

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING
HOUSEKEEPING AMENDMENTS TO
THE URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN

) ORDINANCE NO. 15-1357
)
) Introduced by Martha J. Bennett, Chief
) Operating Officer, with the concurrence of
) Tom Hughes, Council President

WHEREAS, the Urban Growth Management Functional Plan (UGMFP) was adopted by the Metro Council in 1996 and codified as Metro Code Chapter 3.07 in 1997; and

WHEREAS, the UGMFP provides local jurisdictions with tools and guidance for implementing regional policies and achieving the goals set out in the region's 2040 Growth Concept; and

WHEREAS, due to amendments over time, the UGMFP contains references to other provisions of Metro Code, Oregon statutes and administrative rules that are no longer correct, as described in the staff report dated September 1, 2015; and

WHEREAS, the UGMFP includes other minor inaccuracies that the Metro Council desires to correct, as described in the staff report dated September 1, 2015; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Chapter 3.07 of the Metro Code is hereby amended as shown on Exhibit A, attached and incorporated into this ordinance.

ADOPTED by the Metro Council this 8th day of October 2015.



Tom Hughes, Council President



Attest:


Alexandra Eldridge, Recording Secretary

Approved as to Form:



Alison R. Kean, Metro Attorney

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standards are included in most titles. If local jurisdictions demonstrate to Metro that they meet the performance standard, they have met that requirement of the title. Standard methods of compliance are also included in the plan to establish one very specific way that jurisdictions may meet a title requirement, but these standard methods are not the only way a city or county may show compliance. In addition, certain mandatory requirements that apply to all cities and counties are established by this functional plan.

(Ordinance 97-715B, Sec. 1.)

REGIONAL FUNCTIONAL PLAN REQUIREMENTS

Title 1: Housing Capacity

3.07.110 Purpose and Intent

The Regional Framework Plan calls for a compact urban form and a "fair-share" approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

(Ordinance 97-715B, Sec. 1. Ordinance 02-969B, Sec. 1. Ordinance 10-1244B, Sec. 2.)

3.07.120 Housing Capacity

- (a) A city or county may reduce the minimum zoned capacity of the Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street under subsection (d) or (e). A city or county may reduce its minimum zoned capacity in other locations under subsections (c), (d) or (e).
- (b) Each city and county shall adopt a minimum dwelling unit density for each zone in which dwelling units are authorized except for zones that authorize mixed-use as defined in section 3.07.1010-~~(hh)~~ (gg). If a city or county has not adopted a minimum density for such a zone prior to March 16, 2011, the city or county shall adopt a minimum density that is at least 80 percent of the maximum density.
- (c) A city or county may reduce its minimum zoned capacity by one of the following actions if it increases minimum

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Model Ordinance or code language that substantially complies with the performance standards in Section 3.07.340 and the intent of this title, and adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map. Cities and counties may choose one of the following options for applying this section:

- (A) Adopt code language implementing this title which prevails over the map and uses the map as reference; or
- (B) Adopt a city or county field verified map of Water Quality and Flood Management Areas based on the Metro Water Quality and Flood Management map, ~~updated according to Section 3.07.370,~~ implementing this title which prevails over adopted code language.

Field verification is a process of identifying or delineating Protected Water Features, Water Quality Resource Areas and Flood Management Areas shown on the Metro Water Quality and Flood Management Areas map. This process includes examination of information such as site visit reports, wetlands inventory maps, aerial photographs, and public input and review. The field verification process shall result in a locally adopted Water Quality and Flood Management Areas map which:

- (i) Applies the Title 10 definitions of Protected Water Feature, Water Quality Resource Areas and Flood Management Areas to all those protected areas on the Metro Water Quality and Flood Management Areas map to show the specific boundaries of those protected areas on the locally adopted Water Quality and Flood Management Areas map; and
- (ii) Is subject to amendment by applying adopted code language to add Protected Water Features, Water Quality Resource Areas and Flood Management Areas and to correct errors in the local Water Quality and Flood Management Areas map ~~as required by Section 3.07.370 and~~ consistent with Section 3.07.330(d).

