

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF TRANSMITTING)	RESOLUTION NO. 89-1050
THE DRAFT PERIODIC REVIEW)	
ORDER FOR METRO'S URBAN GROWTH)	INTRODUCED BY THE
BOUNDARY TO THE OREGON DEPARTMENT)	EXECUTIVE OFFICER
OF LAND CONSERVATION AND)	
DEVELOPMENT)	

WHEREAS, on December 22, 1988, the Council of the Metropolitan Service District approved Resolution No. 88-1021, which established a process for engaging in the periodic review of Metro's Urban Growth Boundary (UGB), consistent with state law; and

WHEREAS, periodic review of the UGB is based on a Notice of Periodic Review furnished to Metro by the Oregon Department of Land Conservation and Development (DLCD); and

WHEREAS, the Notice of Periodic Review directs Metro's attention to a number of specific issues regarding the extent to which the UGB has met the objectives established for it through the acknowledgement process; and

WHEREAS, as stated in Metro's Urban Growth Boundary Periodic Review Workplan, Metro has chosen to begin the development of a broad Urban Growth Management Plan by engaging in the process for periodic review; and

WHEREAS, the first step in both beginning the process for periodic review and for developing an Urban Growth Management Plan is the compilation and dissemination of a draft periodic review order which addresses the issues raised in the notice of periodic review; and

WHEREAS, the Executive Officer has developed a first


draft of such a periodic review order, herewith attached as Exhibit A; and

WHEREAS, it is now time to transmit the draft periodic review order to DLCD in partial fulfillment of the requirements for periodic review of the UGB; now, therefore,

BE IT RESOLVED,

- 1) That the Metro Council transmits via this resolution the draft periodic review order, attached as Exhibit A, to the DLCD as required for periodic review; and
- 2) That the Metro Council directs that a public hearing on the draft periodic review order shall be held before the Intergovernmental Relations Committee of the Council on or before June 6, 1989; and
- 3) That the Metro Council further directs that no consideration of a final periodic review order by the full Council shall take place without and until the process for citizen involvement outlined in the UGB Periodic Review Workplan has taken place.

ADOPTED by the Council of the Metropolitan Service District this 9th day of March, 1989.


Mike Ragsdale, Presiding Officer

ES/es
2/13/89

COMMITTEE REPORT

Agenda Item No. 8.3

Meeting Date March 9, 1989

RESOLUTION NO. 89-1050, TRANSMITTING THE DRAFT URBAN GROWTH
BOUNDARY PERIODIC REVIEW ORDER TO THE DEPARTMENT OF LAND
CONSERVATION AND DEVELOPMENT

Date: February 28, 1989

Presented by: Councilor Devlin

COMMITTEE RECOMMENDATION: At the February 21, 1989, Intergovernmental Relations Committee meeting, Councilors present -- Bauer, Collier, DeJardin, Gardner and myself -- voted unanimously to recommend Council adoption of Resolution No. 89-1050. All Committee members were present.

COMMITTEE DISCUSSION AND ISSUES: Patrick Lee, Regional Planning Supervisor for Metro's Planning and Development Department, and Ethan Seltzer, Senior Regional Planner presented Resolution No. 89-1050. Staff emphasized the resolution transmits the first draft of Metro's mandated Urban Growth Boundary (UGB) Periodic Review response; final Council action and approval of the periodic review will not occur until December 1989, after extensive public review and hearings.

The report comprises the same policies and information presented by Planning and Development in the "Urban Growth Boundary Periodic Review Workplan" reviewed at the Committee's February 7 meeting. This draft report, formatted to meet State requirements, accomplishes two major actions: 1) It updates the 1980 UGB findings and concludes no boundary changes are needed to accomodate growth through the year 2010; and 2) It outlines revised procedures for making UGB amendments. The cornerstone for developing the UGB findings was the Transportation Department's "Regional Forecast of Population, Employment and Housing for 1995 and 2010", adopted by the Metro Council January 12, 1989, via Resolution No. 89-1034. Staff noted the implementation of ARLIS, the geographic land use database system, will greatly add to the detail of the Department's land use information. With ARLIS, current land use information will be compared to the region's comprehensive land use plans to assess more completely the actual land available for future growth with the UGB.

The Department of Land Conservation and Development had set February 28, 1989 as the deadline for Metro's submission of its draft periodic review response, but a short extension was granted to accomodate the Council's schedule. Upon Council approval, the report will be transmitted to DLCD and the next step in the process will be Metro's formal public hearings on the update on or before June 6, 1989.

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STAFF REPORT

RESOLUTION NO. 1050: FOR THE PURPOSE OF TRANSMITTING THE DRAFT PERIODIC REVIEW ORDER FOR METRO'S URBAN GROWTH BOUNDARY TO THE OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

Date: February 13, 1989

Presented By: Carson/Lee/Seltzer

This resolution transmits the first draft of Metro's response to the notice of periodic review furnished to it by the state, to the Department of Land Conservation and Development (DLCD). The notice outlines the salient issues that Metro must consider as it assesses the extent to which the UGB has met the objectives that were established for it at the time of acknowledgement, some 9 years ago.

The process that Metro will use is outlined in the Periodic Review Workplan, adopted by the Metro Council in December of 1988. This is the first step in what is envisioned to be both a thorough review of the UGB as well as the development of a regional Urban Growth Management Plan. The findings and proposed procedural changes in this draft periodic review order will now be extensively reviewed, and the resolution specifies that a formal hearing on this draft will be scheduled on or before June 6, 1989. The final periodic review order will receive action by the full Metro Council in December of 1989.

The draft periodic review order contains two major products. The first is an assessment of the need for urban land in the region through the year 2010, and compares that to the land supply included within the UGB at the time of acknowledgement. The region appears to have sufficient land to meet the needs of the urban population through the year 2010. Therefore, Metro does not intend to propose moving the location of the UGB during this periodic review.

The second product is a set of proposed procedures for making amendments to the UGB in the future. It is Metro's first draft of what is intended to be a procedural document with clear and objective standards, and an amendment process based on demonstrations of actual need for additional urban land. It envisions a review of urban land needs at five year intervals based on an assessment of changes in regional population and employment.

This draft periodic review order will be used as the basis for initiating a region-wide dialogue concerning the future urban growth of the region. It is intended that the outcome of that dialogue and of periodic review will be an Urban Growth Management Plan that can direct Metro's efforts at managing the urban land supply in the region.

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EXHIBIT A

**METRO URBAN GROWTH BOUNDARY
DRAFT PERIODIC REVIEW ORDER**

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FOREWORD

The "Urban Growth Boundary Periodic Review Workplan" was adopted by the Metro Council on December 22, 1988. It outlines two major tasks that, while separate, are being accomplished in parallel. The first task is to respond to the Periodic Review Notice from the Department of Land Conservation and Development. The second is preparation of an Urban Growth Management Plan.

Response to Periodic Review Notice

This Draft Periodic Review Order is Metro's first cut at responding to the Periodic Review Notice. It focusses on two specific issues:

1. Is there sufficient land within the existing urban growth boundary (UGB) to accommodate urban land supply needs for housing and employment uses to the year 2010?
2. Are Metro's procedures for amending the UGB understandable and objective?

Answers to these questions and supporting documentation are provided in this draft order. The order itself is viewed by Metro as a starting point for discussion of UGB issues. The only decision that preparation of this draft order and transmittal to DLCD triggers is the requirement to hold a public hearing on the order within 90 to 120 days. An extensive citizen participation program is outlined in the "Urban Growth Boundary Periodic Review Workplan" through which this discussion will be carried forward.

Urban Growth Management Plan

On January 12, 1989 the Metro Council adopted "The Regional Forecast 1995 & 2010." That document contains an urban growth allocation indicating that there is still sufficient land within the existing UGB to accommodate urban growth demand to 2010. Thus, Metro does not propose adding land to the UGB through the ongoing periodic review. As the Portland metropolitan area continues to grow, however, it will be necessary to expand the urban land supply at some point in the future. Key questions will include the following:

- o When will expansion of the UGB be necessary?
- o Where should expansion occur, particularly with regard to the Statewide Planning Goals?
- o For what purposes should it occur; to accommodate specific land uses; to maintain or increase economic growth; or for other reasons?

The Urban Growth Management Plan is viewed by Metro as the appropriate vehicle for responding to these policy issues. It provides a vehicle for consolidating Metro's regional planning policies and documents and those to be developed over the next several months through a consensus building process into a framework with which the Metro Council can objectively weigh the merits and difficulties with petitions for amending the UGB. Metro believes that placing the UGB into a comprehensive policy framework is essential to assure the ability of the region to meet the urban land needs of its people while minimizing negative affects on important natural resources.

The citizen participation program outlined in the "Urban Growth Boundary Periodic Review Workplan" identifies the process and forums through which this regional consensus is to be developed.

