

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL WORK SESSION MEETING – revised 9/26/03
DATE: September 30, 2003
DAY: Tuesday
TIME: 1:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

- | | | | |
|---------|----|--|-----------|
| 1:00 PM | 1. | DISCUSSION OF AGENDA FOR COUNCIL
REGULAR MEETING, OCTOBER 2, 2003 | |
| 1:15 PM | 2. | PERIODIC REVIEW UPDATE – AGGREGATION
RESULTS | Neill |
| 1:45 PM | 3. | TITLE 4 UPDATE | Weber |
| 2:15 PM | 4. | PROGRAM OPTION CHOICES FOR THE FISH
AND WILDLIFE HABITAT PROTECTION | Deffebach |
| 2:45 PM | 5. | PERFORMANCE INDICATORS | Uba |
| 3:15 PM | 6. | CITIZEN COMMUNICATION | |
| 3:30 PM | 7. | CHIEF OPERATING OFFICER COMMUNICATION | |
| 3:45 PM | 8. | COUNCILOR COMMUNICATION | |

ADJOURN

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ADJOURN

PERIODIC REVIEW UPDATE – AGGREGATION RESULTS AND PORTLAND INDUSTRIAL LANDS

Metro Council Work Session
Tuesday, September 30, 2003
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: September 23, 2003 Time: 1:40

Length: 30 min.

Presentation Title: Periodic Review Aggregation Study Results

Department: Planning

Presenters: Lydia Neill, Principal Regional Planner

ISSUE & BACKGROUND

Staff has been researching the likelihood of being able to form large parcels of land for industrial use in areas that are currently under study in the 2003 Alternative Analysis. Selected areas from the 2002 Alternatives Analysis will be analyzed in a similar manner after the areas under consideration have been reduced based on the locational and siting factors. The need for large parcels over 50 to 100+ acres has been voiced by a number of groups and has been identified as difficult to forecast.

The study outlines a methodology and then reports the results of the application to the 2003 Alternative Analysis Study areas A through M and provides specific information on number of lots that could be potentially created, assessed land and building values, average lots size etc.

A memorandum containing detailed results will be provided at the informal session.

OPTIONS AVAILABLE

This is an informational item only.

IMPLICATIONS AND SUGGESTIONS

The information from this study provides background for the upcoming Council decision to expand the UGB for industrial purposes. This data could assist the Council in deciding between two study areas that are located in the same tier of lands and have similar impacts on agriculture or natural resources. The study is not meant to represent development opportunities on a site specific basis.

QUESTION(S) PRESENTED FOR CONSIDERATION

Is this information useful for the upcoming decision? Should staff proceed with the analysis of the areas contained in the 2002 Alternative Analysis?

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION __ Yes __ X __ No
DRAFT IS ATTACHED __ Yes __ X __ No

SCHEDULE FOR WORK SESSION

Department Director/Head Approval _____

Chief Operating Officer Approval _____

Agenda Item Number 3.0

TITLE 4 UPDATE

Metro Council Work Session
Tuesday, September 30, 2003
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: September 30, 2003

Time:

Length: 35 minutes

Presentation Title: Title 4 RSIA – Code Changes and Estimate of the Number of Acres

Department: Planning

Presenters: Mary Weber

ISSUE & BACKGROUND

In December 2002, the Metro Council amended the urban growth boundary. The Council added some land to accommodate future jobs. In June of 2004, the Council will make another urban growth boundary decision to meet the remaining need for industrial land. As part of the planning requirements of the periodic review of the urban growth boundary, Metro must adopt policies to ensure that the lands inside the boundary are being used efficiently. For industrial lands, the Council adopted a policy and new regulations, called Regional Significant Industrial Areas (RSIA), which establishes restrictions on uses, and partitioning of land in the RSIA designated industrial areas. In December 2002, a map showing potential RSIA areas was adopted and a timeline for adoption of a specific RSIA map was set for December 2003.

At the Council work session on September 16, 2003, staff presented to the Council for their review and comment several changes to the RSIA requirements. The Council directed staff to include changes that clarified the Council's intent, but to drop any refinements that suggested a policy change. Staff has prepared a new set of recommended changes that responds to the Council direction.

OPTIONS AVAILABLE

Option 1: Council could direct staff to proceed with the code refinements and the mapping and come back with a recommendation on October 14, 2003.

Option 2: Council could direct staff to halt the refinement process and proceed with the existing Title 4 RSIA language and make a recommendation on the RSIA areas to be mapped.

IMPLICATIONS AND SUGGESTIONS

If the Council chooses Option 2, to proceed with the existing language and prepare a RSIA map, Metro will likely experience resistance from a number of jurisdictions to implementing the RSIA regulations. The clarification of uses and non-conforming use issues will arise when local governments draft code for implementation. The Council will likely be asked to interpret its regulatory requirements.

If refinements to regulations proceed, the some of the resistance from local governments will likely disappear. Staff will also have more direction from the Council as to what local governments are required to have in their codes to comply. Staff believes that the proposed refinements as directed by the Council maintain the intent of the regulations and address the periodic review requirements.

This periodic review process was the first time Metro addressed specific job land need. More research is required to better understand the requirements of industrial users, building types and evolution of industrial lands.

Staff recommends that Council support the recommended refinements to the RSIA regulations.

QUESTION(S) PRESENTED FOR CONSIDERATION

Shall staff proceed with the recommended refinements to the Title 4 RSIA regulations and work with local governments on map recommendations?

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION ☒ Yes ☐ No
DRAFT IS ATTACHED ☒ Yes ☐ No

The recommended changes to the Metro code are attached. At the work session, a memorandum will be available that outlines the methodology for estimating the amount of RSIA land that is needed to meet the UGR estimates.

SCHEDULE FOR WORK SESSION

Department Director/Head Approval _____
Chief Operating Officer Approval _____

Title 4 RSIA Code Refinements
September 23, 2003

NOTE: Proposed changes are in **bold**. Deletions are in [brackets]; additions are underlined.

Issue 1: Should the requirements of Title 4 be reconsidered over time?

3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong economic climate. To improve the region's economic climate, the plan seeks to protect the supply of sites for employment by limiting **[incompatible uses within] the types and scale of non-industrial uses in** Industrial and Employment Areas. To protect the capacity and efficiency of the region's transportation system for movement of goods and services and to promote the creation of jobs in centers, the plan encourages efficient patterns and mixes of uses within designated Centers and discourages certain kinds of commercial retail development outside Centers. It is the purpose of Title 4 to achieve these policies. **Given the need for flexibility in planning for future industrial and commercial development,** Metro will **[consider amendments to this title in order to make the title consistent with new policies on economic development adopted]** **evaluate this title, using performance measures and indicators established pursuant to Title 9,** as part of **its** periodic **[review] analysis of the urban growth boundary pursuant to ORS 197.299.**

Issue 2: Should sales rooms associated with industrial uses be included within the five percent(RSIA) or 10 percent (Industrial Area) retail sales area caps?

3.07.420 Protection of Regionally Significant Industrial Areas

D. Notwithstanding subsection C, a city or county shall not approve:

1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are part of the same development project; or
2. Commercial retail uses that would occupy more than five percent of the net developable portion of all contiguous Regionally Significant Industrial Areas. **Retail sales of products of industrial uses need not be counted as part of the five percent so long as the sales take place in a building whose principal occupant is a use authorized by subsection C.**

[Make the same change to 3.07.430B for Industrial Areas]

Issue 3: Should “FIRE” uses be allowed in existing offices in RSIA’s so that such uses are not treated as non-conforming uses?

3.07.420 Protection of Regionally Significant Industrial Areas

- C. After determining boundaries of Regionally Significant Industrial Areas pursuant to subsections A and B, the city or county shall adopt implementing ordinances that limit development in the areas to industrial uses, uses accessory to industrial uses, offices for industrial research and development and large corporate headquarters in compliance with subsection E of this section, utilities, and those non-industrial uses necessary to serve the needs of businesses and employees of the areas. Ordinances **[shall not] may** allow financial, insurance, real estate or other professional office uses **[unless they are accessory to an industrial or other permitted use] in a building authorized by final land use approval prior to July 7, 2004, but not in a building or an expansion authorized by final land use approval after that date.**

Issue 4: Should the retail sales area caps extend into adjacent RSIA's or Industrial Areas in adjoining cities or counties?

3.07.420 Protection of Regionally Significant Industrial Areas

D. Notwithstanding subsection C, a city or county shall not approve:

1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are part of the same development project; or
2. Commercial retail uses that would occupy more than five percent of the net developable **[portion] land [of all contiguous] within that portion of any** Regionally Significant Industrial Area[s] **subject to its land use planning jurisdiction.**

[Make the same change to 3.07.430B for Industrial Areas.]

Issue 5: Should corporate headquarters of an industrial company be allowed in an RSIA on a different parcel from, or a parcel that is not adjacent to, the company's manufacturing facilities?

E. As provided in subsection C of this section, a city or county may approve an office for a large corporate headquarters if:

1. The office is **in the same Regionally Significant Industrial Area as industrial uses operated by the company that would be the principal occupant of the office; or**
- [1]~~2~~. The office is served by public or private transit; and
- [2]~~3~~. If the office is for a corporate headquarters, it will accommodate for the initial occupant at least 1,000 employees.

Issue 6: What is the appropriate level of commercial use at the region's three public airports?

3.07.420 Protection of Regionally Significant Industrial Areas

C. After determining boundaries of Regionally Significant Industrial Areas pursuant to subsections A and B, the city or county shall adopt implementing ordinances that limit development in the areas to industrial uses, uses accessory to industrial uses, offices for industrial research and development and large corporate headquarters in compliance with subsection E of this section, utilities, and those non-industrial uses necessary to serve the needs of businesses and employees of the areas. Ordinances shall not allow financial, insurance, real estate or other professional office uses unless they are accessory to an industrial or other permitted use. **Within the boundaries of a public airport subject to an airport master plan, ordinances may also allow uses that are accessory to the travel-related activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public.**

Corrections:

1. Correct the reference in 3.07.420B to Ordinance No. 02-969B:

B. Each city and county with land use planning authority over an area designated by Metro on the 2040 Growth Concept Map, as amended by Ordinance No. 02-969B, as a Regional Significant Industrial Area shall, as part of compliance with Section 3.07.1120 of the Urban Growth Management Functional Plan, derive plan designation and zoning district boundaries of the areas from the Growth Concept Map.

2. Correct the provisions in 3.07.420F on land divisions:

F. A city or county may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels less than 50 acres may be divided into any number of smaller lots or parcels;
2. Lots or parcels **larger than** 50 acres **[or larger]** may be divided into smaller lots and parcels so long as the resulting division yields the maximum number of lots or parcels of at least 50 acres;
3. Notwithstanding paragraphs **[2, 3]** 1 and 2 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - a. To provide public facilities and services;
 - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
 - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use;
 - d. To reconfigure the pattern of lots and parcels pursuant to subsection G of this section; or
 - e. To allow the creation of a lot for financing purposes when the created lot is part of a master planned development.

3. Correct the provisions in 3.07.420G on reconfiguration of lots:

G. A city or county may allow reconfiguration of lots **[or parcels less than 50 acres in area if the reconfiguration would be more conducive to a permitted use and would result in no net increase in the total number of lots and parcels. Lots]** or parcels **larger than** 50 acres **[or greater in area may also be reconfigured]** so long as the resulting area of any such lot or parcel would not be less than 50 acres.

4. Change “floorspace” to “floor area” in 3.07.430C to conform to rest of Title 4:

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

Agenda Item Number 4.0

GOAL 5 PUBLIC COMMENT FEEDBACK

Metro Council Work Session
Tuesday, September 30, 2003
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: 9/30/03

Time:

Length: 30 min

Presentation Title: Program Option Choices for the Fish and Wildlife Habitat Protection

Department: Planning

Presenters: Deffebach, Cotugno, Ketcham

ISSUE & BACKGROUND

The Economic, Social, Energy, Environment (ESEE) analysis is the second step in the three-step process described by Goal 5 following the definition of the Significant Resource Inventory and before development of the program for protection of the fish and wildlife habitat areas. The ESEE analysis identifies the issues associated with a decision to allow, limit or prohibit conflicting use on natural resource lands and discusses trade-offs in these decisions.

Metro is conducting the ESEE analysis in two phases. The first phase identifies the ESEE consequences at a regional level. Metro's technical advisory committees are now reviewing a draft report of this analysis. These ESEE findings are being presented to a variety of organizations and are being displayed at a variety of public events to raise the level of public awareness regarding fish and wildlife habitat protection and to begin the discussion of the difficult choices that must be made to determine the most appropriate level and type of habitat protection for the region. The outreach efforts are continuing through September and October, ending with public hearings before the Metro Council on October 23 and 30, 2003.

The second phase of the ESEE analysis will evaluate the ESEE consequences of a range of protection program options. Metro Council has previously directed staff to include a mix of regulatory and non-regulatory approaches in the program options. In addition, the ESEE findings support a variety of different approaches to the regulatory elements of a program such as varying the level of protection by ecological value or economic development priority and raise several issues for further consideration such as the appropriate role of regulations on redevelopment of existing uses. The schedule calls for Metro Council to give staff direction, via resolution, on the program options for further evaluation by October 30, 2003.

OPTIONS AVAILABLE

Based on the ESEE findings, Metro staff has identified a range of Protection Program Options for discussion by Metro Council at the Work Session. After the Council Work Session on September 30, staff is scheduled to present the draft range of program options to MTAC and MPAC along with a draft resolution and staff report, on October 1 and 8, 2003. The schedule then calls for MTAC and MPAC to take action on the resolution on October 15 and 22, 2003. Metro Council will have the opportunity to review the

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resolution on October 23, before action is scheduled for October 30, 2003. The range of options and the draft resolution and staff report will be available for Metro Council review later this week, prior to discussion on September 30, 2003.

IMPLICATIONS AND SUGGESTIONS

Defining the appropriate range of protection options is a significant next step in the Fish and Wildlife Protection Program. The range of program options will evolve as Metro's technical and policy advisory committees review them and as public comments are received on the ESEE findings. The Council Work Session is an important time for Councilors to give direction to staff about the options that are presented for review and action in October.

QUESTION(S) PRESENTED FOR CONSIDERATION

Staff request that Council members give staff direction on variables that they would like to see evaluated as part of the program options and information that they would like to have available to compare the options.

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION ☒ Yes ☐ No
DRAFT IS ATTACHED ☒ Yes ☐ No

SCHEDULE FOR WORK SESSION

Department Director/Head Approval _____
Chief Operating Officer Approval _____

Agenda Item Number 5.0

PERFORMANCE INDICATORS

Metro Council Work Session
Tuesday, September 30, 2003
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: 9/30/03

Time:

Length: 20 minutes

Presentation Title: Draft 2004 Performance Measures: Reorganization of Indicators

Department: Planning

Presenters: Gerry Uba

ISSUE & BACKGROUND

The first performance measures report established a basic methodology for evaluating the degree to which adopted policies and other livability issues of regional concern are being achieved. That methodology established eight 2040 Fundamental values from various policies adopted in Metro plans. That methodology also established the process for identifying and prioritizing the performance indicators to measure the Fundamentals. Of the 138 performance indicators identified to measure the Fundamentals, 80 were analyzed in the first report. When the Metro Council adopted the report in March 2003, it directed staff to revisit the prioritization of the indicators and potentially, reduce the number of performance indicators, and recommend changes that would improve the overall presentation.

Last April, a group of interdepartmental staff used a half day retreat to refine the method of identifying indicators. A MTAC-TPAC Performance Measures Subcommittee met five times with staff to review and discuss the indicators and data factors in the attached document (Draft 2004 Performance Measures: Reorganization of Indicators).

OPTIONS AVAILABLE

The indicators in the 2003 report were defined very narrowly for individual policies adopted to implement the 2040 Growth Concept. The analysis of each indicator was also very narrow and discrete without linkage to the analysis of other indicators.

The indicators identified for the 2004 report were redefined to be broader statements of intent behind Metro's regional policies adopted to implement the 2040 Fundamentals. The reorganized indicators reflect changes in the physical, economic or social systems affecting the 2040 Fundamentals. In essence, the indicators now ask broader questions about the key activities that must occur if Metro policies are to succeed in implementing the 2040 Fundamentals. The number of indicators has been reduced, however, many former indicators are retained only as data factors.

IMPLICATIONS AND SUGGESTIONS

Some members of the Metro committees (MPAC, MTAC, JPACT, TPAC, GTAC) continues to suggest that we should attempt to answer the question: how are we doing making this region a livable place? The implication is that Metro will end up measuring issues it does not have authority to manage. Metro policies are just part of the numerous factors, including policies and actions of various public and private entities that enhance or impact livability in this region.

It seems imperative that the focus of the Metro performance measures should be on measuring only the effectiveness of regional policies adopted by Metro Council.

QUESTION(S) PRESENTED FOR CONSIDERATION

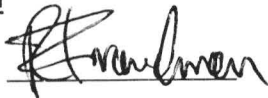
Do you approve the approach used to reorganize and reduce the number of performance indicators to be measured for the 2004 report?

Are there Metro policies we have not identified performance indicators for?

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION X Yes No
DRAFT IS ATTACHED X Yes No

SCHEDULE FOR WORK SESSION

Department Director/Head Approval



Chief Operating Officer Approval

Draft 2004 Performance Measures: Reorganization of Indicators

(Updated September 17, 2003)

Background

Metro's first Performance Measures Report was published in March 2003. Its purpose was to evaluate effectiveness of Metro's regional growth management policies. The first report established a basic methodology for conducting subsequent performance measurements. That methodology established eight 2040 Fundamental values from various policies adopted in Metro plans. Of the 138 performance indicators identified to measure the Fundamentals, data was collected for 80 and analyzed in the 2003 report. When the Metro Council adopted the 2003 report, it directed staff to revisit the prioritization of the indicators and potentially, reduce the number of performance indicators, and recommend changes that would improve the overall presentation. This document represents the progress to-date in reorganizing and prioritizing the indicators to be measured in 2004.

Summary of Progress

The MTAC-TPAC Performance Measures Subcommittee reviewed the preliminary draft of the proposed reorganization of the performance indicators. The draft reorganization is organized by the 2040 Fundamental values. Within each 2040 Fundamental, the reorganized indicators are presented in tables that provide a visual framework of the components of each indicator and the data needed to effectively measure the indicators. This draft document contains the Subcommittee recommendations of indicators and related "data factors" to be measured in the 2004 report. The following is an explanation of the Subcommittee's review and recommendations:

- a) Minor changes to Fundamentals 2, 3, 6 and 8; otherwise the eight 2040 Fundamentals remain largely unchanged from the first performance measures report.
- b) The indicators were redefined to be broader statements of intent behind Metro's regional policies adopted to implement the 2040 Fundamentals. The reorganized indicators reflect changes in the physical, economic or social systems affecting the 2040 Fundamentals. In essence, the indicators now ask questions about the key activities that must occur if Metro policies are to succeed in implementing the 2040 Fundamentals. The number of indicators has been reduced, however, many former indicators are retained as "data factors" (see below).
- c) "Data factors" were grouped in separate columns in relation to the questions posed by the indicators about the success of Metro policies. The data factors supply specific information and data to answer the questions posed by the indicators. (NOTE: Staff intends to assign a unique numbering system to all the data factors.)
- d) The total number of indicators and data factors to be measured in the 2004 report are shown below, and are compared to the number of indicators measured in the 2003 report.

2003 PM Report		2004 PM Report	
Indicators Identified	Indicators Measured	Indicators Identified	Data factors to be measured
138	80	31	183

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Preview of Performance Measures Fundamentals and Indicators

Fundamental 1: Encourage a strong local economy by providing an orderly and efficient use of land, balancing economic growth around the region and supporting high quality education.

Indicator 1.1: Supply of land inside the UGB and mixed use centers by type. (REQ: Metro #1&4; State #1&4) *Measures the current availability of the major categories of land in the Metro UGB*

Indicator 1.2: Protection of industrial lands. (REQ: Periodic Review) *Measures factors that could compromise the supply of industrial land*

Indicator 1.3: Industrial land access and movement of goods. *Measures the amount and value of goods that travel to, from and within the Metro Region and assesses the transportation system that supports this freight movement*

Indicator 1.4: Tax base capacity of jurisdictions in the Metro region. (REQ: Metro #2&8; State #2) *Measures the strength of the regional economy by analyzing land development activity and land value*

Indicator 1.5: Employment, income and business trends (REQ: Metro #3; State #3) *Measures the economic health of the region by looking at general economic indicators such as employment and wages*

Indicator 1.6: High quality education in the Metro region. *Measures the extent to which educational opportunities contribute to a strong regional economy*

Fundamental 2: Encourage the efficient use of land within the UGB including buildable industrial and commercial land and by focusing on development of in 2040 mixed use centers and corridors.

Indicator 2.1a: Absorption of land inside the UGB and mixed use centers by type. (REQ: Metro #1&4; State #1&4) *Measures the consumption/change of the major categories of land in the Metro region*

Indicator 2.1b: Density conditions reflecting the absorption of land in the UGB and mixed use centers by type. *Measures the efficiency with which several significant land development factors are consuming sectors of available land by type*

Indicator 2.2: Growth accommodation in mixed use centers. (REQ: Metro #2&7; State #2&3; and Periodic Review) *Measures the contribution that mixed use centers are making in helping the region accommodate new growth*

Indicator 2.3: Accessibility in mixed use centers. (REQ: State #9) *Measures regional efforts to maintain auto and freight access to 2040 Centers by intensifying mixed residential/commercial/employment uses and providing multi-modal access from areas outside the centers*

Fundamental 3: Protect and restore the natural environment through actions such as protecting including fish and wildlife habitat, and restoring streams and wetlands, improving surface and ground water quality and quantity, and ~~reducing air emissions~~ quality.

Indicator 3.1: Condition and conversion of environmentally sensitive areas regulated (and not regulated) by Title 3 and Goal 5. (REQ: Metro #5; State #5) *Measures the condition of the natural environment in the Metro region and the effect that regulations intended to protect these resources are having*

Indicator 3.2: Acquisition of environmentally sensitive areas with Metro's \$135.6 million bond measure approved in 1995. (REQ: Metro #5; State #5) *Measures the effort of Metro and local governments in acquiring natural areas*

Indicator 3.3: Acquisition of other environmentally sensitive areas using non-1995 bond measure funds (including acquisition of development rights, i.e., easements). *Measures the effort of various entities in acquiring natural areas with non-bond measure funds.*

Indicator 3.4: Restoration of environmentally sensitive lands. (REQ: Metro #5; State #5) *Measures the efforts of Metro, local governments, and other organizations to restore degraded natural areas*

Indicator 3.5: Protection of environmentally sensitive areas through non-regulatory means. (REQ: Metro #5; State #5) *Measures the number and effectiveness of programs that create incentives for people to protect environmentally sensitive areas*

Indicator 3.6: Air quality. (REQ: State #9) *Measures the region's ability to maintain air quality while accommodating increases in population and employment.*

Indicator 3.7: Waste reduction and recycling in the Metro region. *Measures the efforts that the region is making in reducing, reusing, and recycling waste*

Fundamental 4: Provide a balanced transportation system including safe, attractive facilities for bicycling, walking and transit as well as for motor vehicles and freight

Indicator 4.1: Funding the RTP Priority System (REQ: State #9) *Measures regional success securing funds to build and maintain a regional transportation system adequate to support the Region 2040 Concept Plan.*

Indicator 4.2: Using transportation investments to leverage land use goals. (REQ: State #9) *Measures implementation, especially by local governments, of regional transportation system policies designed to encourage development of 2040 mixed use centers.*

Indicator 4.3: System performance. (REQ: State #9) *Measures effectiveness of region-wide auto, freight and transit systems.*

Fundamental 5: Maintain separation between the Metro UGB and neighboring cities by working actively with these cities and their respective counties

Indicator 5.1: Growth accommodation inside the UGB versus growth in neighboring cities. *Measures the pressure that is being placed on Metro and its surrounding rural communities to grow together*

Indicator 5.2: Effectiveness of intergovernmental agreements to preserve separation of communities. *Measures the number, and effectiveness of certain agreements that were signed between Metro and others to preserve a separation of communities*

Fundamental 6: Enable Encourage communities inside the Metro UGB to preserve enhance their physical sense of place by using among other tools, greenways, natural areas, and built environment elements

Indicator 6.1: Built characteristics of the community. *Measures the unique built attributes of a community that help to define community identity*

Indicator 6.2: Design/layout of the community. *Measures unique design and layout characteristics that help define a community's sense of place*

Indicator 6.3: Natural characteristics of the community. *Measures the unique natural attributes that contribute to a community's sense of place*

Indicator 6.4: Retail and service opportunities in the community. *Measures unique shopping and service opportunities that may help to define a community's character*

Fundamental 7: Ensure availability of diverse housing options for all residents by providing a mix of housing types as well as affordable homes in every jurisdiction

Indicator 7.1 – Affordable housing supply, consumption, and affordability in the UGB and mixed use centers. (REQ: Metro #2&8; State #2&7) *Measures the supply and demand for affordable housing in the Metro region and the factors that affect a person's ability to pay for housing*

Indicator 7.2 – Affordability by development pattern in the UGB and mixed use centers (via computation of Smart Commute Mortgage Index or Location Efficient Mortgage Index) *Measures transportation savings that home buyers can realize by purchasing a home in neighborhoods served with abundant public transportation with easy access, via non-auto travel modes to jobs, shopping cultural activities and other destinations.*

Fundamental 8: Create a vibrant place to live and work by providing sufficient and accessible parks and natural areas, improving access to community resources such as schools, community centers and libraries ~~as well as by balancing the distribution of high quality jobs throughout the region~~, and providing attractive facilities for cultural and artistic performances and supporting arts and cultural organizations.

Indicator 8.1: Parks and greenspaces in the Metro Region. (REQ: State #8) *Measures the amount of parks and greenspaces that are available to citizens of the Metro region*

Indicator 8.2: Access to community resources. *Measures contribution of Metro land use policies and facility management to the support of cultural amenities in the region.*

Indicator 8.3: Opportunities and support for arts and recreation. *Measures contribution of Metro and the region ins supporting cultural and artistic activities.*

Fundamentals, Indicators and Data Factors

Fundamental 1: Encourage a strong local economy by providing an orderly and efficient use of land, balancing economic growth around the region and supporting high quality education.

