area added to the UGB must be annexed to a city prior to, or simultaneously with, application of city land use regulations to the area intended to comply with subsection C of section 3.07.1120; and
9. Be coordinated with schools districts, including coordination of demographic assumptions.

D. Concept plans shall guide, but not bind:

1. The designation of 2040 Growth Concept design types by the Metro Council;
2. Conditions in the Metro ordinance that adds the area to the UGB; or
3. Amendments to city or county comprehensive plans or land use regulations following addition of the area to the UGB.

- E. If the local governments responsible for completion of a concept plan under this section are unable to reach agreement on a concept plan by the date set under subsection A, then the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS 197.299 to ensure the UGB has sufficient capacity to accommodate forecasted growth.

3.07.1120 Planning for Areas Added to the UGB

- A. The county or city responsible for comprehensive planning of an area, as specified by the intergovernmental agreement adopted pursuant to section 3.07.1110C(7) or the ordinance that added the area to the UGB, shall adopt comprehensive plan provisions

and land use regulations for the area to address the requirements of subsection C by the date specified by the ordinance or by section 3.07.1455B(4) of this chapter.

- B. If the concept plan developed for the area pursuant to section 3.07.1110 assigns planning responsibility to more than one city or county, the responsible local governments shall provide for concurrent consideration and adoption of proposed comprehensive plan provisions unless the ordinance adding the area to the UGB provides otherwise.
- C. Comprehensive plan provisions for the area shall include:
  - 1. Specific plan designation boundaries derived from and generally consistent with the boundaries of design type designations assigned by the Metro Council in the ordinance adding the area to the UGB;
  - 2. Provision for annexation to a city and to any necessary service districts prior to, or simultaneously with, application of city land use regulations intended to comply with this subsection;
  - 3. Provisions that ensure zoned capacity for the number and types of housing units, if any, specified by the Metro Council pursuant to section 3.07.1455B(2) of this chapter;
  - 4. Provision for affordable housing consistent with Title 7 of the Urban Growth Management Functional Plan if the comprehensive plan authorizes housing in any part of the area.
  - 5. Provision for the amount of land and improvements needed, if any, for public school facilities sufficient to serve the area added to the UGB in coordination with affected school districts. This requirement includes consideration of any school facility plan prepared in accordance with ORS 195.110;
  - 6. Provision for the amount of land and improvements needed, if any, for public park facilities sufficient to serve the area added to the UGB in coordination with affected park providers.
  - 7. A conceptual street plan that identifies internal street connections and connections to adjacent urban areas to improve local access and improve the integrity of the regional street system. For areas that allow residential or mixed-use development, the plan shall meet the standards for street connections in the Regional Transportation Functional Plan;
  - 8. Provision for the financing of local and state public facilities and services; and
  - 9. A strategy for protection of the capacity and function of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.

- D. The county or city responsible for comprehensive planning of an area shall submit to Metro a determination of the residential capacity of any area zoned to allow dwelling units, using the method in section 3.07.120, within 30 days after adoption of new land use regulations for the area.

#### 3.07.1130 Interim Protection of Areas Added to the UGB

Until land use regulations that comply with section 3.07.1120 become applicable to the area, the city or county responsible for planning the area added to the UGB shall not adopt or approve:

- A. A land use regulation or zoning map amendment that allows higher residential density in the area than allowed by regulations in effect at the time of addition of the area to the UGB;
- B. A land use regulation or zoning map amendment that allows commercial or industrial uses not allowed under regulations in effect at the time of addition of the area to the UGB;
- C. A land division or partition that would result in creation of a lot or parcel less than 20 acres in size, except for public facilities and services as defined in section 3.07.1010(ww) of this chapter, or for a new public school;
- D. In an area designated by the Metro Council in the ordinance adding the area to the UGB as Regionally Significant Industrial Area:
  - 1. A commercial use that is not accessory to industrial uses in the area; and
  - 2. A school, a church, a park or any other institutional or community service use intended to serve people who do not work or reside in the area.

#### 3.07.1140 Applicability

Section 3.07.1110 becomes applicable on December 31, 2011.

## Exhibit K to Ordinance No. 10-1244B

Metro Code Chapter 3.01 is repealed.

### ~~3.01.005 Purpose~~

~~This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:~~

- ~~—— (a) —— Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long range growth in population and employment;~~
- ~~—— (b) —— Major amendments to address short term needs that were not anticipated at the time of legislative amendments; and~~
- ~~—— (c) —— Minor adjustments to make small changes to make the UGB function more efficiently and effectively.~~

### ~~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) —— "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.~~
- ~~—— (d) —— "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site specific situation or relatively small number of properties.~~
- ~~—— (e) —— "Property owner" means a person who owns the primary legal or equitable interest in the property.~~
- ~~—— (f) —— "Public facilities and services" means sewers, water service, stormwater services and transportation.~~
- ~~—— (g) —— "UGB" means the Urban Growth Boundary for Metro.~~
- ~~—— (h) —— "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.~~

### 3.01.012 Urban Reserve Areas

~~———— (a) ——— Purpose. This section establishes the process and criteria for designation of urban reserve areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.~~

~~———— (b) ——— Designation of Urban Reserve Areas.~~

~~———— (1) ——— The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.~~

~~———— (2) ——— The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.~~

~~———— (3) ——— The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.~~

~~———— (4) ——— The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.~~

~~———— (c) ——— Plans For Urban Reserve Areas. Cities and counties may plan for urban reserve areas, consistent with the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.~~

### 3.01.015 Legislative Amendment Procedures

~~———— (a) ——— The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.~~

~~———— (b) ——— Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.~~

~~———— (c) ——— Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

~~———— (d) ——— Prior to the final hearing on a proposed legislative 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. The Chief Operating Office 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 facilities and services, police and fire services, public schools, emergency services and parks and open spaces.~~

~~(e) ——— The Council shall base its final decision on information received by the Council during the legislative process.~~

~~————— (f) ——— The Council may amend 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 land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code to the land until the effective date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to Section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.~~

### ~~3.01.020 Legislative Amendment—Criteria~~

~~————— (a) ——— The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.~~

~~————— (b) ——— The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:~~

- ~~————— (1) ——— Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and~~
- ~~————— (2) ——— Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and~~

~~————— (3) ——— A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.~~

~~————— (c) ——— If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:~~

~~————— (1) ——— Efficient accommodation of identified land needs;~~

~~————— (2) ——— Orderly and economic provision of public facilities and services;~~

~~————— (3) ——— Comparative environmental, energy, economic and social consequences;  
and~~

~~————— (4) ——— Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.~~

~~————— (d) ——— If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:~~

~~————— (1) ——— Equitable and efficient distribution of housing and employment opportunities throughout the region;~~

~~————— (2) ——— Contribution to the purposes of Centers;~~

~~————— (3) ——— Protection of farmland that is most important for the continuation of commercial agriculture in the region;~~

~~————— (4) ——— Avoidance of conflict with regionally significant fish and wildlife habitat;  
and~~

~~————— (5) ——— Clear transition between urban and rural lands, using natural and built features to mark the transition.~~

### ~~3.01.025 Major Amendments Procedures~~

~~————— (a) ——— A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. 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 Council is completing its analysis of buildable land supply under ORS 197.299(1).~~

~~————— (b) ——— Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days~~

~~before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and 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. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a vote of five members of the full Council.~~

~~—————(c)———— With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.~~

~~—————(d)———— The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.~~

~~—————(e)———— The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.~~

~~—————(f)———— Within 14 days after receipt of a complete application, the Chief Operating Officer will:~~

~~—————(1)———— Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and~~

~~—————(2)———— Notify the public of the public hearing as prescribed in Section 3.01.050 of this chapter.~~

~~—————(g)———— The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies 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 to the public at least seven days prior to the hearing.~~

~~—————(h)———— If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in Section 3.01.015(d).~~



~~\_\_\_\_\_ (i) \_\_\_\_\_ An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.~~

~~\_\_\_\_\_ (j) \_\_\_\_\_ Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.~~

~~\_\_\_\_\_ (k) \_\_\_\_\_ Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.~~

~~\_\_\_\_\_ (l) \_\_\_\_\_ The hearings officer will provide the following information to participants at the beginning of the hearing:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ The criteria applicable to major amendments and the procedures for the hearing;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.~~

~~\_\_\_\_\_ (m) \_\_\_\_\_ The hearing shall be conducted in the following order:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ Presentation of the report and recommendation of the Chief Operating Officer;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ Presentation of evidence and argument by the applicant;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ Presentation of evidence and argument in support of or opposition to the application by other participants; and~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ Presentation of rebuttal evidence and argument by the applicant.~~

~~\_\_\_\_\_ (n) \_\_\_\_\_ The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. 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. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.~~

~~——(o)—— If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.~~

~~——(p)—— Cross examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.~~

~~——(q)—— A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.~~

~~——(r)—— The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.~~

~~——(s)—— Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.~~

~~——(t)—— Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.~~

~~——(u)—— The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.~~

~~——(v)—— The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary 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 Metro. 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 Metro.~~

### 3.01.030 Major Amendments—Criteria

~~———— (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 analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.~~

~~———— (b) ——— The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:~~

~~———— (1) ——— The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;~~

~~———— (2) ——— 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; and~~

~~———— (3) ——— 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.~~

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

### 3.01.033 Minor Adjustments—Procedures

~~———— (a) ——— A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided 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(d).~~

~~———— (b) ——— The Chief Operating Officer will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.~~

~~———— (c) ——— Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

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

~~———— (e) ——— The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing 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.~~

~~———— (f) ——— Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

~~———— (g) ——— Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions 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.~~

### 3.01.035 Minor Adjustments Criteria

~~———— (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 minor 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) ——— Adjustment 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 approve 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; and~~
  - ~~(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) Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:~~
  - ~~(1) The delineation was done by a professional engineer registered by the State of Oregon;~~
  - ~~(2) The adjustment will result in the addition of no more than 20 net acres to the UGB;~~
  - ~~(3) The adjustment will help achieve the 2040 Growth Concept; and~~

~~————— (4) ——— The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.~~

~~————— (f) ——— If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept designation for the area.~~

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

### ~~3.01.040 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 requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07.1105, et seq.).~~

~~(b) ——— Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when the Council adopts a legislative or major amendment to the UGB, the Council shall:~~

~~(1) ——— In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.~~

~~(2) ——— Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.~~

~~(3) ——— Establish the boundaries of the area that shall be included in the planning required by Title 11. The boundary of the planning area may include all or part of one or more designated urban reserves.~~

~~(4) ——— Establish the time period for city or county compliance with the requirements of Title 11, which shall not be less than two years following the effective date of the ordinance adding the area to the UGB.~~

~~———— (c) ——— When it adopts a legislative or major amendment to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in Section 3.07.870 of the Urban Growth Management Functional Plan.~~

#### ~~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 Metro to process an application. The filing fee shall include administrative costs and the cost of hearings officer and of public notice.~~

~~———— (b) ——— The fees for 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) ——— Before a hearing is scheduled, an applicant shall submit a fee deposit.~~

~~———— (d) ——— The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings 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 Council.~~

~~———— (e) ——— The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.~~

#### ~~3.01.050 Notice Requirements~~

~~———— (a) ——— For a proposed legislative amendment under Section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:~~

~~———— (1) ——— In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;~~

~~———— (2) ——— In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and~~

~~———— (3) ——— To the general public by an advertisement no smaller than 1/8 page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.~~

~~———— (b) ——— For a proposed major amendment under Section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:~~

- ~~(1) In writing at least 45 days before the first public hearing on the proposal to:~~
  - ~~(A) The applicant;~~
  - ~~(B) The director of the Department of Land Conservation and Development;~~
  - ~~(C) The owners of property that is being considered for addition to the UGB; and~~
  - ~~(D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;~~
- ~~(2) In writing at least 30 days before the first public hearing on the proposal to:~~
  - ~~(A) The local governments of the Metro area;~~
  - ~~(B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and~~
- ~~(3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.~~
- ~~(c) The notice required by subsections (a) and (b) of this section shall include:~~
  - ~~(1) A map showing the location of the area subject to the proposed amendment;~~
  - ~~(2) The time, date and place of the hearing;~~
  - ~~(3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;~~
  - ~~(4) A statement that interested persons may testify and submit written comments at the hearing;~~



- ~~(5) The name of the Metro staff to contact and telephone number for more information;~~
- ~~(6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and~~
- ~~(7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;~~
- ~~(8) For proposed major amendments only:
  - ~~(A) An explanation of the proposed boundary change;~~
  - ~~(B) A list of the applicable criteria for the proposal; and~~
  - ~~(C) A statement that failure to raise an issue at the hearing, orally or in writing, 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.~~~~
- ~~(9) For the owners of property described in paragraph (b)(1)(C) of this section, the information required by ORS 268.393(3).~~
- ~~(d) For a proposed minor adjustment under Section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:
  - ~~(1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;~~
  - ~~(2) In writing at least 20 days before the issuance of an order on the proposal to:
    - ~~(A) The applicant and the owners of property subject to the proposed adjustment;~~
    - ~~(B) The owners of property within 500 feet of the property subject to the proposed adjustment;~~
    - ~~(C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;~~
    - ~~(D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic~~~~~~

~~area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and~~

~~(E) Any other person requesting notification of UGB changes.~~

~~(e) The notice required by subsection (d) of this section shall include:~~

~~(1) A map showing the location of the area subject to the proposed amendment;~~

~~(2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;~~

~~(3) A statement that interested persons may submit written comments and the deadline for the comments;~~

~~(4) The name of the Metro staff to contact and telephone number for more information; and~~

~~(5) A list of the applicable criteria for the proposal.~~

~~(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.~~

#### ~~3.01.055 Regular Review of Chapter~~

~~The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.~~

#### ~~3.01.060 Severability~~

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

## **Exhibit L to Ordinance No. 10-1244B**

Title 14 is added to the Urban Growth Management Functional Plan

### **TITLE 14: URBAN GROWTH BOUNDARY**

#### 3.07.1405 Purpose

The Regional Framework Plan (RFP) calls for a clear transition from rural to urban development, an adequate supply of urban land to accommodate long-term population and employment, and a compact urban form. Title 14 prescribes criteria and procedures for amendments to the urban growth boundary (UGB) to achieve these objectives.

#### 3.07.1410 Urban Growth Boundary

A. The UGB for the metropolitan area is incorporated into this title and is depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Cities and counties within the Metro boundary shall depict the portion of the UGB, if any, that lies within their boundaries on their comprehensive plan maps. Within 21 days after an amendment to the UGB under this title, the COO shall submit the amended UGB to the city and county in which the amended UGB lies. The city and county shall amend their comprehensive plan maps to depict the amended UGB within one year following receipt of the amendment from the COO.

B. Urban and Rural Reserves are depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Amendments to the UGB made pursuant to this title shall be based upon this map.

#### 3.04.1420 Legislative Amendment to UGB - Procedures

A. Legislative amendments follow periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment. The Metro Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

B. Except as otherwise provided in this title, the Council shall make legislative amendments to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC, other advisory committees and the general public.

C. Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.07.1465.

D. Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the COO shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The COO 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 facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

### 3.07.1425 Legislative Amendment to the UGB - Criteria

A. This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

B. The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

1. Demonstrated need to accommodate future urban population, consistent with a 20-year population range forecast coordinated with affected local governments; and
2. Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
3. A demonstration that any need shown under paragraphs 1 and 2 of this subsection cannot reasonably be accommodated on land already inside the UGB.

C. If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors:

1. Efficient accommodation of identified land needs;
2. Orderly and economic provision of public facilities and services;
3. Comparative environmental, energy, economic and social consequences; and
4. Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.

5. Equitable and efficient distribution of housing and employment opportunities throughout the region;
6. Contribution to the purposes of Centers and Corridors;
7. Protection of farmland that is most important for the continuation of commercial agriculture in the region;
8. Avoidance of conflict with regionally significant fish and wildlife habitat; and
9. Clear transition between urban and rural lands, using natural and built features to mark the transition.

D. The Council may consider land not designated urban or rural reserve for possible addition to the UGB only if it determines that:

1. Land designated urban reserve cannot reasonably accommodate the need established pursuant to subsection B of this section; or
2. The land is subject to a concept plan approved pursuant to section 3.07.1110 of this chapter, involves no more than 50 acres not designated urban or rural reserve and will help the concept plan area urbanize more efficiently and effectively.

E. The Council may not add land designated rural reserve to the UGB.

F. The Council may not amend the UGB in such a way that would create an island of urban land outside the UGB or an island of rural land inside the UGB.

#### 3.07.1430 Major Amendments - Procedures

A. A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The COO will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may accept an application at other times by a vote of five members of the Council.

B. Except for that calendar year in which the Council is completing its analysis of buildable land supply, the COO shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and 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.

C. With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with section 3.07.1465. The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

D. The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

E. The COO will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The COO will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

F. Within 14 days after receipt of a complete application, the COO will:

1. Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
2. Notify the public of the public hearing as prescribed in section 3.07.1465 of this title.

G. The COO shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the COO to be used at the hearing shall be available to the public at least seven days prior to the hearing.

H. If the proposed major amendment would add more than 100 acres to the UGB, the COO shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in subsection D of section 3.07.1420.

I. An applicant may request postponement of the hearing within 20 days after filing a complete application. The COO may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the COO will return the unneeded portion of the fee deposit assessed pursuant to section 3.07.1460.

J. Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.

K. Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance prior to the hearing. The applicant has the burden of demonstrating that the proposed amendment complies with the criteria.

L. The hearings officer shall provide the following information to participants at the beginning of the hearing:

1. The criteria applicable to major amendments and the procedures for the hearing;
2. A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
3. A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.

M. The hearing shall be conducted in the following order:

1. Presentation of the report and recommendation of the COO;
2. Presentation of evidence and argument by the applicant;
3. Presentation of evidence and argument in support of or opposition to the application by other participants; and
4. Presentation of rebuttal evidence and argument by the applicant.

N. The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. 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. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

O. If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

P. Cross-examination by parties shall be by submission of written questions to the hearings officer, who shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

Q. A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

R. The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participants, and allocate the charges on the basis of cost incurred by each applicant.

S. Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the COO, who shall make it available for review by participants.

T. Within seven days after receipt of the proposed order from the hearings officer, the COO shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The COO shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

U. The Council shall consider the hearings officer's report and recommendation at the meeting set by the COO. The Council will allow oral and written argument by those who participated in the hearing before the hearings officer. Argument must be based upon the record of those proceedings. Final Council action shall be as provided in section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

#### 3.07.1435 Major Amendments – Expedited Procedures

A. The COO may file an application at any time to add land to the UGB for industrial use, pursuant to section 3.07.460, by major amendment following the expedited procedures in this section. The application under this section remains subject to subsections C, D, H, M and Q of section 3.07.1430.

B. Within 10 days after receipt of a complete application, the Council President will:

1. Set the matter for a public hearing before the Council for a date no later than 55 days following receipt of a complete application; and
2. Notify the public of the public hearing as prescribed in section 3.07.1465.

C. The COO shall submit a report and recommendation on the application to the Council not less than 15 days before the hearing and send copies to those who have requested copies. Any subsequent report by the COO to be used at the hearing shall be available to the public at least seven days prior to the hearing.



D. Participants at the hearing need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.

E. The Council President shall provide the following information to participants at the beginning of the hearing:

1. The criteria applicable to major amendments and the procedures for the hearing;
2. A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal.

F. The Council President may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the Council President 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. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

G. If new evidence is submitted at the continued hearing, the Council President may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the Council President grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

H. The Council President may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

I. Within 15 days following the close of the record, the Council shall adopt:

1. An ordinance, with findings of fact and conclusions of law, that amends the UGB to add all or a portion of the territory described in the application; or
2. A resolution adopting an order, with findings of fact and conclusions of law, that denies the application.

#### 3.07.1440 Major Amendments - Criteria

A. The purpose of the major amendment process is to provide a mechanism to address needs for land that cannot wait until the next analysis of buildable land supply under ORS 197.299. Land may be added to the UGB under sections 3.07.1430 and 3.07.1440 only for public facilities and services, public schools, natural areas and other non-housing needs and as part of a land trade under subsection D. An applicant under section 3.07.1430 must demonstrate compliance with this purpose and these limitations.

B. The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria

and factors in subsections B, C, D, E, F and G of section 3.07.1425. The applicant shall also demonstrate that:

1. The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
2. If the amendment would add land for public school facilities, the coordination required by subsection C(5) of section 3.07.1120 of this chapter has been completed; and
3. If the amendment would add land for industrial use pursuant to section 3.07.1435, a large site or sites cannot reasonably be created by land assembly or reclamation of a brownfield site.

C. If the application was filed under section 3.07.1435, the applicant shall demonstrate that the amendment is consistent with any concept plan for the area developed pursuant to section 3.07.1110 of this chapter.

D. To facilitate implementation of the Metropolitan Greenspaces Master Plan of 1992, the Council may add land to the UGB in a trade that removes a nearly equal amount of land from the UGB. If the Council designates the land to be added for housing, it shall designate an appropriate average density per net developable acre.

#### 3.07.1445 Minor Adjustments - Procedures

A. Minor adjustments make small changes to the UGB so that land within the UGB functions more efficiently and effectively. A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided 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 subsection D of section 3.07.1430.

B. The COO will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The COO will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.

C. Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in section 3.07.1465.

D. The COO shall review the application for compliance with the criteria in section 3.07.1450 and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The COO shall send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy.

E. The applicant or any person who commented on the application may appeal the COO's order to the Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing 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.

F. Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in section 3.07.1465.

G. Following the hearing, the Council shall uphold, deny or modify the COO's order. The Council shall issue an order with its analysis and conclusions 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.

### 3.07.1450 Minor Adjustments - Criteria

A. The purpose of this section is to provide a mechanism to make small changes to the UGB in order to make land within 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 minor 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. Adjustment of the UGB will make the provision of public facilities and services easier or more efficient;
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 designated rural reserve or for agriculture or forestry pursuant to a statewide planning goal.

D. To approve 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; and
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. Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

1. The delineation was done by a professional engineer registered by the State of Oregon;
2. The adjustment will result in the addition of no more than 20 net acres to the UGB;
3. The adjustment will help achieve the 2040 Growth Concept; and
4. The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

F. If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate an appropriate average density per net developable acre for the area.

G. The COO shall submit a report to the Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.

### 3.07.1455 Conditions of Approval

A. Land added to the UGB pursuant to sections 3.07.1420, 3.07.1430 and 3.07.1435 shall be subject to the requirements of sections 3.07.1120 and 3.07.1130 of this chapter.

B. If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it shall:

1. In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11 of this chapter. If local governments have an agreement in a concept plan developed pursuant to Title 11 that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
2. Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate an appropriate average density per net developable acre consistent with the need for which the UGB is expanded.
3. Establish the boundaries of the area that shall be included in the planning required by Title 11. A planning area boundary may include territory designated urban reserve, outside the UGB.
4. Establish the time period for city or county compliance with the requirements of Title 11, which shall be two years following the effective date of the ordinance adding the area to the UGB unless otherwise specified.

C. If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it may establish other conditions it deems necessary to ensure the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.850 of this chapter.

### 3.07.1460 Fees

A. Each application submitted by a property owner or group of property owners pursuant to this title shall be accompanied by a filing fee in an amount to be established by the Council. Such fee shall not exceed Metro's actual cost to process an application. The fee may include administrative costs, the cost of a hearings officer and of public notice.

