

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING AN ORDER )	RESOLUTION NO. 11-4276
ON A REQUEST FOR AN EXTENSION OF )	
TIME FOR COMPLETION OF TITLE 13 )	Introduced by Acting Chief Operating Officer
REQUIREMENTS FOR THE CITY OF )	Dan Cooper with the concurrence of Council
TROUTDALE ON APPEAL FROM AN ORDER )	President Tom Hughes
OF THE CHIEF OPERATING OFFICER )	

WHEREAS, on April 22, 2011, the City of Troutdale requested an extension of time to complete Title 13 Nature in Neighborhoods requirements of the Urban Growth Management Functional Plan (UGMFP); and

WHEREAS, Metro Code section 3.07.830 establishes a process and criteria for extension of time for compliance with a requirement of the UGMFP; and

WHEREAS, section 3.07.830 authorizes the Chief Operating Officer (COO) to grant an extension if the COO finds that the City of Troutdale is making progress toward completion of Title 13 planning or that there is good cause for the city's inability to meet the deadline for completion of the planning; and

WHEREAS, the COO provided notice of the proposed extension pursuant to Metro Code 3.07.830A; and

WHEREAS, Metro has not granted a previous extension of time for completion of Title 13 requirements for the City of Troutdale; and

WHEREAS, the Metro Planning Department reviewed the application and recommended approval; and

WHEREAS, the COO issued Order No. 11-057 (Relating to the Request by the City of Troutdale to Extend the Time for Title 13 Nature in Neighborhoods Planning) granting an extension of time on May 23, 2011; and

WHEREAS, Jim Labbe and June Mohler filed an appeal of Order No. 11-057 on June 2, 2011, pursuant to section 3.07.830D of the Metro Code; and

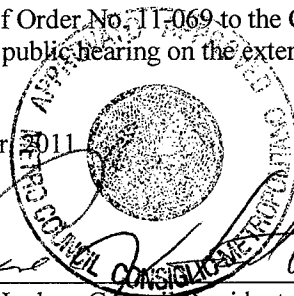
WHEREAS, the Metro Council held a public hearing on the appeal on September 15, 2011, and considered the testimony and materials presented at the hearing; now, therefore,

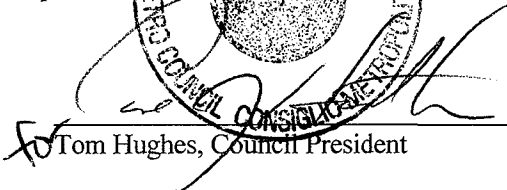
BE IT RESOLVED THAT the Metro Council:

1. Enters Order No. 11-069, attached to this resolution, ruling on the appeal of Chief Operating Officer's Order No. 11-057 and on the extension of time requested by the City of Troutdale for completing the Title 13 requirements of the Urban Growth Management Functional Plan.

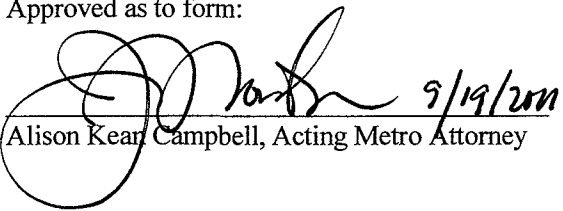
2. Directs the Chief Operating Officer to send a copy of Order No. 11-069 to the City of Troutdale, the appellant and all persons who participated at the public hearing on the extension request.

ADOPTED by the Metro Council this 15th day of September 2011



  
Tom Hughes, Council President

Approved as to form:

 9/19/2011  
Alison Kear Campbell, Acting Metro Attorney

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION 11-4276, FOR THE PURPOSE OF ADOPTING AN ORDER ON A REQUEST FOR AN EXTENSION OF TIME FOR COMPLETION OF TITLE 13 REQUIREMENTS FOR THE CITY OF TROUTDALE ON APPEAL FROM AN ORDER OF THE CHIEF OPERATING OFFICER

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Date: September 7, 2011

Prepared by: Tim O'Brien, x1840

## **BACKGROUND**

Metro Code Section 3.07.830(A) allows for cities and counties to request an extension of time for compliance with an Urban Growth Management Functional Plan (Functional Plan) requirement. On April 22, 2011, the City of Troutdale applied for such an extension of time to the Chief Operating Officer for fulfilling the requirements of Functional Plan Title 13: Nature in Neighborhoods (Attachment 1).

