

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL WORK SESSION MEETING
DATE: May 10, 2005
DAY: Tuesday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

- | | | | |
|----------------|-----------|--|-------------------------------|
| 2:00 PM | 1. | DISCUSSION OF AGENDA FOR COUNCIL
REGULAR MEETING, MAY 12, 2005/
ADMINISTRATIVE/CHIEF OPERATING OFFICER
AND CITIZEN COMMUNICATIONS | |
| 2:15 PM | 2. | TUALATIN BASIN NATURAL RESOURCES COORDINA-
TING COMMITTEE'S FISH AND WILDLIFE HABITAT
PROTECTION PROGRAM | Deffebach
Hennings |
| 3:15 PM | 3. | BREAK | |
| 3:20 PM | 4. | TRANSPORTATION AND GROWTH MANAGEMENT
GRANTS | O'Brien |
| 3:40 PM | 5. | AGREEMENT WITH CEDAR GROVE COMPOSTING/
WEYERHAUSER DESIGNATED FACILITY AGREEMENT | Hoglund |
| 4:20 PM | 6. | COUNCIL BRIEFINGS/COMMUNICATION | |

ADJOURN

***TUALATIN BASIN NATURAL RESOURCES COORDINATING COMMITTEE'S FISH AND WILDLIFE
HABITAT PROTECTION PROGRAM***

Metro Council Work Session
Tuesday, May 10, 2005
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: 5/10/05

Time: 2:15 pm

Length: 60 min

Presentation Title: Nature in Neighborhoods Tualatin Basin Legislation

Department: Planning

Presenters: Deffebach, Hennings

ISSUE & BACKGROUND

The Council is currently reviewing draft Resolution 05-3577, "Approving the Tualatin Basin Natural Resources Coordinating Committee's Fish and Wildlife Habitat Protection Program." During the last Work Session, Council identified numerous potential amendments to the draft resolution. The purpose of the May 10 meeting is to review the proposed amendments, make any additional changes needed, and become familiar with the changes as drafted. Staff will provide copies of the drafted amendments by Friday, May 6.

OPTIONS AVAILABLE

Councilors can raise additional amendments and ask staff for clarification, as needed.

IMPLICATIONS AND SUGGESTIONS

These are the amendments that Council will be asked to vote on at the May 12 meeting. This session will help the Council become familiar with the current version of the resolution and issues to facilitate a thorough discussion and preparation for the upcoming vote.

QUESTION(S) PRESENTED FOR CONSIDERATION

Are there additional proposed amendments to the resolution?
Are there changes to any of the proposed amendments needed?
Are there any questions about the resolution or proposed amendments?

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 _____

TRANSPORTATION AND GROWTH MANAGEMENT GRANTS

Metro Council Work Session
Tuesday, May 10, 2005
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: 05/10/05 Time: Length: 20 minutes

Presentation Title: TGM Grant: 2040 Corridors and Centers

Department: Planning

Presenters: Tim O'Brien

ISSUE & BACKGROUND

Update on the Metro Transportation Growth Management (TGM) Grant that has been exploring the relationships between 2040 Growth Concept designated corridors and centers. The project is to be completed by June 30, 2005. This update will provide a brief summary of the proposed findings as they relate to State, Regional and Local policy recommendations as well as present the schedule for final presentations in June by the consultant team.

OPTIONS AVAILABLE

No action required

IMPLICATIONS AND SUGGESTIONS

No action required

QUESTION(S) PRESENTED FOR CONSIDERATION

No request - informational

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 5.0

***AGREEMENT WITH CEDAR GROVE COMPOSTING/WEYERHAUSER DESIGNATED FACILITY
AGREEMENT***

Metro Council Work Session
Tuesday, May 10, 2005
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: May 10, 2005 Time: 10 minutes

Presentation Title: Weyerhaeuser Designated Facility

Department: Solid Waste & Recycling

Presenters: Roy Brower

ISSUE & BACKGROUND

Metro received a request from Weyerhaeuser to become a Metro designated facility for its landfill, located in Silverlake, Washington, and a reload facility, located in Longview, Washington. Weyerhaeuser has requested authority to take industrial waste, construction and demolition waste residual and cleanup wastes to the landfill via a reload area at the Weyerhaeuser facility in Longview. The waste is loaded onto rail cars in Longview and transported by rail about 18 miles to its landfill near Silverlake. While the landfill currently only takes waste by train from Weyerhaeuser's Longview facility, they are seeking permission from Cowlitz County to take some industrial waste directly by truck at the landfill.

Designated Facility Agreements (DFAs) are authorized in Chapter 5.05 – Flow Control provisions of the Metro Code. There are currently seven (7) DFAs with facilities outside of the Metro region. Cedar Grove and Weyerhaeuser would be the eighth and ninth such facilities with agreements. DFAs are a way for Metro and the private sector to cooperatively allow the free flow of certain waste, ensure the facility collects Metro's solid waste fees and taxes and authorizes Metro to have some level of regulatory oversight at the facility.

DFAs allow out of district facilities to become part of Metro's solid waste system; improve administrative efficiencies; improve Metro's enforcement and tracking of solid waste flow; and help to minimize the risk of flow control disputes. Weyerhaeuser would collect fees and taxes on any waste received from the Metro region and remit those funds to Metro monthly, along with a report.

OPTIONS AVAILABLE

Options available to Council include: 1) granting the DFA, 2) not granting the DFA and, instead, let the COO grant non-system licenses to individual generators/haulers, or 3) grant neither the DFA nor NSLs.

IMPLICATIONS AND SUGGESTIONS

The COO recommends that Council approve this DFA for Weyerhaeuser. It will allow certain dry waste residual, industrial waste and cleanup waste to flow to facilities, including Weyerhaeuser, based on market conditions. Since Weyerhaeuser will collect fees and taxes

normally due to Metro on this type of solid waste, the Council's decision does not impact the budget.

Weyerhaeuser's operation has an exemplary compliance record according to Cowlitz County staff. Weyerhaeuser agrees to give Metro access to its facility for inspection and audits that will help assure appropriate fees and taxes are paid on material disposed of by landfilling.

If Council did not approve the DFA listing, staff would continue to issue individual NSLs on a case-by-case basis.

QUESTION(S) PRESENTED FOR CONSIDERATION

Since this is the first new DFA in several years, does the Council have any concerns or questions about this decision?

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

SCHEDULE FOR WORK SESSION

Chief Operating Officer Approval _____

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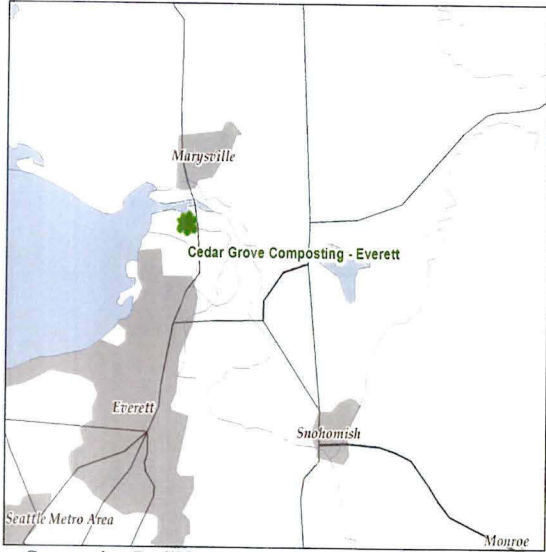
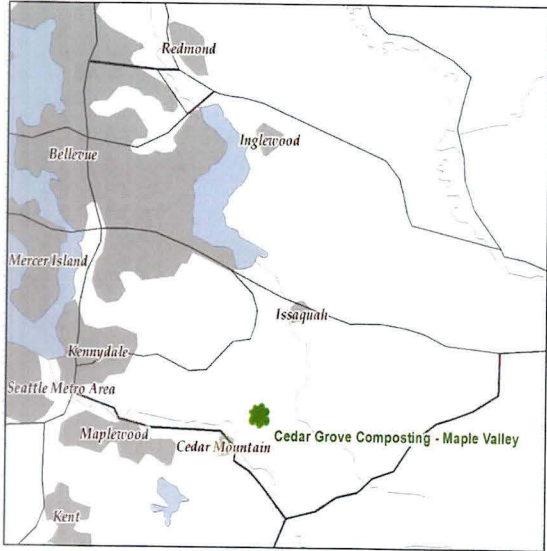
CEDAR GROVE



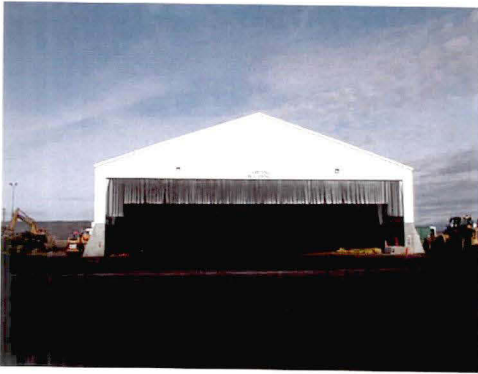
Cedar Grove's Everett Facility



Cedar Grove's Maple Valley Facility



Locations of Cedar Grove Composting Facilities



Receiving Building



Windrow Construction



Covered Windrow



Stormwater Weir

METRO COUNCIL

Work Session Worksheet

Presentation Date: May 10, 2005 Time: 30 minutes

Presentation Title: Agreement with Cedar Grove Composting

Department: Solid Waste & Recycling

Presenters: Roy Brower & Jennifer Erickson

ISSUE & BACKGROUND

Metro Central has been collecting source separated organic material (food waste) since February 2005 and sending the material to Cedar Grove Composting near Seattle. Tonnage collected has ramped up from 25 tons in February to 100 tons in March with 200+ tons anticipated in April. With the addition of 500 tons per month from Safeway stores slated to come into the program this summer, the region will be on track to reach the 10,000 tons per year threshold by this fall. Meeting this threshold contractually requires Cedar Grove to locate, build and operate a local organics compost facility to serve the Metro region. Cedar Grove has already located a potential site and has begun the permitting process with the City of Portland and Oregon DEQ.

Until a facility is operating in the Metro region, however, Cedar Grove has requested its Washington operations become Metro-designated facilities. With a designated facility agreement, Cedar Grove will be allowed to accept source separated organics directly from haulers where the material is generated, collected or transferred from within the Metro region. Since source separated organic material is considered to be putrescible waste, the Council must authorize this material to leave the region through either a non-system license issued to each hauler or by designating a facility to accept such material.

Designated Facility Agreements (DFAs) are authorized in Chapter 5.05 – Flow Control provisions of the Metro Code. There are currently seven (7) DFAs with facilities outside of the Metro region. Cedar Grove would be the eighth and would be the first non-landfill DFA. DFAs are a way for Metro and the private sector to cooperatively allow the free flow of certain waste while the facility collects Metro's solid waste fees and taxes and gives Metro some level of regulatory oversight at the facility. DFAs also ensure proper management of the waste generated in the Metro region. Source separated recyclable materials are not subject to payment of Metro fees and taxes, however, including organics.

DFAs allow out of district facilities to become part of Metro's solid waste system; improve administrative efficiencies; improves Metro's ability to enforce and track solid waste flow; and help reduce the risk of flow control disputes.

OPTIONS AVAILABLE

Options available to Council include: 1) granting the DFA, 2) not granting the DFA and, instead, grant non-system licenses, or 3) grant neither the DFA nor NSLs and await the siting of a facility in the Metro region.

IMPLICATIONS AND SUGGESTIONS

The COO recommends that Council approve this DFA for Cedar Grove. The DFA will allow source separated recyclable organic material the option of flowing to either Metro Central or directly to Cedar Grove. The budget impact of food waste recovery has already been factored into budget projections when Metro negotiated its contract with Cedar Grove. In addition, because Cedar Grove agrees to notify Metro about any rejected loads, Metro will better be able to seek that appropriate fees and taxes are paid on material disposed of by landfilling.