B. The fee for 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. Before a hearing is scheduled, an applicant shall submit a fee deposit. In the case of an application for a minor adjustment pursuant to section 3.07.1445, the applicant shall submit the fee deposit with the application.

D. The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings 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 Council.

E. The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

### 3.07.1465 Notice Requirements

A. For a proposed legislative amendment under section 3.07.1420, the COO shall provide notice of the public hearing in the following manner:

1. In writing to the Department of Land Conservation and Development and local governments of the Metro region at least 45 days before the first public hearing on the proposal; and
2. To the general public at least 45 days before the first public hearing by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

B. For a proposed major amendment under sections 3.07.1430 or 3.07.1435, the COO shall provide notice of the hearing in the following manner:

1. In writing at least 45 days before the first public hearing on the proposal to:
  - a. The applicant;
  - b. The director of the Department of Land Conservation and Development;
  - c. The owners of property that is being considered for addition to the UGB; and
  - d. The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
2. In writing at least 30 days before the first public hearing on the proposal to:
  - a. The local governments of the Metro area;
  - b. A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or

is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and

3. To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

C. The notice required by subsections A and B of this section shall include:

1. A map showing the location of the area subject to the proposed amendment;
2. The time, date and place of the hearing;
3. A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
4. A statement that interested persons may testify and submit written comments at the hearing;
5. The name of the Metro staff to contact and telephone number for more information;
6. A statement that a copy of the written report and recommendation of the COO on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
7. A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;
8. For proposed major amendments only:
  - a. An explanation of the proposed boundary change;
  - b. A list of the applicable criteria for the proposal; and
  - c. A statement that failure to raise an issue at the hearing, orally or in writing, 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.
9. For the owners of property described in subsection B(1)(c) of this section, the information required by ORS 268.393(3).

D. For a proposed minor adjustment under section 3.07.1445, the COO shall provide notice in the following manner:

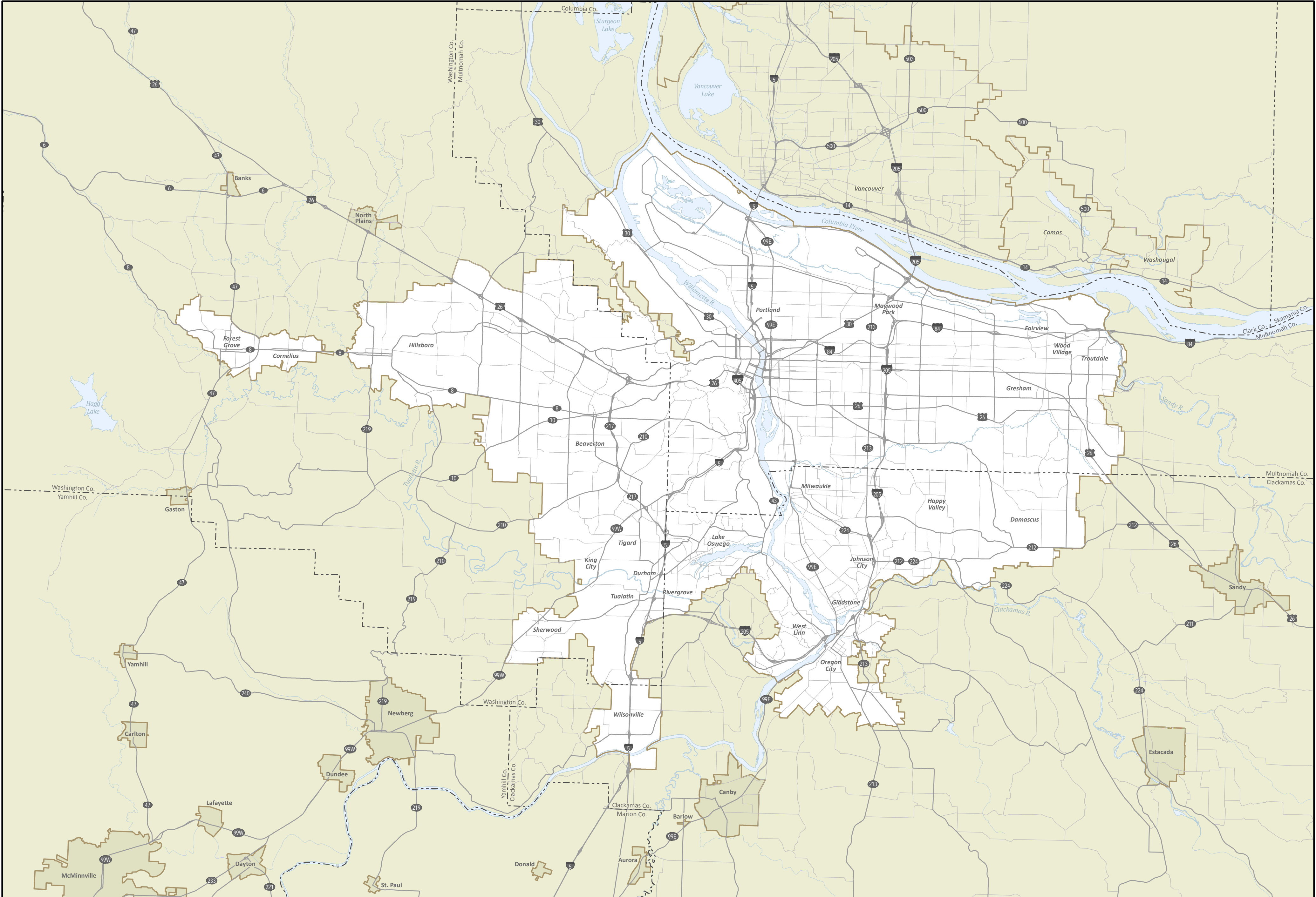
1. In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;
2. In writing at least 20 days before the issuance of an order on the proposal to:
  - a. The applicant and the owners of property subject to the proposed adjustment;
  - b. The owners of property within 500 feet of the property subject to the proposed adjustment;
  - c. The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;
  - d. Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and
  - e. Any other person requesting notification of UGB changes.

E. The notice required by subsection D of this section shall include:

1. A map showing the location of the area subject to the proposed amendment;
2. A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
3. A statement that interested persons may submit written comments and the deadline for the comments;
4. The name of the Metro staff to contact and telephone number for more information; and
5. A list of the applicable criteria for the proposal.

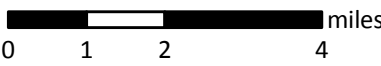
F. The COO shall notify each county and city in the district of each amendment of the UGB.





# Title 14, Urban Growth Boundary

ORDINANCE 10-1244B, EXHIBIT M  
December 16, 2010



- County boundaries
- Urban growth boundaries
- Neighbor cities



**Exhibit N to Ordinance No. 10-1244B**

**CHAPTER 3.09  
LOCAL GOVERNMENT BOUNDARY CHANGES**

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 of urban reserves designated by Metro and any annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary (UGB).

3.09.020 Definitions

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

A. "Adequate level of urban services" means a level of urban services adequate to support the higher number of dwelling units and jobs specified for the appropriate design type in section 3.07.640A of Title 6 of the Urban Growth Management Functional Plan, or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.

B. "Affected entity" means a county, city or district for which a boundary change is proposed or is ordered.

C. "Affected territory" means territory described in a petition.

D. "Boundary change" means a major or minor boundary change involving affected territory lying within the jurisdictional boundaries of Metro or the boundaries of urban reserves designated.

E. "Deliberations" means discussion among members of a reviewing entity leading to a decision on a proposed boundary change at a public meeting for which notice was given under this chapter.

F. "District" means a district defined by ORS 199.420 or any district subject to Metro boundary procedure act under state law.

G. "Final decision" means the action by a reviewing entity whether adopted by ordinance, resolution or other means which is the determination of compliance of the proposed boundary change with applicable criteria and which requires no further discretionary decision or action by the reviewing 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, or any action to defer or continue deliberations on a proposed boundary change.

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. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520.

J. "Necessary party" means any county; city; 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; or 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 any form of action that initiates a boundary change.

L. "Reviewing entity" means the governing body of a city, county or Metro, or its designee.

M. "Urban reserve" means land designated by Metro pursuant to ORS 195.137 et seq. for possible addition to the UGB.

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

### 3.09.030 Notice Requirements

A. The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter provision on boundary changes.

B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing 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 20 days prior to the date of deliberations. Notice shall be published as required by state law.

C. The notice required by subsection (b) shall:

1. Describe the affected territory in a manner that allows certainty;
2. State the date, time and place where the reviewing entity will consider the boundary change; and

3. State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.

D. A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 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 five days prior to the continued date of decision.

E. A reviewing entity's final decision shall be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro shall include payment to Metro of the filing fee required pursuant to section 3.09.060.

#### 3.09.040 Requirements for Petitions

A. A petition for a boundary change must contain the following information:

1. The jurisdiction of the reviewing entity to act on the petition;
2. A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
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; and
4. For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.

B. A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

#### 3.09.045 Expedited Decisions

A. The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least fifty percent of the electors, if any, within the affected territory. No public hearing is required.

B. The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.

C. At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extra-territorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
3. The proposed effective date of the boundary change.

D. To approve a boundary change through an expedited process, the city shall:

1. Find that the change is consistent with expressly applicable provisions in:
  - a. Any applicable urban service agreement adopted pursuant to ORS 195.065;
  - b. Any applicable annexation plan adopted pursuant to ORS 195.205;
  - c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
  - d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
  - e. Any applicable comprehensive plan; and
  - f. Any applicable concept plan; and
2. Consider whether the boundary change would:
  - a. Promote the timely, orderly and economic provision of public facilities and services;
  - b. Affect the quality and quantity of urban services; and
  - c. Eliminate or avoid unnecessary duplication of facilities or services.

E. A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB.

#### 3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

A. The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.

B. Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
3. The proposed effective date of the boundary change.

C. The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

D. To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of section 3.09.045.

#### 3.09.060 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 Chief Operating Officer (COO) shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor and elections officer, the Oregon Secretary of State and the Oregon Department of Revenue. Notification of public utilities shall be accomplished as provided in ORS 222.005(1).

C. The COO shall establish a fee structure establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, 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.

#### 3.09.070 Changes to Metro's Boundary

A. Changes to Metro's boundary may be initiated by Metro or the county responsible for land use planning for the affected territory, property owners and electors in the territory to be annexed, or other public agencies if allowed by ORS 198.850(3). Petitions shall meet the requirements of section 3.09.040 above. The COO 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 changes to the Metro boundary shall be given as required pursuant to section 3.09.030.

C. Hearings shall be conducted consistent with the requirements of section 3.09.050.

D. Changes to the Metro boundary may be made pursuant to the expedited process set forth in section 3.09.045.

E. The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:

1. The affected territory lies within the UGB;
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.

F. Changes to the Metro boundary that occur by operation of law pursuant to ORS 268.390(3)(b) are not subject to the procedures or criteria set forth in this section.

#### 3.09.080 Incorporation of a City that Includes Territory within Metro's Boundary

A. A petition to incorporate a city that includes territory within Metro's boundary shall comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, and the hearing and decision requirements in subsections (a), (c), and (e) of section 3.09.050, except that the legal description of the affected territory required by section 3.09.040(a)(1) need not be provided until after the Board of County Commissioners establishes the final boundary for the proposed city.

B. A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.07.

C. The following criteria shall apply in lieu of the criteria set forth in section 3.09.050(d). An approving entity shall demonstrate that:

1. Incorporation of the new city complies with applicable requirements of ORS 221.020, 221.031, 221.034 and 221.035;
2. The petitioner's economic feasibility statement must demonstrate that the city's proposed permanent rate limit would generate sufficient operating tax revenues to support an adequate level of urban services, as defined in this chapter and required by ORS 221.031; and

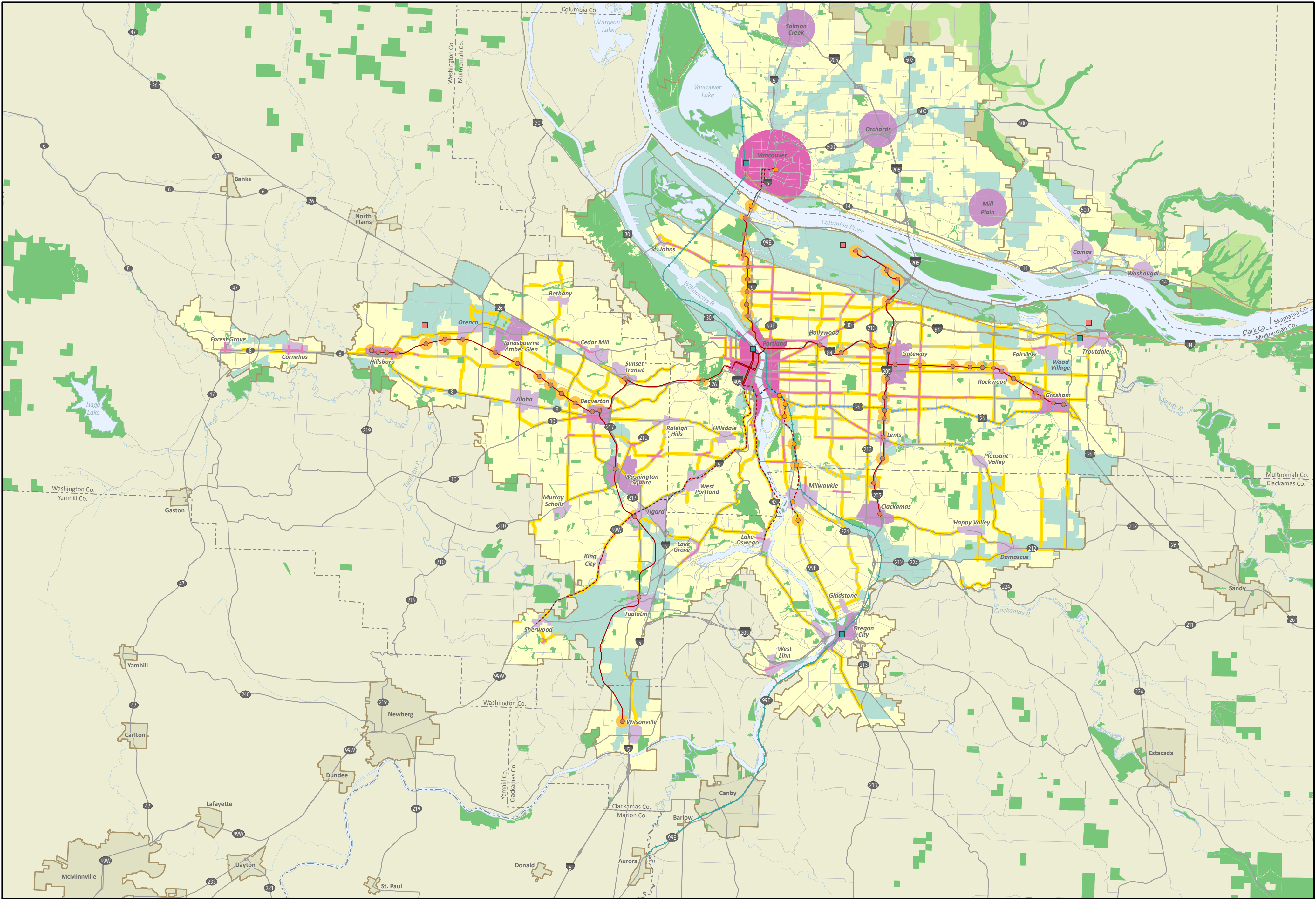


3. Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or has failed to act within the time specified in that statute.

#### 3.09.090 Extension of Services Outside UGB

Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.





## **Exhibit P to Ordinance No. 10-1244B**

### **Findings of Fact and Conclusions of Law**

#### **I. General Findings for Capacity Decision**

##### **A. Need for Capacity**

Metro began its analysis of the capacity of the UGB with a population and employment forecast. The Council adopted a resolution on December 10, 2009, that accepted the forecast as the basis for its analysis of UGB capacity pursuant to ORS 197.299 and 197.296. Rec. 3861. The forecast was “vetted” by an independent panel of economic and demographic experts from across the U.S., as well as by local economists and demographers. Rec. 98; 4034; 3861; 3867-3868. The forecast predicts population in the Portland Metropolitan Statistical Area (PMSA) (seven counties around the metropolitan area) will grow to approximately 2.9 to 3.2 million people by 2030, the end of the 20-year planning period. *20 and 60 Year Regional Population and Employment Range Forecasts*, September, 2009, p. 5. Rec. 4633; 4035. The forecast predicts that employment in the PMSA will grow to approximately 1.3 to 1.7 million jobs by 2030. Rec. 4633; 8158.

##### **1. Need for Residential Capacity**

From the forecast, Metro estimated that the total number of households in the PMSA in 2030 will range from 1,181,300 to 1,301,800. Rec. 3861; 8158. By subtracting existing households from this total, Metro determined that the PMSA would need to accommodate from 728,200 to 1,024,400 households. Rec. 4034; 3861. Relying upon historical settlement patterns since 2000, Metro assumed 61.8 percent of these dwelling units will be built inside the regional UGB. Rec. 4305. Metro applied a vacancy rate of four percent to account for relocating households. Rec. 4304. This calculation led to a determination that the UGB would have to accommodate between 224,000 and 301,500 new dwelling units through 2030. Rec. 4633; 4304-4308; 8160.

Metro’s 2009 Urban Growth Report (UGR) found ample zoned capacity within the current UGB to accommodate these new dwelling units. Rec. 4124-4161; 6896. Maximum residential zoned capacity is calculated from local zoning and comprehensive plan designations. Rec. 4150-4154. The capacity comes not only from vacant land. It comes also from infill and re-development on land that is considered “developed” under the region’s inventory methodology (Regional Land Information System, RLIS). Rec. 4144. However, Metro’s econometric and economic analyses of this maximum zoned capacity (MetroScope) indicates that much of it will not be absorbed in the next 20 years because infrastructure and land values will not support residential development. Rec. 4155; 7911; 7933; 8160. Relying upon the zoned capacity of vacant, buildable land and historic infill and re-development (“refill”) rates, Metro determined that the region has capacity for 196,600 new dwelling units without taking actions to use more of the maximum zoned capacity by “leading” the market. Rec. 4157-4158. This determination leaves a need to accommodate between 27,400 and 79,300 new dwellings units. Rec. 8160. Metro’s assumptions



that underlie this determination are more fully discussed in UGR, Appendix 6, pp. 6-2 to 6-17 and the Staff Report of November 19, 2010. Rec. 4304-4319; 8160-8162.

## 2. Need for Employment Capacity

The *20 and 60 Year Regional Population and Employment Range Forecasts*, September, 2009, predicts employment in the PMSA will grow to approximately 1.3 to 1.7 million jobs by 2030. Rec. 4058. Aggregating projected industry sector “capture rates” (percentage of PMSA jobs likely to land in the UGB) indicates that the region can expect to capture between 73 and 75 percent of the seven-county PMSA jobs over the next 20 years: from 1.0 to 1.3 million jobs. Rec. 4063-4065; 8163. Metro used the various building types that accommodate jobs to convert the number of jobs into need for land. Rec. 4071-4078. This analysis (after accounting for demand addressed through refill) yielded a demand for 274 to 4,930 acres of industrial land and 1,944 to 3,832 acres of non-industrial land. Rec. 4079-4086. The methodology for the employment demand analysis, used consistently for all employment sectors, is described in the UGR. Rec. 4071.

Metro undertook a parallel analysis of demand for large industrial sites (25 acres and above) (historic preferences and use of large sites by building type) using the same general methodology. The analysis began with the employment forecast (tied to the population forecast through Metro’s macroeconomic modeling). Metro sorted the region’s industrial sectors into six general building types. Metro estimated the average number of employees associated with each building type. Metro assumed the current distribution of employees by firm size and building type would continue through the planning period. From this Metro derived its employees/acre assumptions. Rec. 4090-4091. Metro inventoried large employers in the region and those large employers that use large parcels. From this Metro derived employees/acre for large parcel users. Rec. 4271-4275. Metro also estimated high growth rates and low growth rates for the sectors in which these firms fall in the NAICS codes. Rec. 4276-4278. The sectors are sorted by building type and firm size. Rec. 4276-4279. Finally, the analysis determined the number of new firms expected through 2030 by firm size and building type. Rec. 4280. The full analysis yielded a demand for 33 to 48 large sites. Rec. 4089-4093; 4270-4292; 8164-8165.

The region is using its supply of employment land more efficiently over time. Development density for non-industrial buildings has increased substantially since 2000. Rec. 4100. Analysis of market readiness and infrastructure adequacy, and assumptions of rates of infill and re-development, yields a range of available capacity from 6,469 to 11,493 acres of industrial land and from 5,575 and 7,872 acres of non-industrial employment land. Rec. 4101-4110. Current vacancy rates indicate that there is considerable existing capacity to be absorbed before there is a need for vacant land. Rec. 6933. From this analysis, Metro concluded that the UGB has sufficient capacity to accommodate industrial and non-industrial jobs through the 2030 planning period except at the high end of the middle third of the range forecast (at that point on the range, 30 acres of non-industrial employment capacity are needed). Rec. 4114-4116; 8163.

Testimony at public hearings expressed concern that industrial areas within the UGB have been and are being converted to non-industrial use, thereby reducing capacity for industrial use. An

examples offered was possible designation of 500 acres of the 826 acres on West Hayden Island, identified in the Portland comprehensive plan for future marine terminal development and other industrial use, for habitat protection. The UGR, however, included only 400 of the 826 acres in the inventory of industrial land. Rec. 7923. At the time of adoption of Ordinance No. 10-1244B, the city had taken no action to limit industrial use on the area. A second example was the Colwood Golf Course, recently proposed by the owner for rezoning to industrial. The Portland City Council denied the zone change. The UGR did not include this tract in the inventory of industrial land due to its current open space zoning. Rec. 4114-4116; 7923.

Unmet demand remains for large industrial sites. The UGB has an inventory (38) of large industrial parcels, but the inventory falls short of demand. Rec. 4118. The region has a surplus of parcels between 25 and 50 acres, but a deficit of parcels over 50 acres. Rec. 4117; 8164-8165.

Testimony at public hearings identified other possible large parcels within the UGB: in the Beavercreek Concept Plan area southeast of Oregon City; in Damascus; Freeway Lands near I-205 in Lents. Metro did not include the Beavercreek property in the inventory because it is not zoned for industrial use; the Damascus property is still zoned for rural use until the city adopts its comprehensive plan; the Freeway Lands property is developed. Rec. 7943. Testimony also proposed that the inventory include parcels smaller than 50 acres if they are adjacent to other parcels in the same ownership that, if combined, would create parcels larger than 50 acres. Metro did not include these parcels in the inventory because Metro does not regulate the sales of private property and cannot know about and cannot prevent the sale of one of the contiguous parcels. Rec. 7943. As noted in B(2), below, neither Metro nor any city or county has yet developed an assembly program, largely due to lack of funds to acquire smaller parcels. Rec. 7121.

## B. Providing Capacity

### 1. Residential Capacity

#### First Recourse: Increase Residential Capacity within the UGB

As noted in section IA1, communities within the UGB have sufficient zoned capacity to accommodate the dwelling units needed through the planning period. Analysis (MetroScope and experience) shows, however, that the market will not absorb all of the maximum zoned residential capacity because development is not market feasible, infrastructure is not available and is not expected to be available during the planning period, or both. Rec. 8160. But the same analysis also indicates that certain actions and combinations of actions can increase the feasibility and likelihood of residential development in places that would remain undeveloped or under-developed in 2030 without such actions. The Metro Council's strategy is to take the actions described below to "lead" the market to use more of the zoned capacity of the region in order to use those lands more efficiently and to minimize expansion of the UGB.