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Table 3.07-3 - Protected Water Features

(Section 3.07.340(b)(2)(A))

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor
Primary Protected Water Features ¹	< 25%	<ul style="list-style-type: none"> Edge of bankfull flow or 2-year storm level; Delineated edge of Title 3 wetland 	50 feet
Primary Protected Water Features ¹	≥ 25% for 150 feet or more ⁵	<ul style="list-style-type: none"> Edge of bankfull flow or 2-year storm level; Delineated edge of Title 3 wetland 	200 feet
Primary Protected Water Features ¹	≥ 25% for less than 150 feet ⁵	<ul style="list-style-type: none"> Edge of bankfull flow or 2-year storm level; Delineated edge of Title 3 wetland 	Distance from starting point of measurement to top of ravine (break in ≥25% slope) ³ , plus 50 feet. ⁴
Secondary Protected Water Features ²	< 25%	<ul style="list-style-type: none"> Edge of bankfull flow or 2-year storm level; Delineated edge of Title 3 wetland 	15 feet
Secondary Protected Water Features ²	≥ 25% ⁵	<ul style="list-style-type: none"> Edge of bankfull flow or 2-year storm level; Delineated edge of Title 3 wetland 	50 feet

¹ Primary Protected Water Features include: all rivers, perennial streams, and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs.

² Secondary Protected Water Features include intermittent streams draining 50-100 acres.

³ Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the ≥ 25% slope (see slope measurement in

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3.07.640 Activity Levels for Centers, Corridors, Station Communities and Main Streets

- (a) A Centers, Corridors, Station Communities and Main Streets need a critical number of residents and workers to be vibrant and successful. The following average number of residents and workers per acre is recommended for each:
- (1) Central City - 250 persons
 - (2) Regional Centers - 60 persons
 - (3) Station Communities - 45 persons
 - (4) Corridors - 45 persons
 - (5) Town Centers - 40 persons
 - (6) Main Streets - 39 persons
- (b) Centers, Corridors, Station Communities and Main Streets need a mix of uses to be vibrant and walkable. The following mix of uses is recommended for each:
- (1) The ~~land uses listed in~~ amenities identified in the most current version of the State of the Centers: Investing in Our Communities, January, 2009, such as grocery stores and restaurants;
 - (2) Institutional uses, including schools, colleges, universities, hospitals, medical offices and facilities;
 - (3) Civic uses, including government offices open to and serving the general public, libraries, city halls and public spaces.
- (c) Centers, Corridors, Station Communities and Main Streets need a mix of housings types to be vibrant and successful. The following mix of housing types is recommended for each:
- (1) The types of housing listed in the "needed housing" statute, ORS 197.303(1);
 - (2) The types of housing identified in the city's or county's housing need analysis done pursuant to ORS 197.296 or statewide planning Goal 10 (Housing); and
 - (3) Accessory dwellings pursuant to section 3.07.120 of this chapter.

(Ordinance 97-715B, Sec. 1. Ordinance 98-721A, Sec. 1. Ordinance 02-969B, Sec. 7. Ordinance 10-1244B, Sec. 5.)

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3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance Changes

Cities and counties within the Metro region shall ensure that their comprehensive plans and implementing ordinances:

- (a) Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
- (b) Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
- (c) Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

(Ordinance 97-715B, Sec. 1. Ordinance 00-882, Sec. 2. Ordinance 03-1005A, Sec. 1. Ordinance 06-1129B, Sec. 2.)

3.07.740 Inventory and Progress Reports on Housing Supply

- (a) Local governments shall assist Metro in the preparation of a biennial affordable housing inventory by fulfilling the reporting requirements in ~~subsection 3.07.120D of Title 1 (Requirements for Housing and Employment Accommodation)~~ and subsection (b) of this section.
- (b) Local governments shall report their progress on increasing the supply of affordable housing to Metro on a form provided by Metro, to be included as part of the biennial housing inventory described in subsection (a). Local governments shall submit their first progress reports on July 31, 2007, and by April 15 every two years following that date. ~~Local governments may report their progress as part of the capacity reports required by subsection 3.07.120(d) of Title 1 (Requirements for Housing and Employment Accommodation).~~ Progress reports shall include, at least, the following information:
 - (1) The number and types of units of affordable housing preserved and income groups served during the reporting period, as defined in Metro's form;
 - (2) The number and types of units of affordable housing built and income groups served during the reporting period;

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- (f) An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan as provided in subsection (e) only if the city or county provided notice to the COO as required by subsection (a) of section 3.07.820.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Sec. 4. Ordinance 00-839, Sec. 1. Ordinance 00-882C, Sec. 2. Ordinance 01-925E, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 05-1077C, Sec. 6. Ordinance 10-1244B, Sec. 7.)