UGB DATA SUMMARY

UGB DATA SUMMARY

INTRODUCTION

This summary compares the estimates for population, housing, employment, and land consumption made for the area within the UGB at the time the UGB was acknowledged, with estimates based on the most recent Regional Forecast of population and employment completed in late 1988. In addition to presenting projections for the year 2000, projections for the year 2010 are also presented for comparison purposes. This information will be used to respond to Metro's Periodic Review Notice for the UGB which asks, in part, whether any unforeseen change in the demand for urban land within the UGB would lead Metro to reassess the adequacy of that boundary.

Based on the analysis that follows, it appears that the region has an adequate supply of urban land to meet the needs of the urban population through the year 2010. Projections for year 2000 population developed as the basis for the UGB in 1980 now appear to be higher than will actually occur and land development is taking place and is projected to take place at higher than expected densities, thereby decreasing the demand for urban land. This is partially offset by a marked decrease in the number of persons constituting a household, a trend observed nationwide, but not enough to result in an increase in total demand for urban land.

Residential development occurring at higher than expected densities, coupled with aggregate expectations for housing densities, suggests that the region is well on its way to meeting the density requirements of the Metro Housing Rule, and therefore presumably offering a range of housing opportunities to urban residents. Further analysis of building permit data will be needed to confirm this observation.

The analysis of land consumption indicates that vacant buildable land in excess of the needs of the urban populations expected to be present in the region at the year 2000 is still likely to be in place. When updated land density factors are taken into account, it appears that the region will, in fact, have at least as much as was expected if not considerably more. However, the actual characteristics of that urban land supply, and its actual ability to meet the forecasted demand will undoubtedly be a topic of some discussion in the months ahead.

Nonetheless, from the standpoint of meeting the urban land needs of the region, we can conclude that the comprehensive plans of the local jurisdictions coupled with the total number of acres within the UGB can in aggregate meet those needs. As Metro proceeds with the development of the Regional Land Information System (RLIS), it will be better able to link information about land supply with forecasted growth in population and employment.

Finally, it is important to recognize that there is some degree of net growth in the population residing outside of the UGB in the 3-county area. While some of that population growth is occurring within other incorporated urban areas outside of the Metro UGB, there is clearly an increase in the number of households living in rural, unincorporated settings surrounding the UGB. When the UGB was acknowledged in 1980, it was assumed that there would be no net growth in the rural residential population outside of the UGB. Although it now appears that this assumption was erroneous, the true meaning and magnitude of this new rural activity, and its potential affect on the urban region, have yet to be determined.

1) POPULATION

The estimate for 1987 3-county and UGB population was made using data from the Regional Forecast, dated November, 1988. Two estimates of UGB population were made. The first used whole census tracts located within the UGB plus uz's from split census tracts located inside the UGB. The second UGB estimate used county districts 1 - 16, an area which approximates the UGB but which crosses the line in a number of places. The following results were obtained:

<u>ct's + uz's</u>	<u>1987</u>	<u>1995</u>	<u>2010</u>
UGB pop	958,054	1,074,216	1,249,947
3-county pop	1,094,730	1,230,344	1,436,361
<u>16 county dists</u>	<u>1987</u>	<u>1995</u>	<u>2010</u>
UGB pop	990,027	1,111,360	1,299,308
3-county pop	1,094,730	1,230,344	1,436,361
% difference between methods	3.3%	3.5%	3.9%

Due to the minimal difference in estimated and projected population yielded by the two methods, and because of the ease of use of the data presented in the county district format, the estimates and projections based on the 16 county districts will form the basis for comparison with the 1980 UGB findings. This will have the effect of slightly overestimating population and therefore the demand for urban land to meet residential and employment land needs. However, this slight increase in demand should not be significant on a regional basis. Since a projection of year 2000 population was not made in the recently adopted Regional Forecast, a year 2000 projection was made by linearly extrapolating between the 1995 and 2010 projections.

Year 2000 Projections			
	<u>Jan. '80</u>	<u>Nov. '88</u>	<u>2010</u>
3 counties	1,361,850	1,298,329	1,436,361
source: Jan. '80 from Metro UGB findings. Nov. '88 from extrapolation between 1988 projections for 1995 and 2010 found in Regional Forecast, dated November, 1988. 2010 from Regional Forecast, dated November, 1988.			
UGB	1,227,844	1,173,382	1,299,308
source: '80 from UGB findings. Nov. '88 from extrapolation between 1988 projections for 1995 and 2010 for county districts 1-16, found in Regional Forecast dated November, 1988. 2010 from Regional Forecast, dated November, 1988.			
% in UGB	92%	90%	90%
source: Derived by dividing projected UGB population by total population for 3 counties.			

2) HOUSING

Housing forecast data was derived from the Regional Forecast, dated November, 1988. Overall land supply data is based on local comprehensive plans and Metro's regional land inventory, first developed in 1977 and updated annually using building permit data. Estimates of housing density were made based on local comprehensive plans. Estimates of housing demand were based on projected household size coupled with population growth forecasts. Housing demand for both multifamily and single family dwellings was geographically distributed to the 16 county districts in the growth allocation process accompanying the Regional Forecast, and done in consultation with local planners from throughout the region.

	Year 2000 Projections		
	Jan. '80	Nov. '88	2010
persons/hshld	2.5	2.39	2.3
source:	'80 from UGB findings. Nov. '88 from interpolation between estimate of 2.52 persons per household in 1986 and forecast of 2.3 persons per household in 2010 from Regional Forecast dated November, 1988. 2010 from Regional Forecast, dated November, 1988.		
total hshlds	491,138	490,955	564,917
source:	Derived by dividing UGB population by figure for persons/household.		
SF vac. rate	2.5%		
MF vac. rate	7 %		
source:	'80 from UGB findings. '88 and 2010 from Regional Forecast dated November, 1988.		
SF DU's	329,239	341,705	385,847
MF DU's	185,062	184,262	211,347
% SF:MF	64:36	65:35	65:35
source:	'80 from UGB findings. '88 from interpolation between projections for 1995 and 2010 in Regional Forecast, dated November, 1988. 2010 from Regional Forecast, dated November, 1988.		
SF DU/Acre	4.4	n/a	5.47
source:	'80 from UGB findings. '88 not calculated due to undocumented market assumptions needed to chart activity between 1995 and 2010. 2010 derived by calculating total land consumed by existing and new development and dividing that number into total SF units expected in 2010. Note that at build-out in the 16 county districts, based on comprehensive plans, a density of 5.49 SF DU /A is expected.		
SF DU/A new	4.04	n/a	5.41
source:	'80 from UGB findings. '88 not calculated due to undocumented market assumptions needed to chart activity between 1995 and 2010. 2010 derived by dividing units constructed between 1987 and 2010 by number of acres consumed for this use in districts 1-16.		

Year 2000 Projections

	Jan. '80	Nov. '88	2010
MF DU/Acre	17	n/a	17.82
source: same as for SF DU/Acre, above. Note that at build-out in the 16 county districts, based on comprehensive plans, a density of 17.33 MF DU/A is expected.			
MF DU/A new	13.26	n/a	17.84
source: same as for SF DU/A new, above.			
Net Density	6 DU/A	n/a	7.25
source: '80 from UGB findings. '88 not calculated due to lack of data. 2010 calculated by dividing SF+MF total projected for 2010 by total number of acres expected to be used for these purposes. Note that at build-out, based on local comprehensive plans, net housing density within the UGB is expected to be 7.53 DU/A.			
% SF:MF permits	49.2:50.8		
source: '80 from UGB findings. For comparison, actual data from 1980-1988 on record at Metro is			

3) EMPLOYMENT

Employment data below is for total covered employment (excluding government, agriculture, and self-employed). Employment density data is based on an analysis of economic trends and the experience of similar urban regions.

	Year 2000 Projections		2010
	Jan. '80	Nov. '88	
UGB emp.	561,984	508,264	588,801

source: '80 from UGB findings. '88 and 2010 from projections for total employment minus government, agriculture, and self-employed in Regional Forecast, November, 1988.

EMP Density 19.2 E/A n/a 27.95
 source: '80 from UGB findings. '88 not calculated due to undocumented market-driven assumptions needed to chart activity between 1995 and 2010. 2010 derived by determining percent of total employment in 2010 present in 1987, multiplying that percent times the density in 1987, and adding that number to the product of the percent of total jobs in 2010 added between 1987 and 2010 times the density at which that employment is expected to be created. Note that at build-out, based on local comprehensive plans and the Regional Forecast, dated November, 1988, employment density within the UGB is expected to be 24.12 E/A.