By this ordinance, the Metro Council adopted new policies in the Regional Framework Plan (RFP) to focus investments in those places in the region intended to accommodate higher residential densities: the Central City, seven Regional Centers, 30 Town Centers, light rail

Station Communities, and hundreds of miles of designated Corridors and Main Streets.<sup>1</sup> The Council also adopted a new approach to housing affordability: transportation investments in transit and other modes in order to make transportation more affordable. These investments will focus on parts of the region where households spend more than 50 percent of monthly income on housing and transportation. Rec. 5241; 5826; Ord Rec.12 (Exhibit A<sup>2</sup>).

This ordinance revised Title 1 (Housing Capacity) of the Urban Growth Management Functional Plan (UGMFP) to ensure “no net loss” of new residential capacity provided as the result of investments and other actions that generate the capacity. Rec. 8168; Ord Rec. 14-15 (Exhibit B). The ordinance also revised Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP to use investments and other incentives to induce cities and counties to revise their comprehensive plans and land use regulations to eliminate barriers to the types and densities of residential development and commercial and civic services that make higher-density residential development market-feasible. Rec. 8180; Ord Rec. 25-29 (Exhibit E). The community “assessment”, “plan of actions” and “investments” requirements of Title 6 were derived from the recommendations of a group of developers, development consultants, real estate economists, bankers and community development planners in a report prepared for Metro to facilitate development in centers and corridors. Rec. 3867.

ORS 197.296(9) lists a range of actions Metro and local governments can take to use land inside the UGB more efficiently. Ordinance No. 10-1244B implements actions from that list. These findings will explain how these actions demonstrably increase the likelihood that the region will absorb more of its maximum zoned residential capacity than the market would absorb without these actions. Through these actions the region will be able to provide at least one-half of the unmet need for residential capacity recognized in the 2009 UGR, without expanding the UGB.

*a. Actions to Use More Zoned Residential Capacity Investments:*

Investing to encourage the housing market to use more of the region’s maximum zoned capacity is a major component of the region’s strategy to use land inside the UGB more efficiently and effectively. A summary of the investment strategy is set forth in the “Community Investment Strategy: Building a Sustainable, Prosperous and Equitable Region”, August 10, 2010. Rec. 6865-6877.

Investment in a multi-modal transportation system is the most significant investment, by dollar value and effect on development patterns. Transportation investments can stimulate private investment in housing and employment in places that are the focus of such investment. The recently-adopted 2035 Regional Transportation Plan contains a program of investments that are

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<sup>1</sup> Ordinance No. 10-1244B adds one Regional Center (Tanasbourne/AmberGlen) and one Town Center (Cornelius); there are now eight Regional Centers and 31 Town Centers.

<sup>2</sup> RFP Chapter 1 (Land Use) Policies 1.1 (Compact Urban Form); 1.2 (Centers, Corridors, Station Communities and Main Streets); 1.3 (Housing Choices and Opportunities); Chapter 2 (Transportation) Goal 1.

“new”, meaning the investments were not assumed as part of the capacity analysis in the 2009 UGR. Rec. 6915-6916.

Metro has characterized two kinds of transportation investments: “mobility” projects and “community-building” projects. Mobility projects connect locations in the region to allow greater choice where to live and work. Projects include new high-capacity transit lines in the Highway 99 corridor to Sherwood and on-street bus rapid transit on SE Division Street and SE Powell Boulevard. Rec. 6902-6903. Community-building projects foster compact, mixed-use, pedestrian-friendly and transit-support development patterns. Projects include transit-oriented developments (“TODs”) new streetcar lines, streetscaping and pedestrian and bicycle improvements. Rec. 6876-6877; 273; 6316; 7884.

The region’s investment strategy includes local investments to complement and enhance the effects of state and regional transportation investments on development patterns. These local investments derive from the aspirations of cities and counties of the region to improve their communities. Rec. 962. A full discussion of local actions aimed to achieve community aspirations is set forth in Appendix 3 to “Community Investment Strategy: Building a Sustainable, Prosperous and Equitable Region”, August 10, 2010. Rec. 7048-7077. These actions are “new” - not assumed as part of the capacity analysis in the 2009 UGR. Illustrations of the types of local actions - parts of coordinated local investment strategies - are provided for Gresham, Wood Village, Hillsboro Downtown and AmberGlen, Tigard, Oregon City and Lake Oswego. Rec. 7054-7064. A more comprehensive list shows investments in community and regional trails, pedestrian facilities, civic centers and parks, street treatments, bicycle facilities and parking structures. Rec. 7065-7077.

#### *Incentives:*

Metro’s scenario testing shows that incentives can “lead” the housing market to build at higher densities. Experience in the region confirms the MetroScope scenario results. For example, use of tax-increment financing, a New Multiple-Unit Housing tax exemption program and transit-oriented development has had dramatic effects in centers and corridors in the city of Portland. In the past five years the city has accounted for 42 percent of the region’s new housing units (compared with three to five percent of new dwellings in the 1960-1980 period). (See section *b*, below.) Rec. 6738. Combined with transportation and other investments described above, incentives can exert significant influence on the market. Metro’s strategy to increase residential capacity includes a broad program of state, regional and local incentives to use more of the region’s zoned capacity.

Tax-increment financing in association with urban renewal plans is one of the most effective incentives to create compact, mixed-use development. The 2009 UGR assumed the continuation of existing urban renewal programs in the region. Metro relies upon new programs (Hillsboro; Beaverton; Milwaukie; Wood Village; Tigard) not in effect at the time of the UGR to stimulate the housing market to use more zoned capacity than would occur without the new programs. (Beaverton has set a vote on an urban renewal plan in 2011.) Rec. 6904; 7055; 7057; 4912-4915. For example, the Downtown Hillsboro Urban Renewal Plan calls for investment through

tax-increment financing of \$101,400,000 in a 1100-acre area, 35 percent of which lies within Station Communities along the Westside MAX line. The city estimates that the urban renewal investments will add \$1 billion dollars of assessed value by year 2046 more than would occur without the investments. Rec. 7057-7058; 4761).

Tax credit and abatement programs have also proven effective to increase density. Portland has had great success with its transit-oriented development tax abatement program. Rec. 6904. The program assisted 25 projects between 1999 and 2009, providing a total of 2,596 units. Rec. 6738. Wood Village received approval from the Oregon Department of Housing and Community Services in late 2009 for a Vertical Housing Tax Credit Program in a portion of its Town Center. Rec. 7055; 4912-4915; 7884.

Several cities in the region have adopted variable systems development charges (SDCs) to align their SDCs with the types of developments in central locations. These variable SDC programs reduce the cost of housing development. Rec. 7061; 4912-4915; 7884.

Metro has provided cities and counties with a series of “community investment tools”, such as development-friendly designs and development codes. These tools represent investments that will increase the likelihood that developers will use more of the maximum zoned density in centers and corridors. Rec. 102; 181; 589.

*Increases in density:*

Since adoption of the 2009 UGR, two cities have revised their comprehensive plans and land use regulations to increase the residential capacities of centers. Hillsboro adopted a new plan for Tanasbourne/AmberGlen. The plan designates areas of high density residential and mixed-use, pedestrian-friendly, transit-supportive development that will add capacity for 5,000 new dwelling units not recognized in the 2009 UGR. Rec. 7056. Ordinance No. 10-1244B designated Tanasbourne/AmberGlen a Regional Center, making it a focus area for investment under new policies in Metro’s Regional Framework Plan. Rec. 6951; 7109-7112; 4954; 4912-4915; 7884; Ord Rec. 88 (Exhibit O).

Tigard adopted a new plan and new zoning for its downtown (a designated Town Center), matched by an investment strategy to support the plan. The strategy includes the existing urban renewal plan and an Affordable Housing Tax Abatement Program. The new plan expands the Town Center to include the “Tigard Triangle” (bounded by I-5 and Highways 217 and 99). The Highway 99 Corridor is identified in the 2035 Regional Transportation Plan as the region’s next priority for expansion of the high-capacity transit system. The plan and zoning amendments authorized 1,900 additional dwelling units not recognized in the 2009 UGR. Rec. 7059-7061.

Wood Village recently authorized “cottage housing” in its Town Center. Cottage housing is a new, higher-density housing type that will add capacity to the area. Rec. 4912-4915; 7884.

These local and regional actions will increase residential capacity by 6,900 dwelling units. Rec. 6912.

*Minimum densities:*

Ordinance No. 10-1244B revised Title 1 (Housing Capacity) of the Urban Growth Management Functional Plan. Rec. 8171; Ord Rec. 14-15 (Exhibit B). The revisions establish a “no net loss of capacity” rule that has the effect of ensuring minimum zoned residential capacity gains from “upzoning” since the last revision of Title 1 in 2002 are not lost to future “downzonings.” The minimum zoned capacities of zones throughout the region become the floor of residential capacity determined pursuant to ORS 197.296(3) through MetroScope modeling (minimum zoned capacities are also the floor of market feasibility in the model).

*Re-designation of Non-Residential Land*

The 2009 UGR found that the region has excess capacity for general industrial and non-industrial employment for the 20-year planning period (at the high end of the middle third of the range forecast there is need for 30 acres of non-industrial employment capacity). Rec. 6897-6898; 4114-4116; 8163. Metro’s Ordinance No. 10-1244B, and a series of amendments to plans and zoning ordinances by local governments, increased the residential capacity of the UGB by allowing housing in zones previously limited to employment. Exhibit D depicts the amendments by the Metro Council to the Employment and Industrial Areas Map in Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan, pursuant to section 3.07.450. Ord Rec. 24. Some of the local amendments were made prior to adoption of the 2009 UGR (the Brickworks area in Gresham and the Conway site in Portland, for example). The UGR counted the increased residential capacity from these amendments.

Some of the amendments were adopted after preparation of the UGR and are counted here to reduce the need for capacity determined by the UGR. The Metro Council expanded the UGB to add land to Oregon City in the Beavercreek area in 2002 and 2004. Upon completion of planning under Title 11 of the Urban Growth Management Functional Plan, the city reduced the amount of land designated for industrial use with Metro’s agreement and designated more land to mixed-use and residential use (adding 34 units of new capacity). Ordinance 10-1244B revised the Title 4 Employment and Industrial Areas Map to conform to the city’s Title 11 plan, in part to reflect the determination of the 2009 UGR that the region had more employment capacity than it needed for the next 20 years. Rec. 8202-8210.

At the request of the city of Tigard, Ordinance 10-1244B revised the Title 4 Employment and Industrial Areas Map to re-designate 39 acres south of the Washington Square Regional Center from Industrial Area to Employment Area to conform the map to the city’s mixed-use commercial and mixed-use employment zoning. The change to the Title 4 map removed Title 4 limitations on nonindustrial uses and allows residential use. Rec. 8185-8202.

At the request of the city of Portland, Metro Ordinance No. 10-1246 revised the Title 4 Employment and Industrial Areas Map to re-designate from Industrial Area two tracts comprising 53.4 acres in the Northwest District, 16.9 acres to Employment Area and 36.5 acres to Inner Neighborhood. Both tracts are developed, but the map changes will allow infill and redevelopment for residential use. Rec. 7935.



The Council made these map amendments because they better achieve the policies of the Regional Framework Plan (RFP). The Council designated substantial portions of both areas (Tigard and Portland amendments) for industrial use to provide employment capacity to meet needs identified in the 2002 Urban Growth Report and to help meet policies in the RFP calling for jobs and economic opportunity.<sup>3</sup> The Council finds that the changes better achieve the policies of the RFP because the resulting plan and zone designations provide a better mix of residential, employment and other uses (Corridor and Main Street designations, e.g.).<sup>4</sup> The Council also finds that the resulting shift in employment and residential capacity – the increase in residential capacity - accords with the more recent determinations of housing and employment needs identified in the 2009 UGR.

Ordinance No. 10-1244B re-located the Happy Valley Town Center several miles east, from King Road, where there are civic services but no commercial zoning, to SE Sunnyside Road and SE 72<sup>nd</sup> Avenue, an emerging commercial and multi-family development area near the new city hall. The city has received a grant to upzone parts of the area. Rec. 7102-7106; 6766; 4954; 7880. The ordinance re-designated the Cornelius Main Street to a Town Center. One effect is to broaden the area at the center of the city that is eligible for investments under new RFP policies and revisions to Title 6 of the UGMFP that will focus public investments. Rec. 7106-7109; 7880. The ordinance also re-designated the Tanasbourne Town Center in Hillsboro to a Regional Center, making it the region's eighth. The new Regional Center includes the AmberGlen area, one of the region's largest re-development sites. Hillsboro estimates the Regional Center will house over 30,000 people and employ 23,000 people. Rec. 7109-7112; 4954; (Metro Council Work Session Worksheet, November 4, 2010). These changes to the locations and designation of centers will add significant residential capacity to the region.

b. *Actions Increase Likelihood that Market Will Absorb More Zoned Residential Capacity*

The actions described in section *a*, above, are intended to stimulate the housing market to develop more of the residential capacity allowed by maximum zoned capacities available in zones through the region. These actions will generate higher levels of infill and redevelopment in already-developed areas and higher levels of new development on vacant lands. Section *b* demonstrates that these actions will increase the likelihood that the region will experience a higher level of use of maximum zoned residential capacity than assumed in the 2009 UGR.

*“Refill” Land*

Actions to encourage the housing market to build on already-developed properties in the region are a major component of the region's investment strategy. In the Metro approach, “infill”

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<sup>3</sup> Policies 1.2.1c; 1.4; and 1.5.1

<sup>4</sup> Chapter 1 (Land Use) Policies 1.2.1c; 1.4.1; 1.4.2; and 1.5.4 and Chapter 2 (Transportation) Objectives 6.2; 6.4; and 6.5.

occurs when more units are built on an already-developed site. “Redevelopment” occurs when a structure is removed and another built in its place. For ease of reference, Metro uses the term “refill” to cover both types of building on developed land. Rec. 4249; 6968.

Metro has measured the percentage of all new residential development that takes place on developed land for many years, expressed as a “refill rate.” The rate shows us how much development is occurring on developed land. It also measures the effectiveness of actions aimed to encourage such development. Rec. 6906. The 2009 UGR assumed that 33 percent of new dwellings over the 20-year planning period would develop through refill. Metro based this assumption upon measured past experience under existing policies (through RLIS) and a MetroScope run, based upon current policies. Rec. 4136-4137; 6901; 4399-4421.

Metro subsequently used MetroScope to test the effects of four different “new policy” scenarios, each compared to the “reference” case (and to each other): tight UGB; infrastructure funding delays; corridor amenity investments; and center amenity investments. Each scenario yielded a different distribution of housing units and jobs, housing and transportation costs, commute distances, infrastructure costs, greenhouse gas emissions and acres developed in UGB expansion areas. The scenarios showed that investments in centers and corridors make centers and corridors more desirable locations for housing and employment. Rec. 882. The scenarios informed the development of the set of actions adopted by Ordinance No. 10-1244B and described in section *a*. A MetroScope run with these new actions and new requirements in the UGMFP indicates that the region will achieve an overall refill rate of 41 percent rate during the 2010-2030 planning period. Experience, however, caused Metro to assume a more conservative rate of 38 percent. Rec. 6906-6908; 6918; 4316; 4318. These local and regional actions will increase residential capacity of refill land by 11,300 dwelling units. Rec. 8160-8162. See *LCDC Partial Approval and Remand Order 03-WKTASK-001524*, pp. 20-23.

#### *Vacant Land*

The actions described in section *a* will also yield higher densities on vacant land. The 2009 UGR assumed that, by year 2030, only half of the maximum zoned capacity of vacant land zoned to allow multi-family dwellings would be absorbed due to lagging market demand and lack of public investment in some centers and corridors. Rec. 4315-4316; 6901. A MetroScope run with the new actions described in section *a*, and new requirements in the UGMFP, indicates the region will use 60 percent of this vacant land capacity during the 2010-2030 planning period. Rec. 6908-6909; 6918; 4316; 4318. These local and regional actions will increase residential capacity by 3,700 dwelling units. Rec. 6909; 8160-8162.

The UGR also assumed that only 50 percent of residential capacity in areas added to the UGB from 1998 to 2005 would be market-feasible during the planning period, for the same reasons. Rec. 4315-4316; 6901. A MetroScope run with the new actions described in section *a* and the new UGMFP requirements indicates that the region will use considerably more of this vacant

land capacity during the 2010-2030 planning period. Rec. 6908-6909; 4316; 4318. These local and regional actions will increase residential capacity by 8,350 dwelling units. Rec. 6917; 8160-8162.

The sum of capacity gains on vacant and developed lands is 30,300. Rec. 8160-8162.

Metro does not rely solely on runs of the econometric MetroScope model to demonstrate the likelihood of these capacity gains. The region has years of experience with the types of actions described in section *a*, which provides real-world confirmation of model results. E.D. Hovee & Company estimated that more than \$6 billion of development has occurred at light rail stations along TriMet's MAX system since the first line opened in 1986. Focusing on the Blue Line from Gresham to Hillsboro (33 miles long; 51 stations), Hovee found average development density (floor-to-area ratio) was 0.65 more than the average experienced for development outside the station areas. Low and moderate-value properties near the stations redeveloped at twice the rate reported for similar properties along the corridor but away from the stations. Hovee estimated that development near the eleven stations along the planned and authorized 7.5-mile light rail line to Milwaukie would generate \$930 million more in development value over 20 years following completion than the \$2.93 billion otherwise anticipated. Rec. 789.

The city of Portland also offers compelling evidence of the effect of investments and incentives on development intensities. In the 1960s, 1970s and 1980s, the city accounted for three to five percent of new dwelling units in the region annually. With sustained investment using urban renewal, tax-increment financing, local improvement districts, business improvement districts, tax abatements and other techniques, the city now captures 30 to 50 percent of the region's new dwelling units annually. For the past 15 years, the city has accounted for 36 percent of the region's new units. Rec. 6738; 1203; 1672; 534; 346. Approximately 80 percent of this development is occurring through redevelopment, not only in the central city, but also along corridors, light rail station communities and main streets east of the Willamette River. Rec. 7919.

The region also relied upon an innovative methodology developed by Johnson Reid LLC and Fregonese Associates to assess the effects of public investments on property value and development. Hedonic regression analysis using the "walkscore" algorithm shows that "walkability" translates directly into increases in property values. Investment in public amenities, such as those public investments listed in section *a*, above, can influence the private housing market, as illustrated in the "pro forma" analysis undertaken for Metro by Fregonese Associates. Small shifts in the market can greatly increase density. Rec. 7933. Houses with above-average levels of walkability command a premium of \$4,000 to \$34,000 over houses with average walkability in typical metropolitan areas. Rec. 6994. Multi-family development achieves a 20-25% price premium within walking distance or convenient transit ride to work, recreation and commercial services. Rec. 6359. An independent analysis, also using a hedonic regression analysis using the walkscore algorithm, in fifteen metropolitan markets in the U.S. and nearly 100,000 home sales, found a statistically significant, positive relationship between walkability and home values in 13 of the 15 markets. Rec. 1642.

Changing demographics reinforce the relationship between public investments and other actions and higher-density residential development. Over the 20-year planning period, the market will see many more households that prefer active urban settings with non-auto travel options. Rec. 3917; 6320; 6924; 7578; 7591. These demographic trends increase the likelihood that the actions described in section *a* will yield the results predicted by Metro.

One further factor will contribute to the success of Metro's strategy to use more of the region's maximum zoned residential capacity: adoption by Metro and Clackamas, Multnomah and Washington counties of urban and rural reserves. The 2009 UGR, completed prior to the adoption of reserves, assumed that Metro would expand the UGB to meet its population and employment land needs every five years, as required by ORS 197.299 and 197.296(3), for the next 20 years. Rec. 4251. The UGR assumed that Metro would follow the statutory priorities for adding needed land to the UGB [ORS 197.298(1)]. Given the higher priority given to exception lands, which are generally on steeper slopes and divided into smaller parcels than agricultural land, land added to the UGB under the priority statute would yield lower densities than adding flat land with larger parcels. Adoption of urban reserves by Ordinance No. 10-1238A in June, 2010, will make relatively flat land in larger parcels available for inclusion in the UGB, if needed over the next 20 years. As a result, Metro assumed that housing would achieve 15 units/net developable acre in urban reserves, higher than averages achieved in the recent past. Rec. 6905-6906.

#### Second Recourse: Add Residential Capacity to the UGB

Pursuant to ORS 197.299(2), the Metro Council has decided to provide at least one-half (30,300 dwelling units) of the need for residential capacity - up to the high end of the middle third of the range forecast - by the actions adopted by this Ordinance No. 10-1244B. Rec. 8160-8162. The Council will take action to meet the remainder of the need, if any, in 2011.

## 2. Employment Capacity

#### First Recourse: Increase Employment Capacity within the UGB

As noted in section A2, above, Metro's 2009 UGR determined that the UGB has sufficient capacity to accommodate industrial and non-industrial jobs through the 2030 planning period, but for the demand for large industrial sites. Rec. 4114-4116. The UGB has an inventory of large industrial parcels (38), but the inventory falls short of demand. Rec. 4113. The region has a surplus of parcels between 25 and 50 acres, but a deficit of parcels over 50 acres. Rec. 8164-8165.

Metro and the local governments of the region have looked to two mechanisms to provide more large parcels within the existing UGB: reclamation of brownfield sites and assembly of smaller parcels. Neither Metro nor any city or county has yet developed an assembly program, largely due to lack of funds to acquire smaller parcels. Several local governments have funds from the U.S. Environmental Protection Agency to study brownfields for reclamation potential. But none has the funding to reclaim brownfield sites. Rec. 7121; 8163-8164; 5123-5129. Nonetheless, Ordinance No. 10-1244B revised two titles of the UGMFP to conserve the existing supply of

large parcels and to require exhaustion of reasonable consolidation and reclamation opportunities prior to expanding the UGB to add large sites for industrial use. To improve implementation of RFP Policy 1.4.4<sup>5</sup>, the Metro Council revised Title 4 to prohibit schools, parks and places of assembly above a certain size from areas designated Regionally Significant Industrial Area on the Title 4 map. Rec. 8172-8173; Ord Rec. 17 (Exhibit C, Title 4); 24 (Exhibit D, Employment and Industrial Areas Map). The Council revised its code provisions on expansion of the UGB to require applicants for expansion for industrial uses to demonstrate that “a large site or sites cannot reasonably be created by land assembly or reclamation of a brownfield site.” Ord Rec. 72-73 (Exhibit L, Title 14). These actions, however, will not ensure the availability of enough large industrial sites to meet the demand identified in the UGR.

#### Second Recourse: Add Employment Capacity to the UGB

As noted above, pursuant to ORS 197.299(2), the Metro Council has decided to fulfill at least one-half of the need for residential capacity to accommodate the forecast population in the middle third of the range forecast by the actions adopted by this Ordinance No. 10-1244B. The Council will take action to meet the remainder of the need in 2011. At the same time, the Council will add land to the UGB to meet the unmet demand for large sites for industrial use.