If Council were not to approve the DFA, it would limit the options available to food waste generators and haulers. However, the impact would be temporary as Cedar Grove is moving to site a facility in the Metro region.

QUESTION(S) PRESENTED FOR CONSIDERATION

Since this is the first non-landfill DFA, does the Council have any concerns or questions about this decision?

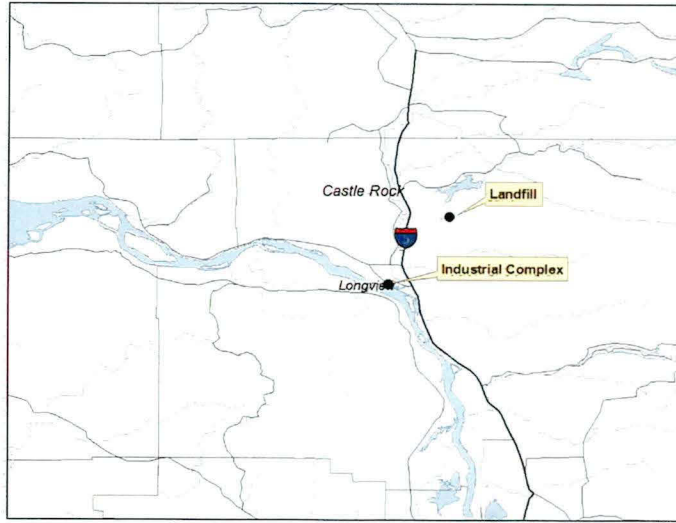
**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION X Yes No
DRAFT IS ATTACHED Yes X No**

SCHEDULE FOR WORK SESSION

Chief Operating Officer Approval _____

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WEYERHAEUSER REGIONAL LANDFILL



Location of Weyerhaeuser Regional Landfill and MR



Rail Siding At Landfill



Tipper At Working Face



Cell With HDPE Cover



MRF

051005c-01

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: May 12, 2005
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. HONORING STUDENTS

3.1 **Resolution No. 05-3587**, For the Purpose of Supporting Portland Students' Transitions to New Schools. Newman

4. CONSENT AGENDA

4.1 Consideration of Minutes for the May 5, 2005 Metro Council Regular Meeting.

5. ORDINANCES – FIRST READING

5.1 **Ordinance No. 05-1079**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Recognizing a Land Donation from the Wetlands Conservancy, Amending the FY 2004-05 through FY 2008-09 Capital Budget; and Declaring an Emergency.

5.2 **Ordinance No. 05-1084**, Amending the FY 2004-05 Budget and Appropriations Schedule for the Purpose of Adopting a Supplemental Budget for the Metropolitan Exposition Recreation Commission for the Fiscal Year Beginning July 1, 2004 and Ending June 30, 2005; and Declaring an Emergency.

6. ORDINANCES - SECOND READING – PUBLIC HEARING ONLY

6.1 **Ordinance No. 05-1077**, Amending the Regional Framework Plan and the Urban Growth Management Functional Plan Relating to Nature in Neighborhoods. (No Final Action) Hosticka

7. **RESOLUTIONS – PUBLIC HEARING AND POSSIBLE FINAL ACTION**
- 7.1 **Resolution No. 05-3574**, Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative Called Nature in Neighborhoods. Hosticka
- 7.2 **Resolution No. 05-3577**, Approving the Tualatin Basin Natural Resources Coordinating Committee’s Fish and Wildlife Habitat Protection Program. McLain
8. **OREGON LEGISLATIVE UPDATE**
9. **CHIEF OPERATING OFFICER COMMUNICATION**
10. **COUNCILOR COMMUNICATION**

ADJOURN

Television schedule for May 12, 2005 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.yourtv.org -- (503) 629-8534 2 p.m. Thursday, May 12 (live)</p>	<p>Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday May 15 2 p.m. Monday, May 16</p>
<p>Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, May 16</p>	<p>Washington County Channel 30 -- TVTV www.yourtv.org -- (503) 629-8534 11 p.m. Saturday, May 14 11 p.m. Sunday, May 15 6 a.m. Tuesday, May 17 4 p.m. Wednesday, May 18</p>
<p>Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p>	<p>West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 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 e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

5/10/05

Ordinance No. 05-1077 and TB Resolution No. 05-3577: Potential Amendments.

05/10/05 - 02
Page #

	Sponsor	Issue	Potential amendment	Comments
	ORDINANCE NO. 05-1077			
28	Hosticka 6	M37	Add "environment" to the definition of "practicable"	Supported by G5/WRPAC
29	Liberty 1	M37	Inserting language to emphasize that the program is being implemented for water pollution control	
32 34	Liberty 4A and 4B	M37	Two parts: (1) Adopting provisions to address demands for compensation under Measure 37; and (2) Amending the definition of "practicable."	(4B) Supported by G5/WRPAC, MPAC, Portland, Wilsonville
37	Liberty 6	M37	Include "whereas" that strongly emphasizes connection to CWA and ESA	Supported by MPAC, Wilsonville, Audubon
1	Bragdon 1	<i>Title 3 Exemptions</i>	Carry forward exempted areas from Title 3 (includes West Hayden Island)	Supported by Port of Portland
16	Burkholder 1	<i>Regionally Significant Ed/Med</i>	No adjustment of urban development value for medical facilities that do not provide an educational function.	
31	Liberty 3	<i>Similarly situated sites</i>	Deleting the allow decision for Port Terminals 4, 5, 6	Supported by Portland
17	Burkholder 2	<i>FAA Wildlife Hazards</i>	Deleting the provision regarding Wildlife Hazard Management Plans	Supported by G5TAC/WRPAC, Portland, Audubon
22	Hosticka 1	<i>FAA Wildlife Hazards</i>	Require mitigation in same watershed unless not practicable	Supported by G5/WRPAC, Portland
2	Bragdon 2	<i>Habitat-friendly development practices</i>	Require some practices, require consideration of other practices (affects Title 13 and Model Ordinance)	Supported by MTAC
23	Hosticka 2	<i>Habitat-friendly development practices</i>	Develop scope of work for technical assistance & Metro's role in CWA	Supported by G5/WRPAC
15	Bragdon 3	<i>Wetland mitigation</i>	Clarifying that Metro's program would not require more mitigation for wetlands than already required by federal and state law.	Supported by Port of Portland
18	Burkholder 3	<i>Title 13 Mitigation</i>	Amending the mitigation requirements in the discretionary review process	
36	Liberty 5	<i>Clear & Objective mitigation requirements</i>	Increase vegetation planting requirements for mitigation in clear and objective approach	Supported by Audubon
25	Hosticka 4	<i>Model Ordinance Issues</i>	Add maximum disturbance area for Low HCA in clear and objective approach in Title 13 Model Ordinance	Supported by G5/WRPAC
19	Burkholder 4	<i>Upland parks</i>	To ensure that publicly owned parks and open spaces within the current UGB protect Class A and B upland habitat	
24	Hosticka 3	<i>New Urban Areas</i>	Apply more directive policies for protecting habitat in new urban areas	Supported by G5/WRPAC
27	Hosticka 5	<i>Monitoring & Reporting</i>	Include more specific monitoring and reporting requirements in Title 13	
30	Liberty 2	<i>Recognize local programs</i>	Adopting existing local Goal 5 programs by reference	Supported by Portland, Wilsonville
38	McLain 1	<i>Definition of development</i>	Remove requirement to track vegetation removal over a 5-year period	Supported by G5/WRPAC
39	Newman 1	<i>Model Ordinance Issues</i>	Clarify language related to water utilities	Supported by G5/WRPAC, MTAC
41		<i>Technical amendments</i>	Technical and grammatical amendments to Ordinance	Recommended by staff
	RESOLUTION NO. 05-3577			
1	Bragdon 1	<i>TB Plan</i>	Amending the requirement related to the use of habitat-friendly development practices	Supported by TBNRCC
2	Hosticka 1	<i>TB Plan</i>	Add condition requiring avoid, minimize, mitigate in all Class I and II habitat	Supported by G5/WRPAC
3	Hosticka 2	<i>TB Plan</i>	Add condition that would require restoration upon redevelopment	Supported by Audubon
4	Hosticka 3	<i>TB Plan</i>	Add condition that would define monitoring and reporting requirements specific to the Tualatin Basin jurisdictions	Supported by Audubon
5		<i>Technical amendments</i>	Technical and grammatical amendments to Resolution	Recommended by staff

051005c-03

DRAFT AMENDMENTS FOR RESOLUTION NO. 05-3577

FOR DISCUSSION AT COUNCIL WORKSESSION 5/10/05

DRAFT 5/9/05

BRAGDON AMENDMENT NO. 1
Resolution No. 05-3577

Amending the requirement related to the use of habitat-friendly development practices.

Resolve No. 2(d) shall be amended as follows:

- d. Provisions are adopted that ~~require~~ facilitate and encourage the use of habitat-friendly development practices, where technically feasible and appropriate, in all areas identified as Class I and II riparian habitat areas on the Metro Regionally Significant Fish and Wildlife Habitat Inventory Map. Table 3.07-13c in Exhibit C to Ordinance No. 05-1077 provides examples of the types of habitat-friendly development practices that shall be encouraged and required ~~considered~~;

DRAFT 5/6/05

HOSTICKA AMENDMENT NO. 1
Resolution No. 05-3577

Conditioning approval of the TBNRCC program on the adoption of avoid-minimize-mitigate standards applicable to areas within Class I and II riparian habitat areas, but outside of areas where Clean Water Services' vegetated corridor standards apply.

The following language shall be added as a new subsection to Resolve No. 2:

Cities and counties that are members of the TBNRCC adopt provisions consistent with this paragraph and applicable to those areas that are within Class I and II riparian habitat areas, as identified on the Regionally Significant Fish and Wildlife Habitat Inventory Map (Attachment 1 to Exhibit C to Ordinance No. 05-1077), but that are outside of the areas where Clean Water Services' vegetated corridor standards apply. Such provisions shall include development approval standards generally consistent with the "avoid-minimize-mitigate" approach described in subsection 4(B)(2) of Exhibit C to Ordinance No. 05-1077, and shall provide property owners with clear and objective standards consistent with subsection 3(C) of Exhibit C.

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Hosticka Amendment #1 050505 draft.doc

DRAFT 5/6/05

HOSTICKA AMENDMENT NO. 2
Resolution No. 05-3577

Conditioning approval of the TBNRCC program on the adoption of requirements to ensure that habitat restoration occurs when properties are “upzoned” to allow for more intensive redevelopment of the property.

The following language shall be added as a new subsection to Resolve No. 2:

When a city or county that is a member of the TBNRCC exercises its discretion to approve zoning or comprehensive plan changes to allow any developed property that contains Class I and II riparian habitat areas, as identified on the Regionally Significant Fish and Wildlife Habitat Inventory Map (Attachment 1 to Exhibit C to Ordinance No. 05-1077), to (i) change from an industrial or heavy commercial zoning designation to a residential or mixed-use/residential designation, or (ii) increase the type or density and intensity of development in any area, then the city or county shall adopt appropriate comprehensive plan amendments or land use regulations to ensure that the regionally significant fish and wildlife habitat located on such a property will be restored at the time the property is redeveloped.