Indicator 1.1: Supply of land inside the UGB and mixed use centers by type - (REQ: Metro #1&4; State #1&4)

Measures the current availability of the major categories of land in the Metro UGB

Residential	Commercial	Industrial	Mixed use	
			Industrial/Commercial	Residential/Commercial
<ul style="list-style-type: none"> ✓ Fully vacant parcels (1.2a)(1.1a) <ul style="list-style-type: none"> Gross vacant acres¹ - UGB Gross buildable acres² - UGB Gross vacant acres - Centers Gross buildable acres - Centers 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres - UGB (8.4a) Gross buildable acres - UGB Gross vacant acres - Centers Gross buildable acres - Centers 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres - Regionally significant³ (8.1a) Gross buildable acres - Regionally significant Gross vacant acres - Non-Regionally significant⁴ (8.1a) Gross buildable acres - Non-Regionally significant 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres (8.4d) Gross buildable acres 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres - UGB (8.4d) Gross buildable acres - UGB Gross vacant acres - Centers Gross buildable acres - Centers
<ul style="list-style-type: none"> Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres - UGB Gross buildable acres - UGB Gross vacant acres - Centers Gross buildable acres - Centers 	<ul style="list-style-type: none"> Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres - UGB Gross buildable acres - UGB Gross vacant acres - Centers Gross buildable acres - Centers 	<ul style="list-style-type: none"> Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres - Regionally significant Gross buildable acres - Regionally significant Gross vacant acres - Non-Regionally significant Gross buildable acres - Non-Regionally significant 	<ul style="list-style-type: none"> ✓ Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres Gross buildable acres 	<ul style="list-style-type: none"> ✓ Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres - UGB Gross buildable acres - UGB Gross vacant acres - Centers Gross buildable acres - Centers
<ul style="list-style-type: none"> Infill land <ul style="list-style-type: none"> Gross buildable acres - UGB Gross buildable acres - Centers 	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres - UGB Gross buildable acres - Centers 	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres - Regionally significant Gross buildable acres - Non-Regionally significant 	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres 	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres - UGB Gross buildable acres - Centers
<ul style="list-style-type: none"> Redevelopment land <ul style="list-style-type: none"> Gross buildable acres - UGB Gross buildable acres - Centers 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross buildable acres - UGB Gross buildable acres - Centers 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross vacant buildable land served with public facilities classified as Tier D in the 1999 Regional Industrial Supply Study (8.3) 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross buildable acres 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross buildable acres - UGB Gross buildable acres - Centers
<ul style="list-style-type: none"> Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross buildable acres 		<ul style="list-style-type: none"> ✓ Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross vacant buildable acres classified as Tier A in the Regional Industrial Land Supply study (8.2) 	<ul style="list-style-type: none"> ✓ Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross buildable acres 	<ul style="list-style-type: none"> ✓ Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross buildable acres - UGB Gross buildable acres - Centers

1. Gross vacant land is all land determined to be vacant from aerial photos.

2. Gross buildable land is the land remaining after Title 3 areas are subtracted from the supply of gross vacant land.

3. Regionally significant industrial areas offer the best opportunities for family-wage jobs and have unique industrial attributes (distribution, services, access, proximity) that cannot be duplicated elsewhere in the region or through UGB expansion.

4. Partially vacant parcels are those tax lots with an undeveloped portion larger than 1/4 acre in size. Development occurring on these lots is considered new development on vacant land.

5. A methodology for estimating the supply of infill and redevelopable land has yet to be developed. (Infill development is new development occurring on already-developed tax lots - smaller than 1/2 acre in size.)

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Indicator 1.2: Protection of industrial lands – (REQ: Periodic Review)

Measures factors that could compromise the supply of industrial land

Encroachment of non industrial uses into industrial areas	Rezoning of industrial lands
✓ Change in retail employment in areas zoned industrial (3.8a) Measures progress or lack of progress in implementing limited retail commercial uses in industrial area	✓ Amount of land in regionally significant industrial areas or industrial areas currently zoned for industrial use that is rezoned to allow commercial, residential, institutional or other non-industrial use (REQ) - Periodic Review
✓ Number of retail establishments larger than 20,000 sq. ft. located in the industrial area (3.8b) Measures progress or lack of progress in implementing limited retail commercial uses in industrial area	

Indicator 1.3: Industrial land access and movement of goods

Measures the amount and value of goods that travel to, from and within the Metro Region and assesses the transportation system that supports this freight movement

Industrial land access	Tonnage and value
✓ Percent of "Regional Significant Industrial Land" provided with adequate transportation access (i.e. 228th crossing)	✓ Freight tonnage and value of goods from Port of Portland facilities versus comparable (breakbulk and/or rolloff) port facilities nationwide and/or major west coast ports using the following modes: a) Air; b) Marine; c) Rail; d) Truck (8.13) Measures performance of the region's freight system relative to similar facilities
	✓ Percent tonnage and value of Portland region freight distribution activity relative to total west coast volumes Measures market share captured and vitality of the region's freight system

1. Adequate transportation access includes new roads, intersection improvements, and to a lesser extent rail connections. (2001 Regional Industrial Land Study)

Indicator 1.4: Tax base capacity of jurisdictions in the Metro region – (REQ: Metro #2&8; State #2)

Measures the strength of the regional economy by analyzing land development activity and land value.

Development	Value	Diversity of tax revenue
✓ Change in number of residential units and square footage of: • Commercial • Industrial • Tax exempt institutions	✓ Assessed value of: Residential Industrial Commercial	✓ Ratio of total assessed value of residential properties to commercial and industrial properties
✓ Proportion of the acreage of tax exempt properties to the acreage of all taxable uses (res/com/ind)	✓ Assessed property value Per Capita (8.12) Measures the financial health of jurisdictions which is necessary for supporting local government public services	✓ Ratio of total assessed value of properties to collected tax revenue
✓ Number of industrial and commercial "brownfield" sites converted to development Measures the conversion of contaminated land to productive land	✓ Change in real estate price for: i) Residential single family (6/unit); ii) Residential multi-family (5/acre); iii) Commercial; iv) Industrial (8.11)	

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Indicator 1.5: Employment, income and business trends (REQ: Metro #3; State #3)

Measures the economic health of the region by looking at general economic indicators such as employment and wages

Employment	Income	Business Trends
✓ Regional Employment Capture Rate (8.5c)	✓ Income Growth, per capita income, wage rates by industry (8.7) This indicator compares income and wages in the region with national trends	✓ Retail sales per capita. (8.15) Measures vitality of retail sector of regional economy against the national economy
✓ Total Regional Employment Growth (8.5a) Measure the contribution of job growth in powering the regional economy		
✓ Regional Employment Growth by sector (8.5b) Measures various sectors powering the regional economy		
✓ Regional Employment Growth by industry by County (8.5d) Measures the amount of job growth in various parts of the region		
✓ Regional Unemployment Rate (8.6) Compares unemployment for the Portland/Vancouver PMSA (Clark, Clackamas, Columbia, Multnomah, Yamhill, and Washington Counties) with national trends		

Indicator 1.6: High quality education in the Metro region.

Measures the extent to which educational opportunities contribute to a strong regional economy

Quality	Equity	Educational Opportunities
State (ODE) Report Card: rating schools by student performance, student behavior and school character	Socioeconomic status and growth of schools using data factors such as: <ul style="list-style-type: none"> free and reduced lunch percentages (or poverty concentration) percent of English as a Second Language students percent of minority students drop-out rates, and class sizes 	Availability of (or opportunity for) post high school education, adult education training, professional and technical training or retraining

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Fundamental 2: Encourage the efficient use of land within the UGB including buildable industrial and commercial land and focusing on development of in 2040 mixed use centers and corridors

Indicator 2.1a: Absorption of land inside the UGB and mixed use centers by type – (REQ: Metro #1&4; State #1&4)

Measures the consumption/change of the major categories of land in the Metro region

Residential	Commercial	Industrial	Mixed use		Schools
			Industrial/Commercial	Residential/Commercial	
<ul style="list-style-type: none"> ✓ Fully vacant parcels (1.2a)(1.1a) <ul style="list-style-type: none"> Gross vacant acres¹ - UGB Gross buildable acres² -UGB Gross vacant acres¹-Centers Gross buildable² -Centers 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres (8.4b) Gross buildable acres – UGB Gross vacant acres-Centers Gross buildable acres-Centers 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres -Regionally significant³ (8.1b) Gross buildable acres -Regionally significant Gross vacant acres - Non-Regionally significant(8.1b) Gross buildable acres – Non-Regionally significant 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres (8.4e) Gross buildable acres 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres -UGB (8.4d) Gross buildable acres –UGB Gross vacant acres –Centers Gross buildable acres –Centers 	<ul style="list-style-type: none"> ✓ Fully vacant parcels <ul style="list-style-type: none"> Gross vacant acres Gross buildable acres
<ul style="list-style-type: none"> ✓ Partially vacant parcels (1.2a)(1.1a) <ul style="list-style-type: none"> Gross vacant acres Gross buildable acres –UGB Gross vacant acres-Centers Gross buildable –Centers 	<ul style="list-style-type: none"> ✓ Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres –UGB Gross buildable acres –UGB Gross vacant acres-Centers Gross buildable acres –Centers 	<ul style="list-style-type: none"> ✓ Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres –Regionally significant Gross buildable acres –Regionally significant Gross vacant acres - Non-Regionally significant Gross buildable acres – non-regionally significant 	<ul style="list-style-type: none"> ✓ Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres Gross buildable acres 	<ul style="list-style-type: none"> ✓ Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres –UGB Gross buildable acres –UGB Gross vacant acres –Centers Gross buildable acres –Centers 	<ul style="list-style-type: none"> ✓ Partially vacant parcels <ul style="list-style-type: none"> Gross vacant acres Gross buildable acres
<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres-UGB Gross buildable –Centers Refill rate (1.2c) <p>Measures how well policies and the economy are promoting re-use of existing land</p>	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres-UGB Gross buildable –Centers Refill rate 	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres –Regionally significant Gross buildable acres – Non-Regionally significant Infill rate 	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres 	<ul style="list-style-type: none"> ✓ Infill land <ul style="list-style-type: none"> Gross buildable acres –UGB Gross buildable acres –Centers 	
<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross buildable acres Gross buildable –Centers Refill rate (1.2c) 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross buildable acres Gross buildable –Centers Refill rate 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross? (or Net?) vacant buildable land served with public facilities classified as Tier D in the 1999 Regional Industrial Supply Study (8.3) 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross buildable acres 	<ul style="list-style-type: none"> ✓ Redevelopment land <ul style="list-style-type: none"> Gross buildable acres –UGB Gross buildable acres –Centers 	
<ul style="list-style-type: none"> ✓ Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross buildable acres 		<ul style="list-style-type: none"> ✓ Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross? (or Net?) buildable acres classified as Tier A in the Regional Industrial Land Supply study (8.2) 	<ul style="list-style-type: none"> ✓ Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross buildable acres 	<ul style="list-style-type: none"> ✓ Land served with public facilities and readily developable <ul style="list-style-type: none"> Gross buildable acres 	

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4. Absorption of infill and redevelopment land would require a study once the supply of these categories is known (see Indicator 1.1)

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Indicator 2.1b: Density conditions reflecting the absorption of land in the UGB and mixed use centers by type

Measures the efficiency with which several significant land development factors are consuming sectors of available land by type

	Residential	Commercial	Industrial	Mixed use	
				Ind/Com	Res/Com
Employment		✓ Consumption of buildable land by employment in industrial and non-industrial areas (1.2b)		✓ Consumption of buildable land by employment in mixed use areas	
Population	✓ Population and dwelling unit density by census tract (1.1d)			✗ Persons per acre by design type	
	✓ Gross consumption of vacant land as compared to population growth (1.2f)				
Buildings	✓ Change in "average" lot size of single family attached residences. (Subtract public streets, Title 3 and parks.) (6.4)	✓ Change in the physical density of newly built nonresidential structures by measuring the floor-to-area ratio (1.2g)			
	✓ Change in average lot size of single family residences in new* subdivision developments (1.2d)				
	✓ Change in average number of multi-family units per net acre (6.3)				
	✓ Residential underbuild				
Parking	✓ Change in surface area parking and amount of land dedicated to parking (1.4a)				
	✓ Trend in parking structure innovations including blended parking ratios (1.4b)				

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Indicator 2.2: Growth accommodation in mixed use centers - (REQ: Metro #2&7; State #2&3; and Periodic Review)

Measures the contribution that mixed use centers are making in helping the region accommodate new growth

Population	Employment	Housing	Other land use-related improvements
✓ Population and employment locating in mixed use centers versus the rest of the UGB, or "mixed use capture rate" (1.1a) Measures the baseline amount existing today and the change between two periods		✓ Median rent of MFR housing in mixed use centers compared to the rest of the region. (6.8) Measures the region's progress or lack of progress in the production of affordable rental housing	✓ Change in real estate price for i) Residential single family (\$/unit); ii) Residential multi-family (\$/acre); iii) Commercial; iv) Industrial. In mixed use centers (8.11)
✓ Population and employment locating in the UGB versus the four county area, or "capture rate" (1.1b) Measures how effectively the region is accommodating growth compared with the larger economic area (four counties)		✓ Median sales price of SFR in mixed use centers compared to the rest of the region (6.9) Measures affordability of homes in the region, and implicitly measures progress or lack of progress in homeownership rate in the region	✓ Number of centers for which local governments have adopted strategies under new Title 3 (REQ: Periodic Review)
✓ Population density per acre in mixed use centers	✓ Employment in 2040 mixed use centers and corridors including public sector jobs(1.1c) Measures the distribution (amount and type of jobs) by industrial categories in the mixed use centers and corridors	✓ Vacancy rate for MFR in mixed use centers compared to the rest of the region(6.5) Measures the availability of multi-family housing stock and also the low and high demand for housing units	✓ Change in surface area parking and amount of land dedicated to parking in mixed use centers (1.4a) ✓ Trend in parking structure innovations including blended parking ratios in mixed use centers (1.4b) Measures land use intensity and building innovation
✗ Breakdown (or demographics) of population locating in centers	✓ Business types locating in mixed use centers (7.8) Measures the attractiveness of mixed use centers using location quotients for industries	✓ Number of units affordable to households making 50% or less of MHI in mixed use centers compared to the rest of the region (6.10) Measures affordability of housing units for a specific group of households in the region and jurisdictions, and implicitly measures progress or lack of progress in meeting the region's affordable housing goals	✓ Public (urban renewal districts, local improvement districts, etc.) vs. private investment ratio in centers (6.11) (6.12) (6.13) (6.14) (6.15) (6.16) (6.17) (6.18) (6.19) (6.20) (6.21) (6.22) (6.23) (6.24) (6.25) (6.26) (6.27) (6.28) (6.29) (6.30) (6.31) (6.32) (6.33) (6.34) (6.35) (6.36) (6.37) (6.38) (6.39) (6.40) (6.41) (6.42) (6.43) (6.44) (6.45) (6.46) (6.47) (6.48) (6.49) (6.50) (6.51) (6.52) (6.53) (6.54) (6.55) (6.56) (6.57) (6.58) (6.59) 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Fundamental 3: Protect and restore the natural environment through actions such as protecting including fish and wildlife habitat, and restoring streams and wetlands, improving surface and ground water quality and quantity, and reducing air emissions quality.

Indicator 3.1: Condition and conversion of environmentally sensitive areas regulated (and not regulated) by Title 3 and Goal 5 – (REQ: Metro #5; State #5)

Measures the condition of the natural environment in the Metro region and the effect that regulations intended to protect these resources are having

Condition		Conversion	
Title 3 (1998)	Goal 5 (potential data factors)	Title 3	Goal 5 (potential data factors)
Streams <ul style="list-style-type: none">✓ Miles of Title 3 streams included vs. total (2.1b)✓ Forested acres in Title 3 stream corridors (2.1a/2.4)✓ Vegetated acres in Title 3 stream corridors Wetlands <ul style="list-style-type: none">✓ Acreage of wetlands and Title 3 buffers (2.1a/2.4)✓ Forested acres in wetlands and Title 3 buffers (2.4)✓ Vegetated acres in wetlands and buffers Floodplains <ul style="list-style-type: none">✓ Vacant land in floodplains✓ Forested acres in floodplains (2.1a/2.4)✓ Vegetated acres in floodplains <p>Non Title 3 regulated sensitive areas</p> <ul style="list-style-type: none">✗ Acres of forested (tree canopy) land that are unregulated by Title 3 and outside of public and private parks and open space areas (2.6a)✗ Acres of vacant steep slopes inside the Metro boundary not regulated by Title 3. (2.8)	Streams <ul style="list-style-type: none">✓ Miles of Goal 5 streams inventoried (2.b)✓ Acres of land in Class I and II riparian areas✓ Acres of forested and vegetated stream corridors (Class I, II, and III) Wetlands <ul style="list-style-type: none">✓ Acres of Goal 5 wetlands inventoried✓ Acres of wetlands in Class I and II riparian areas✓ Acres of forested and vegetated wetlands in Class I and II areas✓ Total number of wetlands Floodplains <ul style="list-style-type: none">✓ Acres of floodplains inventoried✓ Acres of floodplains in Class I, II, and III riparian areas✓ Acres of forested and vegetated floodplain Other wildlife areas <ul style="list-style-type: none">✓ Acres of Class A, B, and C habitat✓ Acres of forested and vegetated Class A, B, and C habitat✓ Acres of areas of habitat of concern (Class I and A) <p>Additional Goal 5 wildlife data factors</p> <ul style="list-style-type: none">✓ Number of culverts in the Metro region blocking fish passage (2.c)✓ Miles of fish-bearing streams (2.e)✓ Species indices as an indicator of stream and habitat health (macroinvertebrates, birds, fish species, etc.) (2.d)	Streams <ul style="list-style-type: none">✓ Change in forested acres in Title 3 stream corridors (2.2a-b)✓ Change in vegetated acres in Title 3 stream corridors Wetlands <ul style="list-style-type: none">✓ Change in forested acres in wetlands and associated Title 3 buffers (2.5)✓ Change in vegetated acres in wetlands and associated buffers✓ Wetland fill permits via ODSL (2.2d) Floodplains <ul style="list-style-type: none">✓ Change in vacant land in floodplains (2.2c)✓ Change in forested acres in floodplains (2.5)✓ Vegetated acres in floodplains <p>Non Title 3 regulated sensitive areas</p> <ul style="list-style-type: none">✗ Change in acres of forested (tree canopy) land that are unregulated by Title 3 and outside of public and private parks and open space areas (2.6a)✗ Change in acres of vacant steep slopes inside the Metro boundary not regulated by Title 3 (2.8)	Streams <ul style="list-style-type: none">✓ Change in miles of Goal 5 streams inventoried✓ Change in acres of land in Class I and II riparian areas✓ Change in acres of forested and vegetated stream corridors (Class I, II, and III) Wetlands <ul style="list-style-type: none">✓ Change in acres of Goal 5 wetlands inventoried✓ Change in acres of wetlands in Class I and II riparian areas✓ Change in acres of forested and vegetated wetlands in Class I, II and III riparian areas✓ Change in total number of wetlands Floodplains <ul style="list-style-type: none">✓ Change in acres of floodplains inventoried✓ Change in acres of floodplains in Class I, II, and III riparian areas Other wildlife areas <ul style="list-style-type: none">✓ Change in acres of Class A, B, and C habitat✓ Change in acres of forested and vegetated Class A, B, and C habitat✓ Change in acres of areas of habitat of concern <p>Additional Goal 5 wildlife data factors</p> <ul style="list-style-type: none">✓ Change in number of culverts in the Metro region blocking fish passage (2.c)✓ Change in miles of fish-bearing streams (2.e)✓ Change in species indices as an indicator of stream and habitat health (macroinvertebrates, birds, fish species, etc.)
Land Cover <ul style="list-style-type: none">✓ Total forest canopy in the UGB by watershed✓ Imperviousness in the UGB by watershed		Land Cover <ul style="list-style-type: none">✓ Total forest canopy gain and loss in the UGB by watershed✓ Change in imperviousness in the UGB by watershed✓ Stream mile loss (DSL permits) and streams daylighted by watershed	
Water Quality <ul style="list-style-type: none">✓ DEQ 303(d) list for water quality limited water bodies in the Metro region (2.9b)✓ Total maximum daily loads (TMDLs) for streams in the Metro region✓ Surface water and groundwater quality based on Trophic State Index – TSI (2.g)✓ BGS water quality collected at gauging stations and flow gauges to measure changes in hydrology			

* Title 3 regulated all perennial streams, and other streams meeting a drainage threshold. Streams not meeting this criteria were not regulated.

1. Class I, II, and III riparian wildlife corridors refer to Metro's Goal 5 inventory and conditions that relate to proximity to water features and quality of vegetation
2. Class A, B, and C upland wildlife habitat refers to Metro's Goal 5 inventory and conditions related to the location and quality of wildlife "patches"
3. Habitat of concern is a term relating to Metro's Goal 5 inventory and refers to unique and important wildlife areas

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Indicator 3.2: Acquisition of environmentally sensitive areas with Metro's \$135.6 million bond measure approved in 1995. (REQ: Metro #5; State #5)

Measures the effort of Metro and local governments in acquiring natural areas

Metro Acquisition	Local Government Acquisition
✓ Acres of greenspaces acquired by Metro, and acquired by local governments (2.3a) Measures the number of acres of regionally significant natural areas protected* by Metro and the number of acres of lands protected* by local governments and special districts	
✓ Miles of stream banks in public ownership/protected through acquisition by Metro and local governments (2.3b) Measures the miles of streams that are protected through acquisition and conservation by local governments and special districts	

Indicator 3.3: Acquisition of other environmentally sensitive areas using non-1995 bond measure funds (including acquisition of development rights, i.e., easements).

Measures the effort of various entities in acquiring natural areas with non-bond measure funds.

Federal Government	State Government	Local Government	Non-Profit Organizations
Acres acquired			

Indicator 3.4: Restoration of environmentally sensitive lands. (REQ: Metro #5; State #5)

Measures the efforts of Metro, local governments, and other organizations to restore degraded natural areas

Metro Projects (potential data factors)	Local Government and Non-Profit Restoration Projects (potential data factors)	Other State, Regional, and Federally-Funded Restoration Projects (potential data factors)
<ul style="list-style-type: none"> Number of restoration projects conducted by Metro on Metro property or projects administered by Metro using US Fish and Wildlife Service grants Acresage Trees/Vegetation planted 	<ul style="list-style-type: none"> Number of restoration projects sponsored by local park districts, local governments or non-profits Acresage Trees/Vegetation planted 	<ul style="list-style-type: none"> Number of restoration projects sponsored by state and federal agencies and programs (DEQ 349 grants, Oregon Watershed Enhancement Board, Pacific Northwest Power Planning Council funds, etc.) Acresage Trees/Vegetation planted

Indicator 3.5: Protection of environmentally sensitive areas through non-regulatory means. (REQ: Metro #5; State #5)

Measures the number and effectiveness of programs that create incentives for people to protect environmentally sensitive areas as well as those efforts to protect sensitive resources through educational efforts.

Incentives (potential data factors)	Education (potential data factors)
<ul style="list-style-type: none"> Cost-share programs Recognition programs Property tax reduction 	<ul style="list-style-type: none"> Number and scope of Metro, state, local government, and non-profit environmental education efforts General outreach (e.g., presentations at public events, distribution of informative materials, posting of educational signs in resource areas, etc.) Specific programs intended to change harmful practices (e.g., downspout disconnection efforts, natural gardening, landscaping for wildlife, sediment reduction, etc.) Programs through schools and volunteer field programs sponsored by various entities in the region

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Indicator 3.6: Air quality - (REQ: State #9)

Measures the region's ability to maintain air quality while accommodating increases in population and employment.

<p>✓ Annual change of VMT per capita relative to other areas of the country. (3.5i) Measures the auto dependence of Portland-area residents in meeting employment, commercial and leisure travel demand relative to residents of other urbanizing areas of the nation.</p>
<p>✓ Difference made implementing or exceeding commitments in the Portland Ozone Maintenance Plan for increase in transit, bicycle and pedestrian facilities (3.7a) Measures implementation of air quality maintenance plan which specifies actions to be taken to improve emissions from highway vehicles.</p>
<p>✓ Percent of annual Portland area carbon monoxide and ozone concentrations relative to local historical baseline Measures improvement in regional air quality.</p>
<p>✓ Percent of total regional emissions composed of on-road mobile sector emissions over time Measures proportion of airshed care responsibility devoted to the transportation sector versus industrial or area-wide activities (e.g. architectural coatings, recreational vehicles, powered lawn equipment, etc.) that bear greater economic and quality of life impacts.</p>
<p>✓ Percent of regional auto and non-auto trips Measures</p>
<p>✓ Comparison of mixed use index value over time to the MUI assumed in the SIP Land Use-based VMT reduction credit Measures aggregated regional value of the Mixed Use Index each year, which is a key indicator of the regional commitment to federal authorities that travel demand in the region, and associated emissions of air pollutants, will be moderated by compact urban development.</p>

1. The form of the National Ambient Air Quality Standards (NAAQS) evolves over time. For example, until this year the ozone threshold was 0.122 ppm over a one hour period. The current ozone threshold is 0.08 ppm over an eight hour period. Since ozone concentrations are expressed in different terms during different periods, the term "historical baseline" is added to allow performance measures to use the most appropriate baseline for a given circumstance.
2. SIP stands for State (air quality) Implementation Plan

Indicator 3.7: Waste reduction and recycling in the Metro region

Measures the efforts that the region is making in reducing, reusing, and recycling waste

Generated	Recycled	Disposed
<p>✓ Change in the amount of waste generated, recycled and disposed in the Metro boundary (2.10a) Measures the region's success in reducing the quantity of natural resources used by residents and businesses in the production and consumption of goods and services</p>		
	<p>✓ Amount of household hazardous waste collected in the Metro boundary (2.10b) Measures the region's success in diverting household hazardous waste from improper storage and improper disposal where it might cause injuries to persons or damage to streams and groundwater</p>	

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Fundamental 4: Provide a balanced transportation system including safe, attractive facilities for bicycling, walking and transit as well as for motor vehicles and freight

Indicator 4.1: Funding the RTP Priority System (REQ: State #9)

Measures regional success securing funds to build and maintain a regional transportation system adequate to support the Region 2040 Concept Plan.

Cumulative capital expansion spending	RTP Priority System costs <u>by mode</u> compared to Cumulative MTIP modal awards, (including ODOT Modernization program and TriMet federal/local capital program.)	Gap between RTP Priority System and the RTP Financially Constrained (or Base Case?) System:
<p>✓ Cumulative awards made by Metro, TriMet, ODOT, Port of Portland and the local jurisdictions.</p> <p>Measures how quickly the RTP Priority System capital plans are implemented.</p>	<p>✓ Percentage costs of the RTP Priority System dedicated to each mode (e.g., motor vehicle, freight, bridge, bike/ped; transit; TDM; TOD; Boulevard, etc) and compare cumulative MTIP allocations to each mode over the 20-year Plan period. (3.1b-g, 3.1h-l, 3.1i-m, 3.1n-s)</p> <p>Measures bi-annual investment decisions to determine whether any one modal system of the 20-year Regional Transportation Plan is subject to over- or under-investment over time.</p>	<p>✓ Amount of additional revenue above base case assumptions compared to needs as defined by the RTP Priority System (e.g. new bond measures, local improvement districts, local options gas tax increases, RTA full funding grant agreement, etc.)</p> <p>Measures regional progress toward the projected 2040 RTP Priority System network, and the extent to which the RTP Priority System is being fully implemented.</p>

Indicator 4.2: Using transportation investments to leverage land use goals - (REQ: State #9)

Measures implementation – especially by local governments – of regional transportation system policies designed to encourage development of 2040 mixed use centers.