## **II. Compliance with the Regional Framework Plan**

Several policies in chapters 1 and 2 of the Regional Framework Plan (RFP) call for a compact urban form.<sup>6</sup> Others focus growth in centers, corridors, station communities and main streets and emphasize infill and redevelopment.<sup>7</sup> The actions described in section IB(1)(a) aim to accomplish these policies. Section IB(1)(b) demonstrates that the actions will increase the likelihood that these policies will be achieved. Based on the analysis in section IB(1), the Council concludes that the actions taken or adopted in Ordinance No. 10-1244B comply with these policies.

Ordinance No. 10-1244B adopted new policies and revises others in the RFP. Ord Rec. 9-10 (Exhibit A). These new policies increase the emphasis on infill and redevelopment of centers, corridors, station communities and main streets.<sup>8</sup> The actions described in section IB(1)(a) aim

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<sup>5</sup> “Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.”

<sup>6</sup>Chapter 1: Policy 1.1, Urban Form; Policy 1.6, Growth Management; Policy 1.9, Urban Growth Boundary; Policy 1.15, Centers; Chapter 2: Goal 1, Objective 1.1, Compact Urban Form and Design.

<sup>7</sup> Chapter 1: Policy 1.1, Urban Form; Policy 1.3, Housing Choice; Policy 1.5, Economic Vitality; Policy 1.8, Developed Urban Land; Policy 1.15, Centers; Chapter 2: Goal 1, Objective 1.1, Compact Urban Form and Design.

<sup>8</sup> Chapter 1: Policy 1.1, Compact Urban Form; Policy 1.2, Centers, Corridors, Station Communities and Main Streets.

to accomplish these policies. Section IB(1)(b) demonstrates that the actions increase the likelihood that these policies will be achieved. Based on the analysis in section IB(1), the Council concludes that the actions taken or adopted in Ordinance No. 10-1244B comply with these policies.

Policy 1.3.8 calls upon Metro to integrate its efforts to expand housing choices and make housing more affordable with its transportation planning and its land use planning authorities. Ordinance No. 10-1244B adopted new Policy 1.3.3<sup>9</sup> to use its transportation planning authority to reduce combined housing and transportation cost burdens on the region's households. Ord Rec. 10-12. The actions described in section IB(1)(a) aim to accomplish these policies. Section IB(1)(b) demonstrates that the actions will increase the likelihood that these policies will be achieved. Based on the analysis in section IB(1), the Council concludes that the actions taken or adopted in Ordinance No. 10-1244B comply with these policies.

### **III. Compliance with the Statewide Planning Goals**

#### Goal 1 - Citizen Involvement

Over three years' worth of effort went into the development of the actions taken or adopted by Ordinance No. 10-1244B. Metro involved citizens in this effort at every stage: development of the population and employment forecasts; the determination of the capacity of the UGB; review of the recommendations of the Chief Operating Officer; and review of the elements of Ordinance No. 10-1244B. Ord Rec. 4-7; Rec. 3872-3892; 4194-4206; 4212-4218; 4225-4241; 8157. As the recommendations culminated into final proposals, the Metro Council held four public hearings around the region. Ord Rec. 4-7. The Council concludes that these efforts to involve citizens in the planning process leading to adoption of Ordinance No. 10-1244B comply with Goal 1.

#### Goal 2 - Land Use Planning

There are two principal requirements in Goal 2: (1) provide an adequate factual base for planning decisions, and (2) ensure coordination with those affected by the planning decisions. The record accumulated through this effort and the materials from that record submitted to LCDC contain an enormous body of information. The information in the record cited in sections IB(1)(a) and (b) of these findings provides an ample factual basis for the growth management decisions in Ordinance No. 10-1244B. The Council concludes that its record provides an adequate factual basis for its decisions.

Metro coordinated its planning efforts with all affected general and limited purpose governments and districts and many profit and non-profit organizations in the region. As a result, Metro received a large number of comments from these governments and organizations. Metro responded in writing to these comments at several stages in the two and one-half year effort,

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<sup>9</sup> "Reduce the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation."

which responses are contained in the record submitted to LCDC. Responses indicate efforts made to accommodate the requests and proposals. Rec. 3872; 4194; 4212; 4224-4225.

Metro also worked closely with local governments and agencies through its advisory committees. These committees – Metro Policy Advisory Committee, Metro Technical Advisory Committee, Joint Policy Advisory Committee on Transportation and Technical Advisory Committee on Transportation - worked tirelessly for several years to review information, policies and functional plan requirements under consideration by the Metro Council. The Council made many modifications to the exhibits to Ordinance No. 10-1244B recommended by these committees.

The Council concludes that these efforts to notify, receive comment, accommodate and respond to comment fulfill Metro's responsibility under Goal 2.

#### Goal 3 - Agricultural Lands

The actions taken or adopted by Ordinance No. 10-1244B affect agricultural lands indirectly because they require more efficient use of land inside the UGB. However, the actions do not change or affect comprehensive plan designations or land regulations for lands subject to Goal 3. The Council concludes that, although the actions are consistent with Goal 3, the goal itself does not apply to the actions, all of which will happen within the UGB.

#### Goal 4 - Forest Lands

The actions taken or adopted by Ordinance No. 10-1244B affect forest lands indirectly because they require more efficient use of land inside the UGB. However, the actions do not change or affect comprehensive plan designations or land regulations for lands subject to Goal 4. The Council concludes that, although the actions are consistent with Goal 4, the goal itself does not apply to the actions, all of which will happen within the UGB.

#### Goal 5 - Natural Resources, Scenic and Historic Areas and Open Spaces

All of the actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will be subject to Titles 3 and 13 of Metro's Urban Growth Management Functional Plan (UGMFP) and to the Goal 5 programs of cities and counties in the region. These titles and local land use regulations are "acknowledged" under the statewide planning program, including Goal 5. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 5.

#### Goal 6 - Air, Water and Land Resources Quality

All of the actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will be subject to Metro's UGMFP, the Regional Transportation Functional Plan and to the plans and land use regulations of cities and counties in the region. The UGMFP and local plans and land use regulations are "acknowledged" under the statewide planning program, including Goal 6. More efficient use of land will reduce air pollutants, vehicle miles traveled and greenhouse gas emissions. Rec. 3517; 5157. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 6.

#### Goal 7 - Areas Subject to Natural Hazards

The analysis of regional capacity accounts for areas subject to natural hazards by discounting known hazards. Rec. 4247; 4304; 4306; 4317. All of the actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will be subject to Metro's UGMFP and to the plans and land use regulations of cities and counties in the region. The UGMFP and local plans and land use regulations are "acknowledged" under the statewide planning program, including Goal 7. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 7.

#### Goal 8 - Recreational Needs

Metro's analysis of regional capacity accounts for the recreational needs of the region. The UGR derives its estimate of needs (1,300 acres) from estimated local systems development charges for parks and greenspaces over the 20-year planning period. The existing UGB has sufficient capacity to provide for these needs. Rec. 4304; 4313-4314. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 8.

#### Goal 9 - Economic Development

Goal 9 applies to cities and counties in the region, but not to Metro. Metro facilitates local efforts to meet Goal 9 and provide employment opportunities by providing land needed for employment over the next 20 years. Nonetheless, Metro consulted with cities and counties about their economic development plans and priorities. The "cluster" forecast and the analysis of demand for large sites for industrial use in the 2009 UGR were responses to local Goal 9 plans and consultation with local governments. Rec. 4257; 4270. Sections IA(2) and IB(2) of these findings refer to the information that supports the Council's conclusion that the existing UGB has capacity for employment needs, with the exception of the demand of traded-sector industries for sites 50 acres and larger.

#### Goal 10 - Housing

Metro's 2009 UGR determines that the region lacks sufficient capacity to accommodate the need for housing through 2030. Rec. 4159-4160; 8160-8163. Sections IB(1) and IB(2) of these findings describe the actions taken or adopted by Ordinance No. 10-1244B and demonstrate that the actions increase the likelihood that the UGB will provide at least 50 percent of housing needs over the next 20 years by using zoned residential capacity more efficiently.

The UGR shows that, without changes to regional and local policy, an increasing number and percentage of the region's households will spend more of their monthly incomes on housing over the next 20 years. Rec. 4318; 4372; 6896; 6976-6984. This finding led the Council to develop a new strategy to reduce combined housing and transportation costs by integrating the planning for transit investments with land use planning and with other types of investment. Rec. 5157; 8168.

The Council developed three other strategies to address the housing issues identified in the UGR. First, the Council revised Title 6 (Centers, Corridors, Station Communities and Main Streets) to condition city and county access to regional investments and other incentives upon amendments



to their land use regulations to allow higher-density residential development and a mix of uses that will allow residents to choose lower-cost travel options. Ord Rec. 25-29 (Exhibit E, Title 6). Second, the Council revised Title 1 (Housing Capacity) of the UGMFP to adopt a “no-net-loss” approach. Ord Rec. 14-15 (Exhibit B). Title 1 ensures the region will not lose gains in zoned residential capacity that follow implementation of Title 6 and local aspirations. Third, the Council revised Title 11 (New Urban Areas) to require planning and strategies to address housing needs of households with incomes at or below 80, 50 and 30 percent of median family incomes for the region. Ord Rec. 46-50 (Exhibit J).

The Council concludes that these actions will reduce the percentage of households in the region that are “cost-burdened”<sup>10</sup> and comply with Goal 10. See *LCDC Partial Approval and Remand Order 03-WKTASK-001524*, pp. 11-12, 48.

Metro completed a housing needs analysis to inform the UGR and housing affordability policy. Rec. 4372. It sets out the region’s recent performance and the performance forecast for the next 20 years for housing mix, density, cost and affordability. Figures and tables in the analysis show the total number of dwelling units within the UGB and projections to 2030, by rent and price range, type and tenure. Rec. 4395-4399. The projections show a significant shift from single-family to multi-family demand, reflecting changing demographics through 2030. The historic ratio – 60 percent single-family, 40 percent multi-family – will reverse: 60 percent multi-family, 40 percent single-family. The absolute increase in multi-family demand will outpace the increase in demand for single-family dwelling units. Rec. 4396-4397. The housing needs analysis is an assessment of performance, not a capacity assessment (contained in the UGR). The analysis complies with the “needed housing” statute (ORS 197.296) and the applicable provisions of the Metropolitan Housing Rule (OAR 660-007).

#### Goal 11 - Public Facilities and Services

Metro does not provide the urban services for which planning is required by Goal 11. Metro is responsible, however, under ORS chapter 195 for coordination of public facility plans in the region, and under Goal 14 for providing capacity for urban services within the UGB. Metro consulted cities and counties to determine the capacities and adequacies of their public facilities and services as part of the overall capacity assessment. That assessment was a fundamental determinant of the market feasibility of maximum zoned capacities around the region. Rec. 4144-4156. Metro’s analysis of regional capacity accounts for urban service land needs of the region. The UGR derives its estimate of the needs (4,900 acres) from local public facilities plans. The existing UGB has sufficient capacity to provide for these needs. Rec. 4304; 4307; 4313. Council concludes that these actions comply with Goal 11.

#### Goal 12 - Transportation

Metro also does not provide transportation services. But Metro is responsible under Goal 12 and ORS chapter 195 for coordination of transportation plans in the region, and under Goal 14 for

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<sup>10</sup> Households that spend more than 50 percent of their monthly incomes on housing and transportation.

providing capacity for streets, roads and other transportation facilities within the UGB. The Metro Council adopted the 2035 Regional Transportation Plan in June, 2010. The Department of Land Conservation and Development acknowledged the plan on November 24, 2010. Rec. 7917. As with other urban services, Metro consulted cities and counties to determine the capacities and adequacies of their transportation facilities as part of the overall capacity assessment. That assessment was a fundamental determinant of the market feasibility of maximum zoned capacities around the region. Rec. 4144-4156. Metro's analysis of regional capacity accounts for transportation needs of the region. The UGR derives its estimate of the needs from local plans. The existing UGB has sufficient capacity to provide for these needs. Rec. 4304; 4307; 4313. Metro's emphasis on infill and redevelopment and mixed-use, pedestrian-friendly and transit-supportive development will also reduce vehicle miles traveled. Rec. 5157. The Council concludes that these actions comply with Goal 12.

#### Goal 13 - Energy Conservation

The actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will have the effect of conserving energy. Rec. 3517; 5157. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 13.

#### Goal 14 – Urbanization

To address the unmet need for residential and employment capacity identified in the 2009 UGR, Goal 14 requires Metro to turn first to actions that would use land inside the UGB more efficiently. Sections IB(1) and IB(2) of these findings describe the actions taken or adopted by Ordinance No. 10-1244B and demonstrate that the actions increase the likelihood that the existing UGB will provide at least 50 percent of housing needs by using land more efficiently. Additional investments, beyond those identified in section IB(1)(a), would likely use more of the region's zoned capacity. But the governments of the region do not have the resources to commit to additional investments. In the absence of additional resources, extensive "upzoning" would yield no significant additional capacity, due to infrastructure constraints and market infeasibility. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 14. See *LCDC Partial Approval and Remand Order 03-WKTASK-001524*, pp. 20-23.

Goal 15 - Willamette River Greenway

All of the actions taken or adopted by Ordinance No. 10-1244A to use land inside the UGB more efficiently will be subject to Titles 3 and 13 of Metro's Urban Growth Management Functional Plan (UGMFP) and to the Goal 15 programs of cities and counties in the region. These titles and local land use regulations are "acknowledged" under the statewide planning program, including Goal 15. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244A comply with Goal 15.

2. Title 1 (Housing) of the UGMFP is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet housing needs to year 2030.
3. Title 4 (Industrial and Other Employment Areas) of the UGMFP is hereby amended, as indicated in Exhibit C, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet employment needs to year 2030.
4. The Title 4 Industrial and Other Employment Areas Map is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to show changes to design-type designations to conform to new comprehensive plan designations by cities and counties pursuant to Title 11 of the UGMFP, to respond to needs identified in the 2009 Urban Growth Report, and to make corrections requested by local governments to reflect development on the ground.
5. Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP is hereby amended, as indicated in Exhibit E, attached and incorporated into this ordinance, to implement new policies and investment strategies in those places.
6. The Title 6 Centers, Corridors, Station Communities and Main Streets Map is hereby adopted, as shown on Exhibit F, attached and incorporated into this ordinance, to implement Title 6 and other functional plan requirements.
7. Title 8 (Compliance Procedures) of the UGMFP is hereby amended, as indicated in Exhibit G, attached and incorporated into this ordinance, to reduce procedural burdens on local governments and Metro.
8. Title 9 (Performance Measures) is hereby repealed, as indicated in Exhibit H, to be consistent with new policies on performance measurement.
9. Title 10 (Functional Plan Definitions) of the UGMFP is hereby amended, as indicated in Exhibit I, attached and incorporated into this ordinance, to conform to the definitions to the use of terms in the amended UGMFP.
10. Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended, as indicated in Exhibit J, attached and incorporated into this ordinance, to provide more specific guidance on planning for affordable housing in new urban areas.
11. Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) is hereby repealed, as indicated in Exhibit K, to be replaced by new Title 14 adopted by section 11 of this ordinance.
12. Title 14 (Urban Growth Boundary) is hereby adopted and added to the UGMFP, as indicated in Exhibit L, attached and incorporated into this ordinance, with amendments from Metro Code Chapter 3.01 to provide a faster process to add large sites to the UGB for industrial use.
13. The urban growth boundary (UGB), as shown on the attached Exhibit M, is hereby adopted by this ordinance as the official depiction of the UGB and part of Title 14 of the Urban Growth Management Functional Plan (UGMFP). The Council intends to amend the UGB in 2011 to add approximately 310 acres of land suitable for industrial

development in order to accommodate the demand identified in the 2009 UGR for large sites.

14. Metro Code Chapter 3.09 (Local Government Boundary Changes) is hereby amended, as indicated in Exhibit N, attached and incorporated into this ordinance, to conform to revisions to ORS 268.390 and adoption of urban and rural reserves pursuant to ORS 195.141, and to ensure newly incorporated cities have the capability to become great communities.
15. The 2040 Growth Concept Map, the non-regulatory illustration of the 2040 Growth Concept in the RFP, is hereby amended, as shown on Exhibit O, attached and incorporated into this ordinance, to show new configurations of 2040 Growth Concept design-type designations and transportation improvements.
16. *The Urban Growth Report 2009-2030* and the *20 and 50 Year Regional Population and Employment Range Forecasts*, approved by the Metro Council by Resolution No. 09-4094 on December 17, 2009, are adopted to support the decisions made by this ordinance. The Council determines that, for the reasons set forth in the 2010 Growth Management Assessment, August, 2010, it will direct its capacity decisions to a point between the low end and the high end of the middle third of the forecast range.
17. The Findings of Fact and Conclusions of Law in Exhibit P, attached and incorporated into this ordinance, explain how the actions taken by the Council in this ordinance provide capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030 and how they comply with state law and the Regional Framework Plan.
18. This ordinance is necessary for the immediate preservation of public health, safety and welfare because it repeals and re-adopts provisions of the Metro Code that govern changes to local government boundaries that may be under consideration during the ordinary 90-day period prior to effectiveness. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 16th day of December, 2010.

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Carlotta Collette, Council President

Attest:

Approved as to form:

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Tony Andersen, Clerk of the Council

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Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 10-1244

AMENDMENTS TO THE REGIONAL FRAMEWORK PLAN

A. Add the following:

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, ~~and work, and play~~ in vibrant communities where ~~they can choose to walk for pleasure and to meet~~ their everyday needs ~~are easily accessible~~.
2. Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
3. People have safe and reliable transportation choices that ~~en~~ enhance their quality of life.
4. The region is a leader in minimizing contributions to global warming.
5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
6. The benefits and burdens of growth and change are distributed equitably.

It is also the policy of the Metro Council to:

Use performance measures and performance targets to:

- a. Evaluate the effectiveness of proposed policies, strategies and actions to achieve the desired Outcomes
- b. Inform the people of the region about progress toward achieving the Outcomes
- c. Evaluate the effectiveness of adopted policies, strategies and actions and guide the consideration of revision or replacement of the policies, strategies and actions; and
- d. Publish a report on progress toward achieving the desired Outcomes on a periodic basis.

B. Amend Chapter 1 (Land Use) Policy 1.1 as follows:

1.1 Compact Urban Form

It is the policy of the Metro Council to:

~~1.1.1 — Balance the region's growth by:~~

- ~~a. — Maintaining a compact urban form, with each access to nature.~~
- ~~b. — Preserving existing stable and distinct neighborhoods by focusing commercial and residential growth in mixed-use centers and corridors at a pedestrian scale.~~
- ~~c. — Ensuring affordability and maintaining a variety of housing choices with good access to jobs and assuring that market-based preferences are not eliminated by regulation.~~
- ~~d-a. Targeting public investments to reinforce a compact urban form.~~

1.1.1 Encourage and facilitate a compact urban form within the UGB.

1.1.2 Adopt and implement a strategy of investments and incentives to use land within the UGB more efficiently and to create a compact urban form.

1.1.3 Facilitate infill and re-development, particularly within Centers, Corridors, Station Communities, Main Streets and Employment Areas, to use land and urban services efficiently, to support public transit, to promote successful, walkable communities and to create equitable and vibrant communities. achieve the appropriate activity levels along the Activity Spectrum in the State of the Centers Report of January, 2009.

1.1.4 Encourage elimination of unnecessary barriers to compact, mixed-use, pedestrian-friendly and transit-supportive development within Centers, Corridors, Station Communities and Main Streets.

1.1.5 Promote the distinctiveness of the region's cities and the stability of its neighborhoods.

1.1.6 Enhance compact urban form by developing the Intertwine, an interconnected system of parks, greenspaces and trails readily accessible to people of the region.

1.1.78 Promote excellence in community design.

1.1.8 Promote a compact urban form as a key climate action strategy to reduce greenhouse gas emissions.

**C. Amend Chapter 1 (Land Use) Policy 1.2 as follows:**

**1.2 ~~Built Environment~~ Centers, Corridors, Station Communities and Main Streets**

It is the policy of the Metro Council to:

~~1.2.1 Ensure that development in the region occurs in a coordinated and balanced fashion as evidenced by:~~

~~Taking a regional “fair-share” approach to meeting the housing needs of the urban population.~~

~~Providing infrastructure and critical public services concurrent with the pace of urban growth and that support the 2040 Growth Concept.~~

~~Continuing growth of regional economic opportunity, balanced so as to provide an equitable distribution of jobs, income, investment and tax capacity throughout the region and to support other regional goals and objectives.~~

~~Coordinating public investment with local comprehensive and regional functional plans.~~

~~Creating a balanced transportation system, less dependent on the private automobile, supported by both the use of emerging technology and the location of jobs, housing, commercial activity, parks and open space.~~

Recognize that the success of the 2040 Growth Concept depends upon the success of the region’s Centers, Corridors, Station Communities and Main Streets as the principal centers of urban life in the region. Recognize that each Center, Corridor, Station Community and Main Street has its own character and stage of development and its own aspirations; each needs its own strategy for success.

1.2.2 Work with local governments, community leaders and state and federal agencies to develop an investment strategy for Centers, Corridors, Station Communities and Main Streets with a program of investments in public works, essential services and community assets, that will enhance their roles as the centers of ~~public~~ urban life in the region. The strategy shall:

- a. Give priority in allocation of Metro’s investment funds to Centers, Corridors, Station Communities and Main Streets;
- b. ~~To the extent practicable, link~~ Metro’s investments so they reinforce one another and maximize contributions to Centers, Corridors, Station Communities and Main Streets;
- c. ~~To the extent practicable, coordinate~~ Metro’s investments with complementary investments of local governments and with state and federal agencies so the investments reinforce one another, maximize contributions to Centers, Corridors, Station Communities and Main Streets and help achieve local aspirations; and
- d. Include an analysis of barriers to the success of investments in particular Centers, Corridors, Station Communities and Main Streets.

1.2.3 Encourage employment opportunities in Centers, Corridors, Station Communities and Main Streets by:

- a. Improving access within and between Centers, Corridors, Station Communities and Main Streets;



- b. Encouraging cities and counties to allow a wide range of employment uses and building types, a wide range of floor-to-area ratios and a mix of employment and residential uses; and
- c. Encourage investment by cities, counties and all private sectors by complementing their investments with investments by Metro.

1.2.4 Work with local governments, community leaders and state and federal agencies to employ financial incentives to enhance the roles of Centers, Corridors, Station Communities and Main Streets and maintain a catalogue database of incentives and other tools that would complement and enhance investments in particular Centers, Corridors, Station Communities and Main Streets.

1.2.5 Measure the success of regional efforts to improve Centers and Centers, Corridors, Station Communities and Main Streets and report results to the region and the state and revise strategies, if performance so indicates, to improve the results of investments and incentives.

**D. Amend Chapter 1 (Land Use) Policy 1.3 as follows:**

**1.3 Housing Choices and Opportunities**

It is the policy of the Metro Council to:

1.3.1 Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors paying special attention to those households with fewest housing choices.

1.3.2 As part of the effort to provide housing choices, encourage local governments to ensure that their land use regulations:

- a. Allow a diverse range of housing types;
- b. Make housing choices available to households of all income levels; and
- c. Allow affordable housing, particularly in Centers and Corridors and other areas well-served with public services.

1.3.3 Reduce the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation.

1.3.4 Maintain voluntary affordable housing production goals for the region, to be revised over time as new information becomes available and displayed in Chapter 8 (Implementation), and encourage their adoption by the cities and counties of the region.