4) LAND CONSUMPTION

Land Consumption - Calculations of land consumption were made by dividing total number of units for employment and housing by their respective densities. Public/semi-public land consumption was calculated using the same assumption as used in the original UGB findings of 60% of the total land consumed for SF and MF housing and for employment. Total land in 1980 comes from the original UGB findings, as does total buildable land in 1980. Total land in the 1988 forecast is based on totals calculated in 1980 plus the 2515 net acres that have been added since 1980, where each of the 2515 additional acres is assumed to be buildable as well.

Two sets of numbers have been calculated for the 1988 forecast of urban land consumption in the year 2000 and for the forecast of urban land consumption in 2010. The first set of numbers uses the density assumptions used in the original 1980 UGB findings. The second set of numbers uses the density assumptions derived from the Regional Forecast, dated November, 1988, for the year 2010 and presented above.

	UGB FINDINGS 1980	'88 2000 (1980)	'88 2000 (2010)	2010 (1980)	2010 (2010)
SF	74,827	77,660	62,469	87,692	70,539
MF	10,886	10,839	10,340	12,432	11,860
EMP	29,270	26,472	18,185	30,667	21,066
PUB/SEMI- PUB	68,990	68,983	54,596	78,475	62,079
TOTAL	183,973	183,954	145,590	209,266	165,544
TOTAL UGB SUPPLY	220,920	223,435	223,435	214,640	214,640
BUILDABLE ACRES	212,125	214,640	214,640	214,640	214,640
NET BUILDABLE ACRES LEFT	28,152	30,686	69,050	5,374	49,096

UGB PROCEDURES REVISION SUMMARY

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The Metro Code has been examined for clarity and adequacy of Metro's procedures and standards for UGB amendments. A draft ordinance revising the code to update procedures and standards is included in the appendix. Major changes are proposed in the following areas:

- o Locational adjustment procedures are proposed to be integrated with periodic review of local comprehensive plans. Private petitions for locational adjustment of the UGB are proposed to be eliminated.
- o Additional information submittal requirements for petitions to amend the UGB are proposed to be added to the Metro Code. Analysis requirements will also be augmented particularly regarding the scope of analysis required to meet the alternative site review criteria under goals 2 and 14.
- o Clear instructions for the use of regional goals and objectives and functional plans are proposed to be incorporated into the Code.
- o Clarification is proposed for the role of the hearings officer and the scope and form of his review of petitions.
- o Techniques are proposed to increase the involvement of local jurisdictions in the review of petitions to amend the UGB.
- o Refinement to procedures for Metro Council hearings on UGB cases is proposed.
- o Language is proposed to allow the use of subregional analysis in UGB cases in certain instances and to guide the scope of analyses when unique subregional land use arguments are made.

PERIODIC REVIEW FINDINGS

PERIODIC REVIEW FINDINGS

INTRODUCTION

The 1981 Oregon Legislature adopted laws requiring local governments, including Metro, to review acknowledged comprehensive plans periodically and to make changes as necessary to ensure that they are in compliance with the Statewide Planning Goals and are coordinated with the plans and programs of state agencies. On August 27, 1987 Metro received notice from DLCD that the first periodic review submittal for the Portland metropolitan area Urban Growth Boundary (UGB) was to be received by DLCD February 29, 1988. A one year extension for Metro to complete the submittal was granted by DLCD on January 26, 1988.

Review of acknowledged plans and land use regulations are based on four considerations:

1. Changing conditions and circumstances that affect local government;
2. Compliance of acknowledged plans and regulations with statewide goals or rules adopted by LCDC subsequent to acknowledgement;
3. Consistency of local plans and regulations with state agency plans and programs adopted after acknowledgement; or
4. Completion of additional local planning that was required or agreed to during acknowledgement.

DLCD has reviewed the current statewide goals, LCDC regulations and state agency programs and determined that Metro only needs to review the UGB for factors one and two above and that factors three and four do not apply to Metro's UGB program.

FINDINGS

Metro has evaluated the performance of the UGB program in response to Factors One and Two. The following findings are presented by the subfactors identified in the Periodic Review notice.

Subfactor One A - Unanticipated Developments or Events:

Four major unexpected occurrences were experienced between 1980 and 1987 (most current date for which comprehensive demographic documentation is available):

- o Population growth occurred at a slower rate (4.95% for the SMSA) than forecast in 1980 due to the 1980-82 recession. In 1982 the SMSA actually lost population. Growth has occurred steadily since then.
- o Household size decreased from 2.6 to 2.52 persons from 1980 to 1986. This is a faster rate of decrease than anticipated in preparing the UGB acknowledgement forecast. That forecast assumed that household size in the year 2000 would be 2.5 persons per household.
- o Development density as articulated in acknowledged local comprehensive plans is higher than anticipated both for residential and employment uses.
- o Net growth in population and housing have been experienced in unincorporated areas outside of the Metro UGB. It was assumed that this would not occur when the UGB was acknowledged.

While these are significant events, the implications for the UGB at this time are minimal. Each of these trends reinforce the conclusion that there is sufficient urban land within the existing UGB to accommodate urban land supply needs beyond the year 2010.

Subfactor One B - Cumulative Effects of UGB Amendments

Table 1 identifies all UGB amendments that occurred between acknowledgement and December 1988. A total of 2515 acres of land have been added to the UGB since acknowledgement. That is an approximate 1.2 % increase in the urban land supply since 1980. The bulk (approximately 62.5%) of UGB amendment petitions submitted in that period were for "locational adjustments". The bulk of acreage added to the UGB (90.9%) was through "major amendments."

The minimal amount of land added to the UGB since acknowledgement is consistent with expectations. When DLCDC acknowledged the "market factor" approach to UGB management proposed by Metro, it was expected there would be little need to adjust the UGB through the year 2000.

TABLE 1

URBAN GROWTH BOUNDARY AMENDMENTS: JANUARY, 1980 THROUGH DECEMBER, 1988

CASE NO.	TITLE	CD*	COUNCIL ACTION	NET ACRES ADDED	ORDIN/ ORDER NO.
80-1	Clackamas County	1	approve	941	80-089
81-2	Waldo Estates, Oregon City	3	approve	9	83-162
81-3	City of Hillsboro	2	approve	50	81-117
81-4	Seely Property, Wilsonville	2	approve	2	81-118
81-5	WKG Development, Forest Grove	2	approve	30	81-119
81-6	Lynd/Schope/Scott Properties, Portland	3	approve	5	83-158
81-7	Foster Property, Burnside Ave.	2	withdrawn	0	
81-8	Cereghino Property, Sherwood	2	approve	11	82-145
81-9	Corner Terrace, Washington County	3	approve	10	84-171
81-10	Sharp Property, Tualatin	3	approve	11	82-149
82-1	Spangler Property, Clackamas	2	approve	6	83-160
82-2	Hayden Island	1	approve	760	83-151
83-1	DeShirla Property, Gresham	2	approve	11	85-187
83-2	Duyck Property, Cornelius	2	approve	8	84-170
84-1	Ray/Crow Properties, Lake Oswego	2	approve	9	84-182
84-2	Pacific Gas & Electric	2	deny	0	86-005
84-3	Burright/Happy Valley Homes	2	deny	0	86-010
85-1	May Property, Wilsonville	2	deny	0	86-009
85-2	Tualatin Hills Com. Church	2	approve	2	86-196
85-4	Foster Property, Burnside Ave.	2	approve	12	85-193
85-5	Griffin Property, T.V. Hwy & 342 St.	2	withdrawn	0	
85-7	Kaiser Property, Sunset Hwy.	1	approve	453	87-222
85-8	BenjFran, Washington County	1	deny	0	86-012
85-9	Riviera Property, Sunset Hwy.	1	approve	88	86-208
86-1	Zurcher Property, Forest Grove	2	withdrawn	0	
86-2	West Coast Auto Salvage	2	approve**	1	
87-1	Columbia Willamette Development	3	approve	2	88-244
87-2	Angel Property, Skyline Dr.	2	deny	0	
87-3	Blazer Homes, Lake Oswego	2	approve	43	88-268
87-4	Brennt Property, Lake Oswego	2	approve	5	88-265
87-5	BenjFran, Washington County	1	deny	0	88-018
88-1	Zurcher Property, Forest Grove	1	approve**	46	
88-2	Mt. Tahoma Trucking, Wilsonville	2			
88-3	St. Francis Church, Wilsonville	2			
88-4	Bean Property, Oregon City	2			
TOTAL ACRES ADDED				2515	

* 1=MAJOR AMENDMENT
 2=LOCATIONAL ADJUSTMENT
 3=TRADE

** RESOLUTION OF INTENT TO APPROVE ADOPTED.

Subfactor One C - Plan Policies Relating to Goal Requirements

Metro resolutions nos. 79-83 and 79-102 adopted four growth management policies as follows:

- o New urban development within the UGB shall be contiguous to areas of existing development in order to avoid leapfrogging or sprawl.
- o Undeveloped land within the UGB shall be preserved for future urban density through zoning controls which restrict parcelization to 10 acre minimum lot sizes for residential development or until urban services are provided for commercial or industrial development.
- o Undeveloped land within the UGB shall be approved for residential development only when a local comprehensive plan is in place that is consistent with Metro's residential density assumptions included in the UGB and when services are available.
- o Development on septic tanks and cesspools within the UGB shall be prohibited except when urban densities can be attained, consistent with DEQ regulations, or when lands with unique topographic characteristics are identified in local comprehensive plans where sewer extension is impractical but large lot residential development is allowed.