PROPOSED HOSTICKA AMENDMENT 3
Resolution No. 05-3577

Requiring more specific monitoring and reporting for the cities and counties that are members of the TBNRCC

Resolve No 2(g) shall be amended as follows:

- g. Cities and counties that are members of the TBNRCC shall comply with the monitoring and reporting requirements of Section 5 of Exhibit C to Ordinance No. 05-1077. In addition, cities and counties that are members of the TBNRCC shall provide the following information on activities which have occurred in the prior two years no later than December 31, 2007 and by December 31 of each odd-numbered year thereafter: (1) Geographic Information System data of tax lots to which the Clean Water Services vegetated corridor requirements have been applied; (2) enhancement or restoration projects for areas within Class I and II Riparian Habitat outside of CWS vegetated corridors; and (3) documentation of inspection and site maintenance actions for the lands within CWS vegetated corridors. No later than 2010, and every five-year period thereafter, cities and counties that are members of the TBNRCC shall provide updated stream health assessments using biological monitoring data to document watershed health conditions.

TECHNICAL AMENDMENTS
Resolution No. 05-3577

1. In the fourth recital (i.e. "whereas") on page one, correct the name of the following park district: Tualatin Hills Park and Recreation District.
2. In Resolve No. 2(d) on page 3, correct correct table reference in the second sentence to: Table 3.07-13c.
3. In Resolve No. 2(e) on page 3, in the eight line, the current text, "calculation based on the are protected," should read, "calculation based on the area protected."
4. In Resolve Nos. 2(f) and 2(g) on page three, delete the word "shall" in the first line of each of those sections.

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Technical Amendments 050605 draft.doc

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**DRAFT AMENDMENTS FOR ORDINANCE NO. 05-1077
FOR DISCUSSION AT COUNCIL WORKSESSION 5/10/05**

DRAFT 5/6/05

BRAGDON AMENDMENT NO. 1
Ordinance No. 05-1077

Exempting Areas That Were Exempted From The Title 3 Standards

The following text shall be added as subsection 2(D) to Exhibit C:

Pursuant to Section 3(D) of Title 3 of this functional plan (Metro Code Section 3.07.330(D)), some areas that otherwise would have been designated as Protected Water Features, Water Quality Resource Areas, and Flood Management Areas were not designated as Protected Water Features, Water Quality Resource Areas, and Flood Management Areas for the reasons stated in Section 3(D) of Title 3 ("Title 3 Exempt Areas"). In addition, when cities and counties developed their programs to comply with Title 3, some cities and counties identified additional areas as "exempt" from the requirements of Title 3 and Metro deemed those city and county Title 3 programs to be in substantial compliance with the requirements of Title 3 ("Local Title 3 Exempt Areas"). Metro Title 3 Exempt Areas and Local Title 3 Exempt Areas shall not be Habitat Conservation Areas and such areas are exempt from any requirements of this Title that apply to Habitat Conservation Areas.

BRAGDON AMENDMENT NO. 2
Ordinance No. 05-1077

Amending Standards Related to the Use of Habitat-Friendly Development Practices

PART 1. Exhibit C shall be amended as follows:

Section 3. Implementation Alternatives for Cities and Counties

* * *

E. Use of Habitat-Friendly Development Practices In Regionally Significant Fish And Wildlife Habitat.

1. Each city and county in the region shall:
 - a. Identify provisions in the city's or county's comprehensive plan and implementing ordinances that prohibit or limit the use of the habitat-friendly development practices such as those described in Table 3.07-13c; and
 - b. Adopt amendments to the city's or county's comprehensive plan and implementing ordinances to remove the barriers identified pursuant to subsection 3(E)(1)(a) of this title, and shall remove such barriers so that such practices may be used, where ~~technically feasible and appropriate~~practicable, in all regionally significant fish and wildlife habitat.
2. Metro shall provide technical assistance to cities and counties to comply with the provisions of this Section 3(E) of this title.

* * *

Section 4. Performance Standards and Best Management Practices for Habitat Conservation Areas

The following performance standards and best management practices apply to all cities and counties that choose to adopt or rely upon their comprehensive plans and implementing ordinances to comply, in whole or in part, with subsection 3(B)(2) of this title:

- A. City and county comprehensive plans and implementing ordinances shall conform to the following performance standards and best management practices:
 1. Habitat Conservation Areas shall be protected, maintained, enhanced, and restored as specified in this Section 4 of this title, and city and county development codes shall include provisions for enforcement of these performance standards and best management practices.
 2. In addition to requirements imposed by this title, the requirements of Title 3 of the Urban Growth Management Functional Plan, Metro Code sections 3.07.310

DRAFT 5/6/05

to 3.07.360, as amended by Exhibit D to Ordinance No. 05-1077, shall continue to apply.

3. The performance standards and best management practices of this Section 4 of this title shall not apply to any use of residential properties if, as of the local program effective date:
 - a. Construction of the residence was completed in compliance with all applicable local and state laws and rules for occupancy as a residence or the residence had been occupied as a residence for the preceding ten years; and
 - b. Such uses would not have required the property owner to obtain a land use approval or a building, grading, or tree removal permit from their city or county.

~~4. In all Habitat Conservation Areas, the use of the habitat-friendly development practices described in Table 3.07-13e shall be required, where technically feasible and appropriate, to reduce impacts of development on Habitat Conservation Areas and water quality.~~

5.4. Habitat Conservation Areas within publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development shall be protected and managed to maintain and enhance the quality of fish and wildlife habitat that they provide, and that habitat-friendly best management practices, such as integrated pest management programs, are used in such areas.

6.5. Invasive non-native or noxious vegetation shall not be planted in any Habitat Conservation Area. The removal of invasive non-native or noxious vegetation from Habitat Conservation Areas shall be allowed. The planting of native vegetation shall be encouraged in Habitat Conservation Areas.

7.6. Except as provided in subsection 4(A)(87) of this title, routine repair, maintenance, alteration, rehabilitation, or replacement of existing structures, roadways, driveways, utilities, accessory uses, or other development within Habitat Conservation Areas may be allowed provided that:

- a. The project is consistent with all other applicable local, state, and federal laws and regulations;
- b. The project will not permanently or irreparably result in more developed area within a Habitat Conservation Area than the area of the existing development; and
- c. Native vegetation is maintained, enhanced and restored, if disturbed; other vegetation is replaced, if disturbed, with vegetation other than invasive non-native or noxious vegetation; and the planting of native vegetation and removal of invasive non-native or noxious vegetation is encouraged.

8.7. Notwithstanding subsection 4(A)(76) of this title, when a city or county exercises its discretion to approve zoning changes to allow a property that contains a Habitat Conservation Area to (1) change from an industrial or heavy commercial zoning designation to a residential or mixed-use/residential designation, or (2) increase the type or density and intensity of development in any area, then the city or county shall apply the provisions of this Section 4 of this title. This provision will help to insure that, when developed areas are redeveloped in new ways to further local and regional urban and economic development goals, property owners should restore regionally significant fish and wildlife habitat as part of such redevelopment.

9.8. Any activity within Habitat Conservation Areas that is required to implement a Federal Aviation Administration (FAA) - compliant Wildlife Hazard Management Plan (WHMP) on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be allowed provided that mitigation for any such projects is completed in compliance with mitigation requirements adopted pursuant to subsection 4(B) of this title. In addition, habitat mitigation for any development within Habitat Conservation Areas on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be permitted at any property within the Metro region without having to demonstrate that on-site mitigation is not practicable, feasible, or appropriate.

10.9. Within Habitat Conservation Areas located in Multnomah County Drainage District No. 1, Peninsula Drainage District No. 1, Peninsula Drainage District No. 2, and the area managed by the Sandy Drainage Improvement Company, routine operations, repair, maintenance, reconfiguration, rehabilitation, or replacement of existing drainage, flood control, and related facilities, including any structures, pump stations, water control structures, culverts, irrigation systems, roadways, utilities, accessory uses (such as off-load facilities that facilitate water-based maintenance), erosion control projects, levees, soil and bank stabilization projects, dredging and ditch clearing within the hydraulic cross-section in existing storm water conveyance drainageways, or other water quality and flood storage projects required to be undertaken pursuant to ORS chapters 547 or 554 or Titles 33 or 44 of the Code of Federal Regulations, shall be allowed provided that:

- a. The project is consistent with all other applicable local, state, and federal laws and regulations;
- b. Where practicable, the project does not encroach closer to a surface stream or river, wetland, or other body of open water than existing operations and development; and
- c. Where practicable, vegetation native to the Metro Area is maintained, enhanced and restored, if disturbed; other vegetation is replaced, if disturbed, with any vegetation other than invasive non-native or noxious vegetation; and the planting of native vegetation and removal of invasive non-native or noxious vegetation is encouraged.

B. City and county comprehensive plans and implementing ordinances shall contain review standards applicable to development in all Habitat Conservation Areas that include:

1. Clear and objective development approval standards consistent with subsection 3(C) of this title that protect Habitat Conservation Areas but which allow limited development within High Habitat Conservation Areas, slightly more development in Moderate Habitat Conservation Areas, and even more development in Low Habitat Conservation Areas. Such standards shall allow (a) property owners to consider reduced building footprints and the use of minimal excavation foundation systems (e.g., pier, post or piling foundation), and (b) the flexible application of local code requirements that may limit a property owner's ability to avoid development in Habitat Conservation Areas, such as setback and landscaping requirements or limits on clustering and the transfer of development rights on-site. The habitat-friendly development practices described in Table 3.07-13c, which are intended to minimize the magnitude of the impact of development in Habitat Conservation Areas, shall be allowed, encouraged, or required to the extent that cities and counties can develop clear and objective standards for their use. Such The clear and objective development standards required by this paragraph also shall require that all development in Habitat Conservation Areas be mitigated to restore the ecological functions that are lost or damaged as a result of the development. Standards that meet the requirements of this subsection and subsection 3(C) of this title are provided in Section 7 of the Metro Title 13 Model Ordinance¹; and
2. Discretionary development approval standards consistent with subsection 3(D) of this title that comply with subsections (a), (b), and (c) of this subsection. Standards that meet the requirements of this subsection and subsection 3(D) of this title are provided in Section 8 of the Metro Title 13 Model Ordinance.
 - a. Avoid Habitat Conservation Areas.
 - i. Development may occur within a Habitat Conservation Area only if a property owner demonstrates that no practicable alternatives to the requested development exist which will not disturb the Habitat Conservation Area;
 - ii. When implementing this requirement to determine whether a practicable alternative exists, cities and counties shall include consideration of the type of Habitat Conservation Area that will be affected by the proposed development. For example, High Habitat Conservation Areas have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, while Low Habitat Conservation Areas have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat; and
 - iii. Cities and counties shall allow flexibility in the application of local code requirements that may limit a property owner's ability

¹ On file in the Metro Council office.

to avoid development in Habitat Conservation Areas, such as setback and landscaping requirements or limits on clustering and the transfer of development rights on-site. Property owners shall also consider reduced building footprints and use of minimal excavation foundation systems (e.g., pier, post or piling foundation). The use of the techniques described in this paragraph shall be part of the alternatives analysis to determine whether any alternative to development within the Habitat Conservation Area is practicable; and

b. Minimize Impacts on Habitat Conservation Areas and Water Quality.

i. If there is no practicable alternative, limit the development to reduce-minimize, to the extent practicable, the detrimental impacts on Habitat Conservation Areas associated with the proposed development.

ii. When implementing this requirement to determine whether development has been minimized to the extent practicable, cities and counties shall include consideration of the type of Habitat Conservation Area that will be affected by the proposed development. For example, High Habitat Conservation Areas have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, while Low Habitat Conservation Areas have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat; and

iii. The techniques described in subsection 4(B)(2)(a)(iii) shall be used to demonstrate that development within a Habitat Conservation Area has been minimized. In addition, the magnitude of the impact of development within Habitat Conservation Areas also shall be minimized, such as by use of the habitat-friendly development practices described in Table 3.07-13c; and

c. Mitigate Impacts on Habitat Conservation Areas and Water Quality.