1.3.45 Encourage local governments to consider the following tools and strategies to achieve the affordable housing production goals:

- a. Density bonuses for affordable housing;
- b. A no-net-loss affordable housing policy to be applied to quasi-judicial amendments to the comprehensive plan;
- c. A voluntary inclusionary zoning policy;
- d. A transferable development credits program for affordable housing;
- e. Policies to accommodate the housing needs of the elderly and disabled;
- f. Removal of regulatory constraints on the provision of affordable housing; and
- g. Policies to ensure that parking requirements do not discourage the provision of affordable housing.

1.3.56 Require local governments in the region to report progress towards increasing the supply of affordable housing and seek their assistance in periodic inventories of the supply of affordable housing.

1.3.67 Work in cooperation with local governments, state government, business groups, non-profit groups and citizens to create an affordable housing fund available region wide in order to leverage other affordable housing resources.

1.3.78 Provide technical assistance to local governments to help them do their part in achieving regional goals for the production and preservation of housing choice and affordable housing.

1.3.89 Integrate Metro efforts to expand housing choices with other Metro activities, including transportation planning, land use planning and planning for parks and greenspaces.

1.3.910 When expanding the Urban Growth Boundary, assigning or amending 2040 Growth Concept design type designations or making other discretionary decisions, seek agreements with local governments and others to improve the balance of housing choices with particular attention to affordable housing.

1.3.101 Consider incentives, such as priority for planning grants and transportation funding, to local governments that obtain agreements from landowners and others to devote a portion of new residential capacity to affordable housing.

1.3.112 Help ensure opportunities for low-income housing types throughout the region so that families of modest means are not obliged to live concentrated in a few neighborhoods, because concentrating poverty is not desirable for the residents or the region.

1.3.123 Consider investment in transit, pedestrian and bicycle facilities and multi-modal streets as an affordable housing tool to reduce household transportation costs to leave more household income available for housing.

- 1.3.14 For purposes of these policies, “affordable housing” means housing that families earning less than 50 percent of the median household income for the region can reasonably afford to rent and earn as much as or less than 100 percent of the median household income for the region can reasonably afford to buy.

**E. Amend Chapter 1 (Land Use) Policy 1.4 as follows:**

**1.4 ~~Economic~~Employment Choices and Opportunity**

It is the policy of the Metro Council to:

- 1.4.1 Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion.
- 1.4.2 Balance the number and wage level of jobs within each subregion with housing cost and availability within that subregion. Strategies are to be coordinated with the planning and implementation activities of this element with Policy 1.3, Housing ~~and Affordable Housing~~, Choices and Opportunities and Policy 1.8, Developed Urban Land.
- 1.4.3 Designate, with the aid of leaders in the business and development community and local governments in the region, as Regionally Significant Industrial Areas those areas with site characteristics that make them especially suitable for the particular requirements of industries that offer the best opportunities for family-wage jobs.
- 1.4.4 Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.
- 1.4.5 Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services including brownfield sites and sites that are redevelopable.
- 1.4.6 Consistent with policies promoting a compact urban form ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

**F. Repeal Chapter 1 (Land Use) Policy 1.6**

~~**1.6 —Growth Management**~~

~~It is the policy of the Metro Council to:~~

- ~~1.6.1 —Manage the urban land supply in a manner consistent with state law by:~~

- ~~a. Encouraging the evolution of an efficient urban growth form.~~
- ~~b. Providing a clear distinction between urban and rural lands.~~
- ~~c. Supporting interconnected but distinct communities in the urban region.~~
- ~~d. Recognizing the inter-relationship between development of vacant land and redevelopment objectives in all parts of the urban region.~~
- ~~e. Being consistent with the 2040 Growth Concept and helping attain the region's objectives.~~

## **G. Repeal Chapter 1 (Land Use) Policy 1.15**

### **~~1.15 Centers~~**

~~It is the policy of the Metro Council to:~~

- ~~1.15.1 Recognize that the success of the 2040 Growth Concept depends upon the maintenance and enhancement of the Central City, Regional and Town Centers, Station Communities and Main Streets as the principal centers of urban life in the region. Each Center has its own character and is at a different stage of development. Hence, each needs its own strategy for success.~~
- ~~1.15.2 Develop a regional strategy for enhancement of Centers, Station Communities and Main Streets in the region:~~
  - ~~a. Recognizing the critical connection between transportation and these design types, and integrate policy direction from the Regional Transportation Plan.~~
  - ~~b. Placing a high priority on investments in Centers by Metro and efforts by Metro to secure complementary investments by others.~~
  - ~~c. Including measures to encourage the siting of government offices and appropriate facilities in Centers and Station Communities.~~
- ~~1.15.3 Work with local governments, community leaders and state and federal agencies to develop an investment program that recognizes the stage of each Center's development, the readiness of each Center's leadership, and opportunities to combine resources to enhance results. To assist, Metro will maintain a database of investment and incentive tools and opportunities that may be appropriate for individual Centers.~~
- ~~1.15.4 Assist local governments and seek assistance from the state in the development and implementation of strategies for each of the Centers on the 2040 Growth Concept Map. The strategy for each Center will be tailored to the needs of the Center and include an appropriate mix of investments, incentives, removal of barriers and guidelines aimed to encourage the kinds of development that will add vitality to Centers and improve their functions as the hearts of their communities.~~

~~1.15.5 Determine whether strategies for Centers are succeeding. Metro will measure the success of Centers and report results to the region and the state. Metro will work with its partners to revise strategies over time to improve their results.~~

**Exhibit B to Ordinance No. 10-1244**

TITLE 1: HOUSING CAPACITY

3.07.110 Purpose and Intent

~~The Regional One goal of the Framework Plan calls for a compact urban form and a "fair-share" approach is the efficient use of land. Title 1 intends to meeting regional use land within the UGB efficiently by increasing its capacity to accommodate housing needs. It is the purpose of Title 1 to accomplish these policies by requiring and employment. Title 1 directs each city and county to maintain or increase its in the region to consider actions to increase its capacity and to take action if necessary to accommodate its share of regional growth as specified in this title.~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance 02-969B, Sec. 1.)~~

3.07.120 Housing and Employment Capacity

~~A. Each city and county shall determine its capacity for housing capacity except as and employment in order to ensure that it provides and continues to provide at least the capacity for the city or county specified in Table 3.07-1, supplemented by capacity resulting from addition of territory to the UGB. Local governments shall use data provided in section 3.07.120 by Metro unless the Metro Council or the Chief Operating Officer determines that data preferred by a city or county is more accurate.~~

3.07.120 Housing Capacity

~~A. B. A city or county may reduce shall determine its capacity for dwelling units by cumulating the minimum zoned capacity of the Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street under subsection D or E. A city or county may reduce its minimum zoned capacity in other locations under subsections C, D or E.~~

~~Each city and county shall adopt a minimum dwelling unit density for number of dwelling units authorized in each zone zoning district in which dwelling units are authorized except for~~

zones that authorize mixed-use as defined in section 3.07.1010(hh). If a city or county has not adopted a .—A city or county may use a higher number of dwellings than the minimum density for such a zone prior to March 16, 2011, the city or county shall adopt a minimum density that is at least 80 percent of the maximum density. a zoning district if development in the five years prior to the determination has actually occurred at the higher number.

B. AC. —If a city or annexes county may reduce its minimum zoned capacity by one of the following actions if it increases minimum zoned capacity by an equal or greater amount in other places where the increase is reasonably likely to be realized within the 20-year planning period of Metro's last capacity analysis under ORS 197.299:

1. Reduce the minimum dwelling unit density, described in subsection B, for one or more zones;
2. Revise the development criteria or standards for one or more zones; or
3. Change its zoning map such territory, the city shall ensure that the city's or county's minimum zoned capacity is not a net loss in regional housing or employment capacity would be reduced.

Action to reduce minimum zoned capacity may be taken any time within two years after action to increase capacity.

C. A city or county may reduce the minimum zoned capacity of a zone without increasing minimum zoned capacity in another zone for one or more , as shown on Table 3.07-1, as a result of the following purposes:

1. To re-zone the area to allow industrial use under Title 4 amendments of this chapter or an educational or medical facility similar in scale to those listed in section 3.07.1340D(5)(i) of Title 13 of this chapter; or
2. To protect natural resources pursuant to Titles 3 or 13 of this chapter.

D. A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city's or county's overall minimum zoned residential capacity.

A city or county may amend its comprehensive plan and ~~or~~ land use regulations to transfer minimum zoned capacity to another city or county upon a demonstration that:~~that apply to the annexed territory.~~

1. A transfer between designated Centers, Corridors or Station Communities does not result in a net reduction in the minimum zoned capacities~~D. After completion of the Centers, Corridors or Station Communities involved in the transfer; and~~

2. The increase in minimum zoned ~~its initial determination of capacity~~ is reasonably likely to be realized within the 20-year planning period of Metro's last capacity analysis under ORS 197.299

A ~~, each~~ city or county shall authorize the establishment~~report changes in its capacity by April 15 of at least one accessory dwelling unit for each detached single-family dwelling unit in each zone that authorizes detached single-family dwellings. The authorization may be subject to reasonable regulation for siting and design purposes.~~the first calendar year following completion of its initial determination and by April 15 of every following year.

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-972A, Sec. 1; Ordinance No. 02-969B, Sec. 1; Ordinance No. 07-1137A, Sec. 1.)~~



## Exhibit C to Ordinance No. 10-1244

### TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

#### 3.07.410 ~~-Purpose and Intent~~

The Regional Framework Plan calls for a strong regional economy.~~economic climate.~~ To improve the economy, region's economic climate, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, ~~Employment Areas~~, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)~~

#### 3.07.420 ~~- Protection of Regionally Significant Industrial Areas~~

- A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit

the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.

C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the RegionalMetro's Freight Network Map, ~~November, 2003, below standards set~~ in the ~~2004~~ Regional Transportation Plan or require added road capacity to prevent falling below the standards.

D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.

E.

~~D.~~ No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and

Industrial Areas Map to authorize uses described in subsection B that were not authorized prior to July 1, 2004.

~~F.E.~~ Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

—1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.

—2. Lots or parcels ~~larger than~~ 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.

—3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph 2 of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B of this section.

—4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:

a. To provide public facilities and services;

b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

- d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

~~G.F.~~ Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)~~

### 3.07.430- Protection of Industrial Areas

- A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:
  - 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
  - 2. Training facilities whose primary purpose is to provide training to meet industrial needs.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit

new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on ~~the RegionalMetro's~~ Freight Network Map in the Regional Transportation Plan., November, 2003. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

- C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.
- D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:
  - 1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
  - 2. Lots or parcels ~~larger than~~ 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
  - 3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.
  - 4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
    - ~~a.~~—To provide public facilities and services;

~~b.~~ To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

~~e.~~ To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

~~d.~~ To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)~~

### 3.07.440 Protection of Employment Areas

A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code ~~section~~Section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.

B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.

C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000

square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.

D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:

1. The ordinance authorized those uses on January 1, 2003;
2. Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and
3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.

E. A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:

1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
2. Meet the Maximum Permitted Parking - Zone A requirements set forth in Table ~~3.08-33-07-2~~ of Title ~~42~~ of the ~~Regional Transportation~~Urban Growth Management Functional Plan.

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)~~

### 3.07.450 Employment and Industrial Areas Map

A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.

B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer

(COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in ~~section~~Section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.

C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by ~~this title~~Title 4 upon a demonstration that:

~~1.~~ The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;

~~2.~~ The amendment will not reduce the employment jobs capacity of the city or county; ~~below the number shown on Table 3.07 1 of Title 1 of the Urban Growth Management Functional Plan, or the amount of the reduction is replaced by separate and concurrent action by the city or county;~~

~~3.~~ If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;

~~4.~~ The amendment would not allow uses that would reduce off-peak performance on Main~~Major~~ Roadway Routes and Roadway Connectors shown on ~~the~~Metro's 2004 Regional Freight Network~~System~~ Map ~~below standards in the~~ Regional Transportation Plan below ("RTP"), or exceed volume-to-capacity standards in the plan, ratios on ~~Table 7 of the 1999 Oregon Highway Plan for state highways,~~ unless mitigating action is taken that will restore performance to RTP ~~and OHP~~ standards within two years after approval of uses;

~~5.~~ The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and



~~6.~~ If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title~~Title 4~~ upon a demonstration that:

~~1.~~ The entire property is not buildable due to environmental constraints; or

~~2.~~ The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and

~~3.~~ The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by this title~~Title 4~~, exceeds the assessed value of the land by a ratio of 1.5 to 1.

E. The ~~COO~~~~Chief Operating Officer~~ shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C or D of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

F. After consultation with MPAC~~Metropolitan Policy Advisory Committee~~, the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis",

reduced by an equal annual increment for the number of years since the report.

G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.

H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:

~~1. Would not reduce the employment jobs capacity of the city or county; below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;~~

~~2. Would not allow uses that would reduce off-peak performance on MainMajor Roadway Routes and Roadway Connectors shown on the Metro's 2004 Regional Freight NetworkSystem Map below standards in the Regional Transportation Plan below ("RTP"), or exceed volume-to-capacity standards in the plan, ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;~~

~~3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;~~

~~4. Would not reduce the integrity or viability of a traded sector cluster of industries;~~

~~5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and~~

~~6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized~~

services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

- I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.
- J. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.
- K. By January 31 of each year, the ~~COO~~Chief Operating Officer (COO) shall submit a written report to the Council and ~~MPAC~~the Metropolitan Policy Advisory Committee on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

~~(Ordinance No. 07-1137A, Sec. 2.)~~

~~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~~

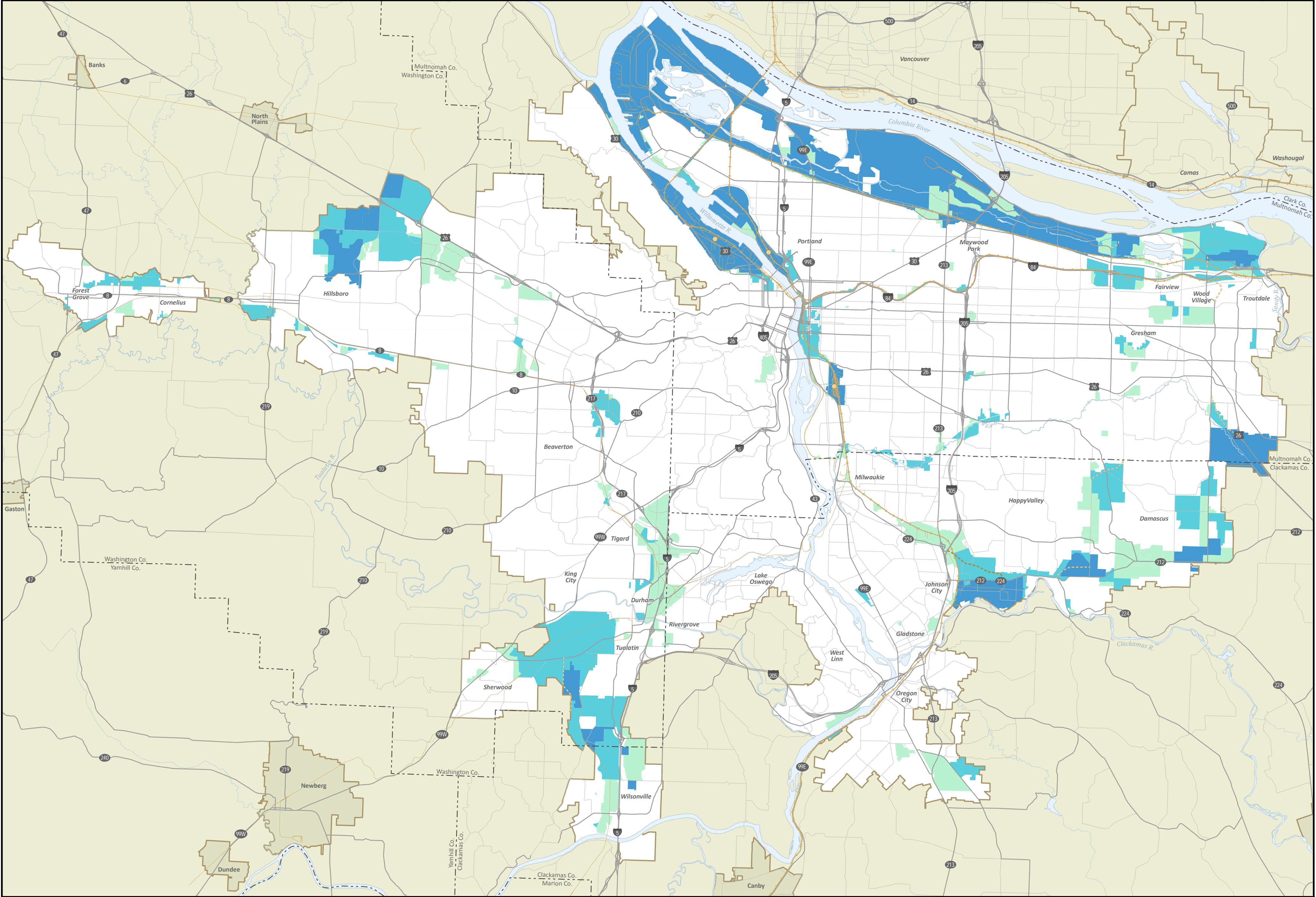
Wilsonville

~~Planned Development Commercial~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5.)~~

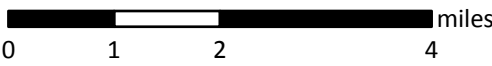
~~(Title 5 Neighbor Cities — Sections 3.07.510-540 Ordinance No. 97-715B,  
Sec. 1. Repealed Ord. 10-1238A, Sec. 4.)~~





# Title 4, Industrial and Other Employment Areas

ORDINANCE 10-1244, EXHIBIT D  
November 18, 2010



- Employment areas
- Industrial areas
- Regionally significant industrial areas
- Proposed main roadway routes
- Proposed road connectors
- Mainline freight
- Branch line freight
- Rail yards
- County boundaries
- Urban growth boundaries
- Neighbor cities



Exhibit E to Ordinance No. 10-1244

**TITLE 6: CENTERS, CORRIDORS, STATION COMMUNITIES AND MAIN STREETS**

3.07.610 Purpose and Intent

~~The success of the 2040 Growth Concept depends upon the maintenance and enhancement of the Central City,~~ Regional Framework Plan (RFP) identifies and Town Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments,~~intends~~ to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

3.07.620 Actions~~Centers by encouraging development in these Centers that will improve the critical roles they play in the region and Investments in Centers, Corridors, by discouraging development outside Centers that will detract from those roles. As used in this title, the term "Centers" includes the Central City, Regional and Town Centers and Station Communities and Main Streets.~~

A. In order to be eligible for a regional investment in a Center, Corridor, Station Community or Main Street, or a portion thereof, a city or county shall take the following actions:

1. Establish a boundary for the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection B;
2. Perform an assessment of the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection C; and
3. Adopt a plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to subsection D.

B. The boundary of a Center, Corridor, Station Community or Main Street, or portion thereof, shall:

Be consistent

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1; Ordinance No. 02-969B, Sec. 7.)~~

### ~~3.07.620 Local Strategy to Improve Centers~~

- ~~1. A. Each city and county with the general locationa Center shown in the RFP except, for a proposed new Station Community, be consistent on the 2040 Growth Concept map shall, on a schedule established jointly with Metro's land use final order for a light rail transit project;~~
  - ~~2. For a Corridor with existing high-capacity transit service, include at least those segments of the Corridor that pass through a Regional Center or Town Center;~~
  - ~~3. For a Corridor designated for future high-capacity transit in the Regional Transportation Plan (RTP), include the area identified during the system expansion planning process in the RTP; and~~
  - ~~4. Be adopted and may be revised by the city council or county board following notice of the proposed boundary action to the Oregon Department of Transportation and Metro in the manner set forth in subsection A of section 3.07.820 of this chapter.~~
- ~~C. An assessment of a Center, Corridor, Station Community or Main Street, or portion thereof, shall analyze the following:~~
- ~~1. Physical and market conditions in the area;~~
  - ~~2. Physical and regulatory barriers to mixed-use, pedestrian-friendly and transit-supportive development in the area;~~
  - ~~3. The city or county development code that applies to the area to determine how the code might be revised to encourage mixed-use, pedestrian-friendly and transit-supportive development;~~
  - ~~4. Existing and potential incentives to encourage mixed-use pedestrian-friendly and transit-supportive development in the area; and~~
  - ~~5. For Corridors and Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area under Title 4 of this chapter, barriers to a mix and~~



intensity of uses sufficient to support public transportation at the level prescribed in the RTP.

A plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street shall consider the assessment completed under subsection C and~~but not later than December 31, 2007, develop a strategy to enhance Centers within its jurisdiction. The strategy shall~~  
include at least the following elements:

~~Actions 1. An analysis of physical and regulatory barriers to development and a program of actions to eliminate, overcome or reduce regulatory and other barriers to mixed-use, pedestrian-friendly and transit-supportive development; them.~~

~~Revisions 2. An accelerated review process for preferred types of development.~~

~~1. 3. An analysis of incentives to~~ its comprehensive plan encourage development and land use regulations, if necessary, a program to allow:

a. In Regional Centers, Town Centers, Station Communities and Main Streets, the mix and intensity of uses specified in section 3.07.640; and

b. In Corridors and those Station Communities in areas shown as Industrial Area or Regionally Significant Industrial Area in Title 4 of this chapter, a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP;

2. Public investments and~~adopt~~ incentives to support mixed-use pedestrian-friendly and transit-supportive development; and

3. A plan to achieve the non-SOV mode share targets, adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:

a. The transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;



b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and

c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.

D. A city or county that has completed all or some of the requirements of subsections B, C and D may seek recognition of that compliance from Metro by written request to the Chief Operating Officer (COO).

E. Compliance with the requirements of this section is not a prerequisite to:

Investments in Centers, Corridors, Station Communities or Main Streets that are not regional investments; ~~or available and appropriate for each Center.~~

1. Investments in areas other than Centers, Corridors, Station Communities and Main Streets.

### 3.07.630 Eligibility Actions for Lower Mobility Standards and Trip Generation Rates

A. A city or county is eligible to use the higher volume-to-capacity standards in Table 7 of the 1999 Oregon Highway Plan when considering an amendment to its comprehensive plan or land use regulations in a Center, Corridor, Station Community or Main Street, or portion thereof, if it has taken the following actions:

1. Established a boundary pursuant to subsection B of section 3.07.620; and

2. Adopted land use regulations to allow the mix and intensity of uses specified in section 3.07.640.

B. A city or county is eligible for an automatic reduction of 30 percent below the vehicular trip generation rates reported by the Institute of Traffic Engineers when analyzing the traffic impacts, pursuant to OAR 660-012-0060, of a plan amendment in a Center, Corridor, Main Street or Station Community, or portion thereof, if it has taken the following actions:

1. Established a boundary pursuant to subsection B of section 3.07.620;

2. Revised its comprehensive plan and land use regulations, if necessary, to allow the mix and intensity of uses specified in section 3.07.640 and to prohibit new auto-dependent uses that rely principally on auto trips, such as gas stations, car washes and auto sales lots; and

3. Adopted a plan to achieve the non-SOV mode share targets adopted by the city or county pursuant to subsections 3.08.230A and B of the Regional Transportation Functional Plan (RTFP), that includes:

a. Transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1 of the RTFP;

b. A transportation system or demand management plan consistent with section 3.08.160 of the RTFP; and

c. A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of the RTFP.