On September 29, 2005 the Metro Council adopted Ordinance No. 05-1077C incorporating Title 13: Nature in Neighborhoods into the Functional Plan and establishing a riparian and upland fish and wildlife habitat protection program. On January 5, 2007 the Department of Land Conservation and Development (DLCD) acknowledged Metro's Nature in Neighborhood program for protecting riparian corridors and wildlife habitat under Statewide Planning Goals 5 & 6. Pursuant to DLCD acknowledgement cities and counties had until January 5, 2009 to amend their comprehensive plans and implementing ordinances to comply with Title 13.

Throughout 2008 City of Troutdale staff worked with their citizen advisory group to develop a natural resource protection program that would comply with Title 13. From May to September 2009, staff held work sessions with the planning commission and city council as well as public hearings, with final adoption of the program expected on October 13, 2009. However, at the October 13 meeting the city council approved a motion 4-2 to postpone action indefinitely. Since that time the makeup of the city council has changed. On March 15, 2011 staff held a work session to reintroduce Metro's Title 13 program and the proposed code amendments with the current city council to bring the new members up to speed. Staff also outlined a timeline for adopting the proposed code changes that resulted in a second work session with the city council being held on August 16, 2011, with final adoption scheduled for consideration on October 11, 2011.

Section 3.07.830(B) of the Metro Code states that the Metro Chief Operating Officer (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. The COO may also "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."

Metro staff concluded that the city is making progress toward completion of Title 13 requirements by holding a city council work session to reintroduce Title 13 and proposed code amendments and outlining a timeline for action on the amendments and recommended that the COO approve the extension request.

On May 23, 2011, the COO issued Order No. 11-057 to approve the City of Troutdale's request for an extension to comply with Title 13 to December 31, 2011. On June 2, 2011 the Audubon society of Portland appealed the COO's decision to grant an extension to the Metro Council.

## **ANALYSIS/INFORMATION**

- 1. Known Opposition:** The Audubon Society of Portland appealed the COO order to the Metro Council.
- 2. Legal Antecedents:** Title 8 (Compliance Procedures) of the Urban Growth Management Functional Plan provides for extensions of time for compliance with requirements of the Functional Plan, including process and criteria for extensions (3.01.830).
- 3. Anticipated Effects:** If Resolution No. 11-4276 is adopted and enters Order No. 11-069 then the appeal from the Audubon Society of Portland is denied. The City will be granted an extension of time to complete the necessary work to comply with Title 13 under the same terms as COO Order No. 11-057 or December 31, 2011.
- 4. Budget Impacts:** None.

## **RECOMMENDED ACTION**

Staff recommends adoption of Resolution No. 11-4276.



### Extension of Compliance Deadlines

Jurisdiction: City of Troutdale

Date: April 21, 2011

Contact: Craig Ward, City Manager

Telephone: 503-674-7233

Fax: 503-667-0524

Email: cward@ci.troutdale.or.us

Requests for extensions of compliance deadlines set in the Urban Growth Management Functional Plan (Metro Code), as authorized in Title 8 of the plan, must be filed with Metro's Chief Operating Officer (COO) on this application form.