When development occurs, require mitigation to restore the ecological functions that were lost or damaged as a result of the development, after taking into consideration the property owner's efforts to minimize the magnitude of the detrimental impacts through the use of the techniques described in Table 3.07-13c and through any additional or innovative techniques. When implementing this mitigation requirement, cities and counties shall include consideration of the type of Habitat Conservation Area that will be affected by the proposed development. For example, development in High Habitat Conservation Areas should require a greater amount of mitigation to compensate for impacts to higher-valued habitat that has been identified as having a lower urban development value, while development in Low Habitat Conservation Areas should

require the lowest amount of mitigation to compensate for impacts to lower-valued habitat that has been identified as having a higher urban development value.

Table 3.07-13c. Impervious surfaces reduction, on-site stormwater management and other habitat friendly development practices

<ol style="list-style-type: none"> 1. Minimize clearing and grading to the maximum extent possible. 2. Amend disturbed soils to regain infiltration and stormwater storage capacity. 3. Reduce lot sizes, setbacks and shape standards to allow for cluster development. 4. Use Transfer of Development Rights (TDR) to preserve natural features. 5. Reduce building footprint. 6. Use minimal excavation foundation systems to reduce grading (e.g., pier, post or piling foundation). 7. Use pervious paving for walkways and parking areas in place of traditional impervious materials. 8. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area. 9. Reduce impervious impacts of residential driveways by narrowing widths, moving access to the rear of the site, and using more pervious paving materials. 10. Use shared driveways where appropriate. 11. Reduce width of residential streets, depending on traffic and parking needs. 12. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs. 13. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects. 14. Consider alternative paving materials within center of cul-de-sac and/or allow cul-de-sac to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site. 15. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments). 16. Design roads to incorporate stormwater management in right-of-ways where appropriate. 17. Use multi-functional open drainage systems in lieu of more conventional curb and gutter systems. 	<ol style="list-style-type: none"> 19. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants. 20. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics. 21. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens. 22. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering. 23. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge. 24. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure. 25. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible. 26. Use bridge crossings rather than culverts wherever possible. 27. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat. 28. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage. 29. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors. 30. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas. 31. Carefully integrate fencing into the landscape to guide animals toward the crossings. 32. Reduce light spill-off into HCA from development. 33. Use native plants throughout the development
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<p>18. Minimize car spaces and stall dimensions, reduce parking ratios, use shared parking facilities and structured parking, and use pervious paving materials where appropriate to reduce impervious surfaces in parking lots.</p>	<p>(not just in HCA). 34. Donate HCA to public or other organization to be maintained in a natural state. 35. Locate landscaping (required by other sections of the code) adjacent to HCA.</p>
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Table 3.07-13c. Habitat-friendly development practices.

<p>Part (a): Design and Construction Practices to Minimize Hydrologic Impacts</p>	
<ol style="list-style-type: none"> 1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity. 2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs. 3. Incorporate stormwater management in road right-of-ways. 4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge. 5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics. 6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens. 7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering. 8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems. 9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants. 10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure. 11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area. 12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site. 13. Use shared driveways. 14. Reduce width of residential streets, depending on traffic and parking needs. 15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs. 16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site. 17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments). 18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking. 19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible. 20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors. 	



Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage	
<ol style="list-style-type: none"> 1. <u>Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.</u> 2. <u>Use bridge crossings rather than culverts wherever possible.</u> 3. <u>If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.</u> 4. <u>Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.</u> 5. <u>Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.</u> 	
Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices	
<ol style="list-style-type: none"> 1. <u>Use native plants throughout the development (not just in HCA).</u> 2. <u>Locate landscaping (required by other sections of the code) adjacent to HCA.</u> 3. <u>Reduce light-spill off into HCAs from development.</u> 	

PART 2. Exhibit E shall be amended as follows:

Section 8. Discretionary Review

E. Approval Criteria.

1. All application requirements in subsection 8(C) must be met.
2. ***Avoid.*** An applicant must first avoid the intrusion of development into the HCA to the extent practicable. To avoid development in the HCA, and to the extent practicable, applicants shall use the approaches described in subsection 7(D), reduce building footprints, and use minimal excavation foundation systems (e.g., pier, post or piling foundation). The development that is proposed must have less detrimental impact to HCAs than other practicable alternatives, including significantly different alternatives that propose less development within HCAs. If a proposed alternative would result in a reduction in the fair market value of the property it shall not be considered practicable.
3. ***Minimize.*** If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of the HCA, then the development proposed by the applicant within the HCA must minimize detrimental impacts to the extent practicable. If proposed alternatives to minimize detrimental impacts would result in a reduction in the fair market value of the property it shall not be considered practicable.
 - a. Development must minimize detrimental impacts to ecological functions and loss of habitat consistent with uses allowed under base zone, to the extent practicable;
 - b. To the extent practicable within the HCA, the proposed development shall be designed, located, and constructed to:

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- i. Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches described in subsection 7(D), reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post or piling foundation)Minimize grading and lot disturbance;
- ii. Minimize disturbance of native soils and reduce the removal of native soils;
- iii. Minimize removal of native vegetation;
- iv. Maximize amendments to topsoil to original or higher level of porosity and water retention capacity; and
 - v. ii. Minimize adverse hydrological impacts on water resources such as by using the techniques described in Part (a) of Table 8;
 - iii. Minimize impacts on wildlife corridors and fish passage such as by using the techniques described in Part (b) of Table 8; and
 - iv. Consider using the techniques described in Part (c) of Table 8 to further minimize the impacts of development in the HCA.

Table 8. Habitat-friendly development practices.

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Part (a): Design and Construction Practices to Minimize Hydrologic Impacts	
<p><u>21. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.</u></p> <p><u>22. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.</u></p> <p><u>23. Incorporate stormwater management in road right-of-ways.</u></p> <p><u>24. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.</u></p> <p><u>25. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.</u></p> <p><u>26. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.</u></p> <p><u>27. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.</u></p> <p><u>28. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems.</u></p> <p><u>29. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.</u></p> <p><u>30. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.</u></p> <p><u>31. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.</u></p> <p><u>32. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.</u></p> <p><u>33. Use shared driveways.</u></p> <p><u>34. Reduce width of residential streets, depending on traffic and parking needs.</u></p> <p><u>35. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.</u></p> <p><u>36. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.</u></p> <p><u>37. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).</u></p> <p><u>38. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.</u></p> <p><u>39. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.</u></p> <p><u>40. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.</u></p>	
Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage	
<p><u>6. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.</u></p> <p><u>7. Use bridge crossings rather than culverts wherever possible.</u></p> <p><u>8. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.</u></p> <p><u>9. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.</u></p> <p><u>10. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.</u></p>	

Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices

- 4. Use native plants throughout the development (not just in HCA).
- 5. Locate landscaping (required by other sections of the code) adjacent to HCA.
- 6. Reduce light-spill off into HCAs from development.

4. Mitigate. ~~If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of the HCA, then development must mitigate for adverse impacts to the HCA. The applicant may choose to comply with Mitigation Option 1 subsection 8(D)(4)(b) or Mitigation Option 2 subsection 8(D)(4)(e).~~ All proposed mitigation plans must meet the following standards in subsection 8(D)(4)(a):

~~a. Mitigation standards.~~

~~i.a.~~ The mitigation plan must shall demonstrate that it compensates for detrimental impacts to ecological function in HCAs, after taking into consideration the applicant's efforts to minimize such detrimental impacts through the use of the techniques described in Table 8 and through any additional or innovative techniques:-

~~ii.b.~~ Mitigation must shall occur on the site of the disturbance, to the extent feasible and appropriate. All revegetation must be done shall using be with native plants listed on the Metro Native Plant List:-

~~iii.c.~~ If on-site mitigation is not feasible or appropriate, then the applicant must shall possess a legal instrument, such as an easement, sufficient to carry out and ensure the success of mitigation off-site. The mitigation must shall occur in the same subwatershed (6th Field Hydrologic Unit Code) as the proposed use or development, except when the purpose of the mitigation could provide more ecological functional value if implemented outside the subwatershed:-

~~iv.d.~~ Where the proposed mitigation includes alteration or replacement of development in a stream channel, wetland, or other water body, there will shall be no detrimental impact related to the migration, rearing, feeding, or spawning of fish.

~~b. Mitigation Option 1.~~ Mitigation Option 1 allows the applicant to choose from a menu of habitat friendly development practices and use a set mitigation ratio.

~~i. Menu of Habitat Friendly Development Practices.~~ Meaningfully and effectively incorporate a minimum of five (5) of the habitat friendly development practices in Table 8, unless technically infeasible.

Table 8. Habitat-friendly development practices.

Impervious surfaces reduction, on-site stormwater management and other habitat-friendly practices	
<ol style="list-style-type: none"> 1. Minimize clearing and grading to the maximum extent possible. 2. Amend disturbed soils to regain infiltration and stormwater storage capacity. 3. Reduce lot sizes, setbacks and shape standards to allow for cluster development. 4. Use Transfer of Development Rights (TDR) to preserve natural features. 5. Reduce building footprint. 6. Use minimal excavation foundation systems to reduce grading (e.g., pier, post or piling foundation). 7. Use pervious paving for walkways and parking areas in place of traditional impervious materials. 8. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area. 9. Reduce impervious impacts of residential driveways by narrowing widths, moving access to the rear of the site, and using more pervious paving materials. 10. Use shared driveways where appropriate. 11. Reduce width of residential streets, depending on traffic and parking needs. 12. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs. 13. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects. 14. Consider alternative paving materials within center of cul-de-sac and/or allow cul-de-sac to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site. 15. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments). 16. Design roads to incorporate stormwater management in right-of-ways where appropriate. 17. Use multi-functional open drainage systems in lieu of more conventional curb and gutter systems. 18. Minimize car spaces and stall dimensions, reduce parking ratios, use shared parking facilities and structured parking, and use pervious paving materials where appropriate to reduce impervious surfaces in parking lots. 	<ol style="list-style-type: none"> 20. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics. 21. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens. 22. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering. 23. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge. 24. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure. 25. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible. 26. Use bridge crossings rather than culverts wherever possible. 27. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat. 28. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage. 29. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors. 30. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas. 31. Carefully integrate fencing into the landscape to guide animals toward the crossings. 32. Reduce light spill off into HCA from development. 33. Use native plants throughout the development (not just in HCA). 34. Donate HCA to public or other organization to be maintained in a natural state. 35. Locate landscaping (required by other sections of the code) adjacent to HCA.

<p><u>19.1.</u> Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.</p>		
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ii. Mitigation ratios for Option 1. The applicant must mitigate for disturbance of HCAs as described in Table 9.

Table 9. Mitigation ratios.

HCA Class	Mitigation Ratio <i>(Area mitigated to area disturbed)</i>
High	1.5:1
Moderate	1:1
Low	0.5:1

e. Mitigation Option 2. Mitigation Option 2 allows the applicant to meet a goal for Effective Impervious Area (EIA) and therefore reduce their mitigation requirement.

i. If the applicant chooses to use habitat-friendly development practices to achieve an EIA within one of the ranges in Table 10, the required mitigation as described in Option 1 will be reduced by the percentage specified in Table 9 (e.g., if the applicant's development proposal would achieve less than 10% EIA and the mitigation requirements in Option 1 would result in 1,000 sq. ft. of mitigation, the mitigation requirement would be reduced to 25%, resulting in only 250 sq. ft. of mitigated area).

Table 10. Percent of mitigation requirement (from Table 9) based on level of EIA achieved.

HCA Class	Percent of Mitigation Requirement		
	21-40% EIA	10-20% EIA	<10% EIA
High	75%	50%	25%
Moderate	75%	50%	25%
Low	75%	25%	0%

5. **Mitigation maintenance plan.** An appropriate long-term mitigation maintenance plan must be included as a condition of development.

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PROPOSED BRAGDON AMENDMENT NO. 3
Ordinance No. 05-1077

Clarifying that Metro's program would not require more mitigation for wetlands than already required by federal and state law.