✗ Transportation System	✗ Street Design	Local Street Connectivity	Mixed Use Centers' Modal Targets	Accessibility
<p>✗ Percent of the region's jurisdictions and corresponding geographic coverage in compliance with RTP modal maps and policies (3.1a)</p> <p>Measures the degree to which local jurisdictions have implemented RTP modal policies, which are the basis for implementation of the 2040 Growth Concept in the RTP</p>	<p>✗ Percent of planned boulevards constructed (3.2a)</p> <p>Measures the percentage RTP Priority System boulevard projects constructed over time.</p>	<p>✓ Percent of the region's residential and mixed use areas that meets RTP intersection density requirements (3.3a)</p> <p>Measures the level of local street connectivity in mixed-use and residential areas, and the degree to which connectivity requirements are being met through the land development process. This is a key variable for reduction of major street intersection congestion and pedestrian access to transit.</p>	<p>✓ Percent of work trips by bike, walking, transit or shared-ride to/from and within centers (3.5b)</p> <p>Measures the combined share of bike, walk, shared ride and transit trips to/from and within the central city and regional and town centers.</p>	<p>✓ Households accessible within 30 minutes of each 2040 center: Central City, Regional Centers, Town Centers during "peak time" and "mid-day" (3.6a)</p> <p>Measures vehicle access to key land use areas.</p>
	<p>✗ Percent of region complying with regional street design requirement (3.2b)</p> <p>Measures the degree to which local jurisdictions have implemented RTP street policies.</p>		<p>✓ Percent of 2040 centers covered by active TMA's (3.5a)</p> <p>Measures the percentage of 2040 regional and town centers that have a share portion of an active transportation management association in a given calendar year.</p>	<p>✓ Transit level of service</p> <p>Percent of population and employees within:</p> <ul style="list-style-type: none"> 1 mile of 30-minute (or better) bus service 1 mile of 15-minute (or better) transit service (3.6b) <p>Measures how well the general population and employees are served by public transportation.</p>

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Indicator 4.3: System performance - (REQ: State #9)

Measures effectiveness of region-wide auto, freight and transit systems.

System congestion	Corridor travel time	Alternatives to drive alone travel	Freight mobility
<p>✗ Traffic volume on major freeways in the region (3.4a-1)</p> <p>Measures the demand for freeway capacity (and does not by itself measure congestion)</p>	<p>✓ Change in average travel times in key corridors by motor vehicle, truck freight and bus transit. (3.4a-2)</p> <p>Measures the change in average travel times by mode for key corridors in the region</p>	<p>✓ Change in transit use in 2040 centers: central city, regional centers, town centers (3.5h)</p> <p>Measures the increase in transit use (boarding and alighting) in the 2040 centers</p>	<p>Travel Time</p> <p>✓ Point to point (peak and off peak travel times on selected freight significant highways)</p> <p>Measures total travel time rather than focus on bottleneck conditions</p> <p>✗ Total direct loss in dollars due to freight delay (by air, truck, etc.) (3.4h)</p> <p>Measures the effect of exceeding LOS policies on the trucking portion of the freight industry</p> <p>Note: Replace with another factor to be determined e.g. Key Freight Corridor travel time benchmark surveys and/or private sector route performance data</p> <p>✗ Hours of delay per 1,000 vehicle miles on selected freight significant highways</p> <p>Measures cumulative congestion of defined freight routes and defined travel times. Point to point travel time is a superior measure of system performance</p>
<p>✗ Percent of the region adopting RTP Level of Service (LOS) policy (3.4b)</p> <p>Measures the percentage of regional facilities that have adopted RTP LOS policies in accordance with the LOS policy</p>	<p>✓ Percent increase of Safety Priority Index System (SPIS) factor for selected freeway segments (based on comparison of a SPIS factor of a freeway segment to the statewide SPIS average) (3.4j)</p> <p>Measures the reliability of the freeway system</p>	<p>✗ Vehicle miles traveled per capita (HPMS). (3.5i)</p> <p>Measures the change in vehicle miles traveled per person over time</p> <p>✓ Annual change of VMT per capita <i>relative to other comparable urbanizing areas of the country.</i></p> <p>Measures the relative auto dependence of Portland-area residents in meeting employment, commercial and leisure travel demand relative to residents of other urbanizing areas of the nation.</p> <p>Note: Data is available annually in FHWA compendium of Highway Performance Management System (HPMS) outputs. This duplicates the data factor in Air Quality at Fundamental 3, Indicator 3.4.</p>	<p>Cost</p> <p>✗ Cost of highway freight per ton mile</p>
<p>✗ Percent of regional facilities in 2040 centers exceeding RTP LOS standard (3.4c)</p> <p>Measures the percentage of regional facilities located in 2040 centers that are exceeding the RTP LOS standard over time</p>	<p>✗ Percent increase of Safety Priority Index System (SPIS) factor for arterial street intersections (based on comparison of a SPIS factor of arterial street intersections to the statewide SPIS average) (3.4k)</p> <p>Measures safety of major regional arterials</p>	<p>✓ Gross transit rides (3.5c)</p> <p>Measures the number of transit boarding rides in a given year</p>	<p>Highway Condition</p> <p>✓ Design adequacy of the regional freight system</p> <p>Design adequacy will be measured by percent of inadequate lane miles vs. total regional system lane miles</p> <p>Data should distinguish N/S vs. other regional facilities</p>
<p>✓ Percent of regional highway corridors exceeding LOS standard by lane miles (3.4d)</p> <p>Measures the degree to which regional highway corridors are exceeding the RTP LOS standard over time</p>		<p>✓ Transit rides per capita (3.5d)</p> <p>Measures the number of transit boarding rides in a given year compared to the metro area population</p>	<p>▲ Off peak delay of the Regional Freight System (per RTP Figure 1.17)</p> <p>Measures ability or inability to avoid predictable peak period delays</p>
<p>✗ Percent of regional arterial exceeding LOS standard by lane miles (3.4e)</p> <p>Measures the degree to which regional arterial roads are exceeding the RTP LOS standard over time</p>		<p>✗ Service hours per capita (3.5f)</p> <p>Measures the growth of transit service compared to growth in population</p>	
<p>✗ Percent of other 2040 residential areas exceeding LOS standard (3.4f)</p> <p>Measures the degree to which other 2040 areas are exceeding the RTP LOS standard over time</p>		<p>✗ Originating rides by, Rail, Bus (Tri-Met), Lift (Tri-Met), Smart (All Transit), CTRAN (All Transit), Sandy (All Transit), Mollala (All Transit) (3.5e) Measures the number of transit boarding rides in a given year</p>	
<p>✗ Percent of employment and industrial areas exceeding LOS standard (3.4g) Measures the degree to which major employment and industrial areas are exceeding the RTP LOS standard over time</p>		<p>✓ Rides per service hours (3.5g) Measures the efficiency of transit relative to service hours provided</p>	<p>✗ Percent of regional freight system improved (3.1d)</p> <p>Measures the region's progress toward implementing a regional freight system adequate to serve the 2040 Growth Concept</p> <p>Note: Percent is either lane miles or capital cost. Lane miles may be a poor data factor as bottleneck intersections are a significant aspect of freight delay but their improvement does not enhance a lot of lane miles. Capital cost may be a better way to measure percent improved. The total planned cost of improving the regional freight system can be compared against progress programming expenditures in each MTP cycle. This methodology would duplicate data factor 4.1 (cumulative MTP allocation to each mode)</p>
<p>✗ Percent of time the system is in free flow condition</p> <p>Measures the amount of time the regional transportation system operates at LOS C or better</p>			
<p>✗ Degree of system interference produced by accidents</p> <p>Measures the effect of accidents on incidents on congestion</p>			

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Fundamental 5: Maintain separation between the Metro UGB and neighboring cities by working actively with these cities and their respective counties

Indicator 5.1: Growth accommodation inside the UGB versus growth in neighboring cities

Measures the pressure that is being placed on Metro and its surrounding rural communities to grow together

Capture Rate ¹	
Metro	Non Metro
✓ Employment and population locating outside the Metro UGB (non-Metro capture rate) (4.3) Measures the growth pressure being placed on rural land between Metro and neighboring cities as well as on neighboring cities themselves	
	✓ Population and employment growth in a) UGBs of neighboring cities b) Unincorporated rural land in the tri-county area

¹ Capture rate takes into account employment and population in Clark County, WA.

² Neighboring cities are cities such as Canby, Sandy, North Plains, that are outside of Metro's jurisdiction but that will be affected by growth policies adopted by Metro

Indicator 5.2: Effectiveness of intergovernmental agreements to preserve separation of communities

Measures the number, and effectiveness of certain agreements that were signed between Metro and others to preserve a separation of communities

Participation	UGB Encroachment into IGA areas	Development along designated green corridors
✓ Number of agreements signed • Canby • Sandy	✓ Amount of land in intergovernmental agreement (IGA) areas that has been brought within the Metro UGB or the UGB of a neighboring city (4.1) Measures UGB encroachment into the intergovernmental areas. This indicator also measures our success in keeping the separation between communities	✓ Number of new rural commercial, rural industrial, non-residential and non-agricultural permits granted in adopted green corridors (4.2) Measures the extent to which new developments are altering the rural character of green corridors since the signing of intergovernmental agreements
		✓ Oregon Department of Transportation (ODOT) data on access points granted along the designated green corridors.

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Fundamental 6: Enable Encourage communities inside the Metro UGB to preserve enhance their physical sense of place by using among other tools, greenways, natural areas, and built environment elements

Indicator 6.1: Built characteristics of the community

Measures the unique built attributes of a community that help to define community identity

Defining architecture	Historic sites	"Original" downtown area including town plazas and squares	Large institutions and facilities (universities/colleges, sports and entertainment complexes, unique parks and trails, etc.)	Major commercial/industrial complexes
Via Survey				

Indicator 6.2: Design/layout of the community

Measures unique design and layout characteristics that help define a community's sense of place

Existing Mainstreets	Unique neighborhoods (ex. Portland's Ladd's Addition)	Unique street design, (ex. small blocks, dense street trees)
Via Survey		

Indicator 6.3: Natural characteristics of the community

Measures the unique natural attributes that contribute to a community's sense of place

Unique natural attributes (ex. topography, water features, etc.)	Significant greenspaces/open spaces	Unique views (ex. Mt. Hood)
Via Survey		

Indicator 6.4: Retail and service opportunities in the community

Measures unique shopping and service opportunities that may help to define a community's character

Unique shopping centers or restaurants	Seasonal market sites or fairgrounds	Regular arts or cultural festival facilities
Via Survey		

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**Draft Performance Measures Survey of Local Governments:
Physical Sense of Place of Communities in the Metro Region**

Draft Questions

(Indicator 6.1) *Built characteristics of the community that you would like enhanced by regional policies.*

1. What is the unique architecture or architectural style in your community that helps define your jurisdiction's sense of place?
2. What are the well-known or registered historic sites in your community?
3. Does your community have an "original" (or new) downtown area with plazas and squares?
4. What are the large institutions and facilities in your jurisdiction such as universities/colleges or sports and entertainment complexes that you associate with your physical identity?
5. Is your jurisdiction home to a particular park or trail system that offers recreational or educational opportunities unique to your community? If so, describe.
6. What are the major commercial/industrial complexes in your jurisdiction that shape your community's physical identity?

(Indicator 6.2) *Design/layout of the community that you would like enhanced by regional policies.*

7. What are the existing "Mainstreets" in your area?
8. What are the existing neighborhoods in your community that exhibit unique design elements such as small blocks, narrow streets, or dense street trees (other)?

(Indicator 6.3) *Natural characteristics of the community that you would like enhanced by regional policies.*

9. What are the unique natural attributes such as topography, water features or significant greenspaces/openspaces that define the boundaries of your jurisdiction or create a defining natural characteristic within your community?
10. Describe important views that can be enjoyed from within your community?

(Indicator 6.4) *Retail and service opportunities in the community that you would like enhanced by regional policies.*

11. Are there unique shopping centers or restaurants in your community?
12. Are there sites for seasonal market sites or fairs?
13. Does your jurisdiction have facilities to accommodate regular arts or cultural festivals?

Fundamental 7: Ensure availability of diverse housing options for all residents by providing a mix of housing types as well as affordable homes in every jurisdiction

Indicator 7.1 – Affordable housing supply, consumption, and affordability in the UGB and mixed use centers - (REQ: Metro #2&8; State #2&7)

Measures the supply and demand for affordable housing in the Metro region and the factors that affect a person's ability to pay for housing

Supply/Quantity	Consumption	Cost and Income/ ability to pay
<p>✓ Number (and change) of dwelling units by type (6.1a/b)</p> <ul style="list-style-type: none"> Detached Single-Family Units <ul style="list-style-type: none"> Large lot Small lot Accessory Manufactured Attached Multi-family Units <ul style="list-style-type: none"> Duplex and Townhouses (attached SF classified as MFR(2-4)) <p>Other Multi-family Measures the diversity of housing in the Metro UGB</p>	<p>✓ Vacancy rate for multi-family units (6.5) (Required by the state)</p> <p>Measures the availability of multi-family housing stock and also the low and high demand for housing units</p>	<p>✓ Home ownership affordability gap (6.6b)</p> <ul style="list-style-type: none"> Median rent of multi-family residential (6.8) Change in median household income (6.6a) Median sales price of single family residential (6.9) <p>Measures the difference between the prices of homes that buyers can afford and the prices of homes on the market</p>
<p>✓ Proportion (and change) of single family (SFR) to multi-family housing (MFR) of to (6.2)</p> <p>Measures the extent of housing diversity in the region and can be used with other data factors to gauge the success of local jurisdictions in implementing Metro affordable housing policies and the State Metro Housing Rule</p>		<p>✓ Number of households by income groups paying more than 30 percent of their income for housing (6.7)</p> <p>Measures affordability of housing units to various income groups in the region and jurisdictions, and implicitly measures progress or lack of progress in meeting the region's affordable housing goals</p>
<p>✓ Units affordable to households (by jurisdiction) earning:</p> <ul style="list-style-type: none"> less than 30% of MHI 31% - 50% of MHI 51%-80% of MHI 81%-120% of MHI greater than 121% (6.10) <p>Measures supply of housing units affordable to specified income groups</p>		<p>✓ Percent of owner-occupied homes (homeownership) in the region compared to renter-occupied units (6.11)</p> <p>Measures homeownership trends in the region</p>
<p>✓ Number of affordable units produced (by jurisdiction) Note: 2000 baseline data is currently being collected</p> <ul style="list-style-type: none"> less than 30% of MHI 31% - 50% of MHI 51%-80% of MHI 81%-120% of MHI greater than 121% (6.10) <p>Measures the extent to which regions are meeting the voluntary affordable housing production goals</p>		

Indicator 7.2 – Affordability by development pattern in the UGB and mixed use centers (via computation of Smart Commute Mortgage Index or Location Efficient Mortgage Index)

Measures transportation savings that home buyers can realize by purchasing a home in neighborhoods served with abundant public transportation with easy access, via non-auto travel modes to jobs, shopping cultural activities and other destinations.

<ul style="list-style-type: none"> Abundant public transportation areas (census tracts) Abundant non-auto travel mode areas (census tracts) High public transit use areas (census tracts) High population density areas (census tracts) Abundant mix of housing type areas (census tract)
--

✓ = Data factors recommended for measurement (in the 2004 report)

✗ = Data factors recommended for deletion

Shaded areas – Data factors not measured in 2003 report or new data factors not yet measured

▲ = Data factors recommended for measurement if resources permit

LG = Data factors that will require data and/or expertise from local governments.

Fundamental 8: Create a vibrant place to live and work by providing sufficient and accessible parks and natural areas, improving access to community resources such as schools, community centers and libraries as well as by balancing the distribution of high quality jobs throughout the region, and providing attractive facilities for cultural and artistic performances and supporting arts and cultural organizations

Indicator 8.1: Parks and greenspaces in the Metro Region - (REQ: State #8)

Measures the amount of parks and greenspaces that are available to citizens of the Metro region

Supply of parks	
Metro	Local/State
✓ Acres of Metro parks and greenspaces per thousand: a) Inside UGB open to the public; b) inside the UGB and not open to the public; c) outside the UGB open to the public; outside the UGB not open to the public (7.1) Links total acreage of Metro parks and greenspaces per capita available for use and enjoyment by residents of the Metro region	✓ Acres of other (local and state) public parks and greenspaces per 1,000 open to the public (7.2) Links total acreage of other public parks and greenspaces open to the residents of the Metro region
✓ Miles of completed regional trails: a) Inside the UGB; and b) Outside the UGB (7.3) Measures how many miles of the Regional Trails Plan (first adopted as part of the Greenspaces Master Plan in 1992) have been constructed	✓ Miles of local and state trails: a) Inside the UGB; and b) Outside the UGB (7.3) Measures how many miles of the Regional Trails Plan (first adopted as part of the Greenspaces Master Plan in 1992) have been constructed
✓ Percentage of population within walking distance (¼-mile) (1/2-mile) of public parks, greenspaces and regional trails (7.4) Measures the accessibility of public parks, greenspaces and regional trails	

Indicator 8.2: Access to community resources

Measures contribution of Metro land use policies and facility management to the support of cultural amenities in the region.

Community resources
<ul style="list-style-type: none"> ▲ Relative accessibility of community resources including: <ul style="list-style-type: none"> • Oregon Zoo • Portland Center for the Performing Arts • Convention/Exposition Center • Art museum • Schools • Community Centers • City and County Libraries

Indicator 8.3: Opportunities and support for arts and recreation

Measures contribution of Metro and the region in supporting cultural and artistic activities

Facilities	Financial Support	Events
▲ Number of Metro and other regional scale arts facilities	▲ Metro's and the region's financial commitment to arts and facilities	▲ Number of events

✓ = Data factors recommended for measurement (in the 2004 report)

✗ = Data factors recommended for deletion.

Shaded areas – Data factors not measured in 2003 report or new data factors not yet measured

▲ = Data factors recommended for measurement if resources permit.

LG = Data factors that will require data and or expertise from local governments.

(Draft) Data factors that will require local government data and/or expertise

Fundamental 1: Encourage a Strong Local Economy by providing an orderly and efficient use of land, balancing economic growth around the region and supporting high quality education.

1. Vacant buildable, and redevelopable residential, commercial, and mixed use land (res/com and ind/com) served with public facilities (1.3b) and (1.3c)

Fundamental 2: Encourage the efficient use of land within the UGB by focusing on development of 2040 mixed use centers and corridors

1. Change in the physical density of newly built nonresidential structures by measuring the Floor to Area Ratio (1.2g)
2. Change in surface area parking and amount of land dedicated to parking (1.4a)
3. Trend in parking structure innovations including blended parking ratios (1.4b)
4. Underbuild
5. Change in average lot size of single family residences in new subdivision developments (1.2d)
6. Number of new structures in mixed use areas having "zero lot lines." (1.3a)
7. Public investment in centers (urban renewal districts, local improvement districts, etc.)
8. Change in "average" lot size of single family attached residences. (6.4)
9. Business types locating in mixed-use centers (7.8)

Fundamental 3: Protect and restore the natural environment through actions such as protecting and restoring streams and wetlands, improving surface and ground water quality, and reducing air emissions

1. Acres of greenspaces acquired by local governments and special districts (2.3a)
2. Miles of stream banks in public ownership/protected through acquisition by local govts/special districts (2.3b)

Fundamental 4: Provide a balanced transportation system including safe, attractive facilities for bicycling, walking and transit as well as for motor vehicles and freight

1. Cumulative awards made by Metro, TriMet, ODOT, Port of Portland, and the local jurisdictions
2. Percentage costs of the RTP Priority System dedicated to each mode (e.g., motor vehicle, freight, bridge, bike/ped, transit, TDM, TOD, Boulevard, etc.) and compare cumulative MTIP allocations to each mode over the 20-year Plan period. (3.1b-g, 3.1h-i, 3.1l-m, 3.1n-s)
3. Amount of additional revenue above base case assumptions compared to need as defined by the RTP Priority System (e.g., new bond measures, local improvement districts, local options gas tax increases, FTA full funding grant agreement, etc.)
4. Percent of the region's jurisdictions and corresponding geographic coverage in compliance with RTP modal maps and policies. (3.1a)

Fundamental 5: Maintain separation between the Metro UGB and neighboring cities by working actively with these cities and their respective counties

1. Amount of land in intergovernmental agreement (IGA) areas that has been brought within the Metro UGB or the UGB of a neighboring city (4.1)

Fundamental 6: Enable communities inside the Metro UGB to preserve their physical sense of place by using among other tools, greenways, natural areas, and built environment elements

1. A survey to collect data on sense of physical place indicators and data factors

Fundamental 7: Ensure availability of diverse housing options for all residents by providing a mix of housing types as well as affordable homes in every jurisdiction

1. Number of affordable units produced (by jurisdiction)

093003c-01

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING – revised 9/26/03
DATE: October 2, 2003
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. AUDITOR COMMUNICATION

- Oregon Convention Center Expansion: Review of Management's System for Controlling Costs

4. CONSENT AGENDA

- 4.1 Consideration of Minutes for the September 25, 2003 Metro Council Regular Meeting

5. ORDINANCES – SECOND READING

- 5.1 **Ordinance No. 03-1018**, For the Purpose of Amending Metro Code Chapter 5.01 Regarding Solid Waste Facility Regulation; and Declaring an Emergency. Park

- 5.2 **Ordinance No. 03-1019**, For the Purpose of Amending Metro Code Chapter 5.05 Relating to Solid Waste Flow Control; and Declaring an Emergency. Park

- 5.3 **Ordinance No. 03-1020**, For the Purpose of Amending Metro Code Chapter 7.01 Regarding Solid Waste Facility Regulation. Park

6. RESOLUTIONS

- 6.1 **Resolution No. 03-3325**, For the Purpose of Entering into 5-Year Agricultural Leases with Cal Farms LLC and Sauvie Island Organics LLC on Metro Open Space Properties at Willamette Narrows and Sauvie Island. McLain

- 6.2 **Resolution No. 03-3352**, For the Purpose of Amending the Intergovernmental Agreement for the Regional Emergency Management Group for the Portland Metropolitan Area and Authorizing the Chief Operating Officer To Execute Amended Agreement. Monroe

7. **CHIEF OPERATING OFFICER COMMUNICATION**

8. **COUNCILOR COMMUNICATION**

ADJOURN

Cable Schedule for October 2, 2003 Meeting (TVTV)

	Sunday (10/5)	Monday (10/6)	Tuesday (10/7)	Wednesday (10/8)	Thursday (10/2)	Friday (10/3)	Saturday (10/4)
CHANNEL 11 (Community Access Network) (most of Portland area)		2 p.m.			LIVE	2 p.m.	
CHANNEL 30 (TVTV) (Washington County, Lake Oswego)	9 p.m.		6 a.m. 11 p.m.	4 p.m.			7 p.m.
CHANNEL 30 (CityNet 30) (most of City of Portland)							
CHANNEL 30 Willamette Falls Television (West Linn, Rivergrove, Lake Oswego)	7 p.m.		6 a.m.				7 p.m.
CHANNEL 23/18 Willamette Falls Television (23- Oregon City, West Linn, Gladstone; 18- Clear Creek)							
CHANNEL 23 Milwaukie Public Television (Milwaukie)							

PLEASE NOTE THAT ALL SHOWING TIMES ARE TENTATIVE BASED ON THE INDIVIDUAL CABLE COMPANIES' SCHEDULES. PLEASE CALL THEM OR CHECK THEIR WEB SITES TO CONFIRM SHOWING TIMES.

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(503) 652-4408

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 03-1018
CODE CHAPTER 5.01 REGARDING SOLID)	
WASTE FACILITY REGULATION; AND	)	AMENDMENT INTRODUCED BY
DECLARING AN EMERGENCY	)	COUNCILOR SUSAN MCLAIN

Section 8 of Ordinance No. 03-1018 is amended to insert the following subsection (e) following amended subsection (d) of 5.01.067:

“(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood; or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the **majority of the Council** may determine whether to review and consider the license application within 10 days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council’s authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a “substantial effect” shall include any occurrence **that arises from the solid waste operational conditions that are regulated under the license and affects the residents’ quiet enjoyment of the property on which they reside.**

(32) For a Solid Waste Facility Franchise, five hundred dollars (\$500).

SECTION 7. Metro Code Section 5.01.065 is hereby repealed.

SECTION 8. Metro Code Section 5.01.067 is amended to read:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by Metro Council subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, and the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall formulate recommendations regarding determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (e) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the License

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within 10 days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operational conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 03-1018
CODE CHAPTER 5.01 REGARDING SOLID)	
WASTE FACILITY REGULATION; AND	)	Amendment introduced by Susan
DECLARING AN EMERGENCY	)	McLain, Metro Councilor
)	

WHEREAS, the Metro Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01, was last revised in a comprehensive way in 1998; and,

WHEREAS, the solid waste industry has continued to evolve since that time; and,

WHEREAS, Metro's regulation of solid waste facilities has expanded over the last five years; and,

WHEREAS, the Metro Solid Waste Code requires updating to adequately address current solid waste regulatory issues; and,

WHEREAS, Metro's day-to-day affairs are now managed and directed by the Chief Operating Officer; and,

WHEREAS, the primary objectives of this ordinance are to reserve policy-related solid waste facility operating authorization decisions for the Council; to delegate non-policy operating authorization decisions to the COO; to make agency legislative and administrative review more efficient; and to continue to protect public health and safety; and,

WHEREAS, it is necessary to amend the Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01 to accomplish these objectives and to improve the clarity and flexibility of the Metro solid waste regulatory system; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.010 is amended to read:

5.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Activity" means a primary operation or function that is performed in a Solid Waste Facility or at a Disposal Site, including but not limited to Resource Recovery, Composting, Energy Recovery, and other types of Processing; Recycling; Transfer; incineration; and disposal of Solid Waste; but excluding operations or functions such as Segregation that serve to support the primary Activity.

(b) "Agronomic application rate" has the meaning provided in OAR 340-093-0030(4).

(c) ~~"Certificate" means the permission given by the Chief Operating Officer to operate certain solid waste Activities.~~

(dc) "Chief Operating Officer" means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

(ed) "Cleanup Material Contaminated By Hazardous Substances" means solid waste resulting from the cleanup of releases of hazardous substances into the environment, including petroleum contaminated soils and sandbags from chemical spills. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.

(fe) "Code" means the Metro Code.

(gf) "Compost" means the stabilized product of composting.

(hg) "Composting" means the controlled biological decomposition of organic material.

(ih) "Composting Facility" means a site or facility which utilizes organic material to produce a useful product through the process of composting.

(ji) "Council" means the Metro Council.

(kj) "DEQ" means the Department of Environmental Quality of the State of Oregon.

(lk) "Direct haul" means the delivery of Putrescible Waste from a Solid Waste Facility directly to Metro's contract operator for disposal of Putrescible Waste. Direct Haul is an Activity under this chapter.

(ml) "Disposal site" means the land and facilities used for the disposal of Solid Wastes whether or not open to the public, but does not include transfer stations or processing facilities.

(nm) "District" has the same meaning as in Code Section 1.01.040.

(on) "Energy recovery" means a type of Resource Recovery that is limited to methods in which all or a part of Solid Waste materials are processed to use the heat content, or other forms of energy, of or from the material.