3.07.820 Review by the Chief Operating Officer

- (a) A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least ~~45~~³⁵ days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.
- (b) If the COO concludes that the proposed amendment does not comply with the functional plan, the COO shall advise the city or county that it may:
- (1) Revise the proposed amendment as recommended in the COO's analysis;
 - (2) Seek an extension of time, pursuant to section 3.07.830, to bring the proposed amendment into compliance with the functional plan; or
 - (3) Seek an exception pursuant to section 3.07.840.

(Ordinance 97-715B, Sec. 1. Ordinance 98-730C, Secs. 5, 6, 7. Ordinance 98-727C, Sec. 1. Ordinance 00-839, Sec. 1. Ordinance 00-882C, Sec. 2. Ordinance 01-925E, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 10-1244B, Sec. 7.)

3.07.830 Extension of Compliance Deadline

- (a) A city or county may seek an extension of time for compliance with a functional plan requirement. The city or county shall file an application for an extension on a form provided by the COO. Upon receipt of an

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3.07.830 or 3.07.840, respectively, the Council may adopt an order that:

- (1) Directs changes in the city or county ordinances necessary to remedy the pattern or practice; or
 - (2) Includes a remedy authorized in ORS 268.390(7).
- (e) The Council shall issue its order not later than 30 days following the hearing and send copies to the city or county, MPAC and any person who requests a copy.

(Ordinance 97-715B, Sec. 1. Ordinance 01-925E, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 10-1244B, Sec. 7.)

3.07.860 Citizen Involvement in Compliance Review

- (a) Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection (a) of section 3.07.820. Such contact may be oral or in writing and may be made at any time.
- (b) In addition to considering requests as described in (a) above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.
- (c) Cities, counties and the Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The COO shall publish a citizen involvement fact sheet, after consultation with the Metro ~~Committee for Citizen Involvement~~Public Engagement Review Committee (PERC), that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

(Ordinance 97-715B, Sec. 1. Ordinance 01-925E, Sec. 1. Ordinance 02-972A, Sec. 1. Ordinance 10-1244B, Sec. 7.)

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3.07.870 Compliance Report

- (a) The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Functional^{al} Plan. The COO shall send a copy of the report to MPAC, JPACT, ~~MCCI~~PERC and each city and county within Metro.
- (b) A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, ~~MCCI~~PERC, the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to:
 - (1) Determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections (e) and (f) of section 3.07.810; or
 - (2) Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.
- (c) Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.
- (d) A city or county or a person who participated, orally or in writing, at the public hearing, may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

(Ordinance 01-925E, Sec. 2. Ordinance 02-972A, Sec. 1. Ordinance 10-1244B, Sec. 7.)

Title 9: Performance Measures

Title 9 is repealed.

(Ordinance 10-1244B, Sec. 8.)

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comprehensive plan or land use regulations, but in no event shall the local program effective date be later than two years after Title 13 is acknowledged by LCDC. For territory brought within the Metro UGB after December 28, 2005, the local program effective date shall be the effective date of the ordinance adopted by the Metro Council to bring such territory within the Metro UGB.

- (cc) "Metro" means the regional government of the metropolitan area, the elected Metro Council as the policy setting body of the government.
- (dd) "Metro boundary" means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.
- ~~(ee)~~ ~~"MCCI" means the Metro Committee for Citizen Involvement.~~
- ~~(ff)~~ (ee) "MPAC" means the Metropolitan Advisory Committee established pursuant to Metro Charter, Chapter V, Section 27.
- ~~(gg)~~ (ff) "Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order: (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (5) compensating for the impact by replacing or providing comparable substitute water quality resource areas or habitat conservation areas.
- ~~(hh)~~ (gg) "Mixed use" means comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.
- ~~(ii)~~ (hh) "Mixed-use development" includes areas of a mix of at least two of the following land uses and includes multiple tenants or ownerships: residential, retail and office. This definition excludes large, single-use land uses such as colleges, hospitals, and business campuses. Minor incidental land uses that are accessory to the primary land use should not result in a development being designated as "mixed-use development." The size

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sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region (Version 2.0), (May 2010).