### 3.07.640 Activity Levels for Centers, Corridors, Station Communities and Main Streets

A. Centers, Corridors, Station Communities and Main Streets need a critical number of residents and workers to be vibrant and successful. The following average number of residents and workers per acre is recommended for each:

1. Central City - 250 persons
2. Regional Centers - 60 persons
3. Station Communities - 45 persons
4. Corridors - 45 persons
5. Town Centers - 40 persons
6. Main Streets - 39 persons

B. Centers, Corridors, Station Communities and Main Streets need a mix of uses to be vibrant and walkable. The following mix of uses is recommended for each:

1. The land uses listed in *State of the Centers: Investing in Our Communities*, January, 2009, such as grocery stores and restaurants;

2. Institutional uses, including schools, colleges, universities, hospitals, medical offices and facilities;

Civic uses, including ~~4. A schedule for implementation of Title 4 of the Urban Growth Management Functional Plan.~~

~~5. An analysis of the need to identify one or more Neighborhood Centers within or in close proximity to Inner and Outer Neighborhoods to serve as a convenient location of neighborhood commercial services, as authorized by Title 12, Section 3.07.1230 of the Urban Growth Management Functional Plan.~~

~~6. A work plan, including a schedule, to carry out the strategy.~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1; Ordinance No. 02-969B, Sec. 7.)~~

### 3.07.630 Special Transportation Areas

~~Any city or county that has adopted a strategy for a Center pursuant to Section 3.07.620 and measures to discourage commercial retail use along state highways outside Center and Neighborhood Centers shall be eligible for designation of a Center by the Oregon Transportation Commission as a Special Transportation Area under Policy 1B of the 1999 Oregon Highway Plan.~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1; Ordinance No. 02-969B, Sec. 7.)~~

### 3.07.640 Government Offices

~~A. Cities and counties shall encourage the siting of government offices in Centers by taking action pursuant to Section 3.07.620 to eliminate or reduce unnecessary physical and regulatory barriers to development and expansion of such offices in Centers.~~

~~B. Cities and counties shall discourage the siting of government offices outside Centers, Main Streets and Corridors by requiring a demonstration by the applicant government agency that sites within these designations cannot reasonably accommodate the proposed offices due to characteristics of the offices other than parking for employees.~~

~~C. For purposes of this section, "government offices" means administrative offices and those offices open to and serving the general public, such as libraries, city halls and public spaces. courts. The term "government offices" does not include other government facilities, such as fire stations, sewage treatment plants or equipment storage yards.~~

C. Centers, Corridors, Station Communities and Main Streets need a mix of housing types to be vibrant and successful. The following mix of housing types is recommended for each:

1. The types of housing listed in the "needed housing" statute, ORS 197.303(1);
2. The types of housing identified in the city's or county's housing need analysis done pursuant to ORS 197.296 or statewide planning Goal 10 (Housing); and
3. Accessory dwellings pursuant to section 3.07.120 of this chapter.

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-721A, Sec. 1; Ordinance No. 02-969B, Sec. 7.)~~

### 3.07.650 Centers, Corridors, Station Communities and Main Streets Map Reporting on Center Progress

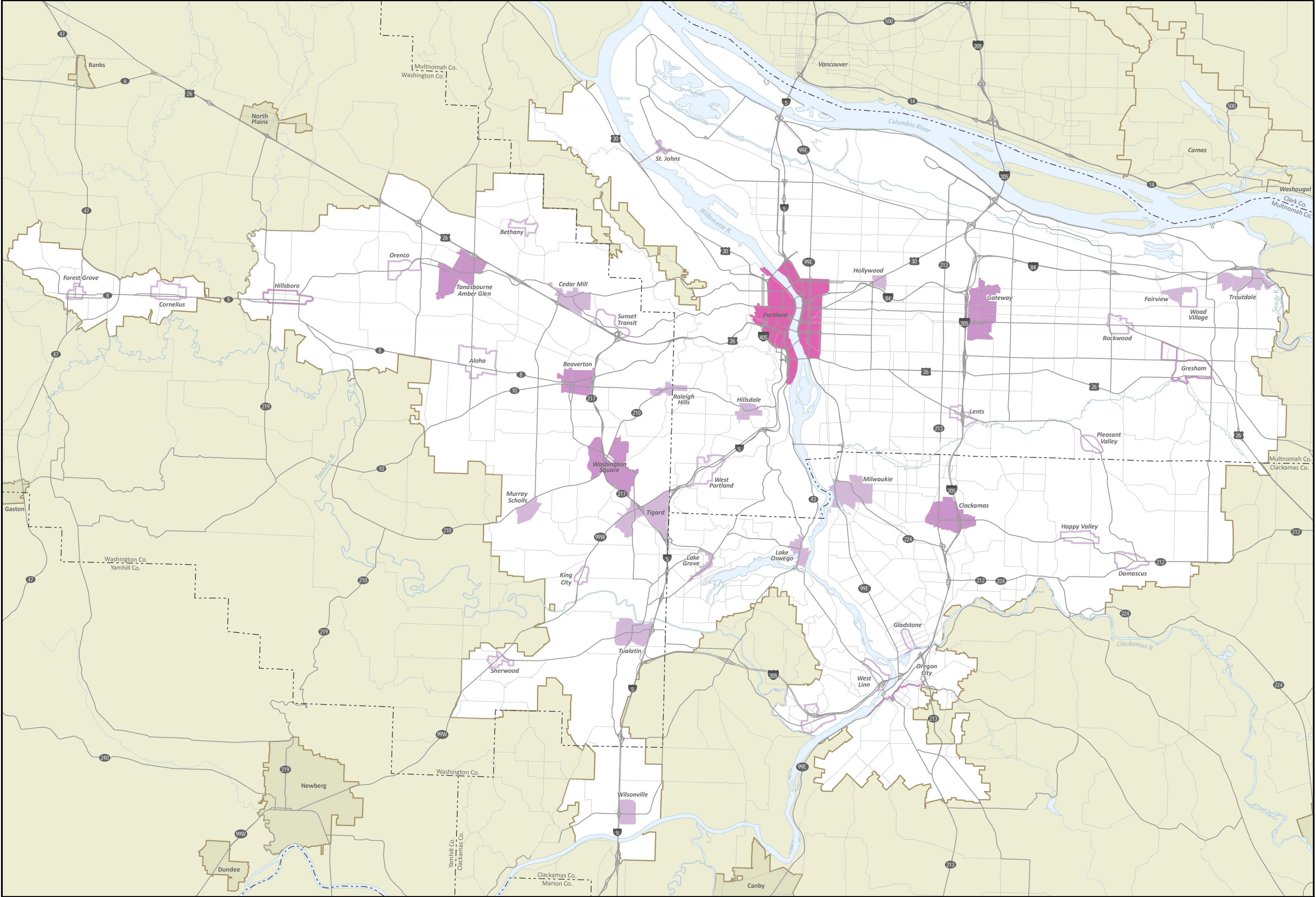
A. The Centers, Corridors, Station Communities and Main Streets Map is incorporated in this title and is Metro's official depiction of their boundaries. The map shows~~In order to assist Metro to evaluate the~~ boundaries established pursuant to this title.

B. A city or county may revise the boundary~~effectiveness of Title 6 in aid of a~~ Center, Corridor, Station Community or Main Street so long as the boundary is consistent with the general location on ~~accomplishment of the~~ 2040 Growth Concept Map in the RFP. The city or ~~and to comply with state progress reporting requirements in ORS 197.301, by April 15 of each even numbered year beginning 2004, each city and county shall provide notice of its proposed revision as~~ report to Metro on a set of measures prescribed in subsection B of section 3.07.620.

The COO shall revise the Centers, Corridors, Station Communities and Main Streets Map by order to conform the map to establishment or revision of ~~by the Council on~~ a boundary under this title.~~form developed for that purpose by Metro.~~

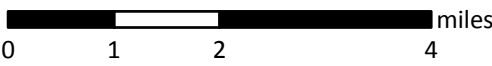
~~(Ordinance No. 02-969B, Sec. 7.)~~





# Title 6, Centers, Corridors, Station Communities and Main Streets, Adopted Boundaries

ORDINANCE 10-1244, EXHIBIT F  
November 18, 2010



- |                                   |                                      |                         |
|-----------------------------------|--------------------------------------|-------------------------|
| Central city, adopted boundary    | Regional center, conceptual boundary | County boundaries       |
| Regional center, adopted boundary | Town center, conceptual boundary     | Urban growth boundaries |
| Town center, adopted boundary     |                                      | Neighbor cities         |

Exhibit G to Ordinance No. 10-1244

**TITLE 8: COMPLIANCE PROCEDURES**

3.07.810 Compliance ~~with~~With the Functional Plan

- A. The purposes of this ~~chapter are~~section is to establish a process for ~~ensuring~~determining whether city or county ~~compliance~~comprehensive plans and land use regulations ~~comply~~ with requirements of the Urban Growth Management Functional Plan ~~and for evaluating. The Council intends the process to be efficient and informing the region about cost effective and to provide an opportunity for the effectiveness of those~~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 ~~section~~Section 3.07.1010.
- B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after ~~its~~acknowledgment of the functional plan or amendment, by the Land Conservation and Development Commission, or after ~~any later~~such other date specified by the Metro Council in the ordinance adopting or amending the functional plan. The Chief Operating Officer (COO) shall notify cities and counties of the acknowledgment date and compliance dates described in subsections C and D.~~date.~~
- C. ~~Notwithstanding subsection B 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. After one year following acknowledgment of a functional plan requirement, adopted or amended by the Metro Council after January 1, 2005, cities and counties that amend their comprehensive plans and land~~

use regulations shall make such amendments in compliance with the new functional plan requirement. ~~The Chief Operating Officer shall notify cities and counties of the effective date.~~

~~D. Cities~~ E. ~~If a 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 new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO that requirement. Notwithstanding the previous sentence, however, cities and counties whose comprehensive plans and land use regulations do not yet comply with the requirements of Title 13 of this chapter, Metro Code Sections 3.07.1310 to 3.07.1370, shall make land use decisions consistent with those requirements after two years following their acknowledgment. The 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).

~~E.F.~~ An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan upon if no appeal to the expiration ~~Land Use Board of Appeals is made within the appropriate appeal 21-day period specified set forth in ORS 197.830(9), or 197.650 if the amendment is acknowledged in periodic review pursuant to ORS 197.633 or, if 197.644.~~ If an appeal is made, upon the ~~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 requirement, the functional plan~~ shall no longer apply to land use decisions made in conformance with the amendment.

~~F.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 EF only if the city or county provided notice to the ~~COO~~ Chief Operating Officer as required by subsection Section 3.07.820(A of section 3.07.820.).



~~(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; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1077C, Sec. 6.)~~

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

A. ~~A city or county proposing t~~ 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 COO at least 45 days prior to the first evidentiary hearing on the~~ Chief Operating Officer. ~~The Chief Operating Officer shall review the proposed amendment. The COO for compliance with the functional plan. The 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 ~~COO~~ 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 the functional plan. ~~requirements. The COO~~ Chief Operating Officer shall send a copy of comment ~~its analysis and recommendation~~ to those persons who have requested a copy.

B. If the ~~COO~~ Chief Operating Officer concludes that the proposed amendment does not comply with the functional plan, the ~~COO~~ Chief Operating Officer shall advise the city or county that it may:

1. ~~Revise (1) revise~~ the proposed amendment as recommended in the ~~COO's~~ Chief Operating Officer's analysis;

2. ~~Seek (2) seek~~ an extension of time, pursuant to section 3.07.830, Section 3.07.850, to bring the proposed amendment into compliance with the functional plan; or

Seek an exception (3) seek review of the noncompliance by MPAC and the Metro Council, pursuant to section ~~Sections 3.07.830 and 3.07.840.~~

~~3.07.830 (Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sees. 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; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.830 Review of Compliance by Metropolitan Policy Advisory Committee~~

- ~~A. A city or county may seek review of the 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 Chief Operating Officer. Upon receipt of a completed application, the Chief Operating Officer shall set the matter on the MPAC agenda and notify those persons who request notification of MPAC reviews.~~
- ~~B. The 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 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 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 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; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.840 Review by Metro Council~~

- ~~A. Upon receipt of a report from MPAC under Section 3.07.830, the 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 a 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 Chief Operating Officer. The 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; Ordinance No. 02-972A, Sec. 1.)~~

### 3.07.850 Extension of Compliance Deadline

A. A city or county may seek an extension of time for compliance with ~~athe~~ functional plan requirement. The city or county shall file an application for an extension on a form provided ~~for that purpose by the~~ COO.~~Chief Operating~~

~~Officer.~~ Upon receipt of an application, the ~~COO~~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 file a written comment in support of or opposition to the extension.

~~B. The COO~~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 or work program; or (2) there is good cause for failure to meet the deadline for compliance.~~ Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time to a city or count and shall grant no extension of more than one year. The COO shall send the order to the city or county and any person who filed a written comment.

~~C. The COO~~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 COO has granted~~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 city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall send copies to the applicant and any person who participated in the hearing. 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).

### 3.07.840

~~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; Ordinance No. 02-972A, 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 COO.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 ~~COOCouncil President shall set the matter for a public hearing before the Metro Council and shall notify the city or countyMPAC, the Department of Land Conservation and Development~~ and those persons who request notification of requests for exceptions. Any person may file a written comment in support of or opposition to the exception.

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 C, the COOCouncil may grant an exception if: it finds:~~

~~ita. It~~ is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;

~~this b.~~ ~~This~~ exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;

~~the e.~~ ~~The~~ exception will not reduce the ability of another city or county to comply with the requirement; and

~~the d.~~ ~~The~~ city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

C. 2. The ~~COO Council~~ may grant an exception to the ~~housing requirement in subsection 3.07.140A to increase dwelling unit and job capacity requirements in section 3.07.120 to the targets set forth in Table 3.07-1 if it finds:~~

~~the a.~~ ~~The~~ city or county has completed the analysis of capacity for dwelling units ~~and jobs~~ required by section 3.07.120; subsections 3.07.120A, B and C;

~~it b.~~ ~~It~~ is not possible to comply with ~~achieve~~ the ~~requirements~~ targets due to topographic or other physical constraints, an existing development pattern, ~~that precludes achievement of the 2040 Growth Concept,~~ or protection of natural resources pursuant to Titles 3 or 13 of this chapter; environmentally sensitive land; and

~~this e.~~ ~~This~~ exception and other similar exceptions ~~to the targets~~ will not render the targets unachievable region-wide. ~~region wide.~~

D.C. The ~~COO 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 purposes of the requirement. 2040 Growth Concept. A term or condition must relate to the requirement of the functional plan to which the ~~COO Council~~ grants the exception. The ~~COO Council~~ shall incorporate the terms and conditions into ~~the its~~ order on the exception.

E. The city or county applicant or a person who filed a written comment on the exception may appeal the COO's order to the Metro Council within 15 days after receipt of the

order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. 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).

- ~~D. 3.07.850 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; Ordinance No. 02-972A, 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 for compliance with a functional plan requirement or if the Council in an extension granted pursuant to Section 3.07.850 or if it has good cause to believe that a city or county is ~~engaged~~ 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 or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the ~~COO 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 ~~decides~~ concludes that there is good cause, ~~pursuant to subsection A of this section,~~ the Council President shall set the matter for a public hearing before the Council within 90 days of its ~~decision.~~ conclusion. The ~~COO 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 ~~COO~~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 ~~COO~~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. At the conclusion of the hearing, the Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. If the ~~Metro~~Council decides ~~concludes that~~ the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in ~~not engaged in~~ a pattern or a 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 or an exception granted pursuant to ~~section~~Section 3.07.830 or 3.07.840, respectively, 3.07.850, the Council shall enter an order dismissing the matter. If the Council may adopt an order that:

1. Direct~~seconcludes 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 none~~compliance and directs changes in the city or county ordinances necessary to remedy the pattern or practice; or

2. Includes a remedy authorized in ORS 268.390(7).

E. ~~practice.~~ The Council shall issue its order, ~~with analysis and conclusions,~~ not later than 30 days following the ~~public~~ hearing ~~and on the matter.~~ The Chief Operating Officer shall send copies a copy of the order to the city or county, MPAC and any person who requests a copy.

### 3.07.860 Citizen Involvement in Compliance Review

A. Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection A of section 3.07.820. Such contact may be oral or in writing and may be made at any time.



B. In addition to considering requests as described in A above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.

C. Cities, counties and the 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 COO shall publish a citizen involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

### 3.07.870 Compliance Report

A. The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Function Plan. The COO shall send a copy of the report to MPAC, JPACT, MCCI and each city and county within Metro.

B. A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, MCCI, <sup>7</sup> the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to: ~~a copy.~~

1. 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 E and F of section 3.07.810; or

2. Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.

C. Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

D. A city or county or a person who participated, 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. Amended by Ordinance No. 02-972A, Sec. 1.)~~

**Exhibit H to Ordinance No. 10-1244**

**TITLE 9: PERFORMANCE MEASURES**

Title 9 is repealed.

Exhibit I to Ordinance No. 10-1244

**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)~~(a) "Balanced cut and fill" means no net increase in fill within the floodplain.

~~(b) "COO" means Metro's Chief Operating Officer.~~

~~(c) "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)~~(c) "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)~~(d) "DBH" means the diameter of a tree measured at breast height.

~~(l)~~(e) "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)~~(f) "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)~~(g) "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)~~(h) "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 less than 10 percent removal of vegetation on a lot must comply with ~~section~~Section 3.07.340(C) - Erosion and Sediment Control. In addition, any other activity that results in the removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot is defined as development, for the purpose of Title 13. 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 Titles 3 and 13 of this functional plan; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

~~(p)~~(i) "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.

~~(j)~~ "Division" means a partition or a subdivision as those terms are defined in ORS chapter 92.

~~(q)~~(k) "Ecological functions" means the biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.

~~(r)~~(l) "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)~~(m) "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)~~(n) "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)~~(o) "Flood Areas" means those areas contained within the 100-year floodplain and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and all lands that were inundated in the February 1996 flood.

~~(v)~~(p) "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)~~(q) "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)~~(r) "Growth Concept Map" means the conceptual map demonstrating the 2040 Growth Concept design types attached to this plan<sup>1</sup>.~~plan2.~~

~~(z)~~(s) "Habitat Conservation Area" or "HCA" means an area identified on the Habitat Conservation Areas Map and subject to the performance standards and best management practices described in Metro Code section~~Section~~ 3.07.1340.

~~(aa)~~(t) "Habitat-friendly development" means a method of developing property that has less detrimental impact on fish and wildlife habitat than does traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.

~~(bb)~~(u) "Habitats of Concern" means the following unique or unusually important wildlife habitat areas as identified based on cite specific information provided by local wildlife or habitat experts: Oregon white oak woodlands,

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<sup>1</sup> On file in the Metro Council office.

<sup>2</sup> ~~On file in the Metro Council office.~~

bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

~~(cc)~~(v) "Hazardous materials" means materials described as hazardous by Oregon Department of Environmental Quality.

~~(dd)~~(w) "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.

~~(ee) "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.~~

~~(ff)~~(x) "Invasive non-native or noxious vegetation" means plants listed as nuisance plants or prohibited plants on the Metro Native Plant List as adopted by Metro Council resolution because they are 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.

~~(gg)~~(y) "Land Conservation and Development Commission" or "LCDC" means the Oregon Land Conservation and Development Commission.

~~(hh) "Landscape strip" means the portion of public right-of-way located between the sidewalk and curb.~~

~~(ii)~~(z) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan, as defined in ORS 197.015.

~~(aa) "Large-format retail commercial buildings" means a building intended for retail commercial use with more than 60,000 square feet of gross leasable area, or that amount or more of retail sales area on a single lot or parcel, or that amount or more on contiguous lots or parcels including lots or parcels separated only by a transportation right-of-way.~~



~~(jj) "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.~~

~~(kk)~~ (bb) "Local program effective date" means the effective date of a city's or county's new or amended comprehensive plan and implementing ordinances adopted to comply with Title 13 of the Urban Growth Management Functional Plan, Metro Code ~~sections~~Sections 3.07.1310 to 3.07.1370. If a city or county is found to be in substantial compliance with Title 13 without making any amendments to its comprehensive plan or land use regulations, then the local program effective date shall be December 28, 2005. If a city or county amends its comprehensive plan or land use regulations to comply with Title 13, then the local program effective date shall be the effective date of the city's or county's amendments to its comprehensive plan or land use regulations, but in no event shall the local program effective date be later than two years after Title 13 is acknowledged by LCDC. For territory brought within the Metro UGB after December 28, 2005, the local program effective date shall be the effective date of the ordinance adopted by the Metro Council to bring such territory within the Metro UGB.

~~(ll) "Local trips." Local vehicle trips are trips that are five miles or shorter in length.~~

~~(mm) "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.~~

~~(nn)~~ (cc) "Metro" means the regional government of the metropolitan area, the elected Metro Council as the policy setting body of the government.

~~(oo)~~ (dd) "Metro boundary" means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.

(ee) "MCCI" means the Metro Committee for Citizen Involvement.

(ff) "MPAC" means the Metropolitan Advisory Committee established pursuant to Metro Charter, Chapter V, Section 27.

~~(pp) "Metro Urban Growth Boundary" or "Metro UGB" means the urban growth boundary as adopted and amended by the Metro Council, consistent with state law.~~

~~(qq)~~ (gg) "Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order: (1) avoiding the impact altogether 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 affected 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 or habitat conservation areas.

~~(rr)~~ (hh) "Mixed use" means comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.

~~(ss)~~ (ii) "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.

~~(tt) "Mobility" means the speed at which a given mode of travel operates in a specific location.~~

~~(uu) "Mode split target" means the individual percentage of public transportation, pedestrian, bicycle and shared ride trips expressed as a share of total person trips.~~

~~(vv) "Motor vehicle" means automobiles, vans, public and private buses, trucks and semi-trucks, motorcycles and mopeds.~~

~~(ww)~~ "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.

~~(xx)~~ "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.

~~(yy)~~ (jj) "Native vegetation" or "native plant" means any vegetation listed as a native plant on the Metro Native Plant List as adopted by Metro Council resolution and any other vegetation native to the Portland metropolitan area provided that it is not listed as a nuisance plant or a prohibited plant on the Metro Native Plant List.

~~(zz)~~ (kk) "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.

~~(aaa)~~ (ll) "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.

~~(bbb)~~ (mm) "Net vacant buildable land" means all vacant land less all land that is: (1) within Water Quality Resource Areas; (2) within Habitat Conservation Areas; (3) publicly owned by a local, state or federal government; (4) burdened by major utility easements; and (5) necessary for the

provision of roads, schools, parks, churches, and other public facilities.

~~(eee)~~(nn) "Perennial streams" means all primary and secondary perennial waterways as mapped by the U.S. Geological Survey.

~~(ddd)~~(oo) "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.

~~(eee)~~(pp) "Person-trips" means the total number of discrete trips by individuals using any mode of travel.

~~(fff)~~(qq) "Persons per acre" means the intensity of building development by combining residents per ~~net~~ acre and employees per ~~net~~ acre.

~~(ggg)~~(rr) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. As used in Title 13 of this functional plan, "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions.