Metro provided the framework for satisfying statewide planning goal 14 in the region by adopting a Regional Goals and Objectives, a Land Use Framework Element and an urban growth boundary including adoption of the above growth management policies. Actual implementation of the overall regional land use program depended on the local comprehensive land use and public facilities plans adopted by individual cities and counties within the Metropolitan Service District boundary. Metro aggressively reviewed local comprehensive and public facility plans during acknowledgement. Metro's review of local comprehensive plans focussed on the consistency between local plans regional goals and objectives and the above growth management policies. Implementation of those plans, which incorporate the growth management policies, has been the responsibility of local jurisdictions and special districts since acknowledgement.

Subfactor One D - New Information.

Population, housing, and employment forecasts are the primary factors used to identify urban land demand. The UGB Data Summary Section contains a summary of the demographic and land consumption analysis conducted for periodic review of the UGB. In preparing these findings the most current demographic data available was utilized. The principal documents were prepared by Metro's Data Resources Center and include the following:

- o The Regional Factbook: Demographic, Employment, and Land Development Trends 1980-86. June 1988.
- o The Regional Forecast: 1995 and 2010. January, 1989

A third document, The Urban Growth Boundary Periodic Review Workplan prepared by the Metro Planning and Development Department and adopted by the Metro Council in December 1988, discusses the relationship between periodic review of the UGB and development of a regional Urban Growth Management Plan. The Urban Growth Management Plan, while not a part of the Periodic Review Order, is complementary and proceeding in parallel.

As the above documents indicate, there is no need to amend the UGB to add additional urban land at this point in time. However, development trends in the region raise issues regarding potential future expansion of the UGB. The Urban Growth Management Plan will address these issues and provide a policy framework to guide UGB expansion when needed in the future.

Subfactor One E - Other Issues

ORS 197.752, Lands Available for Urban Development, was adopted by the state legislature in 1983. The statute provides a broad policy statement requiring that land within urban growth boundaries be available for urban development concurrent with the provision of key urban facilities and services in accordance with locally adopted development standards. The urban growth policies discussed in Subfactor One C are consistent with the policy statement and were included in local comprehensive plans at acknowledgement. No changes to the UGB program or other Metro policies are necessary to comply with the intent of the statute. Implementation has been the responsibility of local cities and counties within the Metro boundary.

Subfactor Two, Goal 2 - Land Use Planning

New language was adopted regarding the taking of exceptions to statewide planning goals. No exceptions have been taken by Metro in the region since acknowledgement. Counties have had principal responsibility for exceptions in the region, primarily from goals 3 and 4. The implications of these exceptions on UGB management is one of the issues Metro will investigate as outlined in the "Urban Growth Boundary Periodic Review Workplan."

Subfactor Two, Goal 9 - Industrial and Commercial Development

OAR 660, Division 9 was amended to require review of economic development policies at periodic review. The rule requires designation of adequate land for employment uses to meet forecast economic development needs. As indicated in the UGB Data Summary Section there is sufficient land designated for employment uses within the existing UGB to accommodate employment needs beyond the year 2010.

Designation of specific employment uses in the region is provided through local comprehensive plans and zoning regulations and, therefore, outside of Metro's direct responsibility. As requested by DLCDD, Metro will seek to coordinate the local industrial and commercial land inventories and trend analyses through the Urban Growth Management Plan in order to assure reliable information on the availability of land designated for employment uses in the region.

Subfactor Two, Goal 10 - Metropolitan Housing Rule

The Metropolitan Housing Rule was adopted delineating minimum residential dwelling unit densities and attached/detached housing mix standards. The rule calls for local jurisdictions to adopt clear and objective standards and procedures for approving residential development proposals and for examination of housing policy performance through the periodic review process. Residential development has occurred at higher than expected densities since acknowledgement of the UGB. Coupled with future housing density expectations articulated through local comprehensive plans it appears that the region is well on its way to meeting density requirements of the Metro Housing Rule. No policy revisions are required at this time.

Subfactor Two, Goal 11 - Public Facilities Rule

OAR 660, Division 11 was amended to include a new rule defining the scope of public facilities plans and establishing procedures and standards for developing public facilities plans.

Compliance with this rule is required of cities and counties, not Metro. However, information useful to Metro in evaluating the suitability of land for urban development and inclusion within the UGB will become available as cities and counties comply with the amendments. Metro will utilize information and analyses prepared by local jurisdictions and special districts and will coordinate with these entities in preparation of Metro's Urban Growth Management Plan which will establish the policy framework for amending the UGB in the future.

APPENDIX

URBAN GROWTH BOUNDARY AMENDMENT PROCEDURES

COMMENT: The existing code language only applies to locational adjustments. Because substantial changes have been made to the chapter, "COMMENT" information is provided to introduce each subsection and to explain its relationship to previous language. This proposed modification to the chapter will apply to all amendment procedures.

SECTIONS:

- 3.01.005 Purpose
- 3.01.010 Definitions
- 3.01.015 Administrative Interpretation of the UGB
- 3.01.020 Petitions Generally
- 3.01.025 Local Position on Petitions
- 3.01.030 Local Action to Conform to District Boundary
- 3.01.035 Standing to Petition
- 3.01.036 Amendment Petition Approval Standards Generally
- 3.01.037 Approval Standards for Petitions for Amendment of the UGB
- 3.01.038 Evidentiary Considerations for Determining Compliance with the Factors of Goal 14 Guiding the Establishment and Change of UGB's Standards for Approval of Locational Adjustment Petitions
- 3.01.040 Notice of Filing Deadline
- 3.01.045 Filing Fee
- 3.01.050 Notice of UGB Amendment or Locational Adjustment Hearing
- 3.01.060 Hearing Before a Hearings Officer
- 3.01.065 Staff Review and Report
- 3.01.067 Exceptions to the Proposed Order and Findings of the Hearings Officer
- 3.01.070 Council Action on Petitions
- 3.01.075 Notice of District Action
- 3.01.080 Review of Procedures
- 3.01.085 LCDC Acknowledgement

3.01.005 Purpose:

COMMENT: This section simply makes the existing purpose language in the code apply to all amendments rather than limiting the chapter to locational adjustments.

(a) It is the purpose of this chapter to establish procedures to be used by the District in making amendments and locational adjustments to the District Urban Growth Boundary (UGB) adopted pursuant to ORS 268.390(3) and 197.005 to 197.430.

(b) Procedural provisions of this chapter are to be construed as directory rather than mandatory and minor procedural deviations from this chapter shall not constitute grounds for invalidating District actions taken under this chapter.

3.01.010 Definitions:

COMMENT: The definitions distinguish between locational adjustments and amendments, and add new language regarding vacant land, regional cost and benefit, acre, exclusive farm use zone, and planning period.

(a) "UGB" means the District Urban Growth Boundary adopted pursuant to ORS 268.390 and 197.005 to 197.430.

(b) "District" has the same meaning as in Chapter 1.01.

(c) "Council" has the same meaning as in Chapter 1.01.

(d) "Goals" means the statewide planning Goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-15-000.

(e) "Petition" means a petition to amend the UGB either as an amendment or as a locational adjustment.

(f) "Property owner" means a person who owns a legal interest in the property.

(g) "Legal Description" means a written description which appears on the UGB map as adopted by the Council or a written description from which the adopted map was drafted or which was adopted by Metro or its predecessor CRAG to describe the mapped UGB.

(h) "Locational Adjustment" means an amendment to the District UGB which includes an addition or deletion of 20 acres or less or a combination of an addition and deletion resulting in a net change of 20 acres of vacant land or less, and which is otherwise consistent with the standards indicated in Section 3.01.040.

(i) "Exclusive Farm Use Zone" is any zone acknowledged for compliance with LCDC Goal #3, Agricultural Lands.

(j) "Planning period" means the period through which the most recent periodic review order evaluated UGB adequacy, or through the year 2010 if no periodic review order has yet been adopted.

(k) "Acre," when used to measure size for the purposes of this chapter, means an area measuring 43,560 square feet excluding:

(1) any developed road rights-of-way through or on

the edge of which the existing or proposed UGB would run; and

(2) any open water areas, natural resources protected under statewide planning goal 5 in the comprehensive plans of cities and counties in the region, or wetlands requiring a Federal fill and removal permit under Section 404 of the Clean Water Act.

