

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE)	ORDINANCE NO. 12-1278
REGIONAL TRANSPORTATION FUNCTIONAL)	
PLAN TO REMOVE THE SCHEDULE FOR)	
UPDATING CITY AND COUNTY)	
TRANSPORTATION SYSTEM PLANS; TO ADD)	Introduced by Chief Operating Officer Martha
AN EXEMPTION PROCESS; AND TO REVISE)	J. Bennett with the Concurrence of Council
PROCEDURES FOR EXTENSIONS AND)	President Tom Hughes
EXCEPTIONS)	

WHEREAS, the Metro Council adopted the 2035 Regional Transportation Plan (RTP) by Ordinance No. 10-1241B (For the Purpose of Amending the 2035 RTP (Federal Component) and the 2004 RTP to Comply with State Law; to add the Regional Transportation Systems Management and Operations Action Plan, the Regional Freight Plan and the High Capacity Transit System Plan; to amend the Regional Transportation Functional Plan (RTFP) and add it to the Metro Code; to amend the Regional Framework Plan; and to amend the Urban Growth Management Functional Plan) on June 10, 2010; and

WHEREAS, the RTFP contains a schedule for city and county updates to their transportation systems plans (TSPs) (Table 3.08-4); and

WHEREAS, a number of cities and counties have been unable to meet the schedule for updates due to budgetary and other limitations on their resources; and

WHEREAS, several cities seek exemptions from the requirements of the RTFP, which the RTFP does not authorize; and

WHEREAS, section 660-012-0055(6) of the Transportation Planning Rule (TPR) authorizes the director of the Department of Land Conservation and Development to grant small cities and counties exemptions from the TPR, but such exemptions are not fully effective without exemptions from associated requirements of the RTFP; and

WHEREAS, the RTFP provides procedures for extensions of time for compliance with, and exceptions from requirements of the RTFP, both of which, unlike similar procedures in the Urban Growth Management Functional Plan, require hearings before the Metro Council; and

WHEREAS, the Joint Policy Advisory Committee on Transportation and the Metro Policy Advisory Committee both considered the proposed amendments and recommended that the Metro Council adopt the amendments; and

WHEREAS, the Metro Council held a public hearing on the proposed amendments on May 24, 2012, on the proposed amendments; now, therefore,

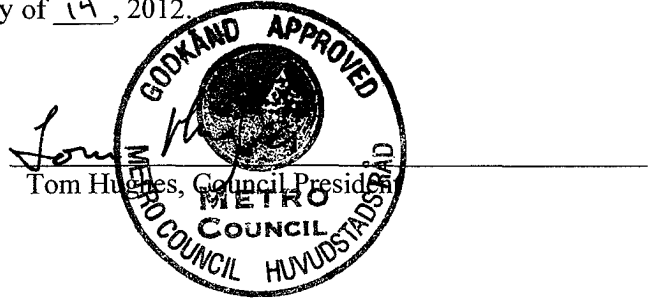
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The RTFP is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance, to repeal the schedule for TSP updates in Table 3.08-4; to add a process for exemptions from the requirements of the RTFP; and to revise the procedures for

extensions of time and exceptions to allow the Chief Operating Officer to grant extensions and exceptions subject to appeal to the Metro Council.

2. The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit B, are adopted as the Council's explanation how the amendments to the RTFP comply with the Regional Framework Plan and state law.

ADOPTED by the Metro Council this June day of 14, 2012.



Attest:


Kelsey Newell, Regional Engagement Coordinator

Approved as to Form:

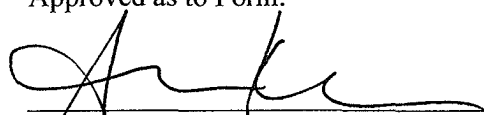

Alison Kean Campbell, Metro Attorney

Exhibit A to Ordinance No. 12-1278

Amendments to Metro Code Chapter 3.08
Regional Transportation Functional Plan

3.08.620 Extension of Compliance Deadline

- A. A city or county may seek an extension of time for compliance with the RTFP by filing an application on a form provided by the COO. Upon receipt of an application, the ~~Council President shall set the matter for a public hearing before the Metro Council and shall notify the city or county, the Department of Land Conservation and Development (DLCD) and those persons who request notification of applications for extensions~~ COO shall notify the city or county, the Oregon Department of Transportation 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 Council shall hold a public hearing to consider the application. Any person may testify at the hearing. The Council~~ COO may grant an extension if ~~it finds that~~ the city or county is making progress toward compliance ~~with the RTFP; or There~~ there is good cause for failure to meet the compliance deadline. 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 ~~Council~~ COO may establish terms and conditions for an 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 RTFP requirement. A term or condition must relate to the requirement of the RTFP for which the Council grants the extension. The COO shall incorporate the terms and conditions into the order on the extension. ~~The Council shall not grant more than two extensions of time, nor 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

Exhibit A to Ordinance No. 12-1278

hearing to consider the appeal. ~~The~~After the hearing, the Council shall issue an order with its conclusion and analysis and send a copy to the city or county, ~~the DLCD~~ and any person 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).

3.08.630 Exception from Compliance

- A. A city or county may seek an exception from compliance with a requirement of the RTFP by filing an application on a form provided by the COO. Upon receipt of an application, the ~~Council President shall set the matter for a public hearing before the Metro Council and shall notify the DLCD and those persons who request notification of requests for exceptions~~COO shall notify the city or county, the Oregon Department of Transportation 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.

~~Following the public hearing on the application, the Metro Council~~The COO may grant an exception if ~~it finds~~:

B.

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.

- B. Within 30 days after the filing of a complete application for an exception, the COO shall issue an order granting or denying the exception.

- C. The ~~Council~~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 policies of the RTP.

Exhibit A to Ordinance No. 12-1278

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

- D. 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. TheAfter the hearing, the Council shall issue an order with its conclusion and analysis and send a copy to the city or county, the DLCD 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).

3.08.640 Exemptions

- A. A city or county may seek an exemption from the requirements of the RTFP. Upon receipt of a request, the COO shall notify the city or county, the Department of Land Conservation and Development, the Oregon Department of Transportation and those persons who request notification of applications for exemptions. Any person may file a written comment in support of or opposition to the exemption.
- B. The COO may grant an exemption from some or all requirements if:
1. The city or county's transportation system is generally adequate to meet transportation needs;
 2. Little population or employment growth is expected over the period of the exemption;
 3. The exemption would not make it more difficult to accommodate regional or state transportation needs;
and
 4. The exemption would not make it more difficult to achieve the performance objectives set forth in section 3.08.010A.
- C. Within 30 days after the filing the request for an exemption, the COO shall issue an order granting or denying the exemption.
- D. The COO shall prescribe the duration of the exemption and may establish other terms and conditions for the exemption

Exhibit A to Ordinance No. 12-1278

so long as the terms and conditions relate to the requirement of the RTFP to which the Council grants the exemption. The COO shall incorporate the terms and conditions into the order on the exemption.

- E. The city or county applicant or any person who filed written comment on the exemption 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 with its conclusion and analysis and send a copy to the city or county and any person 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).

Exhibit B to Ordinance No. 12-1278

Findings of Fact and Conclusions of Law

Introduction

Ordinance No. 12-1278 amends Metro’s Regional Transportation Functional Plan (RTFP; Metro Code Chapter 3.08), an element of the 2035 Regional Transportation Plan (RTP).¹ The RTFP implements those policies and programs of the RTP that are intended to be carried out by the “transportation system plans” (TSPs) of the 28 cities and counties in Metro.

The ordinance makes several procedural changes to the RTFP. First, the ordinance adds a process that allows a city or county to seek an exemption from all or some of the substantive requirements of the RTFP. This revision recognizes and complements a provision in LCDC’s Transportation Planning Rule that allows the agency to exempt local governments from requirements of the rule. OAR 660-012-0055(6). New section 3.08.640 establishes a set of criteria that an exemption request must satisfy (3.08.640B) and provides that the Chief Operating Officer (COO) makes the initial determination whether the request meets the criteria. The COO’s decision is final unless a person who opposes the request appeals the COO’s decision to the Metro Council. An appeal is heard by the Council at a public hearing. The decision by the Council can be appealed to LUBA as a “land use decision” under state law.