~~(hhh)~~(ss) "Primarily developed" means areas where less than 10% of parcels are either vacant or underdeveloped.

(tt) "Property owner" means a person who owns the primary legal or equitable interest in the property.

~~(iii)~~(uu) "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~~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.

~~(vv)~~ "Public facilities and services" means sewers, water service, stormwater services and transportation.

~~(jjj)~~ (ww) "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.

~~(kkk)"Regional Goals and Objectives" are the land use goals and objectives that Metro is required to adopt under ORS 268.380(1).~~

~~(lll)"Regional vehicle trips" are trips that are greater than five miles in length.~~

~~(mmm)~~ (xx) "Regionally significant fish and wildlife habitat" means those areas identified on the Regionally Significant Fish and Wildlife Habitat Inventory Map, adopted in Metro Code ~~section~~Section 3.07.1320, as significant natural resource sites.

~~(nnn)"Residential Parking District" is a designation intended to protect residential areas from spillover parking generated by adjacent commercial, employment or mixed use areas, or other uses that generate a high demand for parking.~~

~~(ooo)~~ (yy) "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.

~~(ppp)~~ (zz) "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.~~

~~(ggg)~~ (aaa) "Riparian area" means the water influenced area adjacent to a river, lake or stream consisting of the area of transition from a 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.

(bbb) "Rural reserve" means an area designated rural reserve by Clackamas, Multnomah or Washington County pursuant to OAR 660-027.

~~(rrr) "Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.~~

~~(sss) "Shared ride" means private passenger vehicles carrying more than one occupant.~~

~~(ttt) "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 1/2 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.~~

~~(uuu) "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.~~

~~(vvv)~~(ccc)"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.

~~(www)"Single occupancy vehicle (SOV)" means private passenger vehicles carrying one occupant.~~

~~(xxx)~~(ddd)"Straight-line distance" means the shortest distance measured between two points.

~~(yyy)~~(eee)"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.

~~(zzz)~~(fff)"Substantial compliance" means city and county comprehensive plans and implementing ordinances, on the whole, conforms 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.

~~(aaaa)"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.~~

~~(bbbb)"Target densities" means the average combined household and employment densities established for each design type in the RUGGO 2040 Growth Concept.~~

~~(eeee)~~(ggg)"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~~Section~~ 3.07.340(E)(3). Title 3 wetlands do not include

artificially constructed and managed stormwater and water quality treatment facilities.

~~(ddd)~~(hhh)"Top of bank" means the same as "bankfull stage" defined in OAR 141-085-0010(2).

~~(eee)"Traffic calming" means street design or operational features intended to maintain a given motor vehicle travel speed.~~

~~(ffff)~~(iii)"Urban development value" means the economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs ("employment value"), and the Metro 2040 design type designation of property. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map referenced in Metro Code ~~section~~Section 3.07.1340(E).

~~(ggg)~~(jjj)"~~Urban Growth Boundary~~" or "UGB" means an urban growth boundary adopted pursuant to ORS chapter 197.

~~(hhh)~~(kkk)"Underdeveloped parcels" means those parcels of land with less than 10% of the net acreage developed with permanent structures.

~~(lll)"Urban reserve" means an area designated urban reserve by the Metro Council pursuant to OAR 660 Division 27.~~

~~(iii)~~(mmm)"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.

~~(jjj)~~(nnn)"Vacant land" means land identified in the Metro or local government inventory as undeveloped land.

~~(kkk)~~(ooo)"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.

~~(lll)~~(ppp)"Visible or measurable erosion"~~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.

~~(mmmm)~~(qqq)"Water feature" means all rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, Flood Management Areas, wetlands, and all other bodies of open water.

~~(nnnn)~~(rrr)"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>3</sup>.~~hereto~~<sup>4</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.

~~(oooo)~~(sss)"Water Quality Resource Areas" means vegetated corridors and the adjacent water feature as established in Title 3.

~~(pppp)~~(ttt)"Wetlands." Wetlands are those areas inundated or saturated by surface or ground water at a frequency and

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<sup>3</sup> On file in Metro Council office.

<sup>4</sup> ~~On file in Metro Council office.~~

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.

~~(9999)~~ "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. Amended by Ordinance No. 00-869A, Sec. 2; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1077C, Sec. 6.)~~

**Exhibit J to Ordinance No. 10-1244**

**TITLE 11: PLANNING FOR NEW URBAN AREAS**

3.07.1105 Purpose and Intent

The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. It is the purpose of Title 11 to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of Title 11 to provide interim protection for areas added to the UGB until city or county amendments to land use regulations to allow urbanization become applicable to the areas.

~~(Ordinance No. 99-818A, Sec. 3. Amended by Ordinance No. 02-969B, Sec. 11; and Ordinance No. 10-1238A, Sec. 5.)~~

3.07.1110 ~~Planning for Interim Protection of~~ Areas  
~~Designated Brought into the Urban Reserve Growth~~  
~~Boundary (Applicable on March 31, 2011)~~

~~A.~~ The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, shall, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to sections 3.07.1420, 3.07.1430 and 3.07.1435 of this chapter. ~~Metro Code 3.01.015 and 3.01.020.~~ The date for completion of a concept plan and the area of urban reserves to be planned will be jointly determined by Metro and the county and city or cities.

~~B.~~ A concept plan shall achieve, or contribute to the achievement of, the following outcomes:

1. If the plan proposes a mix of residential and employment uses:
  - a. A mix and intensity of uses that will make efficient use of the public systems and facilities described in subsection C;

- b. A development pattern that supports pedestrian and bicycle travel to retail, professional and civic services;
- ~~e. Opportunities for a range of housing needed in the prospective UGB expansion area, the prospective governing city and the region, -~~
- ~~d.c. Sufficient employment opportunities to support a healthy economy, including ownership and rental housing; single-family and multi-family housing; and a mix of public, nonprofit and private market housing - with an option for households, for proposed employment areas, lands with incomes at or below 80, 50 and 30 percent of median family incomes for the region; characteristics, such as proximity to transportation facilities, needed by employers;~~
- d. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
- e. Well-connected systems of streets, bikeways, parks, ~~and other public open spaces, natural areas,~~ recreation trails and public transit that link to needed housing so as to reduce the combined cost of housing and transportation;
- i. A well-connected system of parks, natural areas and other public open spaces;
- f. Protection of natural ecological systems and important natural landscape features; and
- g. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.~~lands; or~~
- 2. If the plan involves fewer than 100 acres or proposes to accommodate only residential or employment needs, depending on the need to be accommodated:
  - a. ~~Opportunities for a~~ range of needed housing ~~types~~ needed in the prospective UGB expansion area, the

prospective governing city and the region, - including ownership and rental housing and single-family and multi-family housing; and a mix of public, nonprofit and private market housing - with an option for households with incomes at or below 80, 50 and 30 percent of median family incomes for the region;

~~b. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;~~

b. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;

c. Well-connected systems of streets, bikeways, pedestrian ways, parks, natural areas, recreation trails;

d. Protection of natural ecological systems and important natural landscape features; and

e. Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.

~~c.~~ A concept plan shall:

1. Show the general locations of any residential, commercial, industrial, institutional and public uses proposed for the area with sufficient detail to allow estimates of the cost of the public systems and facilities described in paragraph 2;

2. For proposed sewer, park and trail, water and storm-water systems and transportation facilities, provide the following:

a. The general locations of proposed sewer, park and trail, water and storm-water systems;

- b. The mode, function and general location of any proposed state transportation facilities, arterial facilities, regional transit and trail facilities and freight intermodal facilities;
  - c. The proposed connections of these systems and facilities, if any, to existing systems;
  - d. Preliminary estimates of the costs of the systems and facilities in sufficient detail to determine feasibility and allow cost comparisons with other areas;
  - e. Proposed methods to finance the systems and facilities; and
  - f. Consideration for protection of the capacity, function and safe operation of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.
3. If the area subject to the concept plan calls for designation of land for industrial use, include an assessment of opportunities to create and protect parcels 50 acres or larger and to cluster uses that benefit from proximity to one another;

4. If the area subject to the concept plan calls for designation of land for residential use, include strategies, such as partnerships and incentives, that increase the likelihood that needed housing types described in subsection B of this section will be market-feasible or provided by non-market housing developers within the 20-year UGB planning period;

~~4.5~~—Show water quality resource areas, flood management areas and habitat conservation areas that will be subject to performance standards under Titles 3 and 13 of the Urban Growth Management Functional Plan;

~~5.6~~—Be coordinated with the comprehensive plans and land use regulations that apply to nearby lands already within the UGB;

~~6.7~~—Include an agreement between or among the county and the city or cities and service districts that

preliminarily identifies which city, cities or districts will likely be the providers of urban services, as defined at ORS 195.065(4), when the area is urbanized;

~~7.8~~—Include an agreement between or among the county and the city or cities that preliminarily identifies the local government responsible for comprehensive planning of the area, and the city or cities that will have authority to annex the area, or portions of it, following addition to the UGB;

~~8.9~~—Provide that an area added to the UGB must be annexed to a city prior to, or simultaneously with, application of city land use regulations to the area intended to comply with subsection C of section 3.07.1120; and

~~9.10~~—Be coordinated with schools districts, including coordination of demographic assumptions.~~districts.~~

~~D.~~—Concept plans shall guide, but not bind:

1. The designation of 2040 Growth Concept design types by the Metro Council;
2. Conditions in the Metro ordinance that adds the area to the UGB; or
3. Amendments to city or county comprehensive plans or land use regulations following addition of the area to the UGB.

~~E.~~—If the local governments responsible for completion of a concept plan under this section are unable to reach agreement on a concept plan by the date set under subsection A, then the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS 197.299 to ensure the UGB has sufficient capacity to accommodate forecasted growth.

~~(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3; Ordinance No. 02-969B, Sec. 11; Ordinance No. 06-1110A, Sec. 1; and Ordinance No. 10-1238A, Sec. 5.)~~

### 3.07.1120 Planning for Areas Added to the UGB

A. The county or city responsible for comprehensive planning of an area, as specified by the intergovernmental agreement adopted pursuant to section 3.07.1110C(8) ~~3.07.1110C(7)~~ or the ordinance that added the area to the UGB, shall adopt comprehensive plan provisions and land use regulations for the area to address the requirements of subsection C by the date specified by the ordinance or by section 3.07.1455B(4) of this chapter. ~~Metro Code 3.01.040(b)(4).~~

B. If the concept plan developed for the area pursuant to ~~section~~ Section 3.07.1110 assigns planning responsibility to more than one city or county, the responsible local governments shall provide for concurrent consideration and adoption of proposed comprehensive plan provisions unless the ordinance adding the area to the UGB provides otherwise.

~~C.~~ Comprehensive plan provisions for the area shall include:

1. Specific plan designation boundaries derived from and generally consistent with the boundaries of design type designations assigned by the Metro Council in the ordinance adding the area to the UGB;

2. Provision for annexation to a city and to any necessary service districts prior to, or simultaneously with, application of city land use regulations intended to comply with this subsection;

3. Provisions that ensure zoned capacity for the number and types of housing units, if any, specified by the Metro Council pursuant to section 3.07.1455B(2) of this chapter; ~~Metro Code 3.01.040(b)(2);~~

a. If the comprehensive plan authorizes housing in any part of the area, provision for a range of ~~needed~~ housing types needed in the prospective UGB expansion area, the prospective governing city, and the region, - including ownership and rental housing; single-family and multi-family housing; and a mix of public, nonprofit and private market housing - with an option for households with incomes at or below 80, 50 and 30 percent of median family incomes for the region and implementing strategies



that increase the likelihood that needed housing types will be market-feasible or provided by non-market housing developers within the 20-year UGB planning period;

~~4. Provision for affordable housing consistent with Title 7 of the Urban Growth Management Functional Plan if the comprehensive plan authorizes housing in any part of the area;~~

5.4. Provision for the amount of land and improvements needed, if any, for public school facilities sufficient to serve the area added to the UGB in coordination with affected school districts. This requirement includes consideration of any school facility plan prepared in accordance with ORS 195.110;

6.5. Provision for the amount of land and improvements needed, if any, for public park facilities sufficient to serve the area added to the UGB in coordination with affected park ~~providers.~~providers;

7.6. A conceptual street plan that identifies internal street connections and connections to adjacent urban areas to improve local access and improve the integrity of the regional street system. For areas that allow residential or mixed-use development, the plan shall meet the standards for street connections in the Regional Transportation Functional Plan;

8.7. Provision for the financing of local and state public facilities and services; and

9.8. A strategy for protection of the capacity and function of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.

~~D.~~ The county or city responsible for comprehensive planning of an area shall submit to Metro a determination of the residential capacity of any area zoned to allow dwelling units, using the method in ~~section~~Section 3.07.120, ~~to Metro~~ within 30 days after adoption of new land use regulations for the area.

~~(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3; Ordinance No. 01-929A, Sec. 8; Ordinance No. 02-964, Sec. 5; Ordinance No.~~

~~05-1077C, Sec. 6; Ordinance No. 05-1089A, Sec. 2; Ordinance No. 07-1137A, Sec. 3; and Ordinance No. 10-1238A, Sec. 5.)~~

### 3.07.1130 ~~Interim~~ Protection of Areas Added to the UGB

Until land use regulations that comply with ~~section~~Metro Code Section 3.07.1120 become applicable to the area, the city or county responsible for planning the area added to the UGB shall not adopt or approve:

~~A.~~—A land use regulation or zoning map amendment that allows higher residential density in the area than allowed by regulations in effect at the time of addition of the area to the UGB;

~~B.~~—A land use regulation or zoning map amendment that allows commercial or industrial uses not allowed under regulations in effect at the time of addition of the area to the UGB;

~~C.~~—A land division or partition that would result in creation of a lot or parcel less than 20 acres in size, except for public facilities and services as defined in section 3.07.1010(ww) of this chapter,~~Metro Code Section 3.01.010,~~ or for a new public school;

~~D.~~—In an area designated by the Metro Council in the ordinance adding the area to the UGB as Regionally Significant Industrial Area:

~~1.~~—A commercial use that is not accessory to industrial uses in the area; and

~~2.~~—A school, a church, a park or any other institutional or community service use intended to serve people who do not work or reside in the area.

~~(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3 and Ordinance No. 10-1238A, Sec. 5.)~~

### 3.07.1140 Applicability

Section 3.07.1110 becomes applicable on ~~March~~December 31, 2011.

~~(Ordinance No. 98-772B, Sec. 2. Amended by Ordinance No. 99-818A, Sec. 3 and Ordinance No. 10-1238A, Sec. 5.)~~

## **Exhibit K to Ordinance No. 10-1244**

Metro Code Chapter 3.01 is repealed.

### ~~3.01.005 Purpose~~

~~This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:~~

- ~~—— (a) —— Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long range growth in population and employment;~~
- ~~—— (b) —— Major amendments to address short term needs that were not anticipated at the time of legislative amendments; and~~
- ~~—— (c) —— Minor adjustments to make small changes to make the UGB function more efficiently and effectively.~~

### ~~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) —— "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.~~
- ~~—— (d) —— "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of properties.~~
- ~~—— (e) —— "Property owner" means a person who owns the primary legal or equitable interest in the property.~~
- ~~—— (f) —— "Public facilities and services" means sewers, water service, stormwater services and transportation.~~
- ~~—— (g) —— "UGB" means the Urban Growth Boundary for Metro.~~
- ~~—— (h) —— "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.~~

### ~~3.01.012 Urban Reserve Areas~~

~~———— (a) ——— Purpose. This section establishes the process and criteria for designation of urban reserve areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.~~

~~———— (b) ——— Designation of Urban Reserve Areas.~~

~~———— (1) ——— The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.~~

~~———— (2) ——— The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.~~

~~———— (3) ——— The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.~~

~~———— (4) ——— The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.~~

~~———— (c) ——— Plans For Urban Reserve Areas. Cities and counties may plan for urban reserve areas, consistent with the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.~~

### ~~3.01.015 Legislative Amendment Procedures~~

~~———— (a) ——— The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.~~

~~———— (b) ——— Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.~~

~~———— (c) ——— Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

~~———— (d) ——— Prior to the final hearing on a proposed legislative 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. The Chief Operating Office 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 facilities and services, police and fire services, public schools, emergency services and parks and open spaces.~~

~~————— (e) ——— The Council shall base its final decision on information received by the Council during the legislative process.~~

~~————— (f) ——— The Council may amend 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 land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code to the land until the effective date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to Section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.~~

### ~~3.01.020 Legislative Amendment—Criteria~~

~~————— (a) ——— The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.~~

~~————— (b) ——— The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:~~

- ~~————— (1) ——— Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and~~
- ~~————— (2) ——— Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and~~

~~————— (3) — A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.~~

~~————— (c) — If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:~~

~~————— (1) — Efficient accommodation of identified land needs;~~

~~————— (2) — Orderly and economic provision of public facilities and services;~~

~~————— (3) — Comparative environmental, energy, economic and social consequences;  
and~~

~~————— (4) — Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.~~

~~————— (d) — If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:~~

~~————— (1) — Equitable and efficient distribution of housing and employment opportunities throughout the region;~~

~~————— (2) — Contribution to the purposes of Centers;~~

~~————— (3) — Protection of farmland that is most important for the continuation of commercial agriculture in the region;~~

~~————— (4) — Avoidance of conflict with regionally significant fish and wildlife habitat;  
and~~

~~————— (5) — Clear transition between urban and rural lands, using natural and built features to mark the transition.~~

### ~~3.01.025 Major Amendments Procedures~~

~~————— (a) — A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. 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 Council is completing its analysis of buildable land supply under ORS 197.299(1).~~

~~————— (b) — Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days~~

~~before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and 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. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a vote of five members of the full Council.~~

~~———— (c) ——— With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.~~

~~———— (d) ——— The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.~~

~~———— (e) ——— The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.~~

~~———— (f) ——— Within 14 days after receipt of a complete application, the Chief Operating Officer will:~~

~~———— (1) ——— Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and~~

~~———— (2) ——— Notify the public of the public hearing as prescribed in Section 3.01.050 of this chapter.~~

~~———— (g) ——— The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies 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 to the public at least seven days prior to the hearing.~~

~~———— (h) ——— If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in Section 3.01.015(d).~~

~~\_\_\_\_\_ (i) \_\_\_\_\_ An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.~~

~~\_\_\_\_\_ (j) \_\_\_\_\_ Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.~~

~~\_\_\_\_\_ (k) \_\_\_\_\_ Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.~~

~~\_\_\_\_\_ (l) \_\_\_\_\_ The hearings officer will provide the following information to participants at the beginning of the hearing:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ The criteria applicable to major amendments and the procedures for the hearing;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.~~

~~\_\_\_\_\_ (m) \_\_\_\_\_ The hearing shall be conducted in the following order:~~

~~\_\_\_\_\_ (1) \_\_\_\_\_ Presentation of the report and recommendation of the Chief Operating Officer;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ Presentation of evidence and argument by the applicant;~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ Presentation of evidence and argument in support of or opposition to the application by other participants; and~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ Presentation of rebuttal evidence and argument by the applicant.~~

~~\_\_\_\_\_ (n) \_\_\_\_\_ The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. 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. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.~~



~~——(o)—— If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.~~

~~——(p)—— Cross examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.~~

~~——(q)—— A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.~~

~~——(r)—— The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.~~

~~——(s)—— Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.~~

~~——(t)—— Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.~~

~~——(u)—— The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.~~

~~——(v)—— The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary 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 Metro. 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 Metro.~~

### ~~3.01.030 Major Amendments—Criteria~~

~~—— (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 analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.~~

~~—— (b) — The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:~~

~~—— (1) — The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;~~

~~—— (2) — 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; and~~

~~—— (3) — If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(f) has been completed.~~

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

### ~~3.01.033 Minor Adjustments—Procedures~~

~~—— (a) — A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided 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(d).~~

~~—— (b) — The Chief Operating Officer will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.~~

~~—— (c) — Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

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

~~———— (e) ——— The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing 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.~~

~~———— (f) ——— Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.~~

~~———— (g) ——— Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions 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.~~

### ~~3.01.035 Minor Adjustments—Criteria~~

~~———— (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 minor 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) ——— Adjustment 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 approve 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; and~~
  - ~~————— (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) ——— Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:~~
  - ~~————— (1) ——— The delineation was done by a professional engineer registered by the State of Oregon;~~
  - ~~————— (2) ——— The adjustment will result in the addition of no more than 20 net acres to the UGB;~~
  - ~~————— (3) ——— The adjustment will help achieve the 2040 Growth Concept; and~~

~~(4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.~~

~~(f) If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept designation for the area.~~

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

### ~~3.01.040 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 requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07.1105, et seq.).~~

~~(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when the Council adopts a legislative or major amendment to the UGB, the Council shall:~~

~~(1) In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.~~

~~(2) Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.~~

~~(3) Establish the boundaries of the area that shall be included in the planning required by Title 11. The boundary of the planning area may include all or part of one or more designated urban reserves.~~

~~(4) Establish the time period for city or county compliance with the requirements of Title 11, which shall not be less than two years following the effective date of the ordinance adding the area to the UGB.~~

~~———— (c) ——— When it adopts a legislative or major amendment to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in Section 3.07.870 of the Urban Growth Management Functional Plan.~~

#### ~~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 Metro to process an application. The filing fee shall include administrative costs and the cost of hearings officer and of public notice.~~

~~———— (b) ——— The fees for 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) ——— Before a hearing is scheduled, an applicant shall submit a fee deposit.~~

~~———— (d) ——— The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings 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 Council.~~

~~———— (e) ——— The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.~~

#### ~~3.01.050 Notice Requirements~~

~~———— (a) ——— For a proposed legislative amendment under Section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:~~

~~———— (1) ——— In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;~~

~~———— (2) ——— In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and~~

~~———— (3) ——— To the general public by an advertisement no smaller than 1/8 page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.~~

~~———— (b) ——— For a proposed major amendment under Section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:~~

- ~~(1) In writing at least 45 days before the first public hearing on the proposal to:~~
  - ~~(A) The applicant;~~
  - ~~(B) The director of the Department of Land Conservation and Development;~~
  - ~~(C) The owners of property that is being considered for addition to the UGB; and~~
  - ~~(D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;~~
- ~~(2) In writing at least 30 days before the first public hearing on the proposal to:~~
  - ~~(A) The local governments of the Metro area;~~
  - ~~(B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and~~
- ~~(3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.~~
- ~~(c) The notice required by subsections (a) and (b) of this section shall include:~~
  - ~~(1) A map showing the location of the area subject to the proposed amendment;~~
  - ~~(2) The time, date and place of the hearing;~~
  - ~~(3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;~~
  - ~~(4) A statement that interested persons may testify and submit written comments at the hearing;~~

- ~~(5) The name of the Metro staff to contact and telephone number for more information;~~
- ~~(6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and~~
- ~~(7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;~~
- ~~(8) For proposed major amendments only:
  - ~~(A) An explanation of the proposed boundary change;~~
  - ~~(B) A list of the applicable criteria for the proposal; and~~
  - ~~(C) A statement that failure to raise an issue at the hearing, orally or in writing, 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.~~~~
- ~~(9) For the owners of property described in paragraph (b)(1)(C) of this section, the information required by ORS 268.393(3).~~
- ~~(d) For a proposed minor adjustment under Section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:
  - ~~(1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;~~
  - ~~(2) In writing at least 20 days before the issuance of an order on the proposal to:
    - ~~(A) The applicant and the owners of property subject to the proposed adjustment;~~
    - ~~(B) The owners of property within 500 feet of the property subject to the proposed adjustment;~~
    - ~~(C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;~~
    - ~~(D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic~~~~~~



~~area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and~~

~~(E) Any other person requesting notification of UGB changes.~~

~~(e) The notice required by subsection (d) of this section shall include:~~

~~(1) A map showing the location of the area subject to the proposed amendment;~~

~~(2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;~~

~~(3) A statement that interested persons may submit written comments and the deadline for the comments;~~

~~(4) The name of the Metro staff to contact and telephone number for more information; and~~

~~(5) A list of the applicable criteria for the proposal.~~

~~(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.~~

#### ~~3.01.055 Regular Review of Chapter~~

~~The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.~~

#### ~~3.01.060 Severability~~

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

## **Exhibit L to Ordinance No. 10-1244**

Title 14 is added to the Urban Growth Management Functional Plan

### **TITLE 14: URBAN GROWTH BOUNDARY**

#### 3.07.1405 Purpose

The Regional Framework Plan (RFP) calls for a clear transition from rural to urban development, an adequate supply of urban land to accommodate long-term population and employment, and a compact urban form. Title 14 prescribes criteria and procedures for amendments to the urban growth boundary (UGB) to achieve these objectives.