PART 1. The following paragraph shall be added to Exhibit C as new subsection 4(B)(3):

3. When development occurs within delineated wetlands, then the mitigation required under subsections 4(B)(1) and (2) of this title shall not require any additional mitigation than the mitigation required by state and federal law for the fill or removal of such wetlands.

PART 2. Subsection 2(B) of Exhibit E shall be amended as follows:

- B. Where the provisions of this ordinance are less restrictive than comparable provisions of the zoning ordinance, regional, state, or federal law, the provisions that are more restrictive shall govern. Where this ordinance imposes restrictions that are more stringent than regional, state, and federal law, the provisions of this ordinance shall govern, except for wetlands mitigation requirements imposed by state and federal law (see Sections 7(F) and 8(D)(4) of this ordinance).

PART 3. Subsection 7(F) of Exhibit E shall be amended as follows:

- F. Mitigation requirements for disturbance in HCAs. Tree replacement and vegetation planting are required when development intrudes into a HCA according to the following standards, except for wetlands mitigation requirements imposed by state and federal law. An applicant must meet Mitigation Option 1 or 2, whichever results in more vegetation planting.

PART 3. Subsection 8(D)(4) of Exhibit E shall be amended as follows:

4. **Mitigation plan.** The purpose of a mitigation plan is to compensate for unavoidable significant detrimental impacts to ecological functions that result from the chosen development alternative as identified in the impact evaluation. However, when development occurs within delineated wetlands, then the mitigation required under subsection 8(E)(4) shall not require any additional mitigation than the mitigation required by state and federal law for the fill or removal of such wetlands. A mitigation plan shall include:

PROPOSED BURKHOLDER AMENDMENT 1
Ordinance No. 05-1077

No adjustment of urban development value for medical facilities that do not provide an educational function.

PART 1. The following changes shall be made in Exhibit C Section 4(D)(5):

- b. The property, or adjacent lots or parcels, is owned by a regionally significant educational or medical facility and, for that reason, should be designated as of high urban development value because of the economic contributions the facility provides to the citizens of the region.
 - i. The following facilities are regionally significant educational or medical facilities, as further identified on the Regionally Significant Educational or Medical Facilities Map, attached hereto¹:

PART 2. The following changes shall be made in Exhibit E Section 3(B)(7)(c):

- iii. As designated in Title 13 of Metro's Urban Growth Management Functional Plan, properties owned by a regionally significant educational or medical facility are designated as high urban development value.

¹ On file in the Metro Council office.

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PROPOSED BURKHOLDER AMENDMENT NO. 2
Ordinance No. 05-1077

Deleting the provision regarding Wildlife Hazard Management Plans.

PART 1. Exhibit C shall be amended as follows:

Subsection 4(A)(9) of Exhibit C is hereby deleted, the subsequent subsections shall be renumbered accordingly, and any references to such subsections also shall be amended accordingly.

PART 2. Exhibit E shall be amended as follows:

Subsection 5(B) of Exhibit E is hereby deleted.

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PROPOSED BURKHOLDER AMENDMENT NO. 3
Ordinance No. 05-1077

Amending the mitigation requirements in the discretionary review process.

Subsection 4(B)(2)(c) of Exhibit C shall be amended as follows:

c. **Mitigate Impacts on Habitat Conservation Areas and Water Quality.**

When development occurs, require mitigation to restore the ecological functions that were lost or damaged as a result of the development. ~~When implementing this mitigation requirement, cities and counties shall include consideration of the type of Habitat Conservation Area that will be affected by the proposed development. For example, development in High Habitat Conservation Areas should require a greater amount of mitigation to compensate for impacts to higher valued habitat that has been identified as having a lower urban development value, while development in Low Habitat Conservation Areas should require the lowest amount of mitigation to compensate for impacts to lower valued habitat that has been identified as having a higher urban development value.~~

PROPOSED BURKHOLDER AMENDMENT NO. 4
Ordinance No. 05-1077

To ensure that publicly owned parks and open spaces within the current UGB protect Class A and B upland habitat.

PART 1. Subsection 2(B)(1) of Exhibit C shall be amended as follows:

1. Table 3.07-13a designates high, moderate, and low Habitat Conservation Areas for (1) Class I and II riparian habitat areas, and (2) Class A and B upland wildlife habitat areas within publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development, located:
 - a. Within the Metro UGB at the effective date of this title; and
 - b. Outside of the Metro UGB but within the Metro boundary at the effective date of this title, except:
 - i. When such standards and practices violate ORS 215.253 by restricting or regulating farm structures or farming practices on any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition);
 - ii. When such standards and practices violate ORS 527.722 by prohibiting, limiting, regulating, subjecting to approval, or in any other way affecting forest practices on forestlands located outside of an acknowledged urban growth boundary, except as provided in ORS 527.722(2), (3) and (4); or
 - iii. Pursuant to ORS 196.107, in areas within Multnomah County and the Columbia River Gorge National Scenic Area, provided that Multnomah County has adopted and implements ordinances that are approved pursuant to sections 7(b) and 8(h) through 8(k) of the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §§ 544e(b) and 544f(h) through 544f(k).

///

PART 2. Table 3.07-13a of Exhibit C shall be amended as follows:

Table 3.07-13a: Method for Identifying Habitat Conservation Areas (“HCA”)

<i>Fish & wildlife habitat classification</i>	<i>High Urban development value¹</i>	<i>Medium Urban development value²</i>	<i>Low Urban development value³</i>	<i>Other areas: Parks and Open Spaces, no design types outside UGB</i>
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA / High HCA+ ⁴
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA / High HCA+ ⁴
<u>Class A Upland Wildlife</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA / High HCA+⁴</u>
<u>Class B Upland Wildlife</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA / High HCA+⁴</u>

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a city or county is determining whether to make an adjustment pursuant to Section 4(E)(5) of this title.

¹ Primary 2040 design types: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas

² Secondary 2040 design types: Main Streets, Station Communities, Other Industrial Areas, and Employment Centers

³ Tertiary 2040 design types: Inner and Outer Neighborhoods, Corridors

⁴ Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas in Class I and II riparian habitat even greater protection than that afforded to High Habitat Conservation Areas, as provided in Section 4(A)(4) of this title.

PART 3. Footnote 4 to Table 3.07-13b of Exhibit C shall be amended as follows:

Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas in Class I and II riparian habitat even greater protection than that afforded to High Habitat Conservation Areas, as provided in Section 4(A)(4) of this title.

PART 4. Table 2 in Section 3 of Exhibit E (page 8) shall be amended as follows:

Table 2: Method for Identifying Habitat Conservation Areas (“HCA”)

<i>Fish & wildlife habitat classification</i>	<i>High Urban development value¹</i>	<i>Medium Urban development value²</i>	<i>Low Urban development value³</i>	<i>Other areas: Parks and Open Spaces, no design types outside UGB</i>
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA / High HCA+ ⁴
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA / High HCA+ ⁴
<u>Class A Upland Wildlife</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA / High HCA+⁴</u>
<u>Class B Upland Wildlife</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA</u>	<u>No HCA / High HCA+⁴</u>

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a city or county is determining whether to make an HCA adjustment.

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¹Primary 2040 design type: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas

²Secondary 2040 design type: Main Streets, Station Communities, Other Industrial areas, and Employment Centers

³Tertiary 2040 design type: Inner and outer neighborhoods, Corridors

⁴Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas ~~in Class I and II riparian habitat~~ even greater protection than that afforded to High Habitat Conservation Areas.

PART 5. Footnote 4 to Table 3 in Section 3 of Exhibit E (page 9) shall be amended as follows:

Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas ~~in Class I and II riparian habitat~~ even greater protection than that afforded to High Habitat Conservation Areas.

PROPOSED HOSTICKA AMENDMENT 1
Ordinance No. 05-1077

Require mitigation in the same watershed for Port of Portland owned properties covered under an FAA-compliant Wildlife Hazard Management Plan

PART 1. Subsection 4(A)(9) of Exhibit C shall be amended as follows:

9. Any activity within Habitat Conservation Areas that is required to implement a Federal Aviation Administration (FAA) - compliant Wildlife Hazard Management Plan (WHMP) on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be allowed provided that mitigation for any such projects is completed in compliance with mitigation requirements adopted pursuant to subsection 4(B) of this title. In addition, habitat mitigation for any development within Habitat Conservation Areas on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be permitted at any property located within the Metro-regionsame 6th Field Hydrologic Unit Code subwatershed as delineated by the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) without having to demonstrate that on-site mitigation is not practicable, feasible, or appropriate.

PART 2. Subsection 5(B) of Exhibit E shall be amended as follows:

- B. Any activity that is required to implement a Federal Aviation Administration (FAA) - compliant Wildlife Hazard Management Plan (WHMP) on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall not have to comply with subsection 7(E), 8(D)(2) or 8(D)(3) of this ordinance. In addition, mitigation required pursuant to subsection 7(F) or 8(D)(4) of this ordinance as part of any development on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be permitted at any property located within the Metro-regionsame 6th Field Hydrologic Unit Code subwatershed as delineated by the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) -if on-site mitigation would conflict with a FAA-compliant WHMP.

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PROPOSED HOSTICKA AMENDMENT 2
Ordinance No. 05-1077

Develop a scope of work for technical assistance for habitat-friendly development practices and Metro's role in addressing the Clean Water Act

The following Section 9 shall be inserted in the "be it ordained" section of Ordinance No. 05-1077, and the current Sections 9-10 shall be renumbered accordingly:

SECTION 9. Metro will develop a scope of work to define its role in providing technical assistance to cities and counties to comply with the requirements of this ordinance, including implementation of habitat-friendly development practices. In addition, the scope of work shall address Metro's activities that support addressing the Clean Water Act and issues related to urban stormwater management, watershed planning, and pollution control.

PROPOSED HOSTICKA AMENDMENT 3
Ordinance No. 05-1077

Apply more directive policies for protecting habitat in new urban areas

PART 1. Exhibit B, pg. 2, Amendment 3, Section 1.10 Urban Design 3(8) shall be amended as follows:

{NOTE: New language proposed in the introduced ordinance is shown as underlined and deletions in ~~strikeout~~. New language proposed by this amendment is shown in *[italicized brackets]* and deletions in ~~[doublestrikeout brackets]~~.}

8. *[Avoids and ~~Min~~imizes conflicts between urbanization and the protection of regionally significant fish and wildlife habitat.*

PART 2. Exhibit D, pg. 18, Amendment 10, Title 11(G) shall be amended as follows:

{NOTE: New language proposed in the introduced ordinance is shown as underlined and deletions in ~~strikeout~~. New language proposed by this amendment is shown in *[italicized brackets]* and deletions in ~~[doublestrikeout brackets]~~.}

- G. Identification, and mapping and a funding strategy for protecting of areas to be protected from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation, including, without limitation, all Habitat Conservation Areas, Water Quality Resource Areas, and Flood Management Areas. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas, and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include zoning strategies to *[avoid and]* minimize the conflicts between planned future development and the protection of Habitat Conservation Areas, Water Quality Resource Areas, Flood Management Areas, and other natural hazard areas. The plan shall also include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, ~~or~~ and easement dedication to ensure that all significant natural resources are protected.