(1) "Vacant land" means:

(1) for lots of one acre or less with at least one structure in current use for a residence or business, there is no vacant land;

(2) for lots of one acre or less with no residential dwelling unit or commercial or industrial building currently in use, vacant land is the entire lot;

(3) for lots in excess of one acre, vacant land is the gross area of a lot, less one acre multiplied by the number of residential dwelling units plus any commercial and industrial buildings currently in use on the lot, but not less than zero nor greater than the actual area unoccupied by any residential dwelling units or commercial and industrial buildings currently in use.

(m) "Amendment" means a proposal to change the location of the UGB pursuant to the standards

found in Sections 3.01.036, 3.01037, and 3.01038 of this chapter.

- (n) "Site" means the subject property for which an amendment or locational adjustment is being sought.

3.01.015 Administrative Interpretation of the UGB:

COMMENT: This section is identical to the existing code provisions, and establishes a mechanism for interpreting where the line is actually located when questions about precise location arise.

(a) When the UGB map and the legal description of the UGB are found to be inconsistent, the Executive Officer is hereby authorized to determine and interpret whether the map or the legal description correctly establishes the UGB location as adopted and to correct the map or description if necessary. In determining where the adopted UGB is located, the Executive Officer shall review the record to determine legislative intent. The map location should be preferred over the legal description in absence of clear evidence to the contrary.

(b) A city, county or special district whose municipal or planning area boundary includes the property, or a property owner who would be included or excluded from the urban area depending on whether the map or legal description controls, may request that the Executive Officer render an interpretation under this section. If the request is submitted in writing, the Executive Officer

shall make the requested interpretation within 60 days after the request is submitted.

(c) Within ten days of rendering the interpretation, the Executive Officer shall provide a written notice and explanation of the decision to each city or county whose municipal or planning area boundaries include the area affected, owners of property in the area affected, and the Council.

(d) Any party eligible to request an interpretation under subsection (b) may appeal to the Council for a determination of where the UGB is located if that party disagrees with the Executive Officer's interpretation or if the Executive Officer fails to render an interpretation requested under subsection (b). Such appeal must be filed with the District within twenty (20) days of receipt of the Executive Officer's interpretation or within eighty (80) days after submission of the request for interpretation to the Executive Officer, whichever is later.

3.01.020 Petitions Generally:

COMMENT: This section is substantially similar to the existing code language. In subsection (c) it distinguishes between petitions for locational adjustment and for an amendment. Both kinds of petitions will use the same form, although the form will include different directions for each procedure.

(a) All petitions filed pursuant to this chapter for amendment of the UGB must include a completed petition on a form provided by the District. Petitions which do not include the appropriate completed form provided by the District will not be considered for approval.

(b) Petitions for amending the UGB shall be considered by the District at one time each year beginning July 1 and petitions filed on or after July 1 of each year shall not be considered until July of the next calendar year. The District will determine not later than ten working days after the July 1 deadline for receipt of petitions whether each petition is complete and notify the petitioner. If the petitioner is notified that the petition is not complete, the petition must be completed and refiled by August 1 to be considered in that calendar year.

(c) Petitions for making an amendment to the UGB shall:

- (1) present evidence and argument pertinent to findings demonstrating an unanticipated need for a particular use and the unavailability of sites within the UGB that can reasonably accommodate that use, as provided in the standards listed in Sections 3.01.036 and 3.01.037 of this chapter; and
- (2) evidence and argument pertinent to findings

demonstrating compliance with all remaining standards for approval of an amendment of the UGB, as provided in Sections 3.01.037 and 3.01.038 of this chapter.

(d) Petitions for Locational Adjustments of the UGB shall provide evidence and argument pertinent to findings demonstrating compliance with standards for approval as provided in Section 3.01.040 of this chapter.

(e) Petitions which do not qualify for approval as amendments or locational adjustments may not be approved under this chapter.

(f) All hearings on petitions should be closed and completed no later than twenty (20) working days before the deadline for filing petitions for hearing in the next year. If a petitioner requests an opportunity to submit new evidence at a continued, re-opened, or de novo hearing that would occur less than thirty (30) days before the deadline for filing petitions for hearing in the next year, such a request shall be reviewed for possible consolidation with petitions submitted by the deadline for hearings in the next year, consistent with the provisions of Section 3.01.060(e) of this chapter. Completeness of petitions shall be the petitioners' responsibility.

(g) Upon request by a Councilor or the Executive Officer, the Council may, by majority vote, waive the filing deadline for a particular petition or petitions and

hear such petition or petitions at any time. Such waiver shall not waive any other requirement of this chapter.

(h) In addition, upon request by a Councilor or the Executive Officer, the Council may at any time by majority vote, initiate consideration of a UGB amendment or locational adjustment without petition or filing fee. Such consideration shall be in accordance with all other requirements of this chapter.

(i) No petition will be accepted under this chapter if the proposed amendment or locational adjustment to the UGB would result in an island of urban land outside the contiguous UGB or if the proposed addition contains within it an island of non-urban land excluded from the petition.

3.01.025 Local Position on Petition:

COMMENT: This section differs from the existing code by adding subsection (b). This subsection clarifies the procedure to be followed when a petitioner is unsuccessful in getting any response from affected local governments.

(a) Except as provided in subsection (b) of this section, a petition shall not be considered completed for hearing unless the petition includes a written action by the governing body of each city or county with jurisdiction over the area included in the petition which:

- (1) recommends that Metro approve the petition;
- or
- (2) recommends that Metro deny the petition; or
- (3) expresses no opinion on the petition.

(b) Upon request by an applicant, the Executive Officer shall waive the requirements of paragraph (a) of this section if:

(1) the applicant shows that a request for comment was filed with the local government at least six months previously and that the local government has not yet acted to adopt a position; and

(2) the Executive Officer finds either that the petitioner satisfactorily met all requests or requirements by the local jurisdiction for action to adopt a position or that any unmet requests or requirements by the local governments were not reasonably related to the local governments action on a position.

(c) If a city or county holds a public hearing to establish its position on a petition, the city or county should:

(1) provide notice of such hearing to the District and to any city or county whose municipal boundaries or urban planning area boundary abuts the area affected; and

(2) provide the District with a list of the names and addresses of parties testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.

3.01.030 Local Action to Conform to District Boundary:

COMMENT: This section allows local governments to plan for areas outside the UGB but within their jurisdictional boundaries provided that any change from rural to urban status is clearly contingent upon Metro action. This provision will generally be useful for public facility planning, where marginal changes in the UGB can potentially make major differences in system efficiency.

(a) A city or county may, in addition to the action required in Section 3.01.025, approve a plan or zone change to implement the proposed adjustment in the area included in a petition prior to a change in the District UGB if:

- (1) The District is given notice of the local action,
- (2) The notice of the local action states that the local action is contingent upon subsequent action by the District to amend its UGB, and
- (3) The local action to amend the local plan or zoning map becomes effective only if the District amends the UGB consistent with the local action.

(b) If the city or county has not contingently amended its plan or zoning map to allow the use proposed in a petition, and if the District does approve the UGB amendment, the local plan or map change shall be changed to be consistent with the UGB amendment at the next periodic review.

3.01.035 Standing to Petition:

COMMENT: This section has been altered to indicate that only cities and counties can apply for locational adjustments.

(a) A petition may be filed by:

(1) A county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or

(2) The owners of the property included in the petition or a group of more than 50 percent of the property owners who own more than 50 percent of the land area in each area included in the petition.

(3) Petitions for locational adjustments of the UGB can only be filed by cities or counties pursuant to Section 3.01.040 of this chapter.

(b) Petitions to extend the UGB to include land outside the District shall not be accepted unless accompanied by:

(1) A copy of a petition for annexation to the District to be submitted to the Portland Metropolitan Area Local Government Boundary Commission pursuant to ORS ch. 199; and

(2) A statement of intent to file the petition for annexation within ninety (90) days of Metro action to approve the petition for UGB amendment or locational adjustment under Section 3.01.070 of

this chapter.

3.01.036 Amendment Petition Approval Standards Generally

COMMENT: This section is new. It lays out the broad objectives for the UGB and acknowledges that the statewide planning goals are the ultimate authority for the interpretation of standards.

(a) The purposes of the UGB are to:

- (1) provide an orderly and efficient transition from rural to urban land use;
- (2) mark the boundary between urban or urbanizable land and rural land;
- (3) reduce the extent of urban sprawl by limiting the total supply of urban land and controlling the conversion of urbanizable lands within the UGB to use at urban densities; and
- (4) preserve agricultural and forest resources protected by statewide planning goals 3 and 4.

(b) The standards for approval of petitions for making amendments to the UGB shall ultimately be the applicable Statewide Planning Goals adopted by the Land Conservation and Development Commission.