Second, the ordinance revises the current procedures in the RTFP for (1) extensions of time for cities and counties to implement requirements of the RTFP, and (2) exceptions from compliance with the requirements. The criteria that must be satisfied for an extension or an exception are not changed. The procedures are revised to match the procedures for extensions and exceptions in Metro’s Urban Growth Management Functional Plan. These procedures – similar for those described above for exemptions – will now be uniform among the functional plans.

Third, the ordinance removes Table 3.08-4 (“Work Plan for Updates to Local Transportation System Plans”) from the RTFP. The table establishes timelines for cities and counties to bring their TSPs into compliance with the RTFP. Removal of the table relieves Metro from having to revise it by ordinance each time Metro grants an extension of time to a city or county. The timelines, acknowledged by LCDC, remain in effect.

Policies of the Regional Transportation Plan

There are no policies in the RTP that govern the changes in procedures made by Ordinance No. 12-1278.

Policies of the Regional Framework Plan

There are no policies in the Regional Framework Plan (RFP) that govern the changes in procedures made by Ordinance No. 12-1278.

¹The RTP is, itself, an element of Metro’s Regional Framework Plan

Statewide Planning Goals

Goal 1, Citizen Involvement: The procedural revisions made by Ordinance No. 12-1278 provide notice to citizens at two stages of decision-making for extensions, exceptions and exemptions. The code will require notice be sent to the Oregon Department of Transportation and persons who request notification of applications for extensions, exceptions and exemptions or who participate in the proceedings. Any person may participate. The ordinance complies with Goal 1.

Goal 2, Land Use Planning: Metro coordinated procedural revisions made by Ordinance No. 12-1278 with cities and counties of the region by presenting the proposed changes to the Metropolitan Technical Advisory Committee and the Metropolitan Policy Advisory Committee at meeting held for that purpose. MTAC and MPAC endorsed the revision. The ordinance complies with Goal 2.

Goal 3, Agricultural Land: The procedural revisions made by Ordinance No. 12-1278 do not apply outside the UGB. Goal 3 does not apply to the ordinance.

Goal 4, Forest Land: The procedural revisions made by Ordinance No. 12-1278 do not apply outside the UGB. Goal 4 does not apply to the ordinance.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources: The procedural revisions made by Ordinance No. 12-1278 do not affect resources protected by Goal 5. The revisions are consistent with Goal 5.

Goal 6, Air, Water and Land Resources Quality: The procedural revisions made by Ordinance No. 12-1278 do not affect resources protected by Goal 6. The revisions are consistent with Goal 6.

Goal 7, Areas Subject to Natural Disasters and Hazards: The procedural revisions made by Ordinance No. 12-1278 do not affect protections against disasters and hazards. The revisions are consistent with Goal 7.

Goal 8, Recreational Needs: The procedural revisions made by Ordinance No. 12-1278 do not affect recreational needs. The revisions are consistent with Goal 8.

Goal 9, Economic Development: The procedural revisions made by Ordinance No. 12-1278 do not affect economic development. The revisions are consistent with Goal 9.

Goal 10, Housing: The procedural revisions made by Ordinance No. 12-1278 do not affect housing or housing affordability. The revisions are consistent with Goal 10.

Goal 11, Public Facilities and Services: The procedural revisions made by Ordinance No. 12-1278 do not affect public facilities or services. The revisions are consistent with Goal 11.

Goal 12, Transportation: There are no provisions in Goal 12 or the TPR that govern the procedural revisions made by Ordinance No. 12-1278 for extensions, exceptions or exemptions. The new section that authorizes exemptions complements the exemptions process at OAR 660-012-0055(6) of the TPR. The revisions are consistent with Goal 12.

Goal 13, Energy Conservation: The procedural revisions made by Ordinance No. 12-1278 do not affect energy conservation. The revisions are consistent with Goal 13.

Goal 14, Urbanization: The procedural revisions made by Ordinance No. 12-1278 do not affect the UGB or urbanization of land within the UGB. The revisions are consistent with Goal 14.

Goal 15, Willamette River Greenway: The procedural revisions made by Ordinance No. 12-1278 do not affect resources protected by Goal 15. The revisions are consistent with the goal.