Metro Code 3.07.830 sets forth the criteria and procedure for Metro consideration of extensions of compliance deadlines. The criteria, from Metro Code 3.07.830(B), are as follows:

*The Chief Operating Officer may grant an extension if: (1) the city or county is making progress toward compliance or (2) there is good cause for failure to meet the deadline for compliance.*

Please complete this application form and submit it to the Chief Operating Officer with a copy to Sherry Oeser, Planning and Development Department:

Chief Operating Officer  
Metro  
600 NE Grand Avenue  
Portland, OR 97232

[Type text]

**Part I (to be completed by the local government)**

- a. Describe progress made toward compliance with the Functional Plan requirement(s) for which the local government needs more time.
- March 2008 – April 2009 – Citizen involvement process to guide staff in preparing Troutdale Development Code amendments.
  - May-July 2009 – Planning Commission work sessions and public hearings on proposed code amendments.
  - September 2009 – Two City Council work sessions on proposed amendments.
  - October 13, 2009 – City Council public hearing on proposed amendments; Council voted 4-2 to postpone action indefinitely.
  - March 15, 2011 – City Council work session to reintroduce Title 13 and proposed code amendments.
  - July or August 2011 – Second City Council work session planned.
  - Fall 2011 – Adoption hearings on proposed amendments.
- b. Or, explain why the local government has not been able to meet the deadline set for compliance with the Functional Plan requirement(s).

The majority of the City Council seated in 2009 and 2010 believed that existing Troutdale Development Code provisions substantially complied with Title 13, and thus postponed action on additional amendments. With a different slate now serving on the Council, there is an expressed interest in reconsidering these amendments previously proposed.

**Part II (to be completed by Metro)**

- a. Metro staff recommendation

BEFORE THE METRO COUNCIL

RELATING TO THE REQUEST BY THE CITY ) ORDER NO. 11-069  
OF TROUTDALE TO EXTEND THE TIME FOR )  
TITLE 13 NATURE IN NEIGHBORHOOD )  
PLANNING )

WHEREAS, on April 22, 2011, the City of Troutdale requested an extension of time to complete Title 13 Nature in Neighborhood requirements of the Urban Growth Management Functional Plan (UGMFP); and

WHEREAS, Metro Code section 3.07.830 establishes a process and criteria for extension of time for compliance with a requirement of the UGMFP; and

WHEREAS, section 3.07.830 authorizes the Chief Operating Officer (COO) to grant an extension if the COO finds that the City of Troutdale is making progress toward completion of Title 13 planning or that there is good cause for the city's inability to meet the deadline for completion of the planning; and

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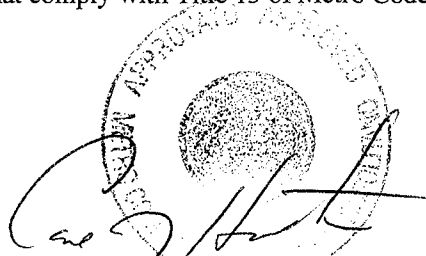
WHEREAS, Jim Labbe and June Mohler filed an appeal of Order No. 11-057 on June 2, 2011, pursuant to section 3.07.830D of the Metro Code; and

WHEREAS, the Metro Council held a public hearing on the appeal on September 15, 2011 and considered the testimony and materials presented at the hearing; now, therefore,

IT IS HEREBY ORDERED THAT:

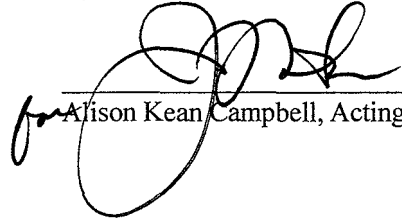
1. The appeal of Chief Operating Officer Order No. 11-057 is denied for the reasons set forth in the Staff Report dated September 8, 2011, attached to this order.
2. The request of the City of Troutdale for an extension of time under Metro Code 3.07.830 to complete planning requirements under Title 13 of the UGMFP pursuant to Metro Code section 3.07.830 is approved under the terms and conditions set forth in section 3 of this order.
3. The City of Troutdale shall adopt provisions that comply with Title 13 of Metro Code Chapter 3.07 by December 31, 2011.

ENTERED this 15th day of September, 2011



Tom Hughes, Council President

Approved as to form:



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Alison Kean Campbell, Acting Metro Attorney