PROPOSED HOSTICKA AMENDMENT 4
Ordinance No. 05-1077

Add a maximum disturbance area for the low Habitat Conservation Area in the clear and objective approach in the Title 13 Model Ordinance

Subsection 7(E)(1) of Exhibit E shall be amended as follows:

1. *Disturbance area limitations* to minimize impact to HCA.
 - a. *Single-family residential.* The maximum disturbance area (MDA) allowed within HCAs is determined by subtracting the area of the lot or parcel outside of the HCAs from the total disturbance area calculated as described in Table 4 below.
 - i. Moderate and Low HCAs are not subject to the same disturbance area limitations.
 - ii. Calculation of maximum disturbance area. If a lot or parcel includes both High and Moderate/Low HCAs then:
 - (A) If there is more High HCA than Moderate/Low HCA on the lot or parcel, then the MDA shall be calculated as if all of the Moderate/Low and High HCA were High, per Table 4 below; or
 - (B) If there is more Moderate/Low HCA than High HCA on the lot or parcel, then the MDA shall be calculated as if all of the Moderate/Low and High HCA were Moderate/Low, per Table 4 below.
 - iii. Location of MDA. If a lot or parcel includes different types of HCAs, then:
 - (A) The amount of development that may occur within the High HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High HCA (TDA - non-High HCA = MDA). If the area of the lot or parcel outside the High HCA is greater than the total disturbance area, then development shall not occur within the High HCA; and
 - (B) The amount of development that may occur within the Moderate HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High and Moderate HCA (TDA - (Low HCA + non-HCA) = MDA). If the area of the lot or parcel outside the Moderate HCA is greater than the total disturbance area, then development shall not occur within the Moderate HCA; and
 - (C) The amount of development that may occur within the Low HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High, Moderate and Low HCA (TDA - non-HCA = MDA). If the area of the lot or parcel outside the Low HCA is greater than the total disturbance area, then development shall not occur within the Low HCA.

Table 4. HCA Total Disturbance Area Limitations for SFR.

HCA type	Total Disturbance Area
High	50 percent of the lot area, up to maximum of 5,000 sq. ft.
Moderate/Low	65 percent of the lot area, up to maximum of 6,000 sq. ft.
Low	No disturbance area limitation

b. *All other zones.* The maximum disturbance area (MDA) allowed within a HCA is specified in Table YY below.

i. ~~Low HCAs are not subject to disturbance area limitations.~~

ii. MDA in Low, Moderate and High HCAs is allowed by right in these zones, per Table 5 below, subject to mitigation requirements described in Section 7(F).

Table 5. HCA Disturbance Area Limitations for all zones other than SFR.

HCA type	Maximum Disturbance Area
High	10 percent of HCA on site
Moderate	15 percent of HCA on site
Low	40-50 percent of HCA on site

PROPOSED HOSTICKA AMENDMENT 5
Ordinance No. 05-1077

Include more specific monitoring and reporting requirements

Subsection 5(C)(1) of Exhibit C shall be amended as follows:

1. Cities and counties shall report to Metro ~~in a timely fashion no later than December 31, 2007, and by December 31 of each odd-numbered year thereafter~~ on their progress in using voluntary and incentive-based education, acquisition, and restoration habitat protection efforts; and

HOSTICKA AMENDMENT NO. 6
Ordinance No. 05-1077

Amending the definition of "practicable" as it applies to new Title 13 of the Urban Growth Management Functional Plan to include consideration of the impact of proposed development on ecological functions.

PART 1. The amended definition of the term "practicable" in Amendment 9 of Exhibit D shall be further amended as follows:

{NOTE: New language proposed in the introduced ordinance is shown as underlined and deletions in ~~strikeout~~. New language proposed by this amendment is shown in *[italicized brackets]* and deletions in ~~[doublestrikeout brackets]~~.}

(aaa)(fff) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. ~~The application of any requirement in Title 13, Sections 1 to 6 of Exhibit C to Ordinance No. 05-1077, that would result in a reduction in the fair market value of the property to which the requirement is applied shall not be considered practicable. [As used in Title 13 of this functional plan, "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions.]~~

PART 2. The definition of the term "practicable" in Section 11 of Exhibit E shall be amended as follows:

Practicable - means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions. The practicability of a development option shall include consideration of the type of HCA that will be affected by the proposed development. For example, High HCAs have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, so it should be more difficult to show that alternative development options that avoid the habitat are not practicable. On the other hand, Low HCAs have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat, so it should be less difficult to show that alternative development options that avoid the habitat are not practicable. ~~The application of any requirement that would result in a reduction in the fair market value of a property shall not be considered practicable.~~

LIBERTY AMENDMENT NO. 1
Ordinance No. 05-1077

Inserting language to emphasize that the program is being implemented for water pollution control.

PART 1. The following recitals shall be inserted:

WHEREAS, fish and wildlife depend on clean, clear water in order to thrive, and all actions that protect water from becoming polluted by increased sedimentation, increased temperature, excessive nitrogen and nutrient levels, toxic chemicals, and other such pollutants is necessarily and inseparably linked with providing healthy, ecologically viable and stable fish and wildlife habitat; and

WHEREAS, as stated in Exhibit C, this ordinance is in furtherance of a comprehensive program in the Metro region for water pollution control, as a matter of protecting the public health and safety; and

PART 2. Section 1 of Exhibit C shall be amended as follows:

Section 1. Intent

The purposes of this program are to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region. This program:

- A. Will achieve its purpose through conservation, protection, and appropriate restoration of riparian and upland fish and wildlife habitat through time, using a comprehensive approach that includes voluntary, incentive-based, educational, and regulatory elements;
- B. Balances and integrates goals of protecting and enhancing fish and wildlife habitat, building livable Region 2040 communities, supporting a strong economy, controlling and preventing water pollution for the protection of the public health and safety, and complying with federal laws including the Clean Water Act and the Endangered Species Act;
- C. Includes provisions to monitor and evaluate program performance over time to determine whether the program is achieving the program's objectives and targets, to determine whether cities and counties are in substantial compliance with this title, and to provide sufficient information to determine whether to amend or adjust the program in the future; and
- D. Establishes minimum requirements and is not intended to repeal or replace existing requirements of city and county comprehensive plans and implementing ordinances to the extent those requirements already meet the minimum requirements of this title, nor is it intended to prohibit cities and counties from adopting and enforcing fish and wildlife habitat protection and restoration programs that exceed the requirements of this title.

LIBERTY AMENDMENT NO. 2
Ordinance No. 05-1077

Acknowledging local, acknowledged Goal 5 programs and preventing their repeal.

PART 1. Section 3(A) of Exhibit C shall be amended as follows:

- A. Under Oregon law, upon acknowledgment of this program by the Oregon Land Conservation and Development Commission (LCDC), cities and counties wholly or partly within the Metro boundary shall apply the requirements of this title with respect to regionally significant fish and wildlife habitat, according to the compliance deadlines established herein, rather than applying the requirements of division 23 of chapter 660 of the Oregon Administrative Rules ("OAR"), promulgated by LCDC. However, if a city or county adopted any comprehensive plan amendments or land use regulations in compliance with the provisions of division 23 of OAR chapter 660 prior to the effective date of this title, and if such amendments or regulations are applicable to any regionally significant fish and wildlife habitat, then such city or county shall not repeal such amendments or regulations, nor shall it amend such regulations in a manner that would decrease the level of protection provided to regionally significant fish and wildlife habitat. After a city or county has demonstrated that it is in substantial compliance with the requirements of this title, in the event that if the city or county wishes to amend a riparian area protection program or a fish and wildlife habitat protection program to increase the level of protection provided to regionally significant fish and wildlife habitat that exceeds beyond the requirements of this title, such a city or county shall comply with the provisions of division 23 of OAR chapter 660, and shall seek acknowledgement of such amendments from LCDC or treat such amendments as post-acknowledgement plan amendments under ORS chapter 197.

PROPOSED LIBERTY AMENDMENT 3
Ordinance No. 05-1077

Delete the "allow" decision for Port Terminals 4, 5, & 6

PART 1. Exhibit C, Subsection 2(C) shall be amended as follows:

1. Marine dependent properties which would otherwise have been mapped as Habitat Conservation Areas do not appear on the Habitat Conservation Areas Map because the Metro Council concluded, based on its analysis of the economic, social, environmental, and energy implications of its decision, that the economic importance of such properties far outweighed the environmental importance of the properties as fish and wildlife habitat. The Metro Council applied the criteria described in subsection 2(C)(2) of this title to conclude that no part of the following properties- the International Terminal property, located at 12005 N. Burgard Way, Portland, Oregon, 97203 should not be considered as a Habitat Conservation Areas, as shown on the International Terminal Property Map, attached hereto:¹
 - a. ~~The International Terminal property, located at 12005 N. Burgard Way, Portland, Oregon, 97203;~~
 - b. ~~Port of Portland Marine Terminal 4;~~
 - c. ~~Port of Portland Marine Terminal 5; and~~
 - d. ~~Port of Portland Marine Terminal 6.~~
2. The Metro Council may, at its discretion, consider and adopt ordinances to exempt from the provisions of this title any additional properties along the Willamette and Columbia Rivers, or portions of such properties, where it can be demonstrated that:
 - a. The property is currently developed for use as an international marine terminal capable of mooring ocean-going tankers or cargo ships; and
 - b. The property is substantially without vegetative cover.

PART 2. The following International Terminal Property Map shall be inserted as Attachment 2 to Exhibit C, and the current Attachments 2-7 shall be renumbered accordingly.

¹ On file in the Metro Council office.

LIBERTY AMENDMENT NO. 4A
Ordinance No. 05-1077

Adopting provisions to address demands for compensation under Measure 37.

PART 1. The following recitals shall be inserted:

WHEREAS, in adopting new functional plan requirements as part of the comprehensive Nature in Neighborhoods initiative, Metro is committed to protecting the interests of property owners by implementing Statewide Ballot Measure 37 through a fair, efficient, and open claims process; and

WHEREAS, Metro recognizes that local governments' implementation of the new functional plan requirements of the Nature in Neighborhoods initiative may give rise to Measure 37 claims by property owners against local governments and Metro is willing to assume responsibility for addressing those claims; and

PART 2. The following shall be inserted as new Section 5 of Exhibit C and other sections, and references to other sections, shall be renumbered accordingly:

Section 5. Measure 37 Claims

- A. The purpose of this section is to provide for Metro to accept potential liability and to process and settle claims made by property owners against cities and counties pursuant to Statewide Ballot Measure 37, adopted by the voters in November 2004, as a result of the cities' and counties' good faith implementation of this title. As a corollary of accepting financial and administrative responsibility for these claims, Metro seeks the authority and cooperation of cities and counties in the evaluation and settlement of claims.
- B. Provided that cities and counties meet the requirements set out below, Metro shall administer any claim made against a city or county based on its implementation of the requirements of this title and Metro shall indemnify a city or county from any financial responsibility or other required remedy for such claim. If Metro rejects any such claim, then Metro shall be solely responsible to defend such decision, at Metro's own cost and expense. If a property owner prevails in the courts on any claim that Metro rejects, then Metro shall be solely responsible to pay any compensation, attorneys' fees, expenses, and costs awarded to such property owner. In order to receive the benefits of this provision, a local government must:
1. Upon receipt of a written Measure 37 demand for compensation from an owner of private real property located within its jurisdiction alleging that a comprehensive plan amendment or land use regulation adopted or relied upon to comply with the requirements of this title reduces the fair market value of the property, a city or county shall forward a copy of the demand to Metro no later than seven (7) days following receipt of the demand;
 2. Reasonably cooperate with Metro throughout Metro's consideration and disposition of the claim, including promptly providing Metro with any information related to the property in question, to an assessment of its fair market value, or to the city's or county's adoption of the comprehensive plan

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amendment or land use regulation that is the basis of the Measure 37 demand;
and

3. Amend any land use regulation or other ordinance, or enter into an intergovernmental agreement with Metro, in order to grant Metro sufficient authority to implement Metro's decision regarding the disposition of the claim, which disposition may include, but not be limited to, a cash payment or other compensation, waiver or modification of the regulation, dismissal, and the imposition of appropriate conditions.

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LIBERTY AMENDMENT NO. 4B
Ordinance No. 05-1077

Amending the definition of "practicable."