(po) "Franchise" means the grant of authority or privilege given by the Council to operate a Disposal Site, a Transfer Station, or an ~~Resource~~ Energy Recovery facility, or to conduct any activity specified in sSection 5.01.045(b) of this chapter.

(qp) "Franchisee" means the person to whom a Franchise is granted by the Council under this chapter.

(rq) "Franchise fee" means the fee charged by Metro to the Franchisee for the administration of the Franchise.

(sr) "Hazardous waste" has the meaning provided in ORS 466.005.

(ts) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. "Household hazardous

waste” may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.

(ut) “Inert” means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

(vu) “License” means the permission given by the Council or Chief Operating Officer to operate a Solid Waste Facility not exempted or requiring a ~~Certificate or Franchise~~ under this chapter that Transfers, and Processes Solid Waste, and may perform other authorized Activities.

(wv) “Licensee” means the person to whom a License is granted by the Council or Chief Operating Officer under this chapter.

(xw) “Local Transfer Station” means a Transfer Station that serves the demand for disposal of Putrescible Waste that is generated within a single Service Area, and may provide fewer disposal services than are provided by a Regional Transfer Station.

(yx) “Material recovery” means a type of Resource Recovery that is limited to mechanical methods of obtaining from Solid Waste materials which still have useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material Recovery includes obtaining from Solid Waste materials used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

(zy) “Metro Designated Facility” means a facility in the system of transfer stations, Metro Franchised facilities and landfills authorized under Chapter 5.05 of this Title to accept waste generated in the area within the jurisdiction of Metro.

(aaz) “Non-putrescible waste” means any Waste that contains no more than trivial amounts of Putrescible materials or minor amounts of Putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This category includes construction, demolition debris, and land clearing debris; but excludes Cleanup Materials Contaminated by Hazardous Substances and Source-Separated Recyclable Material whether or not sorted into individual material categories by the generator.

(bbaa) “Person” has the same meaning as in Code Section 1.01.040.

(eebb) “Petroleum contaminated soil” means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.

(ddcc) “Process,” “Processing” or “Processed” means a method or system of altering the form, condition or content of Wastes, including but not limited to composting, vermicomposting and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping; but excluding incineration or mechanical volume reduction techniques such as baling and compaction.

(eedd) “Processing facility” means a place or piece of equipment where or by which Solid Wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerators,

crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

(ffee) "Processing residual" means the Solid Waste destined for disposal which remains after Resource Recovery has taken place.

(ggff) "Putrescible" means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(hhgg) "Putrescible waste" means Waste containing Putrescible material.

(ihhh) "Rate" means the amount approved by Metro and charged by the Franchisee, excluding the Regional System Fee as established in Chapter 5.02 of this Title and franchise fee.

(jjii) "Recyclable material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled, or composted for the same or other purpose(s).

(kkjj) "Recycle" or "Recycling" means any process by which Waste materials are transformed into new products in such a manner that the original products may lose their identity.

(Hkk) "Recycling drop center" means a facility that receives and temporarily stores multiple source separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale.

(mmll) "Regional Solid Waste Management Plan" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and approved by DEQ.

(nnmm) "Regional Transfer Station" means a Transfer Station that may serve the disposal needs of more than one Service Area and is required to accept solid waste from any person who delivers authorized solid waste to the Regional Transfer Station.

(oenn) "Reload" or "Reload facility" means a facility that performs only Transfer by means of a fixed or mobile facilities including but not limited to drop boxes and gondola cars, but excluding solid waste collection vehicles, normally used as an adjunct of a solid waste collection and disposal system, between a collection route and a Solid Waste facility or a disposal site.

(ppoo) "Resource recovery " means a process by which useful material or energy resources are obtained from Solid Waste.

(qqpp) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(rrqq) "Segregation" means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the Transfer of Solid Waste. Segregation does not include Resource Recovery or other Processing of Solid Waste. The sole intent of segregation is not to separate Useful Material from the Solid Waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

(ssrr) "Service Area" means the geographic locale around a solid waste facility that is defined by the characteristic that every point within such area is closer in distance to the solid waste facility contained in such area than to any other solid waste facility or disposal site. As used in this definition, "distance" shall be measured over improved roads in public rights-of-way.

(ttss) "Solid waste" means all Putrescible and Non-Putrescible Wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-Solid Wastes, dead animals, infectious waste as defined in ORS 459.386, petroleum-contaminated soils and other wastes; but the term does not include:

- (1) Hazardous wastes as defined in ORS 466.005;
- (2) Radioactive wastes as defined in ORS 469.300;
- (3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
- (4) Explosives.

(uutt) "Solid waste facility" means the land and buildings at which Solid Waste is received for Transfer, Resource Recovery, and/or Processing but excludes disposal.

(vvuu) "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste.

(wwvv) "Source-separated recyclable material" or "Source-separated recyclables" means material that has been Source Separated for the purpose of Reuse, Recycling, or Composting. This term includes Recyclable Materials that are Source Separated by material type (i.e., source-sorted) and Recyclable Materials that are mixed together in one container (i.e., commingled).

~~(xx) "System cost" means the sum of the dollar amounts expended for collection, hauling, processing, transfer and disposal of all Solid Waste generated within Metro.~~

(yyww) "Transfer" means the Activity of receiving Solid Waste for purposes of transferring the Solid Waste from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of Solid Waste from more than one vehicle, and compaction, but does not include Resource Recovery or other Processing of Solid Waste.

(zzxx) "Transfer station" means a Solid Waste Facility whose primary Activities include, but are not limited to, the Transfer of Solid Waste.

(aaayy) "Useful material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from Solid Waste, is suitable for use in the same or other purpose(s). Types of Useful Materials are: material that can be Reused; Recyclable Material; organic material(s) suitable for controlled biological

decomposition such as for making Compost; material used in the preparation of fuel; material intended to be used, and which is in fact used, for construction or land reclamation such as Inert material for fill; and material intended to be used, and which is in fact used, productively in the operation of landfills such as roadbeds or alternative daily cover. For purposes of this Code, Cleanup Material Contaminated By Hazardous Substances are not Useful Materials.

(bbbzz) "Vermiprocessing" means a controlled method or system of biological Processing that utilizes worms to consume and digest organic materials, and that produces worm castings for productive uses.

(eeeeaa) "Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose.

(dddbbb) "Waste hauler" means any person who is franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul Solid Waste.

(eeecce) "Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. "Yard debris" includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other vegetative waste having similar properties, but does not include demolition debris, painted or treated wood.

(fffdde) "Yard debris facility" means a yard debris processing facility or a yard debris reload facility.

(gggeee) "Yard debris reload facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

SECTION 2. Metro Code Section 5.01.030 is amended to read:

5.01.030 Prohibited Activities

Except as otherwise provided in this chapter, or in Metro Code Chapter 5.05, it shall be unlawful:

(a) For any person to establish, operate, maintain or expand a Solid Waste Facility or Disposal Site within Metro without an appropriate ~~Certificate~~, License or Franchise from Metro.

(b) For a recipient of a ~~Certificate~~, License or Franchise to receive, process or dispose of any Solid Waste not authorized under the recipient's ~~Certificate~~, License or Franchise.

(c) For any person to deliver or transport any Solid Waste to or to dispose of any Solid Waste at any place other than a Solid Waste Facility or Disposal Site that is operated by a holder of a ~~Certificate~~, License, or Franchise; or is exempt under Section 5.01.040 of this chapter.

(d) For a holder of a ~~Certificate~~, License, or Franchise to fail to comply with the administrative procedures or fail to meet the performance standards adopted pursuant to Section 5.01.132 of this chapter.

(e) For any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.

SECTION 3. Metro Code Section 5.01.040 is amended to read:

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, the Metro Council declares the provisions of this chapter shall not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge;
- (2) Disposal Sites, Transfer Stations, or Solid Waste Facilities owned or operated by Metro.
- (3) Facilities that (A) exclusively receive non-Putrescible Source-Separated Recyclable Materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.
- (4) Facilities that exclusively receive, process, transfer or dispose of Inert Wastes;
- (5) The following operations, which do not constitute ~~y~~Yard ~~d~~Debris ~~f~~Facilities:
 - (A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
 - (B) Residences, parks, community gardens and homeowner associations.
 - (C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
 - (D) Operations or facilities that chip or grind wood wastes, unless:
 - (1) such chipped or ground wood wastes are processed for composting; or
 - (2) such operations or facilities are otherwise regulated under Metro Code Section 5.01.045.
- (6) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process Solid Waste if Metro finds an emergency situation exists.
- (7) Any Reload facility that:
 - (A) Accepts Solid Waste collected under the authority of a single franchise granted by a local government unit, or from multiple franchises so long as the area encompassed by the franchises is geographically contiguous; and
 - (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and

- (C) Delivers any Putrescible Waste accepted at the facility to a Transfer Station owned, operated, Licensed or Franchised by Metro; and
 - (D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another facility or Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05.
- (8) Persons who own or operate a mobile facility that processes Petroleum Contaminated Soil at the site of origin and retains any treated Petroleum Contaminated Soil on the site of origin.

(b) Notwithstanding Section 5.01.040(a)(2) of this chapter, Metro shall comply with Section 5.01.150 of this chapter, User Fees.

(c) Notwithstanding Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter, the provisions of Section 5.01.135 of this chapter shall apply to operations and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter.

SECTION 4. Metro Code Section 5.01.045 is amended to read:

5.01.045 -Certificate, License and Franchise Requirements

~~_____ (a) A Metro Solid Waste Certificate shall be required of the Person owning or controlling a facility which:~~

- ~~_____ (1) Processes Non-Putrescible Waste if such processing results in Processing Residual of less than ten percent; or~~
- ~~_____ (2) Processes Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that either destroys or removes and contains such petroleum contamination from the soil.~~

~~(ba)~~ A Metro Solid Waste License shall be required of the Person owning or controlling a facility at which any of the following Activities are performed:

- ~~(1) Processing of Non-Putrescible Waste that results in Processing Residual of more than ten percent.~~
- ~~(2) Processing of Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that destroys or removes such petroleum contamination from the soil.~~
- ~~(23)~~ Processing or Reloading of Yard Debris. A local government that owns or operates a ~~y~~Yard ~~d~~Debris ~~f~~Facility may enter into an intergovernmental agreement with Metro under which the local government will administer and enforce yard debris standards at the facility in lieu of compliance with this chapter.
- ~~_____ (3) Operation of a Local Transfer Station.~~

(4) ~~Operation of~~Operating a Reload ~~unless exempt under Section 5.01.040(a)(7) of this chapter.~~

(5) ~~Operations or facilities that chip or grind~~Chipping or grinding wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 ~~of this chapter.~~

(eb) A Metro Solid Waste Franchise shall be required for the Person owning or controlling a facility at which any of the following Activities are performed:

(1) Processing of Putrescible Waste other than Yard Debris.

~~(2) Operating on of a Regional Transfer Station.~~

~~(23) Operation of~~Operating a Disposal Site or ~~of an~~ Energy Recovery Facility.

~~(34)~~ Any process using chemical or biological methods whose primary purpose is reduction of Solid Waste weight or volumes.

~~(4) Delivery of Putrescible Waste directly from the facility to any Disposal Site.~~

(5) Any other Activity not listed in this section, or exempted by Metro Code Section 5.01.040.

SECTION 5. Metro Code Section 5.01.060 is amended to read:

5.01.060 Applications for Certificates, Licenses or Franchises

(a) Applications for a ~~Certificate~~, Franchise or License or for renewal of an existing ~~Certificate~~, Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

(1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;

(2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;

(3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;

- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.

(d) An application for a ~~Franchise Transfer Station or Disposal Site~~ shall be accompanied by an analysis ~~of the factors described in Section 5.01.070(f) of this chapter showing that the proposed facility is consistent with the Regional Solid Waste Management Plan.~~

~~———— (e) ——— A person holding or making application for a Solid Waste Facility License or Franchise from Metro authorizing receipt of Putrescible Waste may make application to deliver Putrescible Waste directly to Metro's contract operator for disposal of Putrescible Waste. Said application must be accompanied by: (A) a showing that the proposed Direct Haul authorization is consistent with the Regional Solid Waste Management Plan, and (B) an analysis of the System Costs with and without the authorization for Direct Haul from the Solid Waste Facility.~~

SECTION 6. Metro Code Section 5.01.062 is amended to read:

5.01.062 Application Fees

(a) Upon the filing of an application, every applicant for a ~~Certificate, License or Franchise, or for renewal of an existing License or Franchise,~~ shall submit an application fee as provided in this section.

(b) Application fees shall be as follows:

- ~~(1) ——— For a Solid Waste Facility Certificate, one hundred dollars (\$100).~~
- (21) For a Solid Waste Facility License, three hundred dollars (\$300).

(32) For a Solid Waste Facility Franchise, five hundred dollars (\$500).

SECTION 7. Metro Code Section 5.01.065 is hereby repealed.

SECTION 8. Metro Code Section 5.01.067 is amended to read:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by Metro Council subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, and the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall formulate recommendations regarding determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the License

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within 10 days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operational conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

~~(e)~~ Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting, or denying the application. The Council may attach conditions to the order. If the Council issues an order to deny the application, such order shall be effective immediately.

~~(ff)~~ If the ~~Council~~ Chief Operating Officer does not act to grant, or deny, a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

~~(gf)~~ If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

~~(hg)~~ If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

~~(ih)~~ Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the ~~Council~~ Chief Operating Officer.

~~(ji)~~ Licenses shall be for a term of five years. The term of a new or renewed License shall be not more than five years.

SECTION 9. Metro Code Section 5.01.070 is amended to read:

5.01.070 Issuance of Franchise

(a) Applications for Franchises filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed Franchise site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the Franchise.

(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting, or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) In determining whether to authorize the issuance of a Franchise, the Council shall consider, but not be limited by, whether the following factors:

- (1) Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;
- ~~(2) The applicant has demonstrated that the proposed Activity will result in lower net System Costs, if such a showing is required by Section 5.01.060~~The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;
- (3) Whether Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;
- (4) Whether Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;
- (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

(g) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this Section. If the Council does not act to grant, or deny, an Franchise application by the deadline for such action within 120 days after the filing of a complete application, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

(h) At any time after the filing of a complete Franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

- (1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application;
- (2) The applicant substantially modifies the application during the course of the review, in which case the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter

(hj) If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six months from the date of denial.

(ik) The term of a new or renewed Franchise shall be not more than five years.

SECTION 10. Metro Code Section 5.01.075 is amended to read:

5.01.075 Contents of Franchise

(a) The Franchise shall constitute a grant of authority from the Council to accept the Waste(s) and perform the Activity(s) described therein, the conditions under which these Activities may take place and the conditions under which the authority may be revoked.

(b) Franchises approved by the Council shall be in writing and shall include the following:

- (1) The term of the Franchise;
- (2) ~~Franchises approved by the Council shall specify the~~ The specific Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility;
- (3) Such other conditions as the Council deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and
- (4) Indemnification of Metro in a form acceptable to the Metro Attorney.

SECTION 11. Metro Code Section 5.01.087 is amended to read:

5.01.087 Renewal of Licenses and Franchises

(a) ~~The Chief Operating Officer shall renew a Solid Waste Facility Licenses shall be renewed unless the Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300) not less than 60~~ 120 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.

(b) ~~The Council shall approve or deny renewals of Solid Waste Facility Franchises. shall be renewed unless the Chief Operating Officer determines that the proposed renewal does not meet the criteria contained in Section 5.01.070 of this chapter, provided that the~~ A Franchisee seeking renewal of a Franchise shall files a completed application for renewal accompanied by payment of an application fee of five hundred dollars (\$500) not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the Franchise and any other information required by the Chief Operating Officer or by the Council. The Chief Operating

Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070 of this chapter. The Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. The Chief Operating Officer Council may attach conditions or limitations to the renewed Franchise.

SECTION 12. Metro Code Section 5.01.090 is amended to read:

5.01.090 Transfer of Ownership or Control

____ (a) ____ The Chief Operating Officer shall transfer a Certificate upon receipt in writing of any transfer of ownership or change in control, provided that the Persons seeking to be certified are not requesting authorization to accept additional Wastes or to perform additional Activities at the Solid Waste Facility. _____

____ (b) ____ A new License application shall be submitted when a Licensee proposes to transfer Control or ownership of the Solid Waste Facility to any other Person.

(ea) (1) ____ Any Person in control of a License or Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the License or Franchise to another person unless an application therefor has been filed in accordance with Section 5.01.060 and has been granted. The proposed transferee of a License or Franchise must meet the requirements of this chapter.

(2b) The Council shall not unreasonably deny an application for transfer of a Franchise or Franchisee. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

(c) The Chief Operating Officer shall not unreasonably deny an application for transfer of a License. If the Chief Operating Officer does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

(3d) The term for any transferred Franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.

(e) The term for any transferred License shall be for the remainder of the original term unless the Chief Operating Officer establishes a different term based on the facts and circumstances at the time of transfer.

SECTION 13. Metro Code Section 5.01.095 is amended to read:

5.01.095 Change of Authorizations

(a) A Person holding a Certificate, License or Franchise shall submit an application pursuant to Section 5.01.060 when said Person seeks authorization to:

- (1) Accept Wastes other than those authorized by the applicant's Certificate, License or Franchise, or
- (2) Perform Activities other than those authorized by the applicant's Certificate, License or Franchise, or

- (3) Modify other limiting conditions of the applicant's ~~Certificate~~, License or Franchise.

(b) Applications for a change in authorization or limits shall be filed on forms or in the format provided by the Chief Operating Officer.

(c) An application for a change in authorizations or limits to the applicant's ~~Certificate~~, License or Franchise shall not substitute for an application that would otherwise be required under Section 5.01.045 of this chapter.

(d) A Person holding a ~~Certificate~~, License or Franchise shall notify Metro in writing when said Person proposes to cease accepting authorized Wastes or cease performing authorized Activities at the Solid Waste Facility or Disposal Site.

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars (\$100).

SECTION 14. Metro Code Section 5.01.100 is amended to read:

5.01.100 Appeals

Any applicant, Franchisee or Licensee is entitled to a contested case hearing pursuant to Code Chapter 2.05 upon the suspension, modification, revocation or refusal by the Council or Chief Operating Officer, as appropriate, to issue, renew, modify or transfer a Franchise or License or to grant a variance, as follows:

(a) Except as provided in subsection (c) of this section, refusal to renew a Franchise or License by the Council or Chief Operating Officer, as appropriate, shall not become effective until the Franchisee or Licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(b) The refusal by the Council or Chief Operating Officer, as appropriate, to grant a variance, or to issue, modify or transfer a Franchise or License shall be effective immediately. The Franchisee, Licensee or applicant may request a hearing on such refusal within 30 days of notice of such refusal.

(c) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a Franchise or License or the Council or Chief Operating Officer, as appropriate, may refuse to renew a Franchise or License and such action shall be effective immediately. If a Franchise or License renewal is refused effective immediately, the Franchisee or Licensee shall have 30 days from the date of such action to request a contested case hearing.

SECTION 15. Metro Code Section 5.01.120 is amended to read:

5.01.120 General Obligations of All Regulated Parties

All Persons regulated by this chapter shall:

(a) Allow the Chief Operating Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the ~~Certificate~~, License or

Franchise-agreement, and the performance standards and administrative procedures adopted pursuant to Section 5.01.132 of this chapter.

(b) Ensure that Solid Waste transferred from the facility goes to the appropriate destination under Section 5.01.132(a) of this chapter, under Metro Code Chapter 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.

(c) Maintain during the term of the License or Franchise the types of insurance in the amounts specified in the License or Franchise Agreement or such other amounts as may be required by state law for public contracts and shall give 30 days written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

(d) Shall indemnify Metro, the Council, the Chief Operating Officer, and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the ~~Certificate holder's~~, Licensee's or Franchisee's performance of or failure to perform any of its obligations under the ~~Certificate~~, License, or Franchise or this chapter.

(e) Shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of the ~~Certificate~~, License or Franchise or because of the enforcement of the ~~Certificate~~, License or Franchise or in the event the ~~Certificate~~, License or Franchise or any part thereof is determined to be invalid.

SECTION 16. Metro Code Section 5.01.125 is amended to read:

5.01.125 Obligations and Limits for Selected Types of Activities

(a) A holder of a ~~Certificate~~, License or Franchise for a Material Recovery facility, Reload or Local Transfer Station, or a holder of a Franchise issued after July 1, 2000 for a Regional Transfer Station shall perform Material Recovery from Non-Putrescible Waste accepted at the facility, or shall deliver Non-Putrescible Waste to a Solid Waste facility whose primary purpose is to recover useful materials from Solid Waste.

(b) A holder of a ~~Certificate~~, License or Franchise for a Material Recovery facility or Local Transfer Station, or a holder of a Franchise issued after July 1, 2000 for a Regional Transfer Station, shall recover at least 25% by weight of Non-Putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste shall exclude both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section shall constitute a violation enforceable under Metro Code Sections 5.01.180 and 5.01.200.

(c) In addition to the requirements of (a) and (b) in this section, holders of a ~~License~~ or Franchise for a Local Transfer Station:

- (1) Shall accept Putrescible Waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul Putrescible Waste.
- (2) Shall not accept hazardous waste.

- (3) Shall be limited in accepting Putrescible Waste during any fiscal year to an amount of Putrescible Waste equal to the demand for disposal of Putrescible Waste generated within a Service Area as specified in accordance with this chapter.
- (4) Shall accept Solid Waste from any Waste Hauler who operates to serve a substantial portion of the demand for disposal of Solid Waste within the Service Area of the Local Transfer Station.

(d) In addition to the requirements of (a) and (b) in this section, holders of a Franchise for a Regional Transfer Station issued after July 1, 2000:

- (1) Shall accept authorized Solid Waste originating within the Metro boundary from any person who delivers authorized waste to the facility, on the days and at the times established by Metro in approving the Franchise application.
- (2) Shall provide an area for collecting Household Hazardous Waste from residential generators at the Franchised Solid Waste Facility, or at another location more convenient to the population being served by the franchised Solid Waste Facility, on the days and at the times established by Metro in approving the Franchise application.
- (3) Shall provide an area for collecting source-separated recyclable materials without charge at the Franchised Solid Waste Facility, or at another location more convenient to the population being served by the franchised Solid Waste Facility, on the days and at the times established by Metro in approving the Franchise application.

SECTION 17. Metro Code Section 5.01.131 is amended to read:

5.01.131 Designation and Review of Service Areas and of Demand

(a) The Chief Operating Officer shall designate Service Areas and shall calculate demand for disposal of Putrescible Waste generated within each Service Area. Demand shall be determined by calculating the approximate tonnage of putrescible waste for each service area.

(b) By March 15 of each even-numbered year, the ~~Director of the Regional Environmental Management Department~~ Chief Operating Officer shall provide a written report to the Metro Council that includes:

- (1) A quantitative review of the demand for disposal of Putrescible Waste within all Service Areas;
- (2) A review of the performance of the obligations and limits authorized pursuant to Section 5.01.125(c) of this chapter in achieving the policies stated by Council in adopting this chapter; and
- (3) A recommendation on any revisions of Service Area boundaries, change in the need for disposal capacity within any Service Area, or changes of obligations or limits imposed on any Local Transfer Station.

- (4) The Chief Operating Officer shall consider the relationship between demand and disposal capacity located within each Service Area to insure that all Service Areas are treated equally and equitably concerning the availability of disposal capacity to meet the calculated demand.

(c) Notwithstanding subsection (b), the Chief Operating Officer may authorize an increase in a tonnage authorization established pursuant to subsection 5.01.125(c)(3) of this chapter upon the Chief Operating Officer's finding that growth or other conditions affecting demand for disposal of Putrescible Waste within the Service Area cannot be served by said tonnage authorization. Any such increase in tonnage authorized pursuant to this subsection shall be limited to a maximum of five percent (5%) of any tonnage authorization or disposal limit approved by the Council, and shall be valid for a period not exceeding 24 months.

SECTION 18. Metro Code Section 5.01.135 is amended to read:

5.01.135 ~~Chief Operating Officer's~~ Inspections and Audits of Solid Waste Facilities

(a) The Chief Operating Officer shall be authorized to make such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a ~~L~~icensed or ~~F~~ranchised facility, ~~and all other Solid Waste Facilities~~, at all reasonable times during business hours with or without notice or at such other times with 24 hours notice after the Franchise or License is granted to assure compliance with this chapter, the Code, ~~the Franchise or License agreement~~, and administrative procedures and performance standards adopted pursuant to Section 5.01.132 of this chapter.

(b) Inspections or audits authorized under subsection (a) of this section shall occur regularly and as determined necessary by the Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the Chief Operating Officer.

(c) The Chief Operating Officer shall have access to and may examine during such inspections or audits any records pertinent in the opinion of the Chief Operating Officer to the License or Franchise, ~~or to the provisions of this chapter~~, including but not limited to the books, papers, records, equipment, blueprints, operation and maintenance records and logs and operating rules and procedures of the Licensee, ~~or Franchisee or Solid Waste Facility operator~~.

~~———— (d) ——— Nothing in this section precludes Metro from inspecting a certified ~~or an~~ exempted operation to verify that the operation is being conducted in a manner that qualifies as a certified ~~or an~~ exempted Activity or from taking any appropriate enforcement action.~~

(~~ed~~) Any violations discovered by the inspection or audit shall be subject to the penalties provided in Section 5.01.200.

SECTION 19. Metro Code Section 5.01.150 is amended to read:

5.01.150 User Fees

(a) Notwithstanding Section 5.01.040(a)(2) of this chapter, the Council shall set user fees annually, and more frequently if necessary, which fees shall apply to Solid Waste Facilities ~~or and~~ Disposal

Sites which are owned, operated, ~~Certified~~, ~~Licensed~~, or ~~Franchised~~ by Metro or which are liable for payment of user fees pursuant to a special agreement with Metro.

(b) User fees shall not apply to:

- (1) Solid waste received at facilities that are ~~certified~~, licensed, franchised or exempt from regulation under this Chapter, other than any Disposal Sites or Transfer Stations that are not subject to the requirements of Section 5.01.125(a);
- (2) Cleanup Material Contaminated By Hazardous Substances accepted at facilities that treat said Cleanup Material Contaminated By Hazardous Substances to applicable DEQ standards;
- ~~(3) Source-separated yard debris accepted at Licensed yard debris processing facilities or yard debris reload facilities;~~
- (43) Useful Material that is accepted at a Disposal Site that is listed as a Metro Designated Facility in Chapter 5.05 or accepted at a Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05, provided that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of the Disposal Site such as for roadbeds or alternative daily cover; and (B) is accepted at the Disposal Site at no charge; or
- (54) Processing Residual produced by any tire processor that is regulated pursuant to this chapter and that sorts, classifies or processes used tires into fuel or other products, provided said Processing Residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro ~~certificate~~, license or franchise.

(c) Notwithstanding any other provisions of this Code, user fees shall apply to Cleanup Material Contaminated By Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System Facility authorized to accept such substances. Such Cleanup Materials Contaminated By Hazardous Substances may be subject to credits against user fees pursuant to Sections 5.02.047 of this Title ~~(c) and (d) of this Code~~.