3.01.037 Approval Standards for Petitions for Amendment of the UGB:

COMMENT: This section is new. It closely parallels the requirements for the taking of exceptions to goal 14 as outlined in OAR 660, Division 4, and goal 2. The language in subsection (a)(1) parallels recent LUBA and Court of Appeals rulings in the Benjfran case, and calls for

findings related to the factors in goal 14 that considers the interrelationships among the factors. Subsections (a)(2) and (a)(5) attempt to clarify the bases upon which alternative sites analyses must be done. The analysis of alternative sites has been an area of considerable confusion, and will undoubtedly need further clarification and refining.

(a) Revised findings and reasons in support of an amendment to the UGB shall meet each of the following standards:

(1) The petitioner must demonstrate compliance with the seven factors in Goal 14 governing the establishment and change of UGB's, as described in section 3.01.038 of this chapter, or provide findings which demonstrate that the stated policy in Goal 14 should not apply. It would be incorrect to assume that the factors individually exist in a vacuum, and can be evaluated without reference to each other and the Statewide Planning Goals generally. In fact, rigid separation of the factors ignores obvious overlaps between them. When demonstrating compliance with the seven factors of Goal 14, petitioners shall not assume that demonstrating compliance with one factor or subfactor constitutes a sufficient showing of compliance with the goal, and allows the exclusion of the requirements of the other factors when making an overall determination of compliance or

conflict with the goal.

(2) No alternative sites currently within the UGB can reasonably accommodate the proposed use, consistent with the following considerations:

(A) A site must have an appropriate comprehensive plan designation in order to be considered a suitable alternative. The need for a change in zoning or zoning code provisions consistent with that plan designation does not render a site unsuitable.

(B) Unless there is a physical impediment that renders extension of services impractical, all sites within the existing UGB shall be considered capable of receiving a full range of urban services during the planning period.

(C) Any properly designated site that contains the needed amount of contiguous vacant land shall be identified as a possible alternative. Market availability and level of parcelization of such sites shall not render a site unsuitable unless justified by findings consistent with the following considerations:

(i) A vacant parcel shall be assumed to

be available at some time during the planning period unless legal impediments such as deed restrictions make it unavailable for the use in question. A parcel with some development on it shall be considered available unless the market value of the improvements is greater than the market value of the land without the improvements.

(ii) A site in more than one ownership shall not be considered unsuitable or unavailable unless findings demonstrate why current pattern or level of parcelization makes land assembly unfeasible for the use proposed.

(3) The long-term environmental, economic, social and energy consequences, as defined in section 3.01.038(e), below, resulting from the use at the proposed site with measures to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring an amendment of the UGB other than the proposed site.

(4) The proposed conversion of land from urban use to rural use or from rural use to urban use is compatible with adjacent urban and rural uses, or

will be so rendered through measures shown to reduce adverse impacts.

(5) The proposed addition must be evaluated against all alternative sites, and if no alternative site can be identified pursuant to subsection 2 of this section, then the petition shall be approved only if no alternative site outside and adjacent to the UGB, capable of being developed to accommodate the needed use, is found to have significantly more positive or significantly less negative environmental, energy, economic, social, and cultural consequences of the site for the use proposed.

3.01.038 Evidentiary Considerations for Demonstrating Compliance with the Factors in Goal 14 Guiding the Establishment and Change of UGB's

COMMENT: This is a new section. It attempts to lay out Metro's specific concerns regarding the factors of goal 14 that petitioners must address in the course of making their case but it is not intended to "rewrite" or in any way redefine goal 14. It establishes Metro's Regional Forecast as the authority for making findings pursuant to factor 1. It provides a carefully structured avenue for employing subregional analysis when making findings under factor 2. This subregional analysis process is predicated on Metro's ability to adequately define subregional economies, and is intended to recall the kind of issues raised in the Kaiser and Riviera decisions.

(a) Factor 1: Metro shall be responsible for developing a Regional Forecast of Population and Employment that can be used for projecting regional

population and employment growth and the demand for urban land. Every five years Metro shall revise its estimation of urban land requirements for the following twenty years using the best available information about the availability of land within the UGB for urban development coupled with the most recent Regional Forecast of Population and Employment. Any finding in support of a petition to amend the UGB based on a demonstrated need to accommodate long-range population growth requirements must rely on Metro's most recent Regional Forecast as applied by Metro to the overall urban land supply within the UGB.

(b) Factor 2:

(1) A finding in support of a proposed amendment to the UGB based on a need for housing, employment opportunities, and livability, pursuant to the second factor of Goal 14, must be related to adopted comprehensive plan policies of jurisdictions adjacent to the site, and to the adopted policies of Metro dealing with urban growth management, transportation, housing, solid waste, and water quality management.

(2) A subregional unit of analysis can be employed in developing a finding consistent with the second factor of Goal 14 if such an analysis meets all of the following criteria:

(A) The subregion boundaries are consistent

with those adopted by Metro and based on subregional economic relationships;

(B) The effects of the proposed amendment are clearly demonstrated to be related to the boundaries of the subregion employed; and

(C) The proposed amendment will be clearly demonstrated to remedy an impediment to the orderly development of land already within UGB and within the subregion under consideration or is essential to the continued development of land already within the UGB and having characteristics or being developed with land uses demonstrably unique to the subregion.

(3) If a petitioner decides to make a finding for factor 2 of Goal 14 employing a subregional basis for analysis, and can successfully meet the criteria in subsection (2) of this section, then findings for factors 3-7 of Goal 14 can be based on the subregion boundary.

(c) Factor 3: An evaluation of the orderly and economic provision of urban services shall be based upon the following:

(1) Availability of adequate urban facilities and services to the subject site:

(A) Public facilities and services include

but are not limited to sewerage disposal, water, storm drainage, transportation, schools and fire protection. Availability is defined as the ability of existing or planned public facilities and services to provide services through the planning period to the site.

(B) Any development on septic tanks must be capable of taking place at densities consistent with applicable local comprehensive plans, and to be efficiently serviced in the future by a system of sanitary sewers.

(C) In the evaluation of the availability and adequacy of storm drainage facilities, the acknowledged provisions of the applicable comprehensive plan shall determine whether storm sewers are needed and available or planned and, if not, whether applicable land use regulations provide sufficient storm drainage management measures.

(D) In the evaluation of the adequacy of transportation service to the property, service shall be considered adequate if appropriate access is available, or can be made available solely through action by the

developer of the subject property, to a road with a functional classification suitable for the type and volume of trips projected to be generated, consistent with the applicable provisions of the Regional Transportation Plan (RTP).

(2) Effect upon the efficiency with which urban facilities and services can be provided to adjacent urban lands:

(A) An increase in efficiency would result if existing and planned surplus capacity is utilized. A decrease in efficiency would result if existing or planned capacity must be expanded to accommodate the additional land and the cost of expansion must be borne by the entire service district rather than just the benefitted properties. No change in efficiency would result if the benefitted property was responsible for the costs of necessary increases in capacity.

(B) An increase in efficiency results whenever it is shown that the most efficient location for a particular facility is through the subject property and that no other location within the existing UGB is at least as efficient as that which is proposed.

(C) When capacity problems already exist or are projected to occur with a given facility or service during the planning period and urbanization of the subject property would significantly exacerbate these problems, this circumstance shall be given negative weight if urbanization of the site not likely to result in a solution to the problem. If urbanization of the subject property would allow for, but not require additional funding or other appropriate solution for an existing or projected capacity problem, then this circumstance shall be considered neutral, and carry neither positive nor negative weight.

(D) If there would be a decrease of efficiency in one service but an increase in another, a judgment must be made whether there is an overall -- or "net" -- increase or decrease in efficiency for both services weighed together.

(d) Factor 4: An evaluation of land use efficiency shall be based upon the following:

(1) Efficiency with which the subject property can be urbanized:

(A) If the subject property is already served by sanitary sewers, has a sanitary

sewer line running through the property which could provide service, or is developed to such a density as to be likely to require sanitary sewers during the planning period, urbanization of the property will provide maximum land use efficiency.

(B) If the subject property is not developed to such a density as to be likely to require sanitary sewers during the planning period but is developed to a rural density which would interfere with efficient urbanization, then the subject property cannot be developed as efficiently as less developed land. The density at which development will impede efficient urbanization will vary with topography, the type, location and extent of development, and other factors.

(C) If for any reason the site cannot be developed at a density consistent with applicable local comprehensive plans and other regional and state policies, including the Metro Housing Rule in the case of residential development, then a net decrease in efficiency will result.

(2) Effect upon efficient urbanization of adjacent urban lands:

(A) An increase in land use efficiency is achieved if urbanization of the site facilitates development of adjacent urban lands up to the maximum density allowed by the governing comprehensive plan.

(B) A decrease in land use efficiency would result if for any reason the development of the proposed addition would leave lands adjacent to the site and presently within the UGB developed at densities lower than expected in applicable local comprehensive plans.

(C) A decrease in land use efficiency would result if for any reason development of the site would increase the cost of providing services to property adjacent to the site but presently within the UGB.