PART 1. The amended definition of the term "practicable" in Amendment 9 of Exhibit D shall be further amended as follows:

{NOTE: New language proposed in the introduced ordinance is shown as underlined and deletions in ~~strikeout~~. New language proposed by this amendment is shown in *[italicized brackets]* and deletions in ~~[doublestrikeout brackets]~~.}

~~(aaa)~~*(fff)* "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. ~~[The application of any requirement in Title 13, Sections 1 to 6 of Exhibit C to Ordinance No. 05-1077, that would result in a reduction in the fair market value of the property to which the requirement is applied shall not be considered practicable].~~

PART 2. Subsection 8(E)(1) in Exhibit E shall be amended as follows:

1. *Avoid.* An applicant must first avoid the intrusion of development into the HCA to the extent practicable. The development that is proposed must have less detrimental impact to HCAs than other practicable alternatives, including significantly different alternatives that propose less development within HCAs. ~~If a proposed alternative would result in a reduction in the fair market value of the property it shall not be considered practicable.~~

PART 3. Subsection 8(E)(2) in Exhibit E shall be amended as follows:

2. *Minimize.* The development proposed by the applicant within the HCA must minimize detrimental impacts to the extent practicable. ~~If proposed alternatives to minimize detrimental impacts would result in a reduction in the fair market value of the property it shall not be considered practicable.~~
 - a. Development must minimize detrimental impacts to ecological functions loss of habitat consistent with uses allowed under base zone;
 - b. The proposed development shall be designed, located, and constructed to:
 - i. Minimize grading and lot disturbance;
 - ii. Minimize disturbance of native soils and reduce the removal of native soils;
 - iii. Minimize removal of native vegetation;
 - iv. Maximize amendments to topsoil to original or higher level of porosity and water retention capacity; and
 - v. Minimize adverse hydrological impacts on water resources.

PART 4. The definition of the term “practicable” in subsection 11 of Exhibit E shall be amended as follows:

Practicable - means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. The practicability of a development option shall include consideration of the type of HCA that will be affected by the proposed development. For example, High HCAs have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, so it should be more difficult to show that alternative development options that avoid the habitat are not practicable. On the other hand, Low HCAs have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat, so it should be less difficult to show that alternative development options that avoid the habitat are not practicable. ~~The application of any requirement that would result in a reduction in the fair market value of a property shall not be considered practicable.~~

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PROPOSED LIBERTY AMENDMENT 5
Ordinance No. 05-1077

Increase vegetation planting requirements for mitigation in clear and objective approach in Title 13 Model Ordinance

Subsection 7(F) of Exhibit E shall be amended as follows:

F. Mitigation requirements for disturbance in HCAs. Tree replacement and vegetation planting are required when development intrudes into a HCA according to the following standards. An applicant must meet Mitigation Option 1 or 2, whichever results in more vegetation planting.

1. *Vegetation standards.*

- a. Replacement trees must be at least one-inch in diameter; shrubs must be in at least a 21-gallon container or the equivalent in ball and burlap.
- b. Shrubs must consist of at least two (2) different species.
- c. All trees and shrubs must be native plants selected from the *Metro Native Plant List*.
- d. All vegetation must be planted on the applicant's site.

2. *Mitigation Option 1.* In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site must be replaced as shown in Table 6.

- a. Conifers must be replaced with conifers.

Table 6. Tree Replacement

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

3. *Mitigation Option 2.* In this option, the mitigation requirement is calculated based on the size of the disturbance area within a HCA.

- a. Native trees and shrubs are required to be planted at a rate of ~~three~~ eight (8) trees and ~~four~~ thirty-six (36) shrubs per every 500 square feet of disturbance area.

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**LIBERTY AMENDMENT NO. 6
Ordinance No. 05-1077**

Inserting language to emphasize that the program is being implemented to comply with the requirements of the Clean Water Act and Endangered Species Act.

The following recitals shall be inserted:

WHEREAS, the Federal Water Pollution and Control Act Amendments of 1972, 33 U.S.C. §1251 et seq. (the "Clean Water Act"), directs the administrator of the United States Environmental Protection Agency "in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and municipalities and industries involved, prepare or develop comprehensive programs for preventing, reducing, or eliminating the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for the protection and propagation of fish and aquatic life and wildlife, recreational purposes, and the withdrawal of such waters for public water supply, agricultural, industrial, and other purposes." 33 U.S.C. §1252; and

WHEREAS, as stated in Exhibit C, this ordinance is in furtherance of a comprehensive program in the Metro region to conserve the region's waters for the protection and propagation of fish and wildlife, recreation purposes, and the withdrawal of such waters for public water supply, agricultural, industrial, and other purposes, as required by the Clean Water Act; and

WHEREAS, the Endangered Species Act, 16 U.S.C. §1531 et seq., was enacted "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species" 16 U.S.C. §1531(b); and

WHEREAS, Metro has catalogued the endangered and threatened species within the Metro region and this ordinance is in furtherance of a comprehensive program to conserve the ecosystem upon which endangered and threatened species depend; and

PROPOSED MCLAIN AMENDMENT 1
Ordinance No. 05-1077

Remove the requirement to track vegetation removal over a 5-year period in the definition of development

PART 1. Exhibit D, pg. 9, Amendment 9 Title 10(o) shall be amended as follows:

{NOTE: New language proposed in the introduced ordinance is shown as underlined and deletions in ~~strikeout~~. New language proposed by this amendment is shown in *[italicized brackets]* and deletions in ~~[doublestrikeout-brackets]~~.}

- (o) "Development" means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3 except that ~~more~~ *less* than 10 percent removal of vegetation on a lot must comply with Section 3.07.040(C) – Erosion and Sediment Control. In addition, any other activity that results in the cumulative removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot ~~[in any five-year period]~~ is defined as development, for the purpose of Title 13. Development does not include the following: (1) Stream enhancement or restoration projects approved by cities and counties; (2) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

PART 2. Exhibit E, Section 11 shall be amended as follows:

Development - Any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation, and any other activity that results in the removal of trees and native vegetation. In addition, any other activity that results in the cumulative removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot ~~in any five-year period~~ is defined as development. Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; and c) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2) (1995).

**PROPOSED NEWMAN AMENDMENT 1
Ordinance No. 05-1077**

Clarify language related to water utilities in Title 13 Model Ordinance

PART 1. Subsection 7(E)(3) of Exhibit E shall be amended as follows:

3. ***Utility facility standards.*** The following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within a HCA:
 - a. The disturbance area for utility facility connections to utility facilities is no greater than 10 feet wide.
 - b. The disturbance area for the upgrade of existing utility ~~lines~~ facilities is no greater than 15 feet wide.
 - c. No fill or excavation is allowed within the ordinary high water mark of a stream, unless a permit is obtained from the US Army Corps of Engineers through the Standard Local Operating Procedures for Endangered Species (SLOPES) process.
 - d. Mitigation is required as described in subsection E below.

PART 2: The following language shall be added to Exhibit E as new subsection 8(F):

F. Municipal Water Utility Facilities Standards

Municipal potable water, storm water (drainage) and wastewater utility facilities may be built, expanded, repaired, maintained, reconfigured, rehabilitated, replaced or upsized if not exempted in Section 4 of this Ordinance. These facilities may include but are not limited to water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines, terminal storage reservoirs, and outfall devices provided that:

1. The project is consistent with all other applicable local, state, and federal laws and regulations;
2. Where practicable, the project does not encroach closer to a surface stream or river, wetland, or other body of open water than existing operations and development;
3. Where practicable, vegetation native to the Metro area is maintained and restored, if disturbed; other vegetation is replaced, if disturbed, with any vegetation other than invasive non-native or noxious vegetation; and the planting of native vegetation and removal of invasive non-native or noxious vegetation is encouraged; and
4. Best management practices will be employed that accomplish the following:
 - a. Account for watershed assessment information in project design;
 - b. Minimize the trench area and tree removal within the HCA;
 - c. Utilize and maintain erosion controls until other site stabilization measures are established, post-construction;

- d. Replant immediately after backfilling or as soon as effective;
- e. Preserve wetland soils and retain soil profiles;
- f. Minimize compactions and the duration of the work within the HCA;
- g. Complete in-water construction during appropriate seasons, or as approved within requisite Federal or State permits;
- h. Monitor water quality during the construction phases if applicable; and
- i. Implement a full inspection and monitoring program during and after project completion, if applicable.

TECHNICAL AMENDMENTS
Ordinance No. 05-1077

Amendment 1. This amendment is in two related parts.

PART A. Subsection 2(B) of Exhibit C shall be amended as follows:

B. The Habitat Conservation Areas Map, attached hereto¹, identifies the areas that are subject to the performance standards and best management practices described in Section 4 of this title, to the extent that a city or county chooses to comply with Section 3 of this title by using the Habitat Conservation Areas map, or a map that substantially complies with the Habitat Conservation Areas map. For such cities and counties, the Habitat Conservation Areas Map further identifies, subject to the map verification process described in subsections 3(G) and 4(D) of this title, which areas will be subject to high, moderate, and low levels of habitat conservation based on Metro Council's consideration of the results of the economic, social, environmental, and energy (ESEE) consequences of protecting or not protecting the habitat, public input, and technical review, and the Metro Council's subsequent decision to balance conflicting uses in habitat areas.

1. ~~Table 3.07-13a designates high, moderate, and low Habitat Conservation Areas for describes how Class I and II riparian habitat areas located: within the Metro boundary at the effective date of this title were designated as high, moderate, and low Habitat Conservation Areas.~~

~~a. Within the Metro UGB at the effective date of this title; and~~

~~b. Outside of the Metro UGB but within the Metro boundary at the effective date of this title, except:~~

~~i. When such standards and practices violate ORS 215.253 by restricting or regulating farm structures or farming practices on any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition);~~

~~ii. When such standards and practices violate ORS 527.722 by prohibiting, limiting, regulating, subjecting to approval, or in any other way affecting forest practices on forestlands located outside of an acknowledged urban growth boundary, except as provided in ORS 527.722(2), (3) and (4); or~~

~~iii. Pursuant to ORS 196.107, in areas within Multnomah County and the Columbia River Gorge National Scenic Area, provided that Multnomah County has adopted and implements ordinances that are approved pursuant to sections 7(b) and 8(h) through 8(k) of the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §§ 544e(b) and 544f(h) through 544f(k).~~

¹ On file in the Metro Council office.

2. ~~Table 3.07-13b describes how designates high, moderate, and low Habitat Conservation Areas for Class I and II riparian habitat areas and Class A and B upland wildlife areas brought within the Metro UGB after the effective date of Ordinance No. 05-1077 will be designated as high, moderate, and low Habitat Conservation Areas.~~ Section 6 of this title describes the procedures for how Table 3.07-13b and Section 4 of this title shall be applied in such areas.

PART B. The following text shall be inserted as new subsection 4(A)(3) of Exhibit C, and the other provisions of subsection 4(A) of Exhibit C shall be renumbered accordingly:

3. The performance standards and best management practices of this Section 4 of this title shall not apply in areas outside of the Metro UGB but within the Metro boundary at the effective date of this title:
 - a. When such standards and practices violate ORS 215.253 by restricting or regulating farm structures or farming practices on any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition);
 - b. When such standards and practices violate ORS 527.722 by prohibiting, limiting, regulating, subjecting to approval, or in any other way affecting forest practices on forestlands located outside of an acknowledged urban growth boundary, except as provided in ORS 527.722(2), (3) and (4); or
 - c. Pursuant to ORS 196.107, in areas within Multnomah County and the Columbia River Gorge National Scenic Area, provided that Multnomah County has adopted and implements ordinances that are approved pursuant to sections 7(b) and 8(h) through 8(k) of the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §§ 544e(b) and 544f(h) through 544f(k).