Conclusion

The Council concludes that the procedural revisions made by Ordinance No. 12-1278 comply with regional and state land use laws.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 12-1278, FOR THE PURPOSE OF AMENDING THE REGIONAL TRANSPORTATION FUNCTIONAL PLAN TO REMOVE THE SCHEDULE FOR UPDATING CITY AND COUNTY TRANSPORTATION SYSTEM PLANS; TO ADD AN EXEMPTION PROCESS; AND TO REVISE PROCEDURES FOR EXTENSIONS AND EXCEPTIONS

Date: April 9, 2012

Prepared by: John Mermin, 503-797-1747

BACKGROUND

The Regional Transportation Functional Plan (RTFP) is part of Metro Code (Chapter 3.08) and implements the policies contained in the Regional Transportation Plan. Cities and Counties local transportation system plans and implementing ordinances must be consistent with the Regional Transportation Functional Plan.

The Metro Council approved the 2035 Regional Transportation Plan and Regional Transportation Functional plan on June 10, 2010. Metro consulted with each city and county to determine a timeline for this local work and adopted a schedule that is part of the RTP Ordinance (No.10-1241B). Since that time four jurisdictions were unable to meet 2011 deadlines due to resource constraints and other limitations. Metro staff expects several local jurisdictions to be unable to meet the existing schedule for 2012.

On December 16, 2010 Metro Council adopted Ordinance 10-1244B which amended several Urban Growth Management Functional Plan titles, including streamlining the local compliance procedures described in Title 8. Formerly the process for receiving extensions and exceptions was time consuming for the Council and local governments since it required a public hearing and decision by the Metro Council. Ordinance 10-1244B amended the procedure to make the granting of extensions & exceptions administrative decisions of Metro's Chief Operating Officer, with possible appeal to the Metro Council.

Since the adoption of the RTFP, the City of Rivergrove contacted Metro staff inquiring about exemption from its requirements. The Regional Transportation Functional Plan does not address the issue of exemptions. Metro staff believes there are other communities in the region that would be interested in an exemption process. The State Transportation Planning Rule (TPR) includes a provision for exemption from its requirements, but Metro had not previously addressed exemption from regional transportation requirements.

Staff Recommendation

Extensions & Exceptions - Metro staff recommends amending the RTFP procedures for extending compliance deadlines (3.08.620) and granting exceptions to specific requirements (3.08.630) to match the procedures within the UGMFP (3.07.830 and 3.07.840). The changes would make requests from local governments for extensions or exceptions administrative functions of Metro's Chief Operating Officer (COO), but still allow for an appeal to the Metro Council.

Exemptions - Staff recommends amending the RTFP to add a section (3.08.640) providing for exemption from all or some RTFP requirements. A jurisdiction would be eligible for an exemption if:

- its existing transportation system is generally adequate to meet its needs,
- little population or employment growth is expected, and

- exempting them would not make it more difficult to accommodate regional or state needs, or to meet regional performance targets.

Staff believes that five jurisdictions, Johnson City, Maywood Park, King City, Durham and Rivergrove, may meet these criteria and may wish to apply for exemption from RTFP requirements. To receive an exemption a jurisdiction would need to send a formal request to Metro's COO.

Schedule of deadlines - Metro staff recommends moving the schedule for RTFP compliance (Table 3.08-4) from the RTFP into the RTP Appendix (Exhibit A to Ordinance No. 10-1241) 2013. This change will ensure that Metro code need not be amended in the future when the COO grants extensions to compliance deadlines.

ANALYSIS/INFORMATION

1. Known Opposition

None known at this time.

2. Legal Antecedents

- Metro Ordinance No.10-1241B, which included adoption of the Regional Transportation Plan and Regional Transportation Functional Plan
- Metro Ordinance No.10-1244, which included updates to the Urban Growth Management Functional Plan to streamline the compliance process to make the granting of extensions and exceptions an administrative decision of Metro's Chief Operating Officer

3. Anticipated Effects

Adoption of the legislative would amend Title 6 of the Regional Transportation Functional Plan (Compliance Procedures).

4. Budget Impacts

None

RECOMMENDED ACTION

Metro Staff recommends that the Council adopt Ordinance No.12-1278