(e) Factor 5: An evaluation of environmental, energy, social and economic consequences shall be based upon the following:

- (1) Location within one quarter mile of an existing or planned transit line is a regional benefit, the more so if the line is part of a regional transit corridor identified in the RTP.
- (2) If the subject property contains any resources or hazards subject to special

protections identified in the local comprehensive plan and implemented by appropriate land use regulations, findings shall address whether urbanization can occur in a manner consistent with these regulations.

(3) Social and economic consequences not addressed by other considerations in this section or the applicable standards of other sections will generally not be present and need not be addressed by findings unless identified by parties involved in the case. Any social or economic consequences so identified must be considered, however.

(f) Factor 6: Agricultural land protected with EFU comprehensive plan designations shall be protected to the maximum extent possible. Petitions which propose bringing EFU lands inside the UGB must provide documentation of efforts to find locations outside and adjacent to the UGB not protected by EFU designations, and must document how the site in question will have a lesser negative effect on remaining resource practices in rural areas than other similar sites protected with EFU designations. A net benefit can be attributed to the petition if the rural land proposed for addition has already been removed from EFU protection by the appropriate County.

(g) Factor 7: Compatibility of proposed urban development with nearby agricultural activities:

(1) Residential uses should always be considered incompatible with adjacent agricultural activity and to increase with the density of development.

(2) Whether or not commercial or industrial use would be incompatible will depend upon the character of the proposed uses and of the adjacent activities.

(3) Potential incompatibilities with resource related activities occurring on rural lands protected for agricultural and forestry uses and zoned and used in compliance with applicable local zoning codes must be identified and satisfactorily mitigated by providing natural or man-made buffers or barriers or by other appropriate action demonstrated to minimize identified negative consequences.

3.01.040 Standards for Approval of Locational Adjustment Petitions:

COMMENT: This is a combination of old standards and new procedure. The locational adjustment process was created in recognition of the fact that the UGB was not perfect when it was originally constructed. While much of the UGB has stood the test of time, there are still areas that have not received the close scrutiny required to rule out the need for minor, technical locational adjustments in the future. A locational adjustment process is retained here for use only by cities and counties at the time and as part of their periodic review as they begin to provide services to the margins of the UGB and discover instances where minor adjustments in the location of the boundary can lead to a significant improvement in service and land use efficiency. As is currently the case, locational

adjustments are relieved from making findings related to the "need" factors of goal 14. However, the total acreage allowed is limited to 20 acres per jurisdiction per periodic review, as opposed to the 50 acres now employed as an upper limit. Another modification eliminates the claim of a "mistake" as grounds for a locational adjustment. Trades are still allowed, as they are under the amendment procedure: a net addition of 0 acres to the boundary should obviate the need to make findings under factors 1 and 2 of goal 14, although factors 3-7 still need to be dealt with. Nothing in this section prevents a city or county from petitioning for an amendment, as opposed to a locational adjustment, at any time, consistent with this chapter.

(a) At the time of periodic review of their adopted and acknowledged comprehensive plans, cities and counties may petition Metro for Locational Adjustments of the UGB within or adjacent to their jurisdictional boundary.

(b) The net total of all additions proposed by any city or county shall not exceed 20 acres.

(c) All petitions for Locational Adjustments shall meet the following criteria:

(1) The proposed addition must be included in the adopted comprehensive plan of the sponsoring jurisdiction.

(2) As required by subsections (3) through (5) of this section, locational adjustments shall be consistent with the following factors:

(A) Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and

services, including but not limited to, water, sewerage, storm drainage, transportation, fire protection and schools in the adjoining areas within the UGB; and any area to be added must be capable of being served in an orderly and economical fashion.

(B) Maximum efficiency of land uses.

Considerations shall include existing development densities on the area included within the amendment, and whether the amendment would facilitate needed development on adjacent existing urban land.

(C) Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.

(D) Retention of agricultural land. When a petition includes land with Class I-IV soils designated in the applicable comprehensive plan for farm or forest use consistent with the requirements of LCDC Goals No. 3 and 4, the petition shall not be approved unless it is factually demonstrated that:

(i) Retention of the agricultural land

would preclude urbanization of an adjacent area already inside the UGB, or
(ii) Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB, or
(iii) The property is a legal parcel or parcels zoned for EFU under provisions of ORS Chapter 215 and occupied by one or more permanent structures, including but not limited to roads and paved parking lots, and:

(aa) the parcel(s) are not used for rural residential purposes or for agricultural production, cultivation, processing, or marketing; and

(bb) the parcel(s) were in existence at the time EFU zoning was applied to the property; and

(cc) all structures predate or have been built in compliance with applicable comprehensive plans and zoning regulations and now cover at least 50 percent of the aggregate parcel(s) on which they are located.

(E) Compatibility of proposed urban uses with

nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of factors (A) through (D) of this subsection must clearly outweigh the adverse impact of any incompatibility.

(3) Petitions for locational adjustments to remove land from the UGB may be approved under the following conditions:

(A) Consideration of the factors in subsection (2) of this section demonstrate that it is appropriate the land be excluded from the UGB.

(B) The land is not needed to avoid short-term urban land shortages for the District and any long-term urban land shortage that may result can reasonably be expected to be alleviated through the addition of urban land in an appropriate location elsewhere in the region.

(C) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and transportation facilities will thereby be significantly underutilized.

(4) A petition for a locational adjustment to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:

(A) The requirements of paragraph 3.01.040(c)(2)(D) are met.

(B) The net amount of vacant land proposed to be added may not exceed 20 acres; nor may the net amount of vacant land removed exceed 20 acres.

(C) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors (A), (B), (C) and (E) of Section 3.01.040(c)(2) of this chapter.

(5) Petitions for locational adjustments to add land to the UGB may be approved under the following conditions:

(A) An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c)(2) of this section, and the

adjustment includes all contiguous lots divided by the existing UGB.

(B) For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c)(2).

3.01.045 Notice of Filing Deadline:

COMMENT: This section provides notice generally of the single annual filing date for all types of petitions. Currently, locational adjustments are limited to one date each year while petitions for major amendments can be filed on two dates per year. Moving to a single filing date simplifies the process. In addition, there is no evidence that this single filing date has inconvenienced petitioners in the past. If it does inconvenience a petitioner, the chapter offers a mechanism for seeking a waiver from the Council.

The District shall give notice of the July 1 deadline for acceptance of petitions for UGB amendments and locational adjustments under this chapter not less than 90 days before the deadline and again 20 days before the deadline in a newspaper of general circulation in the District and in writing to each jurisdiction in the District. The notice shall briefly explain the consequences of failing to file before the deadline and shall specify the District officer or employee from whom additional information may be obtained.

3.01.050 Filing Fee:

COMMENT: This section describes our current procedures.

(a) Each petition 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 be generally sufficient to defray the actual cost to the District of processing such petitions.

(b) The fees for administrative costs shall be charged from the time a petition is filed through mailing of the Notice of Adoption or Denial to the Department of Land Conservation and Development and other interested parties. In addition, petitioners shall be charged for the costs of the District Hearings Officer as billed for that case and for the costs of public notice.

(c) Before a hearing is scheduled, petitioners shall submit a fee deposit.

(d) The unexpended portion of petitioner's deposit, if any, shall be returned to the petitioner at the time of a final disposition of the petition.

(e) If Hearings Officer or administrative costs exceed the amount of the deposit, the petitioner shall be required to pay to Metropolitan Service District an amount equal to the costs in excess of the deposit, prior to final action by the Council of the Metropolitan Service District.

(f) The Council of the Metropolitan Service District may, by resolution, reduce, refund or waive the

administrative fee, or portion thereof, if it finds that such fees would create an undue hardship for the applicant.

3.01.055 Notice of UGB Amendment or Locational Adjustment

Hearing:

COMMENT: This section will now provide notice to neighborhood associations/CPO's and DLCD in addition to those already receiving notice. It also expands the zone for notification from 250 to 500 feet, consistent with Metro's current provisions for notification in the case of major amendments.

(a) The notice provisions established by this section shall be followed for UGB hearings on petitions held by a hearings officer or the District Council for the purposes of making a record in the case. These notice provisions shall be in addition to the notice requirements of OAR 660-18-000.

(b) Notice of public hearing shall include:

- (1) The time, date and place of the hearing.
- (2) A description of the property reasonably calculated to give notice as to its actual location.
- (3) A summary of the proposed action.
- (4) Notice that interested persons may submit written comments at the hearing and appear and be heard, and the consequences of not doing so.
- (5) Notice that the hearing will be conducted pursuant to District rules and before a Hearings

Officer unless that requirement is waived by the Metro Council.