Amendment 2. Subsection 3(A) of Exhibit C shall be amended as follows:

Under Oregon law, upon acknowledgment of this program by the Oregon Land Conservation and Development Commission (LCDC), cities and counties wholly or partly within the Metro boundary shall apply the requirements of this title with respect to regionally significant fish and wildlife habitat, according to the compliance deadlines established ~~herein in Section 1 of Title 8 of this functional plan (Metro Code Section 3.07.810)~~, rather than applying the requirements of division 23 of chapter 660 of the Oregon Administrative Rules ("OAR"), promulgated by LCDC. In the event that a city or county wishes to amend a riparian area protection program or a fish and wildlife habitat protection program that exceeds the requirements of this title, such a city or county shall comply with the provisions of division 23 of OAR chapter 660, and shall seek acknowledgement of such amendments from LCDC or treat such amendments as post-acknowledgement plan amendments under ORS chapter 197.

Amendment 3. Subsection 4(A)(8) of Exhibit C shall be amended as follows:

Notwithstanding subsection 4(A)(7) of this title, when a city or county exercises its discretion to approve zoning changes to allow a developed property that contains a Habitat

Conservation Area to (1) change from an industrial or heavy commercial zoning designation to a residential or mixed-use/residential designation, or (2) increase the type or density and intensity of development in any area, then the city or county shall apply the provisions of this Section 4 of this title. This provision will help to insure that, when developed areas are redeveloped in new ways to further local and regional urban and economic development goals, property owners should restore regionally significant fish and wildlife habitat as part of such redevelopment.

Amendment 4. In subsection 4(D)(5)(b)(i)(C) of Exhibit C, delete the word "Portland" and insert the words "in Lake Oswego."

Amendment 5. Subsection 4(D)(5)(b)(i) of Exhibit C, add the following facilities to the list, each as a new subsection:

- a. Pacific University, 2043 College Way, Forest Grove;
- b. Portland Community College – Washington County Workforce Training Center, 18624 SW Walker, Beaverton;
- c. Providence St. Vincent Medical Center, 9115 SW Barnes Rd., Portland;
- d. Oregon Health Sciences University, 3181 SW Sam Jackson Park Rd., Portland;
- e. Legacy – Meridian Park Hospital, 19300 SW 6th, Tualatin; and
- f. Veterans Hospital, 3710 SW U.S. Veterans Hospital Rd., Portland.

Amendment 6. In Table 3.07-13e of Exhibit C, delete the current column heading for the third column on the second two pages of the table and substitute the phrase, "Targeted Condition Based on 2004 Metro Inventory."

Amendment 7. The definition of the term "development" in Amendment 9 of Exhibit D shall be further amended as follows:

{NOTE: New language proposed in the introduced ordinance is shown as underlined and deletions in ~~strikeout~~. New language proposed by this amendment is shown in *italicized brackets* and deletions in [~~doublestrikeout brackets~~.]}

(o) "Development" means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3 except that ~~more-less~~ than 10 percent removal of vegetation on a lot must comply with Section 3.07.340(C) - Erosion and Sediment Control. In addition, any other activity that results in the cumulative removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot in any five-year period is defined as development, for the purpose of Title 13. Development does not include the following: (1) Stream enhancement or restoration projects approved by cities and counties; (2) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are

subject to the requirements of Title[s] 3 [13]; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

Amendment 8. The prefatory paragraph in Section 1 of Exhibit E shall be amended as follows:

The purpose of this ordinance is to comply with Section ~~5~~4 of Title 13 of Metro's Urban Growth Management Functional Plan.

Amendment 9. Subsection 4(B) of Exhibit E shall be amended as follows:

Emergency procedures or activities undertaken which are necessary to remove or abate hazards and nuisances or for the protection of public health, safety and welfare and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this Chapter. Hazards that may be removed or abated include those required to maintain aircraft safety. After the emergency, the person or agency undertaking the action shall fully restore any impacts to the HCA resulting from the emergency action.

Amendment 10. Subsection 7(E)(1)(a)(iii) of Exhibit E shall be amended as follows:

Location of MDA. If a lot or parcel includes different types of HCAs, then:

- (A) The amount of development that may occur within the High HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High HCA ($TDA - \text{non-High HCA} = MDA$). If the area of the lot or parcel outside the High HCA is greater than the total disturbance area, then development shall not occur within the High HCA; and
- (B) The amount of development that may occur within the Moderate HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High and Moderate HCA ($TDA - (\text{Low HCA} + \text{non-HCA}) = MDA$). If the area of the lot or parcel outside the Moderate HCA is greater than the total disturbance area, then development shall not occur within the Moderate HCA.

Amendment 11. Subsection 7(E)(3) of Exhibit E shall be amended as follows:

Utility facility standards. In addition to the disturbance area limitations in subsection 7(E)(1) above, ~~The~~ following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within a HCA:

- a. The disturbance area for utility facility connections to utility facilities is no greater than 10 feet wide.
- b. The disturbance area for the upgrade of existing utility lines is no greater than 15 feet wide.
- c. No fill or excavation is allowed within the ordinary high water mark of a stream.
- d. Mitigation is required as described in subsection ~~E~~F below.

Amendment 12. Subsection 8(E)(4) of Exhibit E shall be amended as follows:

Mitigate. Development must mitigate for adverse impacts to the HCA. The applicant may choose to comply with Mitigation Option 1 subsection 8(DE)(4)(b) or Mitigation Option 2 subsection 8(DE)(4)(c). All proposed mitigation plans must meet the standards in subsection 8(DE)(4)(a).

Amendment 13. Subsection 9(D)(2) of Exhibit E shall be amended as follows:

Unless the proposed variance is from Section 7(EF) or 8(DE)(4) (mitigation), the proposed use will comply with those standards, as applicable; and

Amendment 14. Subsection 9(E)(3) of Exhibit E shall be amended as follows:

The proposed variance will comply with Section 7(EF) or 8(DE)(4) (mitigation); and

Amendment 15. The definition of the term "development" in Section 11 of Exhibit E shall be amended as follows:

Development - Any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation, and any other activity that results in the removal of trees and native vegetation. In addition, any other activity that results in the cumulative removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot in any five-year period is defined as development. Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Titles 3 and 13; and c) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2) (1995).

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**TGM Program Services
2005-2007 Biennium
Pre-Application Summaries**

TITLE:	LAND USE AND TRANSPORTATION FUTURES - I-5 TO HIGHWAY 99W CONNECTOR
DESCRIPTION:	Currently, Metro has a TGM grant that will provide: 1) base maps; 2) identify potential protective measures for impacted rural lands; 3) generate Metroscope runs showing potential alternative land use patterns for the study area and 4) create several transportation improvement options, short of a new high-speed limited access connector. However, this work will not include travel forecasting analysis of the likely results of work element 4. Accordingly, this TGM proposal is to provide a travel forecast analysis of a "kitchen sink" alternative - one that examines the likely outcomes of a variety of transportation demand management tools to address expected demand, as well as base case, TDM and other transportation alternatives for the area that will be developed.
PRODUCT:	Travel Forecast results of transportation alternatives to a high speed, limited access connector between I-5 and Highway 99W in the southwest quadrant of the Metro region and likely land use consequences of improved accessibility of a connector.
GRANT AMOUNT:	\$135,000 (should be a joint application with Washington County)
ODOT REACTION:	n/a - not formally submitted but ODOT staff, after discussion of existing TGM grant for Connector, have urged submission.

TITLE:	ASSESSING MEASURE 37 IMPACTS ON THE REGIONAL TRANSPORTATION SYSTEM
DESCRIPTION:	<p>Since January about 6,000 acres of land outside urban growth boundaries in Clackamas, Multnomah, and Washington Counties have become the subject of claims under Measure 37. If claims continue to be submitted at the same rate, the total affected rural acreage will reach 24,000 acres by January 2006 and 240,000 by January 2015, an area equal in size to the land inside the Portland metro UGB.</p> <p>The implications for the Portland metropolitan region's transportation system are potentially profound. Rural development patterns may also call into question the region's reliance on a compact urban form to achieve air quality standards as part of the State Implementation Plan for the federal Clean Air Act.</p>
PRODUCT:	The project will evaluate proposed uses on Measure 37 claim properties; (b) assemble and present spatial data on these claims; (c) analyze the potential consequences on the rural and urban transportation system and compliance with the Clean Air Act.
GRANT AMOUNT:	\$150,000
ODOT REACTION:	No pre-application was submitted.

TITLE:	TRANSPORTATION OUTCOMES PROJECT
DESCRIPTION:	This proposed expansion of the scheduled 2006-09 Regional Transportation Plan (RTP) Update will address the disconnect between transportation funding constraints, future system needs and the longstanding fiscal shortfall that results. This effort will set the ground rules for the RTP update by establishing how much citizens are willing to pay for transportation services and infrastructure in the Metro region. Metro will use the expanded outreach to create an RTP that delivers the outcomes that matter most to citizens, along with indicators to measure progress. The expanded outreach will involve public opinion surveys, focus groups, town hall meetings, civic journalism and other public outreach strategies designed to provide a very broad sampling of public priorities.
PRODUCT:	Supplement the RTP Update, particularly the financially constrained RTP.
GRANT AMOUNT:	\$306,000
ODOT REACTION:	Not formally submitted as pre-application, but supportive verbal comments.

**TGM Program Services
2005-2007 Biennium
Pre-Application Summaries**

TITLE:	REGIONAL FREIGHT PLAN
DESCRIPTION:	Updates regional freight designated routes, provides guidance for design of freight streets and provides a hierarchy of freight roadway designs. Updates the RTP Freight Plan. Expands a consistent regional approach to freight planning. Incorporates findings of the regional freight survey study.
PRODUCT:	Modifications to Freight RTP plans, Modification to Street Design Guidelines.
GRANT AMOUNT:	\$300,000
ODOT REACTION:	<p>ODOT seemed favorable to the request. They indicated that the study should be coordinated with the upcoming update of the RTP. Since this study would "pivot" the current PDOT Freight Plan, utilize the finding of the regional truck survey/commodity flow forecast and support local jurisdictional freight plans, ODOT felt it was timely and supported TGM goals.</p> <p>Regional Freight Master Plan: Project should tie into RTP update; regional truck demand model project is getting started and affects timeliness of this project -- "timeliness" section on application should discuss how model would be used in developing master plan.</p>

TITLE:	METRO 2040 CORRIDORS IMPLEMENTATION
DESCRIPTION:	The project will focus on developing best practices for developing mixed-use communities in the 2040 Corridors. The effort will evaluate how heavy traffic affects business and residential quality in these areas, and how to balance land use and traffic mobility objectives. In conjunction with developing best practices for these areas, Metro will assemble a technical handbook similar to the Livable Streets and Green Streets series. The handbook will provide a tool for local governments and consultants to use to examine opportunities for new efficiencies in land uses and redevelopment opportunities along corridors and be a guide for the street design to support the new uses.
PRODUCT:	Updates to local plans and development codes to incorporate best practices for redevelopment and infill in 2040 corridors. Handbook which will provide recommendations for land uses and street design.
GRANT AMOUNT:	\$325,000
ODOT REACTION:	2040 Corridors Implementation: Overlaps ongoing case study; additional case studies should be locally managed with Metro participation. Supporting Land Use through Street Design -- A Handbook for Redeveloping Corridors: See comment above. Handbooks always questionable unless strong local consensus that model/guidance is needed.

TITLE:	METRO PARKING MANAGEMENT PROGRAM
DESCRIPTION:	Using literature reviews, case study research and a local stakeholder panel, this project will update and expand Metro's 1995 publication "Shared Parking" to become a comprehensive guidance to better guide local programs for on-street and off-street parking design, management and pricing.
PRODUCT:	A comprehensive guide to managing parking in a compact urban environment.
GRANT AMOUNT:	\$250,000
ODOT REACTION:	Parking Management: Ongoing non-SOV mode split project is addressing parking management among potential strategies. Update of Parking Management handbook is of questionable eligibility. Low-priority.