(d) User fees shall be in addition to any other fee, tax or charge imposed upon a Solid Waste Facility or Disposal Site.

(e) User fees shall be separately stated upon records of the Solid Waste Facility or Disposal Site.

(f) User fees and finance charges on user fees shall be paid as specified in ~~Metro Code~~ Section 5.02.055 of this Title.

(g) There is no liability for user fees on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. User fees may not be deemed uncollectible unless the underlying account is also uncollectible. If the fees have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in

part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

(h) All user fees shall be paid in the form of a remittance payable to Metro. All user fees received by Metro shall be deposited in the solid waste operating fund and used only for the administration, implementation, operation and enforcement of the Regional Solid Waste Management Plan.

(i) ~~Certificate~~, License or Franchise holders are eligible to apply for and receive Regional System Fee Credits pursuant to Section 5.02.047 of ~~this Title~~ the Metro Code.

SECTION 20. Metro Code Section 5.01.170 is amended to read:

5.01.170 Determination of Rates

(a) The ~~Metro~~ Council may establish facility Rates upon finding that setting such rates is in the public interest as a matter of metropolitan concern.

(b) Notwithstanding any other provision of this section,

(1) ~~Holders of Certificates or~~ Licensees shall be exempt from all rate setting; and

(2) Franchisees shall be exempt from rate setting unless rate setting is required as a condition of their Franchise.

SECTION 21. Metro Code Section 5.01.180 is amended to read:

5.01.180 Enforcement of Franchise or License Provisions

(a) The Chief Operating Officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke a ~~Certificate~~, Franchise or License as provided in this section. If, in the opinion of the Chief Operating Officer, there is sufficient evidence to suspend, modify, or to revoke a ~~Certificate~~, Franchise or License, the Chief Operating Officer shall notify the ~~Certificate holder~~, Franchisee or Licensee in writing of the alleged violation, and the steps necessary to be taken to cure the violation. Upon a finding that violation exists and that the ~~Certificate holder~~, Franchisee or Licensee is unable to or refuses to cure the violation within a reasonable time after receiving written notice thereof, the Chief Operating Officer may provide notice to the ~~Certificate holder~~, Franchisee or Licensee that penalties pursuant to Section 5.01.200 of this chapter shall be imposed or that the ~~Certificate~~, Franchise or License is suspended, modified or revoked.

(b) The notice authorized by this subsection shall be based upon the Chief Operating Officer's finding that the ~~Certificate holder~~, Franchisee or Licensee has:

(1) Violated the ~~Certificate~~, Franchise or License agreement, the administrative procedures or performance standards issued by the Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or

- (2) Misrepresented material facts or information in the ~~Certificate~~, Franchise or License application, or other information required to be submitted to Metro;
- (3) Refused to provide adequate service at a Licensed or Franchised site, facility or station, after written notification and reasonable opportunity to do so;
- (4) Misrepresented the gross receipts from the operation of the Licensed or Franchised site, facility or station;
- (5) Failed to pay when due the fees required to be paid under this chapter; or
- (6) Been found to be in violation of a city or county ordinance if such ordinances require Licensees or Franchisees to comply with the Metro solid waste facility regulation code.

(c) Except as provided in subsection (d) of this section, the Chief Operating Officer's revocation, modification or suspension of a Franchise shall not become effective until the Franchisee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(d) Upon a finding of serious danger to the public health or safety as a result of the actions or inactions of a Franchisee or Licensee under this chapter, the Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the Franchise or License and may take whatever steps may be necessary to abate the danger. In addition, in the case of a Franchise, the Chief Operating Officer may authorize another Franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected Franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a Franchise is immediately suspended, the Franchisee shall have 90 days from the date of such action to request a contested case hearing in accordance with Code Chapter 2.05.

(e) Upon revocation or refusal to renew the Franchise or License, all rights of the Franchisee or Licensee in the Franchise or License shall immediately be divested.

SECTION 22. Metro Code Section 5.01.200 is amended to read:

5.01.200 Penalties

(a) Each violation of this chapter shall be punishable by a fine of not more than \$500. Each day a violation continues constitutes a separate violation. Separate offenses may be joined in one indictment or complaint or information in several counts.

(b) Upon a finding that a ~~Certificate holder~~, Licensee or Franchisee is in violation of this chapter, the Code, the ~~Certificate~~, License or Franchise agreement, or the administrative procedures or performance standards adopted pursuant to Section 5.01.132 of this chapter during an inspection or audit conducted pursuant to Section 5.01.135 of this chapter, the Chief Operating Officer shall provide written notice to the ~~Certificate holder~~, Licensee or Franchisee describing the violation at the time of the inspection, and requiring the Licensee or Franchisee to correct the violation within the time specified on the notice.

(c) Upon a finding that the ~~Certificate holder~~, Licensee or Franchisee has failed to abate the violation within the specified time period, the Chief Operating Officer shall issue a citation, indicating the

continuing violation, the date of reinspection and imposing a fine as specified in subsection (a) of this section on Licensees or Franchisees.

(d) If after re-inspection, the Chief Operating Officer finds the Licensee or Franchisee has failed to abate the violation, such violation shall be punishable by a fine of \$1,000.00. Notice of a final deadline for abating the violation shall be given at the time of re-inspection.

(e) Upon a finding that the ~~Certificate holder~~, Licensee or Franchisee has failed to abate the violation after the final deadline, the Licensee or Franchisee shall be required to cease performing the Activity resulting in the violation.

(f) Further inspections shall be conducted to ensure suspension of the offending Activity. If the ~~Certificate holder~~, Licensee or Franchisee has failed to suspend the offending Activity, the Chief Operating Officer shall conduct an investigation which may result in the:

- (1) Imposition of a remedy suitable to Metro to be implemented by and at the expense of the ~~Certificate holder~~, Licensee or Franchisee;
- (2) Suspension of all solid waste Activities on site;
- (3) Imposition of a lien on the property for the amount of the fines; or
- (4) Suspension, modification or revocation of the ~~Certificate~~, License or Franchise pursuant to Section 5.01.180 of this chapter.

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by Metro upon suit in a court of competent jurisdiction and shall also be subject to a civil penalty not to exceed \$500 per day for each day of violation.

SECTION 23. Metro Code Section 5.01.400 is hereby repealed.

SECTION 24. Metro Code Section 5.01.410 is amended to read:

5.01.410 Miscellaneous Provisions

(a) The Chief Operating Officer shall be responsible for the administration and enforcement of this chapter.

(b) The granting of a ~~Certificate~~, License or Franchise shall not vest any right or privilege in the Licensee or Franchisee to receive specific quantities of Solid Waste during the term of the License or Franchise.

(c) The power and right to regulate, in the public interest, the exercise of the privileges granted by a License or Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against holders of ~~Certificates~~, Licenses or Franchises.

(d) To be effective, a waiver of any term or condition of a ~~Certificate~~, License or Franchise must be in writing, signed by the Chief Operating Officer. Waiver of a term or conditions of a ~~Certificate~~,

License or Franchise shall not waive nor prejudice Metro's right of Metro otherwise to require performance of the same term or conditions or any other term or condition.

(e) A ~~Certificate~~, License or Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

(f) If any provision of a ~~Certificate~~, License or Franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in the ~~Certificate~~, License or Franchise shall not be affected.

(g) Nothing in this chapter is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to any Solid Waste Facility or Disposal Site that it is authorized or required to enforce or administer.

(h) Nothing in this chapter shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

(i) Nothing in this chapter is intended to establish standards or other regulatory requirements for inadvertent composting resulting from the storage of organic materials.

SECTION 25. This ordinance is immediately necessary for the health, safety and welfare of the Metro region in order to ensure the efficient operation of the region's solid waste management system. An emergency is therefore declared to exist. This ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Attest:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

mcain
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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 03-1018
METRO CODE CHAPTER 5.01)	
REGARDING SOLID WASTE FACILITY	)	AMENDMENTS INTRODUCED BY
REGULATION; AND DECLARING AN		COUNCILOR ROD MONROE
EMERGENCY		

The following language shall become an additional section of Ordinance No. 03-1018:

In order to reflect the original intent of the Council when it adopted Ordinance No. 01-916C:

- (a) Section 4.2 of Metro Solid Waste Facility Franchise Number F-002-98 issued to Pride Recycling Company is amended to read:

4.2	Limit on waste accepted	The franchisee shall accept no more than 65,000 tons of putrescible waste <u>generated, originating, or collected within Metro boundaries</u> within each Metro fiscal year.
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Except as provided in subsection 5.01.131(c) of the Metro Code, the putrescible waste limitations in this section shall be reviewed and approved by the Council prior to their implementation.

- (b) Section 4.2 of Metro Solid Waste Facility Franchise Number F-005-98 issued to Willamette Resources, Inc. is amended to read:

4.2	Limit on waste accepted	The franchisee shall accept no more than 65,000 tons of putrescible waste <u>generated, originating, or collected within Metro boundaries</u> within each Metro fiscal year.
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Except as provided in subsection 5.01.131(c) of the Metro Code, the putrescible waste limitations in this section shall be reviewed and approved by the Council prior to their implementation.

- (c) Section 4.2 of Metro Solid Waste Facility Franchise Number F-001-99 issued to USA Waste of Oregon, Inc. is amended to read:

4.2 Limit on waste The franchisee shall accept no more than 65,000 tons of
accepted putrescible waste generated, originating, or collected
 within Metro boundaries within each Metro fiscal year.

Except as provided in subsection 5.01.131(c) of the Metro Code, the putrescible waste limitations in this section shall be reviewed and approved by the Council prior to their implementation.

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 03-1018
METRO CODE CHAPTER 5.01)	
REGARDING SOLID WASTE FACILITY	)	AMENDMENTS INTRODUCED BY
REGULATION; AND DECLARING AN		COUNCILOR ROD MONROE
EMERGENCY		

New language is shown underlined and in [brackets], while deleted language is shown underlined and in {parentheticals}.

AMENDMENT SECTION 1. Section 3 of Ordinance No. 03-1018, amending Metro Code Section 5.01.040, is further amended to read:

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, [and except as provided in subsection (c) of this section,] the Metro Council declares the provisions of this chapter shall not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge;
- (2) Disposal Sites, Transfer Stations, or Solid Waste Facilities owned or operated by Metro.
- (3) Facilities that (A) exclusively receive non-Putrescible Source-Separated Recyclable Materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.
- (4) Facilities that exclusively receive, process, transfer or dispose of Inert Wastes;
- (5) The following operations, which do not constitute ~~y~~Yard ~~d~~Debris ~~f~~Facilities:
 - (A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
 - (B) Residences, parks, community gardens and homeowner associations.
 - (C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard

debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.

- (D) Operations or facilities that chip or grind wood wastes, unless:
 - (1) such chipped or ground wood wastes are processed for composting; or
 - (2) such operations or facilities are otherwise regulated under Metro Code Section 5.01.045.
- (6) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process Solid Waste if Metro finds an emergency situation exists.
- (7) Any Reload facility that:
 - (A) Accepts Solid Waste collected under the authority of a single franchise granted by a local government unit, or from multiple franchises so long as the area encompassed by the franchises is geographically contiguous; and
 - (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and
 - (C) Delivers any Putrescible Waste accepted at the facility to a Transfer Station owned, operated, Licensed or Franchised by Metro; and
 - (D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another facility or Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05.
- (8) Persons who own or operate a mobile facility that processes Petroleum Contaminated Soil at the site of origin and retains any treated Petroleum Contaminated Soil on the site of origin.
 - (b) Notwithstanding Section 5.01.040(a)(2) of this chapter, Metro shall comply with Section 5.01.150 of this chapter, User Fees.

(c) {Notwithstanding Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter, t}[T]he provisions of Section 5.01.135 of this chapter shall apply to operations and facilities described in {Sections 5.01.040} subsections (a)(3) through {5.01.040}(a)(8) of this {chapter}[section].

AMENDMENT SECTION 2. Section 5 of Ordinance No. 03-1018, amending Metro Code Section 5.01.060, is further amended to read:

5.01.060 Applications for Certifieates, Licenses or Franchises

(a) Applications for a ~~Certifieate~~, Franchise or License or for renewal of an existing ~~Certifieate~~, Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) {In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include}[The application form shall require applicants to provide] a [detailed] description of the Activities proposed to be conducted[,], {and a description of }[the] Wastes sought to be accepted [and an estimate of the quantity of waste that will be accepted, the purpose of the proposed facility, whether the proposed facility will be open to the public, non-affiliated commercial solid waste collectors, or waste originating or generated outside the Metro boundary, the facility's operating hours and estimated traffic volume, and, for renewal applications, whether the facility wishes to change its purpose or authorized Activities].

(c) {In addition to the information required on the forms or in the format provided by the Chief Operating Officer, a}[A]pplications for a License or Franchise shall also include the following information to the Chief Operating Officer:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;
- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held

by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;

(6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission;{ and}

(7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided{.}[;]

[(8) A copy of all notices of violation or non-compliance, or other similar enforcement actions, issued to the applicant by any federal, state, or local government other than Metro and related to operation of a solid waste facility in Oregon or in Clark County, Washington, by the applicant or an affiliate of the applicant, including any parent or subsidiary corporation, any corporation owned by a common parent corporation, or any other company owned by the same person that owns the applicant, in the five years prior to the date the applicant first submitted its application;

(9) Facility site and design plans; and

(10) A description of how the applicant intends to control nuisances, prevent fires and other hazards, and manage waste that it will not be authorized to receive, including hazardous waste.]

(d) An application for a ~~Franchise Transfer Station or Disposal Site~~ shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this ~~chapter~~ showing that the proposed facility is consistent with the Regional Solid Waste Management Plan.

[(e) An application seeking authority to operate a Material Recovery facility shall also include a description of how the facility will further Material Recovery in the Metro region, including (1) a description of the methods the facility will use to (A) recover material, (B) measure and keep records of incoming solid waste and recovered solid waste, (C) distinguish loads of incoming solid waste from source-separated recyclables, and (D) manage odor and odor complaints, (2) the existence and continuing viability of markets for the sale of recovered material, (3) an estimate of the maximum and typical lengths of time required to process each day's receipt of solid waste and source-separated recyclables, and (4) a list of the name, address, and functions of any subcontractors that will be involved in facility operations.]

~~—(e) A person holding or making application for a Solid Waste Facility License or Franchise from Metro authorizing receipt of Putrescible Waste may make application to deliver Putrescible Waste directly to Metro's contract operator for disposal of Putrescible Waste. Said application must be accompanied by: (A) a showing that the proposed Direct Haul authorization is consistent with the Regional Solid Waste Management Plan, and (B) an analysis of the System Costs with and without the authorization for Direct Haul from the Solid Waste Facility.~~

[(f) An application seeking authority to accept putrescible waste shall also include a description of the anticipated maximum and typical lengths of time required to process each day's receipt of putrescible waste, a list of the name, address, and functions of any subcontractors that will be involved in facility operations, and a description of the methods the facility will use to measure and keep records of incoming solid waste, distinguish loads of incoming putrescible waste from non-putrescible waste, manage odor and odor complaints, and manage stormwater.

(g) An application seeking authority to Direct Haul waste to Metro's waste disposal contractor, in accordance with Section 5.01.127 of this chapter, shall also include a description of the scales and tipper the applicant will use to weigh and tip such waste, and whether the applicant has coordinated such arrangements with Metro's waste disposal contractor, a description of the steps the applicant will take to ensure compliance with the required long-haul transportation standards described in Section 5.01.127 of this chapter, and a list of the name, address, and functions of any subcontractors that will be involved in such Direct Haul operations.]

AMENDMENT SECTION 3. Section 8 of Ordinance No. 03-1018, amending Metro Code Section 5.01.067, is further amended to read:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by Metro Council subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

~~(d) On the basis of the application submitted, and the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall formulate recommendations regarding determine whether the proposed License meets the requirements of Section 5.01.060[,] and whether {to} [the applicant is likely to comply with the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter, and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed License, and shall, on that basis,] approve or deny the application.~~

~~(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the License~~

~~(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting, or denying the application. The Council may attach conditions to the order. If the Council issues an order to deny the application, such order shall be effective immediately.~~

(fe) If the ~~Council~~ Chief Operating Officer does not act to grant; or deny; a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the {standard}[same] terms and conditions included in {other comparable}[the last] license{s} issued by Metro [to a similarly situated applicant that sought to accept and process the same types of solid waste as did the application under consideration].

(f) {If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. } The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(g) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(h) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the ~~Council~~ Chief Operating Officer.

(i) ~~Licenses shall be for a term of five years.~~ {The term of a new or renewed License shall be not more than five years.} [~~Licenses shall be for a term of five years.~~]

AMENDMENT SECTION 4. Section 9 of Ordinance No. 03-1018, amending Metro Code Section 5.01.070, is further amended to read:

5.01.070 Issuance of Franchise

(a) Applications for Franchises filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed Franchise site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the Franchise.

(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting; or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) In determining whether to authorize the issuance of a Franchise, the Council shall consider, but not be limited by, ~~whether~~ the following factors:

- (1) Whether ~~The~~ applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;

~~(2)[(2)]~~ The applicant has demonstrated that the proposed Activity will result in lower net System Costs, if such a showing is required by Section 5.01.060. The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;

(3) ~~{Whether G}~~ granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;

(4) ~~Whether G~~ granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;

(5) ~~} Whether T~~ the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

(g) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this Section. If the Council does not act to grant, or deny, an Franchise application by the deadline for such action within 120 days after the filing of a complete application, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application, and the Chief Operating Officer shall issue a Franchise containing the {standard}[same] terms and conditions included in {other comparable}[the last] franchise{s} issued by Metro [to a similarly situated applicant that sought to accept and process the same types of solid waste as did the application under consideration].

(h) At any time after the filing of a complete Franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

(1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application; [or]

(2) {The applicant substantially modifies the application during the course of the review, in which case the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or

(3) } The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter

(hj) If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six months from the date of denial.

(ik) The term of a new or renewed Franchise shall be {not more than} five years.

AMENDMENT SECTION 5. Section 11 of Ordinance No. 03-1018, amending Metro Code Section 5.01.087, is further amended to read:

5.01.087 Renewal of Licenses and Franchises

(a) The Chief Operating Officer shall renew a Solid Waste Facility Licenses shall be renewed unless the Chief Operating Officer determines that the {proposed renewal is not in the public interest} [applicant is not likely to comply with the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter, or other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the License], provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300) not less than 60 {120} [60] days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.

(b) The Council shall approve or deny renewals of Solid Waste Facility Franchises. ~~shall be renewed unless the Chief Operating Officer determines that the proposed renewal does not meet the criteria contained in Section 5.01.070 of this chapter, provided that the A Franchisee seeking renewal of a Franchise shall~~ files a completed application for renewal accompanied by payment of an application fee of five hundred dollars (\$500) not less than {120} [60] days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the Franchise and any other information required by the Chief Operating Officer or by the Council. The Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070 of this chapter. The Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. The Chief Operating Officer Council may attach conditions or limitations to the renewed Franchise.

AMENDMENT SECTION 6. Section 12 of Ordinance No. 03-1018, amending Metro Code Section 5.01.090, is further amended to read:

5.01.090 Transfer of Ownership or Control

~~_____ (a) _____ The Chief Operating Officer shall transfer a Certificate upon receipt in writing of any transfer of ownership or change in control, provided that the Persons seeking to be certified are not requesting authorization to accept additional Wastes or to perform additional Activities at the Solid Waste Facility. _____~~

~~_____ (b) _____ A new License application shall be submitted when a Licensee proposes to transfer Control or ownership of the Solid Waste Facility to any other Person.~~

(ea) (1) _____ Any Person in control of a License or Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the License or Franchise to another person unless an application therefor has been filed in accordance with Section 5.01.060 and has been granted. The proposed transferee of a License or Franchise must meet the requirements of this chapter.

(2b) The Council shall not unreasonably deny an application for transfer of a Franchise or Franchisee. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the {application} [transfer of the Franchise] shall be deemed granted [and the terms and conditions of the Franchise in force at the time of the application for transfer shall continue to apply].

(c) _____ The Chief Operating Officer shall not unreasonably deny an application for transfer of a License. If the Chief Operating Officer does not act on the application for transfer within 120 days after filing of a complete application, the {application} [transfer of the License] shall be deemed granted [and the terms and conditions of the License in force at the time of the application for transfer shall continue to apply].

(3d) The term for any transferred Franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.

(e) _____ The term for any transferred License shall be for the remainder of the original term {unless the Chief Operating Officer establishes a different term based on the facts and circumstances at the time of transfer}.

AMENDMENT SECTION 7. In order to reflect the original intent of the Council when it adopted Ordinance No. 01-916C:

(a) Section 4.2 of Metro Solid Waste Facility Franchise Number F-002-98 issued to Pride Recycling Company is amended to read:

4.2	Limit on waste accepted	The franchisee shall accept no more than 65,000 tons of putrescible waste <u>[generated, originating, or collected]</u>
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within Metro boundaries] within each Metro fiscal year.

Except as provided in subsection 5.01.131(c) of the Metro Code, the putrescible waste limitations in this section shall be reviewed and approved by the Council prior to their implementation.

(b) Section 4.2 of Metro Solid Waste Facility Franchise Number F-005-98 issued to Willamette Resources, Inc. is amended to read:

4.2	Limit on waste accepted	The franchisee shall accept no more than 65,000 tons of putrescible waste [<u>generated, originating, or collected within Metro boundaries</u>] within each Metro fiscal year.
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Except as provided in subsection 5.01.131(c) of the Metro Code, the putrescible waste limitations in this section shall be reviewed and approved by the Council prior to their implementation.

(c) Section 4.2 of Metro Solid Waste Facility Franchise Number F-001-99 issued to USA Waste of Oregon, Inc. is amended to read:

4.2	Limit on waste accepted	The franchisee shall accept no more than 65,000 tons of putrescible waste [<u>generated, originating, or collected within Metro boundaries</u>] within each Metro fiscal year.
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Except as provided in subsection 5.01.131(c) of the Metro Code, the putrescible waste limitations in this section shall be reviewed and approved by the Council prior to their implementation.

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M E M O R A N D U M

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DRAFT



METRO

DATE: September 23, 2003

TO: David Bragdon, Metro Council President

FROM: Lydia Neill, Principal Regional Planner

RE: Industrial Land Aggregation Methodology, Test and Results
Urban Growth Boundary Periodic Review

Purpose

The purpose of this analysis is to develop an aggregation methodology to apply to lands being considered to fulfill the industrial land shortfall. A consistent methodology is needed to determine the likelihood of consolidating small parcels of land in study areas to fulfill the large parcel needs.

Background

The demand for specific sizes of land for different sectors of industrial growth is based on the adopted 2002-2022 Population and Employment Forecast and the Employment Urban Growth Report (UGB). These adopted reports have been supplemented by MetroScope modeling results to provide an indication of the rate of use of land that would be added to the UGB. The 2002 MetroScope modeling work provides a simulation of five different scenarios of land additions and policy actions.

There remains after the 2002 land additions a need for over 1,968 net developable acres of industrial land for the forecast period from 2000 through 2022.¹ The land need was estimated by three building types or sectors and by different lot size categories. The three building types are warehouse/distribution, general industrial and tech-flex. The location and siting factors memorandum dated May 14, 2003 outlined lot size categories: under 1 acre, 1-5 acres, 5-10 acres, 10-25 acres, 25-50 acres, 50-100 acres and 100+ acres by sector. For purposes of broadly determining the potential for land aggregation these lot size categories have been collapsed into three categories. The lot size ranges are 5-25 acres, 25-50 acres and 50-100 and 100+ acre sizes.

A follow-up memorandum dated June 9, 2003 discussed the locational and siting needs of industry that are broadly classified as warehouse/distribution, general industrial and tech flex. A number of common themes emerged from development of the locational

¹ The total need for industrial land was 4,284 net acres. Approximately 2,850 net acres of employment land was added to the UGB in December 2002. The employment land category includes both industrial and commercial land. A total of 1,968 net acres of industrial land was added in the 2002 UGB decision.

and siting factors pertaining to slope, access, and proximity to other like uses. In general, industrial uses require slopes of less than 5%, access to a major transportation facility such as I-5, I-205, I-84 and Highway 26, mid-day access to the airport within a 45-minute time frame and physical proximity to other similar industries and work force. These industry preferences have been translated into location and siting factors that have been modeled for the lands being studied and they include: 1) slopes that are less than 10%, 2) location near other industry and 3) access to major transportation facilities such as I-5, I-205, Hwy 26 and I-84.

Larger lot sizes are desirable because they have better potential for meeting competitive market needs. Although the focus has been placed on attracting and landing the “big fish” that represents a new firm locating in the region, the largest demand for industrial land will come from companies that are already located within the region. Existing companies that are growing and expanding have similar needs for land as new companies that might chose to relocate in this region. Parcels over 50+ acres are desirable for the following reasons:

- **Ease of development-** they allow more opportunities to accommodate natural resources, slopes, odd shapes, internal circulation challenges and access requirements.
- **Flexibility-** lots can be configured into smaller parcels to meet individual firm needs, provide additional opportunities for financing and be responsive to changing market demands.
- **Growth potential-** allows expansion opportunities for existing firms so they can remain in a single location and still have opportunities to grow their business. This provides the region a competitive advantage for the retention of existing firms.
- **Site Planning on larger parcels-** allows more efficient and cohesive site development to occur and allows the opportunity for phasing and greater land utilization.

Total Industrial Demand

The total regional demand for industrial land indicates the greatest demand exists in the small to mid-size parcel range (under 1 acre to 25 acres). However, even though the total number and acreage of large lots demanded is small relative to other lot size categories, it is critical that there are opportunities provided for location of a large user. By creating a supply around the region the region as a whole is better positioned to attract new firms and accommodate the expansion needs of existing firms. The region needs to accommodate the possibility of attracting a large company with the potential to enhance job creation. Smaller size parcels can be more easily produced due to fewer ownership issues and more limited aggregation costs associated with assembling land.

Industrial Land Supply Available to Meet Demand

The supply of vacant land to meet the industrial need is calculated for the land inside of the UGB and for the areas added to the UGB in December 2002. The gross acres have been calculated by removing only Title 3 regulated areas.

2002-2022 Need For Land by Parcel Size (excludes lots under 5 acres in size)

Comparison of supply and demand - within the UGB and expansion areas (Gross Acres)				
	5 to 25	25 to 50	50 to 100+	Total
Total Supply	4,047	187	647	4,881
Total Demand	4,735	890	1,371	6,996
Surplus/Deficit in acres	(688)	(703)	(724)	(2,115)

Analysis Methodology

Objective: assess the opportunity for aggregating parcels into larger units to meet the industrial land need. Listed below are the steps that staff will take to assess the 2002 Alternatives Analysis Study area that have been determined to meet the industrial land location and siting factors and the 2003 study areas. ²

- Query parcel database within study areas for contiguous ownership patterns
- Overlay potential committed uses: schools, churches, higher value residential
- Map buildable areas and overlay tax lots, slopes over 10% and Title 3 coverage
- Assess site constraints, buildings, natural resources, slopes and the shape of potential parcels
- Manually audit data to form units of lots that could be classified as a 5-25 acre, 25-50 acre or 50-100+ acre sites for development purposes.