(c) Not less than 10 days before the hearing, notice shall be mailed to the following persons:

- (1) The petitioner(s).
- (2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify owners of record.
- (3) Cities and counties in the District and affected agencies who request regular notice.
- (4) Cities and Counties whose jurisdictional boundaries either include or are adjacent to the subject property.
- (5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to

participate in land use planning processes by the Cities and Counties whose jurisdictional boundaries either include or are adjacent to the site.

(6) The regional representative of the Director of the Oregon Department of Land Conservation and Development.

(d) Notice shall be published in a newspaper of general circulation in the District not more than twenty (20) nor less than ten (10) days prior to the hearing.

(e) The hearing may be continued without additional notice.

3.01.060 Hearing Before a Hearings Officer:

COMMENT: This is a new section that describes the process to be used by the hearings officer, and the timelines we currently employ.

(a) All petitions accepted under this chapter shall receive a contested case hearing according to the following rules:

(1) Parties to the case shall be defined as being any individual, agency, or organization who participates orally or in writing in the creation of the record used by the hearings officer in making a decision. If an individual represents an

organization orally and/or in writing, that individual must indicate the time, date, and method for reaching a position used by the organization in the course of his or her testimony. Parties need not be represented by an attorney at any point in the process outlined in this subsection and elsewhere in this chapter. It shall be the responsibility of the petitioner to provide a list of names and addresses for notification purposes, consistent with section 3.01.055(c), when submitting a petition.

(2) Prior to the commencement of a hearing, the hearings officer shall provide the following information to parties:

(A) A general description of the hearing procedure.

(B) The manner of making the record for the proceeding and its availability to the parties.

(C) The role that attorneys, employed by the petitioner, the district, and/or other parties, customarily play in the course of considering a petition.

(D) The title and function of the hearings officer in the contested case proceeding, the role that the hearings officer will play in

assisting the District in making a final decision either accepting or denying the petition, the ways in which parties can review and object to findings of fact made by the hearings officer following the close of the hearing, the method with which the District will ultimately decide whether to accept or reject a petition, and appeal procedures available to parties both following the hearings officer's involvement in the case and after a final decision has been made by the Council of the District.

(3) Failure of the petitioner to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the petition.

(4) Hearings officers shall be selected by the District pursuant to the provisions of section 2.05.025(a) of the Metro Code.

(5) The hearing shall be conducted in the following order:

(A) Staff report, if any.

(B) Statement and evidence by the petitioner in support of a petition.

(C) Statement and evidence of affected persons, agencies, and/or organizations

opposing or supporting the petition.

(D) Rebuttal testimony by the petitioner.

(6) The hearings officer shall have the right to question any participant in the hearing. Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.

(7) The hearing may be continued for a reasonable period as determined by the hearings officer.

(8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

(9) A verbatim oral, written, or mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.

(10) Upon conclusion of the hearing, the record shall be closed and new evidence shall not be admissible thereafter.

(11) The burden of presenting evidence in support of a fact or position in the contested case rests on the petitioner. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with the

applicable standards in this chapter.

(b) Within 30 days following the close of the record, the hearings officer shall prepare and submit a proposed order and findings, together with the record compiled in the hearing and a list of parties to the case, to the Executive Officer. Within 7 days of receiving the materials from the hearings officer, the Executive Officer shall furnish the proposed order and findings to all parties to the case. Accompanying the proposed order and findings shall be notification to parties which includes:

(1) The procedure for filing an exception and filing deadlines for submitting an exception to the proposed order and findings of the hearings officer. Parties filing an exception with the District must furnish a copy of their exception to all parties to the case and the hearings officer.

(2) A copy of the form to be used for filing an exception.

(3) A description of the grounds upon which exceptions can be based.

(4) A description of the procedure to be used to file a written request to submit evidence that was not offered at the hearing, consistent with Metro Code sections 2.05.035(c) and (d).

(5) A list of all parties to the case.

(c) Parties shall have 21 days from the date that the

proposed order and findings are mailed to them to file an exception to the proposed order and findings of the hearings officer with the District on forms furnished by the district.

(d) Within 7 days of the expiration of the period during which an exception can be filed, the Executive Officer shall notify the parties to the case in writing of whether any exceptions have been filed, which parties or party to the case filed them, and the date at which the Council of the District will consider the hearings officer's proposed order and findings and any exceptions.

(e) UGB petitions may be consolidated by the hearings officer or presiding officer for hearings where appropriate. Following consultation with District staff and prospective petitioners, the hearings officer shall issue rules for the consolidation of related cases and allocation of charges. These rules shall be designed to avoid duplicative or inconsistent findings, promote an informed decision-making process, protect the due process rights of all parties, and allocate the charges on the basis of cost incurred by each party.

3.01.065 Staff Review and Report:

COMMENT: This section is substantially unchanged.

All petitions shall be reviewed by District staff and a report and recommendation submitted to the Hearings

Officer not less than ten days before the hearing. A copy of the staff report and recommendation shall simultaneously be sent to the petitioner(s) and others who have requested copies.

3.01.067 Exceptions to the Proposed Order and Findings of the Hearings Officer:

COMMENT: This section is new. It describes who can appeal and what an appeal must be based on.

(a) Exceptions must rely on the evidence in the record for the case. Once a hearings officer has submitted the proposed order and findings to the Executive Officer, the Executive Officer shall become the custodian of the record compiled in the hearing, and shall make the record available at the District offices for review by parties.

(b) Standing to file an exception and participate in subsequent hearings is limited to parties to the case.

(c) An exception must be filed with the District on forms provided by the District for that purpose.

(d) The basis for an exception must relate directly to the interpretation made by the hearings officer of the ways in which the petition satisfies the standards for approving a petition for a UGB amendment found in sections 3.01.036, 3.01.037, and 3.01.038 of this chapter, or in section 3.01.040 of this chapter for locational adjustments.

3.01.070 Final Council Action on Petitions:

COMMENT: This is a new section that outlines how Council will act on petitions and, if an appeal has been filed, act on appeals. Currently and in the future, the Council has the option of limiting the scope of its hearings, or of hearing cases over again. This section is intended to better describe the process that is currently found in chapter 2.05 of the Metro Code.

(a) The Council may act to approve or deny a petition in whole or in part. When the Council renders a decision that reverses or modifies the proposed order of the hearings officer, then, in its order, it shall set forth its findings and state its reasons for taking the action it proposes.

(b) Parties to the case and the hearings officer shall be notified by mail of Council consideration of the case at least 10 days prior to the hearing. Such notice shall include a brief summary of the proposed action, whether testimony by parties will be heard, and the time, date, and location for the hearing.

(c) Final Council action following a hearing shall be as provided in Code Section 2.05.045. Parties shall be notified of their right to review before the Land Use Board of Appeals pursuant to 1979 Or. Laws, ch. 772.

(d) Testimony before the Council by parties must refer specifically to any arguments presented in exceptions filed according to the requirements of this chapter, and

cannot introduce new evidence or arguments before the Council. If no party to the case has filed an exception, then the Council can decide whether it will entertain public testimony at the time that it takes final action on a petition. If the Council decides to take public testimony on a petition for which no exception has been filed by any party, then the council must make the opportunity to testify available to all parties.

(e) The hearing shall be conducted according to the rules of procedure described in chapter 2.05 of the Metro Code.

(f) When the Council acts to approve in whole or in part a petition affecting land outside the District:

(1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the District within six months of the date of adoption of the Resolution.

(2) The Council shall take final action, as provided for in paragraphs (c) and (d) of this section, within thirty (30) days of notice from the Boundary Commission that annexation to the District has been approved.

g) When the Council is considering an ordinance to approve a petition, it shall take all public testimony at its first reading of the ordinance, discuss the case, and then either pass the ordinance to second reading or remand

the proposed order and findings of the hearings officer to the Executive Officer or the hearings officer for new or amended findings. If new or amended findings are prepared, parties to the case shall be provided a copy of the new order and findings by mail no less than 7 days prior to the date upon which the council will consider the new order and findings, and parties will be given the opportunity to provide the council with oral or written testimony regarding the new order and findings.

3.01.075 Notice of District Action:

COMMENT: No change from current language.

The District shall give each county and city in the District notice of each amendment of the UGB. The District shall also notify the government with jurisdiction, which notice shall include a statement of the local action that will be required to make local plans consistent with the amended UGB and the date by which that action must be taken.

3.01.080 Review of Procedures:

COMMENT: No change from existing language.

The procedures in this chapter shall be reviewed by the District every 5 years, and can be modified by the Council at any time to correct any deficiencies which may arise.

3.01.085 LCDC Acknowledgment:

COMMENT: No change from existing language.

This chapter shall be submitted upon adoption to the Land Conservation and Development Commission for acknowledgement pursuant to ORS 197.251, as an implementing measure to the District UGB. Amendments to this chapter shall be submitted to the Department of Land Conservation and Development pursuant to the requirements of OAR 660 Divisions 18 and 19 as appropriate.

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