#### 3.07.1410 Urban Growth Boundary

A. The UGB for the metropolitan area is incorporated into this title and is depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Cities and counties within the Metro boundary shall depict the portion of the UGB, if any, that lies within their boundaries on their comprehensive plan maps. Within 21 days after an amendment to the UGB under this title, the COO shall submit the amended UGB to the city and county in which the amended UGB lies. The city and county shall amend their comprehensive plan maps to depict the amended UGB within one year following receipt of the amendment from the COO.

B. Urban and Rural Reserves are depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Amendments to the UGB made pursuant to this title shall be based upon this map.

#### 3.04.1420 Legislative Amendment to UGB - Procedures

A. Legislative amendments follow periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment. The Metro Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

B. Except as otherwise provided in this title, the Council shall make legislative amendments to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC, other advisory committees and the general public.

C. Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.07.1465.

D. Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the COO shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The COO 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 facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

### 3.07.1425 Legislative Amendment to the UGB - Criteria

A. This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

B. The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

1. Demonstrated need to accommodate future urban population, consistent with a 20-year population range forecast coordinated with affected local governments; and
2. Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
3. A demonstration that any need shown under paragraphs 1 and 2 of this subsection cannot reasonably be accommodated on land already inside the UGB.

C. If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors:

1. Efficient accommodation of identified land needs;
2. Orderly and economic provision of public facilities and services;
3. Comparative environmental, energy, economic and social consequences; and
4. Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.

5. Equitable and efficient distribution of housing and employment opportunities throughout the region;
6. Contribution to the purposes of Centers and Corridors;
7. Protection of farmland that is most important for the continuation of commercial agriculture in the region;
8. Avoidance of conflict with regionally significant fish and wildlife habitat; and
9. Clear transition between urban and rural lands, using natural and built features to mark the transition.

D. The Council may consider land not designated urban or rural reserve for possible addition to the UGB only if it determines that:

1. Land designated urban reserve cannot reasonably accommodate the need established pursuant to subsection B of this section; or
2. The land is subject to a concept plan approved pursuant to section 3.07.1110 of this chapter, involves no more than 50 acres not designated urban or rural reserve and will help the concept plan area urbanize more efficiently and effectively.

E. The Council may not add land designated rural reserve to the UGB.

F. The Council may not amend the UGB in such a way that would create an island of urban land outside the UGB or an island of rural land inside the UGB.

#### 3.07.1430 Major Amendments - Procedures

A. A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The COO will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may accept an application at other times by a vote of five members of the Council.

B. Except for that calendar year in which the Council is completing its analysis of buildable land supply, the COO shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and 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.

C. With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with section 3.07.1465. The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

D. The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

E. The COO will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The COO will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

F. Within 14 days after receipt of a complete application, the COO will:

1. Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
2. Notify the public of the public hearing as prescribed in section 3.07.1465 of this title.

G. The COO shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the COO to be used at the hearing shall be available to the public at least seven days prior to the hearing.

H. If the proposed major amendment would add more than 100 acres to the UGB, the COO shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in subsection D of section 3.07.1420.

I. An applicant may request postponement of the hearing within 20 days after filing a complete application. The COO may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the COO will return the unneeded portion of the fee deposit assessed pursuant to section 3.07.1460.

J. Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.

K. Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance prior to the hearing. The applicant has the burden of demonstrating that the proposed amendment complies with the criteria.

L. The hearings officer shall provide the following information to participants at the beginning of the hearing:

1. The criteria applicable to major amendments and the procedures for the hearing;
2. A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
3. A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.

M. The hearing shall be conducted in the following order:

1. Presentation of the report and recommendation of the COO;
2. Presentation of evidence and argument by the applicant;
3. Presentation of evidence and argument in support of or opposition to the application by other participants; and
4. Presentation of rebuttal evidence and argument by the applicant.

N. The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. 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. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

O. If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

P. Cross-examination by parties shall be by submission of written questions to the hearings officer, who shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

Q. A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

R. The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participants, and allocate the charges on the basis of cost incurred by each applicant.

S. Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the COO, who shall make it available for review by participants.

T. Within seven days after receipt of the proposed order from the hearings officer, the COO shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The COO shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

U. The Council shall consider the hearings officer's report and recommendation at the meeting set by the COO. The Council will allow oral and written argument by those who participated in the hearing before the hearings officer. Argument must be based upon the record of those proceedings. Final Council action shall be as provided in section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

#### 3.07.1435 Major Amendments – Expedited Procedures

A. The COO may file an application at any time to add land to the UGB for industrial use, pursuant to section 3.07.460, by major amendment following the expedited procedures in this section. The application under this section remains subject to subsections C, D, H, M and Q of section 3.07.1430.

B. Within 10 days after receipt of a complete application, the Council President will:

1. Set the matter for a public hearing before the Council for a date no later than 55 days following receipt of a complete application; and
2. Notify the public of the public hearing as prescribed in section 3.07.1465.

C. The COO shall submit a report and recommendation on the application to the Council not less than 15 days before the hearing and send copies to those who have requested copies. Any subsequent report by the COO to be used at the hearing shall be available to the public at least seven days prior to the hearing.

D. Participants at the hearing need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.

E. The Council President shall provide the following information to participants at the beginning of the hearing:

1. The criteria applicable to major amendments and the procedures for the hearing;
2. A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal.

F. The Council President may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the Council President 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. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

G. If new evidence is submitted at the continued hearing, the Council President may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the Council President grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

H. The Council President may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

I. Within 15 days following the close of the record, the Council shall adopt:

1. An ordinance, with findings of fact and conclusions of law, that amends the UGB to add all or a portion of the territory described in the application; or
2. A resolution adopting an order, with findings of fact and conclusions of law, that denies the application.

#### 3.07.1440 Major Amendments - Criteria

A. The purpose of the major amendment process is to provide a mechanism to address needs for land that cannot wait until the next analysis of buildable land supply under ORS 197.299. Land may be added to the UGB under sections 3.07.1430 and 3.07.1440 only for public facilities and services, public schools, natural areas and other non-housing needs and as part of a land trade under subsection D. An applicant under section 3.07.1430 must demonstrate compliance with this purpose and these limitations.

B. The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria



and factors in subsections B, C, D, E, F and G of section 3.07.1425. The applicant shall also demonstrate that:

1. The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
2. If the amendment would add land for public school facilities, the coordination required by subsection C(5) of section 3.07.1120 of this chapter has been completed; and
3. If the amendment would add land for industrial use pursuant to section 3.07.1435, a large site or sites cannot reasonably be created by land assembly or reclamation of a brownfield site.

C. If the application was filed under section 3.07.1435, the applicant shall demonstrate that the amendment is consistent with any concept plan for the area developed pursuant to section 3.07.1110 of this chapter.

D. To facilitate implementation of the Metropolitan Greenspaces Master Plan of 1992, the Council may add land to the UGB in a trade that removes a nearly equal amount of land from the UGB. If the Council designates the land to be added for housing, it shall designate an appropriate average density per net developable acre.

#### 3.07.1445 Minor Adjustments - Procedures

A. Minor adjustments make small changes to the UGB so that land within the UGB functions more efficiently and effectively. A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided 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 subsection D of section 3.07.1430.

B. The COO will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The COO will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.

C. Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in section 3.07.1465.

D. The COO shall review the application for compliance with the criteria in section 3.07.1450 and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The COO shall send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy.

E. The applicant or any person who commented on the application may appeal the COO's order to the Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing 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.

F. Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in section 3.07.1465.

G. Following the hearing, the Council shall uphold, deny or modify the COO's order. The Council shall issue an order with its analysis and conclusions 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.

### 3.07.1450 Minor Adjustments - Criteria

A. The purpose of this section is to provide a mechanism to make small changes to the UGB in order to make land within 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 minor 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. Adjustment of the UGB will make the provision of public facilities and services easier or more efficient;
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 designated rural reserve or for agriculture or forestry pursuant to a statewide planning goal.

D. To approve 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; and
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. Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

1. The delineation was done by a professional engineer registered by the State of Oregon;
2. The adjustment will result in the addition of no more than 20 net acres to the UGB;
3. The adjustment will help achieve the 2040 Growth Concept; and
4. The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

F. If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate an appropriate average density per net developable acre for the area.

G. The COO shall submit a report to the Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.

### 3.07.1455 Conditions of Approval

A. Land added to the UGB pursuant to sections 3.07.1420, 3.07.1430 and 3.07.1435 shall be subject to the requirements of sections 3.07.1120 and 3.07.1130 of this chapter.

B. If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it shall:

1. In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11 of this chapter. If local governments have an agreement in a concept plan developed pursuant to Title 11 that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
2. Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate an appropriate average density per net developable acre consistent with the need for which the UGB is expanded.
3. Establish the boundaries of the area that shall be included in the planning required by Title 11. A planning area boundary may include territory designated urban reserve, outside the UGB.
4. Establish the time period for city or county compliance with the requirements of Title 11, which shall be two years following the effective date of the ordinance adding the area to the UGB unless otherwise specified.

C. If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it may establish other conditions it deems necessary to ensure the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.850 of this chapter.

### 3.07.1460 Fees

A. Each application submitted by a property owner or group of property owners pursuant to this title shall be accompanied by a filing fee in an amount to be established by the Council. Such fee shall not exceed Metro's actual cost to process an application. The fee may include administrative costs, the cost of a hearings officer and of public notice.

B. The fee for 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. Before a hearing is scheduled, an applicant shall submit a fee deposit. In the case of an application for a minor adjustment pursuant to section 3.07.1445, the applicant shall submit the fee deposit with the application.

D. The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings 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 Council.

E. The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

### 3.07.1465 Notice Requirements

A. For a proposed legislative amendment under section 3.07.1420, the COO shall provide notice of the public hearing in the following manner:

1. In writing to the Department of Land Conservation and Development and local governments of the Metro region at least 45 days before the first public hearing on the proposal; and
2. To the general public at least 45 days before the first public hearing by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

B. For a proposed major amendment under sections 3.07.1430 or 3.07.1435, the COO shall provide notice of the hearing in the following manner:

1. In writing at least 45 days before the first public hearing on the proposal to:
  - a. The applicant;
  - b. The director of the Department of Land Conservation and Development;
  - c. The owners of property that is being considered for addition to the UGB; and
  - d. The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
2. In writing at least 30 days before the first public hearing on the proposal to:
  - a. The local governments of the Metro area;
  - b. A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or

is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and

3. To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

C. The notice required by subsections A and B of this section shall include:

1. A map showing the location of the area subject to the proposed amendment;
2. The time, date and place of the hearing;
3. A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
4. A statement that interested persons may testify and submit written comments at the hearing;
5. The name of the Metro staff to contact and telephone number for more information;
6. A statement that a copy of the written report and recommendation of the COO on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
7. A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;
8. For proposed major amendments only:
  - a. An explanation of the proposed boundary change;
  - b. A list of the applicable criteria for the proposal; and
  - c. A statement that failure to raise an issue at the hearing, orally or in writing, 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.
9. For the owners of property described in subsection B(1)(c) of this section, the information required by ORS 268.393(3).

D. For a proposed minor adjustment under section 3.07.1445, the COO shall provide notice in the following manner:

1. In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;
2. In writing at least 20 days before the issuance of an order on the proposal to:
  - a. The applicant and the owners of property subject to the proposed adjustment;
  - b. The owners of property within 500 feet of the property subject to the proposed adjustment;
  - c. The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;
  - d. Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and
  - e. Any other person requesting notification of UGB changes.

E. The notice required by subsection D of this section shall include:

1. A map showing the location of the area subject to the proposed amendment;
2. A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
3. A statement that interested persons may submit written comments and the deadline for the comments;
4. The name of the Metro staff to contact and telephone number for more information; and
5. A list of the applicable criteria for the proposal.

F. The COO shall notify each county and city in the district of each amendment of the UGB.







## **Exhibit N to Ordinance No. 10-1244**

### **CHAPTER 3.09 LOCAL GOVERNMENT BOUNDARY CHANGES**

#### 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 of urban reserves designated by Metro and any annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary (UGB).

#### 3.09.020 Definitions

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

A. "Adequate level of urban services" means a level of urban services adequate to support the higher number of dwelling units and jobs specified for the appropriate design type in section 3.07.640A of Title 6 of the Urban Growth Management Functional Plan, or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.

B. "Affected entity" means a county, city or district for which a boundary change is proposed or is ordered.

C. "Affected territory" means territory described in a petition.

D. "Boundary change" means a major or minor boundary change involving affected territory lying within the jurisdictional boundaries of Metro or the boundaries of urban reserves designated.

E. "Deliberations" means discussion among members of a reviewing entity leading to a decision on a proposed boundary change at a public meeting for which notice was given under this chapter.

F. "District" means a district defined by ORS 199.420 or any district subject to Metro boundary procedure act under state law.

G. "Final decision" means the action by a reviewing entity whether adopted by ordinance, resolution or other means which is the determination of compliance of the proposed boundary change with applicable criteria and which requires no further discretionary decision or action by the reviewing 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, or any action to defer or continue deliberations on a proposed boundary change.

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. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520.

J. "Necessary party" means any county; city; 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; or 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 any form of action that initiates a boundary change.

L. "Reviewing entity" means the governing body of a city, county or Metro, or its designee.

M. "Urban reserve" means land designated by Metro pursuant to ORS 195.137 et seq. for possible addition to the UGB.

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

### 3.09.30 Notice Requirements

A. The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter provision on boundary changes.

B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing 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 20 days prior to the date of deliberations. Notice shall be published as required by state law.

C. The notice required by subsection (b) shall:

1. Describe the affected territory in a manner that allows certainty;
2. State the date, time and place where the reviewing entity will consider the boundary change; and

3. State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.
4. A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 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 five days prior to the continued date of decision.
5. A reviewing entity's final decision shall be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro shall include payment to Metro of the filing fee required pursuant to section 3.09.060.

#### 3.09.040 Requirements for Petitions

A. A petition for a boundary change must contain the following information:

1. The jurisdiction of the reviewing entity to act on the petition;
2. A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
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; and
4. For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.
5. A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

#### 3.09.045 Expedited Decisions

A. The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least fifty percent of the electors, if any, within the affected territory. No public hearing is required.

B. The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.

C. At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extra-territorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
3. The proposed effective date of the boundary change.

D. To approve a boundary change through an expedited process, the city shall:

1. Find that the change is consistent with expressly applicable provisions in:
  - a. Any applicable urban service agreement adopted pursuant to ORS 195.065;
  - b. Any applicable annexation plan adopted pursuant to ORS 195.205;
  - c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
  - d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
  - e. Any applicable comprehensive plan; and
  - f. Any applicable concept plan; and
2. Consider whether the boundary change would:
  - a. Promote the timely, orderly and economic provision of public facilities and services;
  - b. Affect the quality and quantity of urban services; and
  - c. Eliminate or avoid unnecessary duplication of facilities or services.

E. A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB.

#### 3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

A. The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.

B. Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
3. The proposed effective date of the boundary change.

C. The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

D. To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of section 3.09.045.

#### 3.09.060 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 Chief Operating Officer (COO) shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor and elections officer, the Oregon Secretary of State and the Oregon Department of Revenue. Notification of public utilities shall be accomplished as provided in ORS 222.005(1).

C. The COO shall establish a fee structure establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, 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.

#### 3.09.070 Changes to Metro's Boundary

A. Changes to Metro's boundary may be initiated by Metro or the county responsible for land use planning for the affected territory, property owners and electors in the territory to be annexed, or other public agencies if allowed by ORS 198.850(3). Petitions shall meet the requirements of section 3.09.040 above. The COO 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 changes to the Metro boundary shall be given as required pursuant to section 3.09.030.

C. Hearings shall be conducted consistent with the requirements of section 3.09.050.

D. Changes to the Metro boundary may be made pursuant to the expedited process set forth in section 3.09.045.

E. The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:

1. The affected territory lies within the UGB;
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.

F. Changes to the Metro boundary that occur by operation of law pursuant to ORS 268.390(3)(b) are not subject to the procedures or criteria set forth in this section.

#### 3.09.080 Incorporation of a City that Includes Territory within Metro's Boundary

A. A petition to incorporate a city that includes territory within Metro's boundary shall comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, and the hearing and decision requirements in subsections (a), (c), and (e) of section 3.09.050, except that the legal description of the affected territory required by section 3.09.040(a)(1) need not be provided until after the Board of County Commissioners establishes the final boundary for the proposed city.

B. A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.07.

C. The following criteria shall apply in lieu of the criteria set forth in section 3.09.050(d). An approving entity shall demonstrate that:

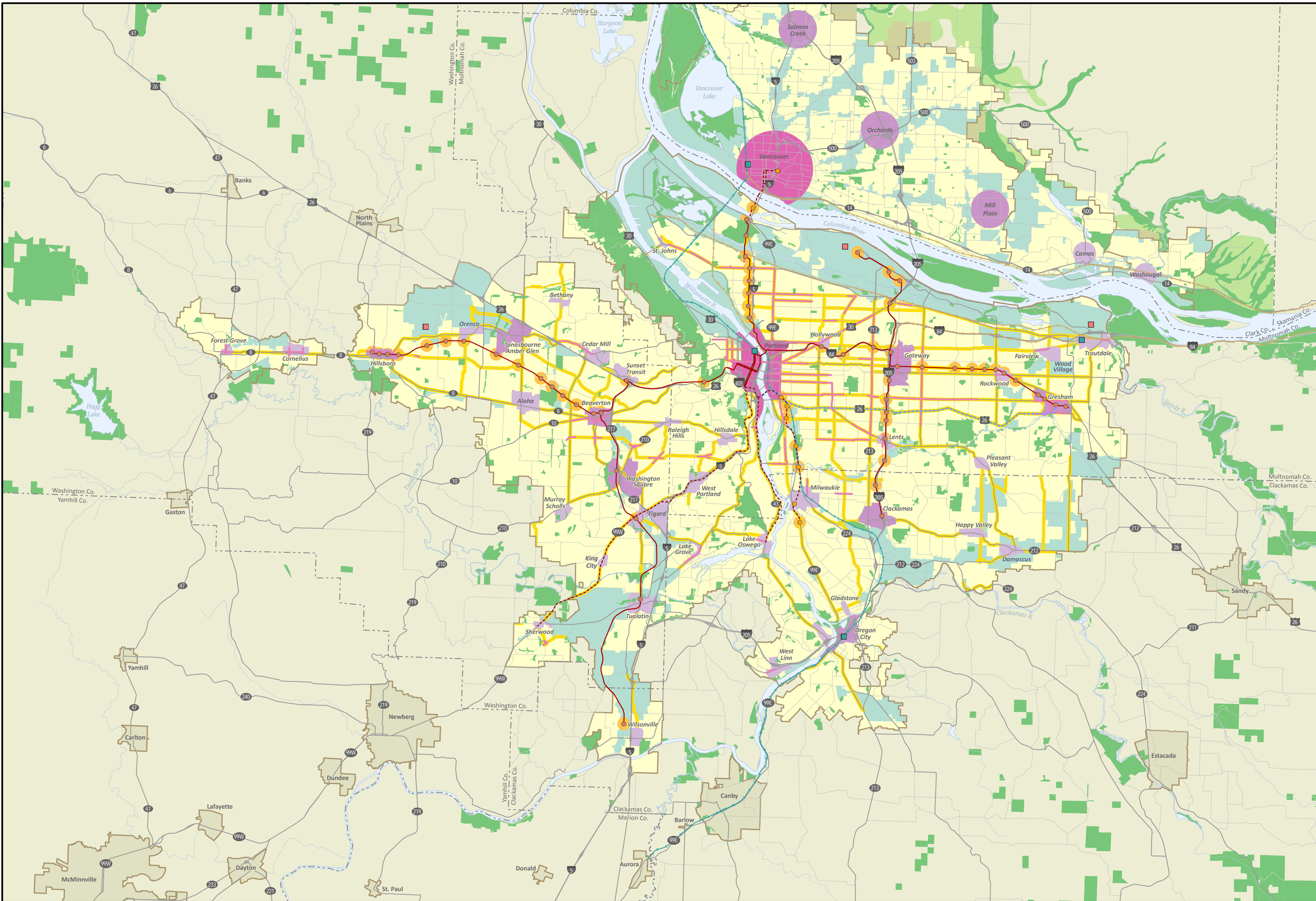
1. Incorporation of the new city complies with applicable requirements of ORS 221.020, 221.031, 221.034 and 221.035;
2. The petitioner's economic feasibility statement must demonstrate that the city's proposed permanent rate limit would generate sufficient operating tax revenues to support an adequate level of urban services, as defined in this chapter and required by ORS 221.031; and

3. Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or has failed to act within the time specified in that statute.

#### 3.09.090 Extension of Services Outside UGB

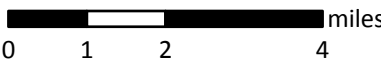
Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.





# 2040 Growth Concept Map

ORDINANCE 10-1244, EXHIBIT O  
November 18, 2010






















Overview: the Metro 2040 Growth Concept defines the form of regional growth and development for the Portland metropolitan region. The Growth Concept was adopted in December 1995 through the Region 2040 planning and public involvement process. This concept is intended to provide long-term growth management of the region.

The map highlights elements of parallel planning

efforts including: the 2035 Regional Transportation Plan that outlines investments in multiple modes of transportation, and a commitment to local policies and investments that will help the region better accommodate growth within its centers, corridors and employment areas.

For more information on these initiatives, visit <http://www.oregonmetro.gov/2040>

- |   |                     |   |                         |   |                                       |   |                         |
|---|---------------------|---|-------------------------|---|---------------------------------------|---|-------------------------|
|  | Central city        |  | Employment land         |  | Existing high capacity transit        |  | County boundaries       |
|  | Regional center     |  | Parks and natural areas |  | Planned high capacity transit         |  | Urban growth boundaries |
|  | Town center         |  | Neighborhood            |  | Proposed high capacity transit tier 1 |  | Neighbor cities         |
|  | Station communities |  | Main streets            |  | Mainline freight                      |  | Airports                |
|   |                     |  | Corridors               |  | High speed rail                       |  | Intercity rail terminal |