The Aggregation Study Will Produce:

- Maps of contiguous buildable areas with tax lots, note committed uses, Title 3 and slopes over 10%.
- A table of all areas with statistics for each study area including: average lot sizes, total number of parcels, buildable areas containing contiguous tax lots, number of existing lots with the 5 to 25 acres, 25 to 50 acres and 50-100 and 100+ acre categories.
- A table of average lot sizes, average lot values both in terms of assessed improvement values, land and square footage.

Summary of the Methodology

Key Assumptions:

- Aggregation potential is characterized by lot size ranges of 5-25 acres, 25-50 acres and 50-100 and 100+ acres. Approximately 688 acres of land are needed in the 5 to 25 acre parcel size range and 703 acres are needed within the 25-50 acre size range and 724 acres in the 100+ acre lot size range.
- Assume that separate contiguous tax lots under a common ownership can be treated as a single site
- Apply the following decision rules- 1) no more than two separate property owners for lots 5-25 acres, 2) three property owners for lots 25-50 acres and 3) four property owners 50-100+ acres to assemble lots within this size range
- Begin first by aggregating to the largest lot sizes possible and then move down by each lot size category
- Create aggregated lots in square or rectangular shapes where ever possible and consider how natural resources and slopes divide the property

² The source data is from RLIS. Tax lots provide an estimation (at the regional level) of legal lots that can be treated as separate parcels of land for sale purposes. It is not possible to conduct an analysis based on examining legal lots at this scale analysis.

Financial Considerations of Land Aggregation

Generally the marketability of sites for industrial development is driven by land and site preparation costs, cost of services and of site requirements, surrounding uses, site amenities and if the parcel is not vacant the added costs associated with redevelopment.

In general terms most industrial developers need land to be valued at or less than \$5.00/sq.ft.³ The \$5.00/sq.ft. includes land acquisition cost, remediation of existing structures and services to the site. Delivery of services to rural areas can vary widely and can cost between \$1.00-2.00 per square foot leaving between \$3.00 to \$4.00 for site acquisition. The price of land will vary by location, proximity to services, system development charges and whether there are other amenities associated with the site. Delivery of public facilities is predicated on the linear footage from existing facilities and the breadth of the type of services that need to be provided. Transportation appears to be one of the larger public facility expenses followed by sewer and water. System wide improvements such as increases in sewer treatment facilities or construction of water storage tanks are not assumed to be born by individual developers.⁴

How Will Aggregation Factors Be Applied?

The aggregation factors will be used to evaluate each area under consideration to determine the ability of the area to provide different size lots for industrial development. The analysis is applied initially to all 2003 Alternatives Analysis Study areas and then to the 2002 study areas that meet the location and siting factors for industrial land.

The data resulting from the analysis is one more piece of information when considering suitable land for industrial purposes that is similarly situated and within the same hierarchy classification.⁵ This information may be useful for service providers that are estimating potential uses in these areas to identify the appropriate costs to provide public facilities. The data is not suitable for site-specific development decisions. The analysis is designed as a gross assessment of lands in a variety of different locations.

Study Results

The methodology has been applied to the 2003 Alternatives Analysis lands as a test. Once the location and siting factors have been applied to the 2002 Alternatives area these areas will also be analyzed. The study results are included in the appendix to the memorandum. These tables provide information regarding the whether tax lots can be aggregated into one of four lot size categories (5-25, 25-50, 50-100 and 100+ acres) and the average assessed values of land and improvements within the 2003 Study areas. Tax lots under 5 acres were mapped in the 2002 and the 2003 Study areas to illustrate which areas will be more difficult to develop for industrial purposes and to aggregate to form larger lots.

Study Results

- The smallest average lot sizes occur in Area G (south of Hillsboro) and it ranks number one in terms of land value.
- The largest average building sizes are located in Area D (south of Damascus).

³ Land acquisition costs include the value of land and improvements.

⁴ Site acquisition costs were developed from a series of interviews with development professionals and cities with urban renewal experience.

⁵ The hierarchy of lands consists of five tiers of land (beginning with exception lands and progressing through resource lands from the poorest to the best soils) that have been mapped to represent the requirements in Goal 14 when considering land for urban expansion. As an example Tier 5 lands contain the best soils for agriculture (class I and II soils).

- The largest average lot size and the lowest land values are located in Area A (Hwy 26, south of Gresham).
- The range in land values ranges from and average of \$60,347 to \$248,400 per acre.
- The greatest building value per acre is located in Area G (south Hillsboro) and corresponds to the smallest average lot size, conversely Area A (south of Gresham, Hwy 26) has the lowest dollar per square foot value and has the largest average lot size.
- The range in the average building values per acre varies from between a low of \$3,619 to \$26,546 dollars per acre

Conclusions based on the Test Study

- The smaller the study area size the less likely it is to be able to form large lots (5-100+ acres). Study areas over 500 acres provided greater potential for achieving a range of larger lot sizes.
- Areas with the greatest large lot potential (2003 Study areas) are: H,I,K,L and M.
- Exception areas generally have more limited aggregation potential because of committed uses (rural residential, churches, schools) and they contain smaller parcels than EFU areas.
- Generally the areas containing the largest average lot sizes have greatest aggregation potential and they also have the lowest per acre value for land.

Next Steps

The aggregation analysis will be applied to 2002 Alternatives Analysis lands and the 2003 Study areas to determine how suitable these areas are providing larger lots for industrial development. The major follow-up tasks are as follows:

- Complete an analysis of the 2002 Alternative Analysis area that are projected to remain in consideration after the locational and siting factors are applied
- Review the formation of industrial neighborhoods, ideal design characteristics

Appendix of Study Results By Area

Potential Lot Aggregation Table

Lot size classification (by acreage, # of lots formed)	Number of tax lots	Tax lot ownership	Lot size formed	Committed uses ¹	Natural resources ²	Notes
Study Area A (362 Acres)						
5-25 Acres	1	1	13	None	No	Minimal Title 3 areas. There is one A Title 3 area is located in southwestern corner. Slopes limit the aggregation potential of most tax lots in this area, particularly for creating larger sites over 50 acres. Approximately 222 acres are not suitable for aggregation.
	2	1	13	None	Yes	
	4	2	21	None	No	
	3	2	21	None	No	
25-50 Acres (2)	2	2	32	None	No	
	4	3	40	None	No	
50-100 Acres (0)	NA	NA	N/A	NA	NA	
100+ Acres (0)	NA	NA	NA	NA	NA	
						Potential aggregated acreage=140
Study Area B (285 Acres)						
5-25 Acres	1	1	20	None	Yes	Minimal Title 3 areas and slopes. A stream cuts across the southern portion of the area. All of the tax lots in this study area have potential for aggregation. No significant areas of slopes. Approximately 9 acres are not suitable for aggregation due to slopes and natural resources.
	3	2	23	None	Yes	
25-50 Acres	2	1	38	None	None	
50-100 Acres	2	2	75	None	Yes	
100+ Acres						
	2	1	120	None	None	
						Potential aggregated acreage=276
Study Area C (435 Acres)						
5-25 Acres	1	1	18	None	Yes	Slopes in the southern portion of the study area limit aggregation potential. Minimal Title 3 natural resource areas. Several tax lots are owned by LDS Church, but do not have structures on them and are operating as a nursery. St. Paul Church owns two tax lots, one of which has a church on it. Approximately 223 acres are not suitable for aggregation due to slopes.
25-50 Acres (0)	N/A	N/A	N/A	N/A	N/A	
50-100 Acres (1)	5	2	86	St. Paul Church	Yes	
100+ Acres (1)						
	6	3	108	None	Yes	
						Potential aggregated acreage=212
Study Area D (192 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	Significant slopes in this study area limit aggregation potential. Minimal Title 3 areas. A small Title 3 area is located on the northwestern portion of the study area. There is one Title 3 area overlapping the sloped area on the eastern side. Approximately 122 acres that are not suitable for aggregation.
25-50 Acres (2)	2	2	30	None	Yes	
	3	2	40	None	Yes	
50-100 Acres (0)	N/A	N/A	N/A	N/A	N/A	
100+ Acres (0)						
	N/A	N/A	N/A	N/A	N/A	
						Potential aggregated acreage=70
Study Area E (892 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	Slopes and Title 3 areas are in the northwest and east sides of the area. Approximately 530 acres are not suitable for aggregation due to the presence of natural resource areas and slopes.
25-50 Acres (3)	2	1	40	None	No	
	6	3	42	None	No	
	3	3	42	None	No	
50-100 Acres (2)	3	1	59	None	Yes	
	6	1	66	None	No	
100+ Acres (1)	3	3	113	None	Yes	
						Potential aggregated acreage=362

Lot size classification (by acreage, # of lots formed)	Number of tax lots	Tax lot ownership	Lot size formed	Committed uses ¹	Natural resources ²	Notes
Study Area F (1,157 Acres)						
5-25 Acres	1	1	19	None	No	Minimal slopes and Title 3 areas. A stream cuts across the center and the northwest corner of the area and is associated w/steep slopes. Area has good aggregation potential. 411 that are not suitable for aggregation due to slopes and the natural resources.
25-50 Acres (1)	1	1	42	None	Yes	
50-100 Acres (1)	3	3	68	None	Yes	
100+ Acres (3)	8	3	123	None	Yes	
	3	1	172	None	No	
	4	4	322	None	Yes	
Potential aggregated acreage=756						
Study Area G (794 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	Minimal Title 3 areas and/or slopes. Some of the lots are not appropriate for aggregation due to their small size (5 acres or less, slopes). 144 acres are not suitable for aggregation due to small lots, slopes and the presence of natural resources.
	N/A	N/A	N/A	N/A	N/A	
25-50 Acres (0)	N/A	N/A	N/A	N/A	N/A	
50-100 Acres (0)	N/A	N/A	N/A	N/A	N/A	
100+ Acres (2)	2	3	170	None	Yes	
	3	2	480	None	Yes	
Potential aggregated acres=650						
Study Area H (990 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	Some Title 3 areas and slopes along the south and central part of the area, with a larger patch of slopes on the west. The area has good aggregation potential. There are approximately 152 acres that are not suitable for aggregation due to slopes and the presence of natural resources.
25-50 Acres (1)	2	2	50	None	Yes	
50-100 (0)	N/A	N/A	N/A	N/A	N/A	
100+ Acres (4)	4	2	136	None	Yes	
	4	3	185	None	Yes	
	5	2	213	None	Yes	
	6	4	254	None	Yes	
Potential aggregated acres=838						
Study Area I (866 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	No significant slopes in this area, but there are some Title 3 areas. The area has good aggregation potential. There are approximately 267 acres that are not suitable for aggregation due to the presence of natural resources.
25-50 Acres (1)	2	1	27	None	Yes	
50-100 Acres (0)	N/A	N/A	N/A	N/A	N/A	
100+ Acres (4)	3	3	139	None	Yes	
	4	4	141	None	Yes	
	4	4	142	None	Yes	
	5	4	150	None	Yes	
Potential aggregated acres=599						
Study Area J (490 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	Title 3 area cuts across the center of the area. Slopes are located on the west side. Area has good aggregation potential due to large tax lots. 91 acres that are not suitable for aggregation due to slopes, natural resources.
25-50 Acres (1)	1	1	56	None	Yes	
50-100 Acres (1)	3	2	98	None	Yes	
100+ Acres (2)	1	1	110	None	Yes	
	2	2	135	None	Yes	
Potential aggregated acreage=399						
Study Area K (904 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	There are Title 3 areas and slopes along the northern edge of the area. There is good potential for aggregation. There are approximately 181 acres that are not suitable for aggregation due to the presence of natural resources and slopes.
25-50 Acres (0)	N/A	N/A	N/A	N/A	N/A	
50-100 Acres (0)	N/A	N/A	N/A	N/A	N/A	
100+ Acres (4)	3	3	155	None	Yes	
	4	2	156	None	Yes	
	5	3	184	None	No	
	4	3	228	None	Yes	
Potential aggregated acreage=723						

Lot size classification (by acreage, # of lots formed)	Number of tax lots	Tax lot ownership	Lot size formed	Committed uses ¹	Natural resources ²	Notes
Study Area L (624 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	Title 3 areas cut across the center of the area, but there are no slopes. The area has good aggregation potential. There are approximately 161 acres that are not suitable for aggregation due to the presence of natural resources.
25-50 Acres (1)	2	2	28	None	Yes	
50-100 Acres (2)	3	3	76	None	No	
	3	3	60	None	Yes	
100+ Acres (2)	2	2	123	None	No	
	5	4	176	None	Yes	
Potential aggregated acreage=463						
Study Area M (1,082 Acres)						
5-25 Acres	N/A	N/A	N/A	N/A	N/A	There are Title 3 areas in the center and some on the east and west of the study area. There is a school on the east side. The area generally has good aggregation potential. There are approximately 266 acres that are not suitable for aggregation.
25-50 Acres (2)	2	2	26	None	Yes	
	3	2	50	None	Yes	
50-100 Acres (1)	2	2	99	None	Yes	
100+ Acres (4)	6	3	133	None	No	
	4	4	143	None	Yes	
	6	4	159	School	Yes	
	7	3	206	None	Yes	
Potential aggregated acreage=816						

Average Values for 2003 Alternatives Analysis Study Areas A through M

Study Area	Average acres	Average sq ft	Average building sq ft	Average land value	Average building value	Average total value	Land value/acre	Building value/acre	Dollar/acre	Dollar/sq ft
A	23.7	1,032,372	1,867	\$60,347	\$85,790	\$182,661	\$2,546	\$3,619	\$7,077	\$0.18
B	8.6	374,616	1,888	\$110,389	\$114,091	\$224,480	\$127,952	\$13,266	\$26,102	\$0.60
C	25.5	1,109,473	3,244	\$147,207	\$168,879	\$316,086	\$6,630	\$5,779	\$12,410	\$0.28
D	14.6	635,976	3,444	\$248,400	\$186,559	\$434,959	\$12,778	\$17,013	\$29,791	\$0.68
E	10.2	444,312	2,279	\$242,741	\$152,800	\$408,003	\$23,798	\$15,497	\$40,000	\$0.92
F	13.6	592,416	2,859	\$239,295	\$171,317	\$410,612	\$12,596	\$17,595	\$30,192	\$0.69
G	7.4	322,344	2,385	\$196,446	\$120,393	\$319,819	\$16,269	\$26,546	\$43,218	\$0.99
H	16.7	727,452	2,044	\$89,846	\$74,463	\$176,969	\$4,458	\$5,380	\$10,597	\$0.24
I	16.7	727,452	2,167	\$95,391	\$91,120	\$198,326	\$5,456	\$5,712	\$11,875	\$0.27
J	10.6	461,736	2,724	\$109,054	\$95,429	\$213,001	\$9,002	\$10,288	\$20,094	\$0.46
K	14.0	609,840	1,930	\$122,084	\$145,780	\$272,683	\$10,412	\$8,720	\$19,477	\$0.45
L	12.3	535,788	2,289	\$170,218	\$107,055	\$286,874	\$8,703	\$13,838	\$23,323	\$0.54
M	11.6	505,296	2,183	\$166,743	\$98,022	\$272,221	\$8,450	\$14,374	\$23,467	\$0.54

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING METRO'S)
GOAL 5 DRAFT PHASE 1 ESEE ANALYSIS AND) RESOLUTION NO. 03-3376
DIRECTING STAFF TO CONDUCT MORE SPECIFIC)
ESEE ANALYSIS OF MULTIPLE FISH AND WILDLIFE	) Introduced by Michael Jordan, Chief
HABITAT PROTECTION AND RESTORATION	) Operating Officer, with the concurrence
PROGRAM OPTIONS	) of the Council President

WHEREAS, the Regional Framework Plan and Urban Growth Management Functional Plan ("UGMFP") state that Metro will undertake a program for protection of fish and wildlife habitat; and

WHEREAS, Title 3 of the UGMFP sets forth actions that the Metro Council anticipated that Metro would take in identifying, considering, and protecting regionally significant fish and wildlife habitat conservation areas (see Metro Code section 3.07.350(C)); and

WHEREAS, Metro is applying the state Goal 5 administrative rule, OAR 660-023-0000 through OAR 660-023-0250, as the framework for identifying, considering, and protecting regionally significant fish and wildlife habitat areas; and

WHEREAS, the Metro Council adopted a draft inventory and map of regionally significant riparian corridors and wildlife habitat in Resolution No. 02-3218A on August 8, 2002; and

WHEREAS, in Resolution No. 02-3218A, approved on August 8, 2002, the Metro Council adopted a Local Plan Analysis, as required by Title 3, Section 5 of the Urban Growth Management Functional Plan, and concluded, based on the evidence in the Local Plan Analysis, that Goal 5 data and protection among local governments within Metro's jurisdiction is inconsistent and that Metro should analyze the regional economic, social, environment, and energy ("ESEE") consequences that could result from a decision to allow, limit, or prohibit conflicting uses (an "ESEE analysis") for all Goal 5 resource sites containing regionally significant riparian corridors and wildlife habitat; and

WHEREAS, the Goal 5 administrative rule describes four steps to be followed in conducting an ESEE analysis, including (1) identifying conflicting uses, (2) determining the "impact area," (3) analyzing the ESEE consequences, and (4) developing a program to achieve Goal 5; and

WHEREAS, the Goal 5 administrative rule allows local governments to conduct a single ESEE analysis for more than one significant Goal 5 resource and does not require local governments to address the four steps of the ESEE analysis sequentially, but anticipates that some steps will result in a return to a previous step; and

WHEREAS, Metro is conducting its ESEE analysis for all Goal 5 resource sites containing regionally significant riparian corridors and wildlife habitat in two phases: Phase 1 will be a draft general analysis of regional ESEE consequences, including the determination of impact areas and the identification of conflicting uses; Phase 2 will be a more specific draft regional ESEE consequences analysis of the tradeoffs identified in Phase 1 as applied to several program options for protection of regionally significant resource sites, and will result in a draft determination of where to allow, limit or prohibit development on regionally significant fish and wildlife habitat lands and will be the basis for development of Metro's Program to Achieve Goal 5; and

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WHEREAS, Metro has (1) contracted with an independent, well-respected economic consultant, ECONorthwest, to provide its expertise on Metro's analysis of the economic consequences that could result from a decision to allow, limit, or prohibit conflicting uses for all regionally significant resource sites, (2) provided draft copies of the economic analysis to an Independent Economic Advisory Board ("IEAB"), which included recognized economics experts from across the Pacific-Northwest region, to provide peer-review analysis of the methods and assumptions used the economic consequences analysis, and (3) convened an Economics Technical Advisory Committee ("ETAC") consisting of a broad cross-section of economics experts, local government representatives, and other interested parties from the Metro region to review the economic analysis to ensure that it addressed the most critical economic issues facing the Metro region; and

WHEREAS, Metro convened a Social Issues Committee ("Social Committee"), consisting of citizens from the region representing a broad cross-section of ideological viewpoints regarding the social impacts that Metro's Fish and Wildlife Habitat Protection Program may have, to review Metro's social issues analysis; and

WHEREAS, Metro received input from the Goal 5 Technical Advisory Committee ("Goal 5 TAC"), consisting of staff representatives from federal, state, and local governments, soil and water conservation districts, and other individuals with scientific expertise, and from the Water Resources Policy Advisory Committee ("WRPAC"), consisting of representatives from local governments, water districts, and other water service providers in the Metro region, regarding Metro's environmental impacts analysis; and

WHEREAS, a draft Economic, Social, Environmental and Energy Analysis (ESEE) and Executive Summary, September 2003 (collectively the "Draft Phase 1 ESEE Analysis"), is attached as Exhibit A; and

WHEREAS, as required by the Goal 5 administrative rule, the Draft Phase 1 ESEE Analysis determines, for each regionally significant resource site, an impact area in which allowed uses could adversely affect the resource; and

WHEREAS, as required by the Goal 5 administrative rule, the Draft Phase 1 ESEE Analysis examines land uses allowed outright or conditionally within the zones applied to the regionally significant resource sites and their impact areas and, on that basis, identifies conflicting uses that exist, or could occur with respect to the regionally significant resource sites; and

WHEREAS, as required by the Goal 5 administrative rule, the Draft Phase 1 ESEE Analysis analyzes the ESEE consequences that could result from decisions to allow, limit, or prohibit conflicting uses in regionally significant resource sites; and

WHEREAS, the ETAC, Social Committee, Goal 5 TAC, and WRPAC reviewed the Draft Phase 1 ESEE Analysis and provided input and advice on that document; and

WHEREAS, Metro engaged in extensive public outreach to inform the citizens of the region about this stage of Metro's work to develop a fish and wildlife habitat protection and restoration program consistent with the Goal 5 administrative rule, including holding public open houses, distributing material at public events, and presenting Goal 5 material to other interested organizations, groups, businesses, non-profit agencies, and property owners; and

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WHEREAS, based on the preliminary conclusions and tradeoffs discussed in the Draft Phase 1 ESEE Analysis a broad range of program options have been developed for further ESEE analysis as part of Phase 2 of Metro's Goal 5 ESEE analysis, which options are described in detail in a report entitled, "Fish and Wildlife Habitat Protection and Restoration Program Options," (the "Program Options Report") attached hereto as Exhibit B; and

WHEREAS, the Program Options Report describes evaluation criteria and modeling assumptions to guide the Phase 2 ESEE analysis of the program options; and

WHEREAS, the Draft Phase 1 ESEE Analysis, the Program Options Report, and this resolution have been reviewed by the Metro Technical Advisory Committee and the Metro Policy Advisory Committee, which have recommended that this resolution be approved; and

WHEREAS, the Metro Council has held two public hearings to hear comments directly from the citizens of the region regarding the Draft Phase 1 ESEE Analysis, the Program Options Report, this resolution, and Metro's fish and wildlife habitat protection program planning process; now therefore

BE IT RESOLVED:

1. The Metro Council endorses the Draft Phase 1 ESEE Analysis in Exhibit A, including the preliminary identification of conflicting uses and impact areas, and reserves the opportunity to minimally or substantially alter the ESEE analysis prior to adoption of a final ESEE analysis and Program to Achieve Goal 5, after additional public comment and review.
2. The Metro Council directs Metro staff to analyze the program options described in the Program Options Report, attached as Exhibit B, using the evaluation criteria and modeling assumptions described therein, in order to provide Metro with sufficient technical data and analysis to permit the Metro Council to determine which elements, and variations of elements, of the different program options Metro will choose to include in its final action to adopt a Program to Achieve Goal 5.
3. The Metro Council concludes, based on the analysis in Exhibit A, that adopting a Program to Achieve Goal 5 prohibiting all conflicting uses in all resource sites would have exceptionally detrimental social and economic effects, as balanced against the positive environmental, social, economic, and energy effects of such an approach, and that such an approach shall not be further analyzed as part of Metro's fish and wildlife habitat planning process.
4. The Metro Council concludes, based on the analysis in Exhibit A, that adopting a Program to Achieve Goal 5 which would result in a taking of property under the Oregon or United States Constitutions would have exceptionally detrimental social effects, and could also have detrimental environmental, economic, and energy effects, and that, balancing such effects against any positive environmental, social, economic, and energy effects of a program that would allow for a taking of private property, the Program to Achieve Goal 5 that Metro develops shall not prohibit or limit a conflicting use in any significant resource site if such a prohibition or limitation would result in a taking of private property.

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5. The Metro Council concludes, following the analysis in Exhibit A, that adopting a Program to Achieve Goal 5 which would require property owners to discontinue existing, legally authorized uses of their properties or to remove existing, legally authorized structures from their properties would have exceptionally detrimental social and economic effects, and could also have detrimental environmental and energy effects, and that, balancing such effects against any positive environmental, social, economic, and energy effects of a program that would require discontinuing existing, legally authorized uses or removing existing, legally authorized structures, the Program to Achieve Goal 5 that Metro develops shall not require property owners to discontinue existing, legally authorized uses of their properties or to remove existing, legally authorized structures from their properties.
6. The Metro Council's action in this resolution is not a final action designating regionally significant fish and wildlife habitat areas, final action on an ESEE analysis, or a final action to protect those areas through a Program to Achieve Goal 5. Pursuant to OAR 660-023-0080, when Metro takes final action to approve a Program to Achieve Goal 5 it will do so by adopting an ordinance that will include an amendment to the Urban Growth Management Functional Plan, approval of the final designation of significant fish and wildlife habitat areas, and approval of a final ESEE analysis, and Metro then will submit such functional plan amendments to the Oregon Land Conservation and Development Commission for acknowledgement under the provisions of ORS 197.251 and ORS 197.274.

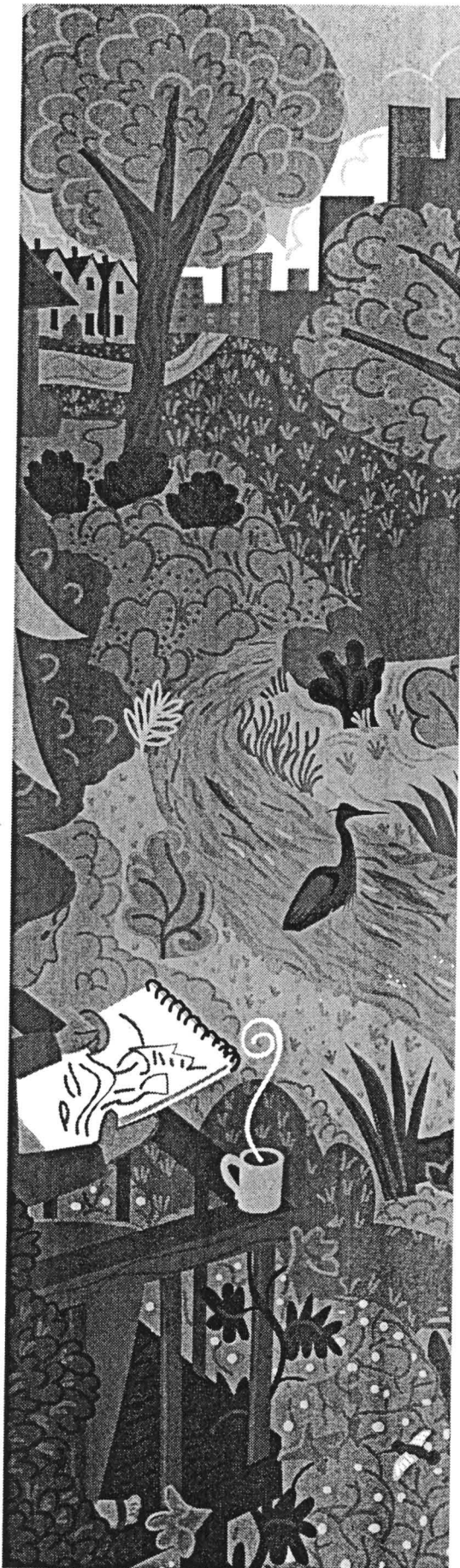
ADOPTED by the Metro Council this ____ day of _____ 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, General Counsel

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METRO FISH AND WILDLIFE HABITAT
PROTECTION PROGRAM

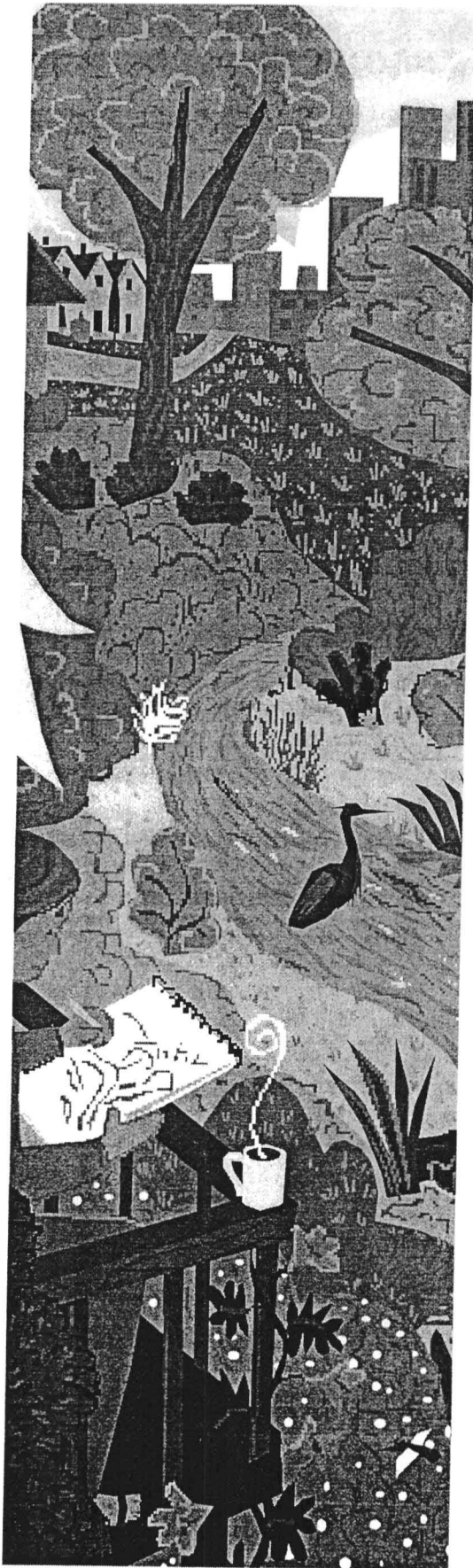
Economic, Social, Environmental and Energy Analysis (ESEE)

September 2003



METRO

PEOPLE PLACES
OPEN SPACES



Discussion Draft

METRO FISH AND WILDLIFE HABITAT
PROTECTION PROGRAM

Economic, Social, Environmental and Energy Analysis (ESEE)

Executive Summary
September 2003



METRO

PEOPLE PLACES
OPEN SPACES

EXHIBIT B
Fish and Wildlife Habitat Protection and Restoration Program Options
Program Options Report
September 29, 2003

1. Program Options

The Metro Council and its local partners are conducting a three-step planning process to conserve, protect, and restore urban streams, waterways and upland areas that provide important fish and wildlife habitat. State land-use planning laws and broad citizen concern about the need to protect and restore habitat guide this work.

Based on a scientific assessment of functional habitat values, Metro Council identified regionally significant fish and wildlife habitat in August 2002, completing the first step of the planning process. This paper describes the approach Metro is following to carry out the second step of the planning process: assessing the Economic, Environmental, Social, and Energy (ESEE) tradeoffs of protecting or not protecting regionally significant fish and wildlife habitat.

Metro's ESEE analysis is divided into two phases. The first phase is nearly complete with the release of the discussion draft ESEE Report that describes the general tradeoffs of allowing, limiting, or prohibiting conflicting uses in fish and wildlife habitat areas.¹

Evaluating the performance of a range of program options is the objective of the second phase of the ESEE analysis. Program options will be defined by applying a range of hypothetical Allow, Limit, and Prohibit regulatory treatments to regional resources and impact areas within Metro's jurisdiction. Non-regulatory approaches will also be analyzed as possible components to program options. The tradeoffs associated with each option will be evaluated and results compared, providing valuable information to Metro Council as it considers a regional ESEE decision in May 2004.

Metro Council is scheduled to consider a fish and wildlife program by December 2004 designed to protect the nature of the region for generations to come.

2. Description of Program Options and Evaluation

The Program Option Chart (Figure 1, page 5) illustrates the various regulatory and non-regulatory program approaches proposed for further study in the ESEE analysis. On the left hand side of the chart, the *"Range of Regulatory Program Options"* depicts four distinct regulatory approaches. These are draft materials and will evolve based on comments from the public and advisory groups.

¹ Metro's Economic, Social, Environmental, and Energy Analysis (ESEE) Discussion Draft Report, September, 2003.

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Regulatory Approaches

Option 1, "Habitat based," proposes to study three levels of habitat protection ranging from low to high. Option 1 uses habitat quality as the basis of assigning regulatory treatments regardless of land uses or economic priorities. For example, the highest value (Class I) riparian/wildlife corridors receive the same level of regulatory protection in industrial areas as they do in residential areas. This approach recognizes fish and wildlife habitat as fixed assets in the urban landscape and orients urban development patterns around habitat areas based on the ecological values present. Option 1 Allow, Limit, and Prohibit regulatory treatments are shown in Table 1 (page 6).

Option 2, "Habitat and urban development based," proposes to study two levels of habitat protection based on both ecological values and urban development priorities. It applies 2040 policy priorities and economic data to modulate habitat protection levels. For example, the highest value (Class I) riparian/wildlife corridors receive differing levels of protection based on their location in areas identified in the ESEE analysis as providing high, medium, or low urban development values. A Class I riparian/wildlife corridor passing through a Regional Center or industrial area would receive less protection than one passing through an inner or outer neighborhood. Option 2 Allow, Limit, and Prohibit regulatory treatments are shown in Tables 2 and 3 (page 7).

Option 3, "Streamside habitat approach," builds on Metro's adopted Title 3 Water Quality and Floodplain Management program by increasing the width of vegetated corridors and protection levels for wetlands and floodplains. This approach does not assign protection levels according to the ecological values identified in Metro's inventory of fish and wildlife habitat, and neither does it assign protection levels on urban development priorities. It does, however, focus protection generally within Class 1 riparian/wildlife corridors. It does not address upland wildlife habitats but can be combined with elements of other options to address upland wildlife habitat. Option 3 Allow, Limit, and Prohibit regulatory treatments are shown in Table 4 (page 8).

Option 4, "Baseline: Current regional regulations" reflects an approach that would not increase the existing levels of regulation. An analysis of the baseline option will allow Metro to determine the increment of additional protection each option would provide to inventoried fish and wildlife habitat areas. The baseline option would be determined by applying Metro's existing Title 3 protection standards for water quality and flood areas, as well as accounting for fish and wildlife habitat in parks and open spaces. Option 4 Allow, Limit, and Prohibit regulatory treatments are shown in Table 5 (page 8).

Ways to vary regulatory approaches

This portion of the Program Options Chart shows how regulatory options could be varied based on geographic areas of coverage or site specific factors. For example, regulatory approaches could be applied everywhere within Metro's jurisdiction or only to new UGB expansion areas and remaining areas outside the UGB. In addition, regulatory approaches could apply to vacant land only, or to both vacant land and redevelopment. Minimum parcel acreage or types of development activities that would act to trigger protection are yet to be defined.

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Non-regulatory approaches

Regulatory options affect land use activities through the permit process. Other activities cause disturbance to fish and wildlife habitat that are not regulated through the permit process. Some of these activities could be affected through a non-regulatory approach. The right side of the Program Option Chart displays the range of possible non-regulatory program options focusing on acquisition, incentives, and education. Regulatory and non-regulatory options could be applied together to provide a complimentary set of tools for protecting and restoring fish and wildlife habitat.

Non-regulatory approaches depend heavily on new funding sources to support land acquisition, incentive and education programs. Table 6 (page 9) displays possible non-regulatory options based on high, medium, and low levels of funding. For example, low levels of funding for education could rely on better coordination of existing education programs, while a high level of funding could direct educational materials to landowners in all resource areas, as well as provide technical assistance and learning opportunities on low impact development and best management practices.

Restoration

The Program Option Chart (Figure 1, page 5) shows that *restoration* can be addressed through regulatory and non-regulatory options. Metro's inventory of fish and wildlife habitat can help to identify restoration opportunities. The degree to which any given option protects fish and wildlife habitat helps preserve restoration opportunities. In addition, successful restoration of fish and wildlife habitat depends heavily on non-regulatory program options. For example, creating new dedicated funding sources and land owner recognition programs could bolster restoration efforts.

3. Definition of ESEE decisions for allow, limit or prohibit treatments

A more precise definition of Allow, Limit, and Prohibit regulatory treatments is needed to determine ESEE tradeoffs and model how different program options will look "on-the-ground." Although Metro's ESEE Report describes general tradeoffs in terms of "allow, limit, or prohibit," tradeoffs can be determined in a more discriminating way by defining degree of limitations on conflicting uses that fall between the extremes of "allow" and "prohibit."

Limit treatments are divided into three categories that represent a continuum ranging from strictly limit, moderately limit, and lightly limit. A description of the assumptions tied to these treatments is provided on page 10. For example, a "strictly limit" treatment assumes that very little building occurs in areas covered by this treatment (primarily those parcels which are located entirely within the treatment area). A "moderately limit" treatment assumes that a certain percentage of buildable lots within the resource area will be developed. A lightly limit treatment assumes an even higher percentage of buildable lots will be developed compared to moderately limit treatments. These assumptions will help model how much habitat will be protected, and conversely, how much development will be accommodated under various options.

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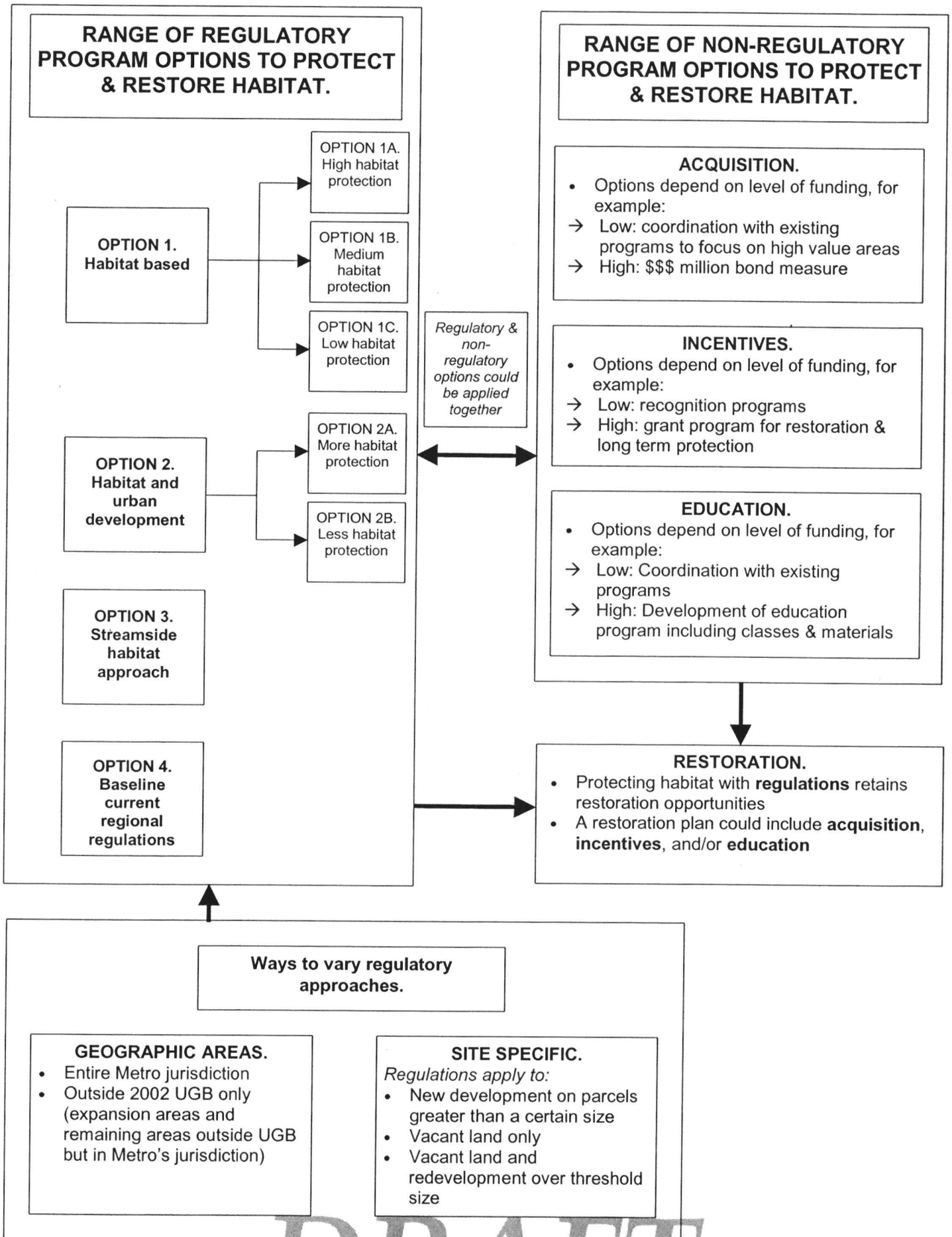
4. Criteria and potential indicators and measures for evaluation of program options

Each program option will be evaluated according to criteria that reflect what was learned in the first phase of the ESEE analysis, as well as other considerations important in formulating regional policy. Table 7 (pages 11-12) lists criteria and corresponding potential indicators and measures for determining whether, or how well, a given criterion is addressed by a program option. In addition to criteria related to the economic, social, environmental, and energy factors, Table 6 lists criteria related to federal environmental laws, funding requirements, effectiveness of non-regulatory approaches, and the increment of additional protection beyond current levels required by the various program options.

Metro staff does not propose to weight the criteria, and any given option will result in a spectrum of economic, social, environmental, and energy tradeoffs. It is ultimately up to the Metro Council to determine, based on the results of the evaluation, which program option, or combination of program options, will be chosen to develop a regional fish and wildlife habitat protection program.

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FIGURE 1: PROGRAM OPTION CHART



REGULATORY OPTIONS TO PROTECT AND RESTORE HABITAT.

Option 1. Habitat based.

Description: This approach recognizes fish and wildlife habitat as fixed assets in the urban landscape and orients urban development patterns around habitat areas based on the ecological values present.

Table 1. Option 1: Habitat based.

Resource Category	Option #1A Most habitat protection	Option #1B Moderate habitat protection	Option #1C Least habitat protection
Class I Riparian/Wildlife	Prohibit	Strictly limit	Moderately limit
Class II Riparian/Wildlife	Strictly limit	Moderately limit	Lightly limit
Class III Riparian/Wildlife	Moderately limit	Lightly limit	Allow
Class A Upland Wildlife	Prohibit	Moderately limit	Moderately limit
Class B Upland Wildlife	Strictly limit	Moderately limit	Lightly limit
Class C Upland Wildlife	Moderately limit	Lightly limit	Allow
Impact Areas--Riparian	Lightly Limit	Lightly limit	Allow
Impact Areas—Other	Lightly Limit	Allow	Allow

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Option 2. Habitat and urban development.

Description: Applies 2040 policy priorities and economic data to modify habitat protection levels.

Option 2A. More habitat protection.

Table 2. Option 2A: Habitat and urban development. (More habitat protection).

Resource Category	High urban development value	Medium urban development value	Low urban development value	Other areas
	Primary 2040 components, ¹ high employment value, or high land value	Secondary 2040 components, ² medium employment value, or medium land value	Tertiary 2040 components, ³ low employment value, or low land value	Parks and Open Spaces, Rural Reserves
Class 1 Riparian/Wildlife	Lightly limit	Moderately limit	Strictly limit	Strictly limit
Class 2 Riparian/Wildlife	Lightly limit	Lightly limit	Moderately limit	Moderately limit
Class 3 Riparian/Wildlife	Allow	Lightly limit	Lightly limit	Moderately limit
Class A Upland Wildlife	Lightly limit	Moderately limit	Moderately limit	Strictly limit
Class B Upland Wildlife	Lightly limit	Lightly limit	Moderately limit	Moderately limit
Class C Upland Wildlife	Allow	Lightly limit	Lightly limit	Moderately limit
Impact Areas--Riparian	Allow	Lightly limit	Lightly limit	Lightly limit
Impact Areas--Other	Allow	Allow	Lightly limit	Lightly limit

¹Primary 2040 components: Regional Centers, Central City, Regionally Significant Industrial Areas

²Secondary 2040 components: Town Centers, Main Streets, Station Communities, Other Industrial areas

³Tertiary 2040 components: Inner and outer neighborhoods, Employment Centers, Corridors

Option 2B. Less habitat protection.

Table 3. Option 2B: Habitat and urban development. (Less habitat protection).

Resource Category	High urban development value	Medium urban development value	Low urban development value	Other areas
	Primary 2040 components, ¹ high employment value, or high land value	Secondary 2040 components, ² medium employment value, or medium land value	Tertiary 2040 components, ³ low employment value, or low land value	Parks and Open Spaces, Rural Reserves
Class 1 Riparian/Wildlife	Allow	Lightly limit	Moderately limit	Strictly limit
Class 2 Riparian/Wildlife	Allow	Lightly limit	Lightly limit	Moderately limit
Class 3 Riparian/Wildlife	Allow	Allow	Allow	Moderately limit
Class A Upland Wildlife	Allow	Lightly limit	Moderately limit	Strictly limit
Class B Upland Wildlife	Allow	Lightly limit	Lightly limit	Moderately limit
Class C Upland Wildlife	Allow	Allow	Allow	Moderately limit
Impact Areas--Riparian	Allow	Allow	Lightly limit	Lightly limit
Impact Areas--Other	Allow	Allow	Allow	Lightly limit

¹Primary 2040 components: Regional Centers, Central City, Regionally Significant Industrial Areas

²Secondary 2040 components: Town Centers, Main Streets, Station Communities, Other Industrial areas

³Tertiary 2040 components: Inner and outer neighborhoods, Employment Centers, Corridors

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OPTION 3. Streamside habitat emphasis.

Description: Builds on Metro's adopted Title 3 Water Quality and Floodplain Management program by increasing the width of vegetated corridors and protection levels for wetlands and floodplains.

Table 4. Option 3: Streamside habitat emphasis.

Resource type	Slopes less than 25%	Slopes greater than 25%
Primary Streams Draining > 100 acres	Moderately limit within 100 feet	Moderately limit up to 200 feet
Secondary Streams Draining 50 to 100 acres	Moderately limit within 50 feet	Moderately limit up to 100 feet
Other Streams	Moderately limit within 25 feet	Moderately limit up to 100 feet
Wetlands*	Strictly limit within 100 feet	Moderately limit up to 200 feet
Undeveloped Floodplains	Moderately limit	NA
Developed Floodplains	Lightly limit	NA

*All (regionally identified) wetlands are designated as Habitats of Concern.

Option 4. Baseline current regional regulations.

Description: Metro's adopted Title 3 Water Quality and Floodplain Management program provides consistent regulations to vegetated corridors and floodplains throughout the region.

Table 5. Option 4: Baseline current regional regulations.

Resource type	Slopes less than 25%	Slopes greater than 25%
Primary Streams Draining > 100 acres	50 ft. from top of stream bank	Up to 200 ft. from top of stream bank (to break in slope)
Secondary Streams Draining 50 to 100 acres	15 ft. from top of stream bank	Up to 50 ft. from top of stream bank (to break in slope)
Wetlands	50 ft. from edge of wetland	Up to 200 ft. from top of stream bank (to break in slope)
Floodplains	Balanced cut & fill	NA

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NON-REGULATORY OPTIONS TO PROTECT AND RESTORE HABITAT.

Table 6. Non-regulatory options.

Level of funding	Acquisition Examples	Incentives Examples	Education Examples
Low	<ul style="list-style-type: none"> Coordination with other entities (jurisdictions, nonprofits) to focus acquisitions on high value Goal 5 habitats and/or HOCs Encourage and facilitate development of system development charges (SDCs) and capital improvement programs focused on providing funds for purchase of high value habitat from willing sellers (e.g., Sherwood program, Portland BES) 	<ul style="list-style-type: none"> Recognition programs for good stewardship and restoration efforts Coordination with entities that have existing donated conservation easement programs (e.g., Three Rivers Land Conservancy) to focus efforts in high value urban habitat areas Encourage and facilitate development of cost sharing and funding of projects that control stormwater runoff (e.g., Portland BES) 	<ul style="list-style-type: none"> Coordination with existing education programs Enhance use of restoration demonstration projects on private or public lands to provide "hands-on" learning experiences and exchange of information
Medium (includes low)	<ul style="list-style-type: none"> <i>Urban area inclusion fee.</i> Requires legislative changes. Allows the capture of portion of the increased value of property due to inclusion in the UGB. Funds could be spent to purchase lands in the expansion areas, or to restore ecological functions. <i>Low level bond measure - \$\$</i> Focus acquisition efforts on highest value areas or on conservation easements. 	<ul style="list-style-type: none"> <i>Riparian tax incentive program:</i> implement with local county approval, state limits tax relief to 200 stream miles per county Create funding source to support removal of culverts blocking fish migration and/or wildlife movement Provide small grants to property owners for restoration projects Develop a regional incentive program to encourage low impact development such as eco-roofs and sustainable building (e.g., Portland BES, Sustainable Development) 	<ul style="list-style-type: none"> Development of materials for landowners to use in the protection and restoration of their properties, distribution limited through existing educational programs Provide technical assistance to property owners and jurisdictions on low impact development, best management practices, and restoration
High (includes medium and low)	<ul style="list-style-type: none"> <i>High level bond measure - \$\$\$</i> Focus acquisition efforts on highest value areas and connector habitats. 	<ul style="list-style-type: none"> Develop a program to provide grants to property owners for restoring ecological function, in exchange for long-term protection 	<ul style="list-style-type: none"> New educational program developed to assist landowners in all resource areas and impact areas, including materials and classes

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5. Definition of ESEE decisions for allow, limit or prohibit treatments

Prohibit assumption:

- Development inside resource areas prohibited unless prohibition removes all economic use of property
- Horizontal expansion of existing buildings prohibited
- If development is allowed, mitigation will be required

Strictly Limit assumptions

- Very little building occurs in areas covered by a strictly limit decision (primarily those parcels which are located entirely within the resource area); public facilities allowed.
- Minimum disturbance area allowed oriented to protect the resource, low impact development practices and best management practices
- No development in wetlands and undeveloped floodplains
- Almost all forest canopy and low structure vegetation within resource area is retained
- Negligible land divisions will occur
- Mitigation to offset adverse impacts of development

Moderately Limit assumptions:

- A certain percentage of buildable lots within resource areas are developed
- Minimum disturbance area allowed oriented to protect the resource, low impact development practices and best management practices
- Some development in wetlands and undeveloped floodplains will occur
- Land divisions larger than a certain threshold size are assumed to occur
- Less forest canopy and low structure vegetation within resource area is retained compared to Strictly Limit decisions
- Mitigation to offset adverse impacts of development

Lightly Limit assumptions:

- A higher percentage of buildable lots compared to Strictly Limit and Moderately Limit decisions is developed
- More wetland and undeveloped floodplain loss compared to Strictly Limit and Moderately Limit decisions
- Land divisions will occur subject to underlying zoning
- Less forest canopy and low structure vegetation within resource area is retained compared to Strictly Limit and Moderately Limit decisions.
- Mitigation to offset adverse impacts of development

Allow assumptions:

- Resources not covered by existing regulations assumed to be developed over time

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Criteria for evaluation of program options

In October 2000, the Metropolitan Policy Advisory Committee (MPAC) developed a vision for fish and wildlife habitat protection for the region, which was adopted by the Metro Council.

The overall goal is to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with others streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape. This system will be achieved through conservation, protection and appropriate restoration of streamside corridors through time.

The Metro Council is scheduled to consider, based on the results of the evaluation, which program option, or combination of program options, will be chosen to develop a regional fish and wildlife habitat protection program. Both regulatory and non-regulatory options may be assessed with the same criteria. Possible criteria to evaluate the performance of various program options are as follows:

Table 7. Criteria and potential indicators and measures for evaluation of program options.

Criteria	Potential indicators and measures
Economic factors <ol style="list-style-type: none"> 1. Higher market value areas retained for development 2. Key employment areas conserved for employment 3. Reflects 2040 design hierarchy priorities 4. Promotes retention of ecosystem services 5. Promotes potential for non-use or use for recreational economic purposes 	<ol style="list-style-type: none"> 1. Acres of buildable land with high land value affected 2. Acres of buildable land with high employment value affected 3. Acres of buildable land by 2040 hierarchy affected 4. Number of functions/ecosystem services affected 5. Acres of public land with resource function located near population centers
Social factors <ol style="list-style-type: none"> 1. Maintains cultural heritage and sense of place 2. Reduces impact on types/location of jobs and housing 3. Minimizes impact on individual landowner rights 4. Preserves amenity value of resources 5. Preserves resources for future generations 	<ol style="list-style-type: none"> 1. Qualitative measure 2. Number of potential housing units or jobs affected 3. Number of tax lots by zoning type affected 4. Extent of reliability of protection 5. Total resource acres protected
Environmental factors <ol style="list-style-type: none"> 1. Retains forest canopy cover 2. Protects primary riparian corridor functions 3. Protects secondary riparian corridor functions 4. Promotes conservation of sensitive habitats and species 5. Promotes habitat connectivity 6. Promotes large habitat patches 7. Promotes restoration 	<ol style="list-style-type: none"> 1. Total acres forest cover affected 2. Total acres containing primary riparian corridor functions affected 3. Total acres containing secondary riparian corridor functions affected 4. Acres of Habitats of Concern affected 5. Total acres in medium or high connectivity scores; maintains/enhances continuity of riparian corridors 6. Number of acres/patches in largest category affected 7. Acres of protected resource land in low structure vegetation
Energy factors <ol style="list-style-type: none"> 1. Promotes compact urban form 2. Promotes retention of green infrastructure 	<ol style="list-style-type: none"> 1. Potential for displacement of land uses by protection of habitat within UGB. 2. Percent vegetative cover (or tree canopy) affected

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<i>Federal ESA</i> : Provides blanket "exception to take" under the 4-D rule?	<ol style="list-style-type: none"> 1. Protects slopes, wetlands, and areas of high habitat value 2. Maintains hydrological conditions 3. Protects area within one site potential tree height of all streams 4. Maintains & restores native vegetation along stream corridors 5. Minimizes stream crossings 6. Retains channel migration zone (primary function for <i>Large wood and channel dynamics</i>) 7. Reduces and prevents erosion and sediment run-off (primary function of <i>Bank stabilization, sediment, and pollution control</i>) 8. Includes mechanism for monitoring, enforcement, funding and implementation of protection
<i>Federal CWA</i> : protects beneficial uses that include drinking water, cold water fisheries, industrial water supply, recreation and agricultural uses	<ol style="list-style-type: none"> 1. Number of primary and secondary functions maintained 2. Miles of stream within a watershed with Class I & II status protected
Funding challenges	<ol style="list-style-type: none"> 1. Funding required to effectively carry out program elements, such as acquisition, conservation easements, education, technical assistance, incentives to landowners, and restoration 2. New authority needed (such as for the Riparian Tax Incentive) for implementation
Effectiveness for habitat protection	<ol style="list-style-type: none"> 1. Level of certainty as assessed from experiences with compliance or voluntary actions 2. Potential use of incentive 3. Reliability of protection
Increment of additional protection	<ol style="list-style-type: none"> 1. Example of how local standards would need to change (e.g., extent of resource covered by local protection compared to the option, level of local protection provided to the resource compared to the option)

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DRAFT STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO 03-3376 FOR THE PURPOSE OF ENDORSING METRO'S DRAFT PHASE 1 ESEE ANALYSIS AND DIRECTING STAFF TO CONDUCT MORE SPECIFIC ESEE ANALYSIS OF MULTIPLE FISH AND WILDLIFE PROTECTION AND RESTROATION PROGRAM OPTIONS.

Date: September 29, 2003

Prepared by: Andy Cotugno and Chris Deffebach

BACKGROUND

Policies in Metro's Regional Framework Plan and sections of the Urban Growth Management Functional Plan call for Metro to develop a regional fish and wildlife protection program. As defined in a Vision Statement that was developed in cooperation with local governments at MPAC and endorsed by MPAC and Metro Council in 2000, the overall goal of the protection program is, "... to conserve, protect and restore a continuous ecologically viable streamside corridor... that is integrated with the urban environment." Metro is currently developing this program, following the 3-step process established by the State Land Use Planning Goal 5 administrative rule.

In the first step of this 3-step process, Metro identified regionally significant fish and wildlife habitat using the best available science, computer mapping, and fieldwork. In 2002, after review by independent committees, local governments and residents, Metro Council adopted the inventory of regionally significant fish and wildlife habitat lands.

The second step of the process is to evaluate the Economic, Social, Environmental and Energy consequences of a decision to allow, limit or prohibit conflicting uses on these regionally significant lands. Metro is conducting the ESEE analysis in two phases. The first phase is to evaluate the ESEE consequences at a regional level. This work is now complete and is presented as Exhibit A to this Resolution. The second phase of the ESEE analysis will evaluate a range of possible protection and restoration program options. The program options include a mix of regulatory and non-regulatory components. They are presented in Draft as Exhibit B to the Resolution.

Based on the results of the evaluation of the program options, Metro Council is scheduled to consider where development of the fish and wildlife habitat areas should be allowed, limited or prohibited, as required in the Goal 5 administrative rule. Based on the results of the ESEE Analysis, Metro Council is scheduled to consider a direction for the development of a Fish and Wildlife Habitat Protection Program.

The ESEE analysis has been reviewed by Metro's advisory committees including, ETAC, Goal 5 TAC, WRPAC, IEAB and the Social Issues Group and MTAC. Metro is currently seeking comments from the public and from technical and policy advisory committees on the Phase 1 ESEE analysis and on the issues for evaluation as part of the analysis of program options. Prior to Council action on this Resolution, staff will summarize public comments and make the summary available for Council review. Staff

will also modify this staff report to reflect public and technical comments and revise the Phase 1 ESEE Analysis (Exhibit A to the Resolution) and the Fish and Wildlife Habitat Protection and Restoration Program Options (Exhibit B to this Resolution) to appropriately respond to these comments.

Step 3 of the Goal 5 process will be development of a protection program for adoption as part of Metro's Functional Plan. This step is scheduled to begin in May, with Council consideration of direction on a program option, and be completed by the end of 2004. The evaluation of program options in the ESEE analysis is designed to result in a "safe harbor" program that local jurisdictions could adopt with State approval and to offer variations to the Safe Harbor program. Variations would offer an approach for local jurisdiction implementation that supports local flexibility and the opportunity to develop a riparian district plan. The Protection Program would be adopted by local governments after acknowledgement by the State and implemented within two to four years.

ANALYSIS/INFORMATION

1. **Known Opposition.** Staff has received comments that do not support treating the Baseline condition as an option. Staff knows of no other formal opposition to the preliminary Goal 5 ESEE analysis and the Draft Program Options for Fish and Wildlife Habitat Protection. Staff will review public comments as they receive them as part of this public outreach time for possible opposition.
2. **Legal Antecedents.** Policies in Metro's Regional Framework Plan and Section 5 of Title 3 in Metro's Urban Growth Management Functional Plan support the development of a Fish and Wildlife Habitat Protection Program. In addition, the preliminary ESEE analysis and the evaluation of the Program Options as the ESEE analysis continues compliance with the State Land Use Planning Goal 5 administrative rule (OAR 660-023-000). Metro's adoption of the Draft Regionally Significant Fish and Wildlife Habitat Inventory and a Local Plan Analysis by Resolution No. 02-3218A formed the basis for the Preliminary ESEE analysis and development of program options that this resolution endorses.
3. **Anticipated Effects.** Approval of this resolution will allow Metro to complete the ESEE analysis as required by State Land Use Goal 5 and provide additional information necessary for Metro Council to reach a decision on where to allow, limit or prohibit development on regionally significant fish and wildlife habitat lands. With the completion of the analysis as directed by this Resolution and a Metro Council decision on an Allow/Limit/Prohibit map, the third step of the Goal 5 process, development of a protection and restoration program for adoption into Metro's Functional Plan, can begin.
4. **Budget Impacts.** The adopted budget for FY04 includes resources for staff and consultants to evaluate the program options and share the findings with the public at a level of detail defined.

RECOMMENDED ACTION

Staff request that Metro Council endorse the preliminary ESEE findings as described in Exhibit A to the Resolution and direct staff to evaluate the program options as described in Exhibit B to the Resolution.

MEMORANDUM

093003c-06

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

Date: September 30, 2003

To: Metro Councilors

From: Michael Hoglund, Director, Solid Waste & Recycling
Janet Matthews, Program & Policy Analyst, Solid Waste & Recycling

Subject: WRI-suggested amendments to Ordinance No. 03-1018

A handwritten signature in blue ink, appearing to be 'Jm', is written over the 'From' line of the memorandum.

For your review and discussion at the Work Session today, we are providing an OMA-produced summary of the WRI-requested amendments, a Department-produced chart overview, and a summary of staff concerns.

Summary of WRI-requested Amendments
(Summary prepared by the Office of the Metro Attorney)

Amendment Section 1

Changes the wording without changing the meaning. The change clarifies language relating to Metro's authority to inspect most exempt facilities to ensure that the facilities are, in fact, only engaging in exempt activities.

Amendment Section 2

Specifies the information that must be included in solid waste facility applications. The new language reflects the information that the COO currently requires as part of solid waste facility applications. The provision does not prohibit the COO from requesting additional information in an application.*

Amendment Section 3

This amendment makes four separate edits to Code Section 5.01.067.

1. Change to 5.01.067(d) to limit the COO's discretion when deciding whether to grant or deny a license. As originally proposed in this ordinance, the COO would have some discretion regarding whether to approve or deny a license application; the COO's decision would likely withstand a challenge provided he had a rational reason for making it. The new language provides that the COO shall decide whether to approve or deny an application based solely on whether the applicant meets certain prerequisite requirements (such as having land use authority, etc.) and on whether the applicant is likely to comply with all applicable license conditions, regulations, and laws. Thus, the new language limits the COO's discretion somewhat.**
2. Changes the wording of 5.01.067(e) without substantially changing the meaning. The change clarifies the form of a license that shall be issued if the COO fails to act to grant or deny an application within 120 days of its receipt.
3. Change to 5.01.067(f) to eliminate the COO's authority to restart the 120-day clock if a license applicant substantially modified its application after it had been submitted. The likely effect of the change would be for the COO to refuse to accept any modifications to a license application after it had been submitted if the COO determined that there was

* Substantial change that would require the Council to wait a week before voting on the final version of the ordinance, *but which would not substantially change how the COO would administer the chapter.*

** Substantial changes that would require the Council to wait a week before voting on the final version of the ordinance, *and which would change how the COO would administer the chapter.*

insufficient time to analyze the modified application and still be able to make a decision within the specified period.**

4. Change to 5.01.067(i) to provide that all licenses shall be for a term of five years. This change would limit the COO's discretion to issue a license for fewer than five years.**

Amendment Section 4

This amendment makes four separate edits to Code Section 5.01.070.

1. Change to 5.01.070(f) to delete the requirement that, when considering a franchise application, the Council must consider the likely effect of the franchise on the health, safety, and welfare Metro's residents, and the effect of the franchise on nearby residents, property owners, or the existing character or expected future development of the surrounding neighborhood.**
2. Changes the wording of 5.01.070(f) without substantially changing the meaning. The change clarifies the form of a franchise that shall be issued if the Council fails to act to grant or deny an application within 120 days of its receipt.
3. Change to 5.01.070(h) to eliminate the provision that would restart the 120-day clock if a franchise applicant substantially modified its franchise application after it had been submitted. The likely effect of the change would be for the COO to refuse to accept any modifications to a franchise application after it had been submitted if the COO determined that there was insufficient time to analyze the modified application and still provide the Council with sufficient time to make a decision within the specified period.**
4. Change to 5.01.070(k) to provide that all franchises shall be for a term of five years. This change would limit the Council's discretion to issue a license for fewer than five years.**

Amendment Section 5

This amendment makes two separate edits to Code Section 5.01.087.

1. Change to 5.01.087(a) to limit the COO's discretion to grant or deny license renewals and to shorten the amount of time the COO has to review license renewal applications. The only factor the COO would be permitted to consider would be whether the applicant is likely to comply with all applicable license conditions, regulations, and laws. Currently, the COO must renew a license unless the COO finds that renewal is not in the public interest. This change would also provide that license renewal applications would have to be submitted not less than 60 days before a license expired. That change is the same as current Code language. As drafted, the ordinance would change that requirement to 120 days.**
2. Change to 5.01.087(b) to provide that franchise renewal applications would have to be submitted not less than 60 days before a franchise expired. The Code currently requires

franchisees to submit a renewal application not less than 120 days prior to the expiration of a franchise.**

Amendment Section 6

This amendment makes three separate edits to Code Section 5.01.090.

1. & 2. Changes the wording of 5.01.090(b) and (c) without substantially changing the meaning. These changes would specify the license or franchise that would be in effect if a request for a transfer of ownership or control was approved by the COO (for licenses) or the Council (for franchises). These changes simply specify that the same license or franchise would continue to apply. This new language has the same effect as the current language of the Code.
3. Change to 5.01.090(e) to prohibit the COO from exercising discretion to change the term of a license at the time of a transfer of ownership or control. The current Code requires a new license application to be submitted for a transfer in ownership or control of a licensee. The ordinance provided for approval of a request to transfer ownership or control of a licensee just like the current Code provides for franchises. The current Code gives the Council discretion to change the term of a franchise at the time it considers a request for transfer of ownership or control. The ordinance provided the COO the same discretion regarding a request for transfer of ownership or control of a license. This change would result in the COO not having discretion to change the term of a license when the COO approved a transfer of ownership or control of a license.**

Amendment Section 7

Changes language in the solid waste facility franchises of the region's three local transfer stations, Recycle America, Pride, and WRI, to provide that the putrescible waste tonnage cap shall apply only to waste generated, originating, or collected within Metro boundaries.**

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WRI-Requested Amendments to Ordinance 03-1018

Section No.	Code Citation	Summary of Amendment	Within Original Scope	Substantive	Non-Substantive	Staff Concern	
						Yes	No
1	5.01.040	Modify to clarify applicability.	Yes		X		X
2	5.01.060	Modify to specify all items that the COO can request in a license application.	Yes	X		X	
3	5.01.067(d)	Modify to indicate license approval depends on applicant's likely compliance with Metro, state and local requirements.	Yes	X			X
3	5.01.067(e)	Modify to indicate what license conditions are issued when a decision on an application is not made by Metro within 120 days.	Yes		X		X
3	5.01.067(f)	Modify to disallow COO from restarting the review period when substantial new information is provided.	Yes	X		X	
3	5.01.067(i)	Modify to make term of all licenses 5 years.	Yes	X		X	
4	5.01.070(f)(3) & (4)	Modify to delete requirement for Council to consider health, safety, welfare and surrounding neighborhoods when considering a franchise.	No	X		X	
4	5.01.070(g)	Modify to indicate what franchise conditions are issued when a decision on an application is not made by Metro within 120 days.	Yes		X	X	
4	5.01.070(h)(2)	Modify to disallow Council or COO from restarting the review period when substantial new information is provided.	Yes	X		X	
4	5.01.070(k)	Modify to make term of all franchises 5 years.	Yes	X		X	
5	5.01.087(a) & (b)	Modify to change from 120 to 60 days the time in advance a license or franchise application must be filed before expiration.	Yes	X		X	
6	5.01.090(b) & (c)	Modify to specify that same license or franchise would apply upon transfer of ownership if transfer not made within 120 days.	Yes		X		X
6	5.01.090(e)	Modify to restrict COO discretion to set a different term when a transfer of ownership is issued.	Yes	X		X	
7	Franchises	Modify transfer station tonnage cap to clarify that it only counts in-district generated waste.	No	X			X

Staff Concerns on WRI-requested Amendments to Ordinance No. 03-1018

Amendment Section 2

5.01.060

Relates to information that must be included in facility applications. Staff views the addition of this type of administrative detail to Code as cumbersome and unnecessary.

5.01.067(f)

Relates to COO authority to restart 120-day clock if applicant substantially modifies license application. Disallows COO discretion. Staff is concerned that this amendment could unnecessarily force a recommendation to deny a license, in instances where an application is substantially modified but little time for evaluation is left on the original clock.

5.01.067(i)

Relates to term of licenses. Would limit COO to five-year term for all licenses. Staff is concerned that this precludes flexibility to issue shorter-duration licenses to new, temporary or experimental types of facilities.

Amendment Section 4

5.01.070(f)(3) and (4)

Relates to factors Council may consider in granting or denying a franchise. Proposed amendment would remove from existing Code any consideration of health, safety, and welfare as well as any consideration of local impact in franchise decisions. Staff views this deletion as unduly limiting Council authority and staff review of DEQ permits and local land use approvals in formulating a recommendation to Council. Metro, while relying on local land use decisions and DEQ permits, should retain independent discretion on these matters.

5.01.070(g)

Relates to COO action to grant a franchise if Council fails to act within 120 days. The proposed language limits COO discretion, requiring the franchise to contain "the same terms and conditions included in the last franchise issued by Metro to a similarly situated applicant . . ." Staff is concerned that this language is unreasonably constraining. Details can vary among similar franchises; setting individual tonnage authorizations would be one example of that.

5.01.070(h)(2)

Relates to Council or COO review period when substantial new information has been provided by applicant. This language would prevent the COO from restarting the 120-day clock in such instances. Council or staff may lack review time necessary to consider the new information, and could be forced to recommend denial of the application.

5.01.070(k)

Relates to duration of franchises. Proposed language would limit Council to approving a five-year term for franchises. Staff is concerned that Council have greater discretion to issue shorter term licenses if policy or franchise factors indicate a need.

Amendment Section 5

5.01.087(a) and (b)

Relates to reducing the time for staff to review and decide licenses from 120 to 60 days. Staff does not view it as reasonable for a licensee or franchisee to notify Metro whether it intends to renew its license four months before it expires. There would be instances in which a two-month review period is too short, depending on workload.

5.01.090 (c)

Relates to COO discretion to set a different term, rather than that of the original license, when a license is transferred. Staff is concerned that the proposed language limits consideration of varying facts and circumstances that may factor into reasonable establishment of shorter or longer terms in the event of a license transfer.

Amendment Section 6

5.01.090 (e)

Relates to COO discretion to set a different term upon transfer of a license. As above, staff is concerned that the proposed language limits the establishment of shorter or longer terms in license transfer, based on facts and circumstances in each case.

Amendment Section 7

Franchises

Relates to tonnage authorization (cap) at local transfer stations. Proposed change would identify only waste generated within Metro boundary as applying to the tonnage cap. Staff is concerned that this proposed change is well out of the intended scope of the original Code amendments and shall be considered when franchises are renewed.

Title 4 RSIA Code Refinements

September 23, 2003

NOTE: Proposed changes are in **bold**. Deletions are in **[brackets]**; additions are underlined.

Issue 1: Should the requirements of Title 4 be reconsidered over time?3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong economic climate. To improve the region's economic climate, the plan seeks to protect the supply of sites for employment by limiting **[incompatible uses within] the types and scale of non-industrial uses in** Industrial and Employment Areas. To protect the capacity and efficiency of the region's transportation system for movement of goods and services and to promote the creation of jobs in centers, the plan encourages efficient patterns and mixes of uses within designated Centers and discourages certain kinds of commercial retail development outside Centers. It is the purpose of Title 4 to achieve these policies. **Given the need for flexibility in planning for future industrial and commercial development,** Metro will **[consider amendments to this title in order to make the title consistent with new policies on economic development adopted]** **evaluate this title, using performance measures and indicators established pursuant to Title 9,** as part of **its** periodic **[review]** **analysis of the urban growth boundary pursuant to ORS 197.299.**

Issue 2: Should sales rooms associated with industrial uses be included within the five percent(RSIA) or 10 percent (Industrial Area) retail sales area caps?

3.07.420 Protection of Regionally Significant Industrial Areas

D. Notwithstanding subsection C, a city or county shall not approve:

1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are part of the same development project; or
2. Commercial retail uses that would occupy more than five percent of the net developable portion of all contiguous Regionally Significant Industrial Areas. **Retail sales of products of industrial uses need not be counted as part of the five percent so long as the sales take place in a building whose principal occupant is a use authorized by subsection C.**

[Make the same change to 3.07.430B for Industrial Areas]

Issue 3: Should “FIRE” uses be allowed in existing offices in RSIAAs so that such uses are not treated as non-conforming uses?

3.07.420 Protection of Regionally Significant Industrial Areas

- C. After determining boundaries of Regionally Significant Industrial Areas pursuant to subsections A and B, the city or county shall adopt implementing ordinances that limit development in the areas to industrial uses, uses accessory to industrial uses, offices for industrial research and development and large corporate headquarters in compliance with subsection E of this section, utilities, and those non-industrial uses necessary to serve the needs of businesses and employees of the areas. Ordinances **[shall not] may** allow financial, insurance, real estate or other professional office uses **[unless they are accessory to an industrial or other permitted use] in a building authorized by final land use approval prior to July 7, 2004, but not in a building or an expansion authorized by final land use approval after that date.**

Issue 4: Should the retail sales area caps extend into adjacent RSIA's or Industrial Areas in adjoining cities or counties?

3.07.420 Protection of Regionally Significant Industrial Areas

D. Notwithstanding subsection C, a city or county shall not approve:

1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are part of the same development project; or
2. Commercial retail uses that would occupy more than five percent of the net developable **[portion] land [of all contiguous] within that portion of any** Regionally Significant Industrial Area[s] **subject to its land use planning jurisdiction.**

[Make the same change to 3.07.430B for Industrial Areas.]

Issue 5: Should corporate headquarters of an industrial company be allowed in an RSIA on a different parcel from, or a parcel that is not adjacent to, the company's manufacturing facilities?

E. As provided in subsection C of this section, a city or county may approve an office for a large corporate headquarters if:

1. The office is **in the same Regionally Significant Industrial Area as industrial uses operated by the company that would be the principal occupant of the office; or**
- [1]~~2~~. The office is served by public or private transit; and
- [2]~~3~~. If the office is for a corporate headquarters, it will accommodate for the initial occupant at least 1,000 employees.

Issue 6: What is the appropriate level of commercial use at the region's three public airports?

3.07.420 Protection of Regionally Significant Industrial Areas

C. After determining boundaries of Regionally Significant Industrial Areas pursuant to subsections A and B, the city or county shall adopt implementing ordinances that limit development in the areas to industrial uses, uses accessory to industrial uses, offices for industrial research and development and large corporate headquarters in compliance with subsection E of this section, utilities, and those non-industrial uses necessary to serve the needs of businesses and employees of the areas. Ordinances shall not allow financial, insurance, real estate or other professional office uses unless they are accessory to an industrial or other permitted use. **Within the boundaries of a public airport subject to an airport master plan, ordinances may also allow uses that are accessory to the travel-related activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public.**

Corrections:

1. Correct the reference in 3.07.420B to Ordinance No. 02-969B:

B. Each city and county with land use planning authority over an area designated by Metro on the 2040 Growth Concept Map, as amended by Ordinance No. 02-969B, as a Regional Significant Industrial Area shall, as part of compliance with Section 3.07.1120 of the Urban Growth Management Functional Plan, derive plan designation and zoning district boundaries of the areas from the Growth Concept Map.

2. Correct the provisions in 3.07.420F on land divisions:

F. A city or county may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels less than 50 acres may be divided into any number of smaller lots or parcels;
2. Lots or parcels **larger than** 50 acres **[or larger]** may be divided into smaller lots and parcels so long as the resulting division yields the maximum number of lots or parcels of at least 50 acres;
3. Notwithstanding paragraphs **[2, 3]** **1** and **2** of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - a. To provide public facilities and services;
 - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
 - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use;
 - d. To reconfigure the pattern of lots and parcels pursuant to subsection G of this section; or
 - e. To allow the creation of a lot for financing purposes when the created lot is part of a master planned development.

3. Correct the provisions in 3.07.420G on reconfiguration of lots:

G. A city or county may allow reconfiguration of lots **[or parcels less than 50 acres in area if the reconfiguration would be more conducive to a permitted use and would result in no net increase in the total number of lots and parcels. Lots]** or parcels **larger than** 50 acres **[or greater in area may also be reconfigured]** so long as the resulting area of any such lot or parcel would not be less than 50 acres.

4. Change “floorspace” to “floor area” in 3.07.430C to conform to rest of Title 4:

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

Title 4 RSIA Code Changes and Map Adoption
Critical Dates Timeline
September 25, 2003

Date	Committee	Item(s)	Action
September 30, 2003	Council Work Session	time line, savings methodology, latest edit to code	None
October 1, 2003	MTAC	Same as above	None
October 1, 2003		DLCD 45 Day notice	
October 14, 2003	Council Work Session	Staff recommendation on map and code changes	Direction to staff to change or to proceed
October 15	MTAC	Staff Recommendation	Introduction – None
October 21	Council Work Session	Recommendation in ORDINANCE FORM	
October 22	MPAC	ORDINANCE	Introduction – No action
October 30	Council Meeting	Ordinance	First Reading
October 30		Hearing Notice in the Paper	
November 5	MTAC	Recommendation on Ordinance	Recommendation to MPAC
November 6 th	Council Meeting	Hearing	
November 12 th	MPAC	Recommendation on Ordinance	Recommendation to Council
November 13	Metro Council	Public Hearing (includes MPAC recommendation)	(close hearing)
December 4	Metro Council	Deliberation	Decision on text change and map
December 10		Send Decision to DLCD	
December 10		Notify Local Governments and interest parties of decision	

Recommended clarifications to the 2040 Fundamentals

September 30, 2003

Fundamental 1: Encourage a strong local economy by providing an orderly and efficient use of land, balancing economic growth around the region and supporting high quality education.

Fundamental 2: Encourage the efficient use of land within the UGB including buildable industrial and commercial land and by focusing on development of in 2040 mixed use centers and corridors.

Fundamental 3: Protect and restore the natural environment through actions such as protecting including fish and wildlife habitat, and restoring streams and wetlands, improving surface and ground water quality and quantity, and reducing air emissions quality.

Fundamental 4: Provide a balanced transportation system including safe, attractive facilities for bicycling, walking and transit as well as for motor vehicles and freight

Fundamental 5: Maintain separation between the Metro UGB and neighboring cities by working actively with these cities and their respective counties

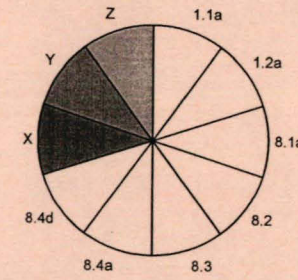
Fundamental 6: ~~Enable~~ Encourage communities inside the Metro UGB to preserve enhance their physical sense of place by using among other tools, greenways, natural areas, and built environment elements

Fundamental 7: Ensure availability of diverse housing options for all residents by providing a mix of housing types as well as affordable homes in every jurisdiction

Fundamental 8: Create a vibrant place to live and work by providing sufficient and accessible parks and natural areas, improving access to community resources such as schools, community centers and libraries ~~as well as by balancing the distribution of high quality jobs throughout the region~~, and providing attractive facilities for cultural and artistic performances and supporting arts and cultural organizations.

Reorganization of indicators: Examples of Differences in the Method of identifying Indicators
September 30, 2003

093003c-10

2003 Indicators	2004 Indicators
<p>Fundamental 1: Encourage a strong local economy (Total Measured = 20)</p> <p>Indicator 1.1a: Mixed use and Corridor capture rate – the proportion of the population, employment and household growth inside the Metro UGB that is located in mixed use areas and corridors.</p> <p>Indicator 1.2a: Consumption of buildable land by residential sector.</p> <p>Indicator 8.1a: Amount of vacant land zoned industrial.</p> <p>Indicator 8.2: Vacant buildable industrial land that is readily developable and served with public facilities and classified as Tier A in the 1999 Regional Industrial Land Supply Study.</p> <p>Indicator 8.3: Redevelopable buildable industrial land served with public facilities and classified as Tier D in the 1999 Regional Industrial Land Supply Study.</p> <p>Indicator 8.4a: Amount of vacant land zoned commercial.</p> <p>Indicator 8.4d: Amount of vacant land zoned mixed use.</p>	<p>Fundamental 1: Encourage a strong local economy (Total Identified = 6)</p> <p>Indicator 1.1: Supply of land inside the UGB and mixed use centers by type. <i>Measures the current availability of the major categories of land in the Metro UGB</i></p>  <p>Indicator 1.2: Protection of industrial lands. <i>Measures factors that could compromise the supply of industrial land</i></p> <p>Indicator 1.3: Industrial land access and movement of goods. <i>Measures the amount and value of goods that travel to, from and within the Metro Region and assesses the transportation system that supports this freight movement</i></p> <p>Indicator 1.4: Tax base capacity of jurisdictions in the Metro region. <i>Measures the strength of the regional economy by analyzing land development activity and land value</i></p> <p>Indicator 1.5: Employment, income and business trends <i>Measures the economic health of the region by looking at general economic indicators such as employment and wages</i></p> <p>Indicator 1.6: High quality education in the Metro region. <i>Measures the extent to which educational opportunities contribute to a strong regional economy</i></p>
<p>Indicator 8.5a: Regional Employment Growth.</p> <p>Indicator 8.5b: Regional Employment Growth by sector.</p> <p>Indicator 8.5c: Regional Employment Capture Rate</p> <p>Indicator 8.5d: Regional Employment Growth by Industry by County.</p> <p>Indicator 8.6: Regional Unemployment Rate</p> <p>Indicator 8.7: Income Growth, per capita income, wage rates by industry</p> <p>Indicator 8.15: Retail sales per capita</p>	