~~(ttt)~~ (sss) "Zoned capacity" means the highest number of dwelling units or jobs that are allowed to be contained in an area by zoning and other city or county jurisdiction regulations.

(Ordinance 97-715B, Sec. 1. Ordinance 98-721A, Sec. 1. Ordinance 98-730C, Sec. 10. Ordinance 00-839, Sec. 1. Ordinance 00-869A, Sec. 2; Ordinance 02-972A, Sec. 1; Ordinance 05-1077C, Sec. 6; Ordinance 10-1244B, Sec. 9.)

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1105 Purpose and Intent

The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. It is the purpose of Title 11 to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of Title 11 to provide interim protection for areas added to the UGB until city or county amendments to land use regulations to allow urbanization become applicable to the areas.

(Ordinance 99-818A, Sec. 3. Ordinance 02-969B, Sec. 11. Ordinance 10-1238A, Sec. 5. Ordinance 11-1252A, Sec. 1.)

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- (5) Show water quality resource areas, flood management areas and habitat conservation areas that will be subject to performance standards under Titles 3 and 13 of this chapter;
- (6) Be coordinated with the comprehensive plans and land use regulations that apply to nearby lands already within the UGB;
- (7) Include an agreement between or among the county and the city or cities and service districts that preliminarily identifies which city, cities or districts will likely be the providers of urban services, as defined at ORS 195.065(4), when the area is urbanized;
- (8) Include an agreement between or among the county and the city or cities that preliminarily identifies the local government responsible for comprehensive planning of the area, and the city or cities that will have authority to annex the area, or portions of it, following addition to the UGB;
- (9) Provide that an area added to the UGB must be annexed to a city prior to, or simultaneously with, application of city land use regulations to the area intended to comply with subsection (c) of section 3.07.1120; and
- (10) Be coordinated with schools districts, including coordination of demographic assumptions.

B. (d) Concept plans shall guide, but not bind:

- (1) The designation of 2040 Growth Concept design types by the Metro Council;
- (2) Conditions in the Metro ordinance that adds the area to the UGB; or
- (3) Amendments to city or county comprehensive plans or land use regulations following addition of the area to the UGB.

C. (e) If the local governments responsible for completion of a concept plan under this section are unable to reach agreement on a concept plan by the date set under subsection (a), then the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS 197.299 to ensure the UGB has sufficient capacity to accommodate forecasted growth.

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coordination with affected school districts. This requirement includes consideration of any school facility plan prepared in accordance with ORS 195.110;

- (6) Provision for the amount of land and improvements needed, if any, for public park facilities sufficient to serve the area added to the UGB in coordination with affected park providers.
 - (7) A conceptual street plan that identifies internal street connections and connections to adjacent urban areas to improve local access and improve the integrity of the regional street system. For areas that allow residential or mixed-use development, the plan shall meet the standards for street connections in the Regional Transportation Functional Plan;
 - (8) Provision for the financing of local and state public facilities and services; and
 - (9) A strategy for protection of the capacity and function of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.
- (d) The county or city responsible for comprehensive planning of an area shall submit to Metro a determination of the residential capacity of any area zoned to allow dwelling units, using the-a method consistent with a Goal 14 analysis~~in section 3.07.120,~~ within 30 days after adoption of new land use regulations for the area.

(Ordinance 98-772B, Sec. 2. Ordinance 99-818A, Sec. 3. Ordinance 01-929A, Sec. 8. Ordinance 02-964, Sec. 5. Ordinance 05-1077C, Sec. 6. Ordinance 05-1089A, Sec. 2. Ordinance 07-1137A, Sec. 3. Ordinance 10-1238A, Sec. 5. Ordinance 11-1252A, Sec. 1.)

3.07.1130 Interim Protection of Areas Added to the UGB

Until land use regulations that comply with section 3.07.1120 become applicable to the area, the city or county responsible for planning the area added to the UGB shall not adopt or approve:

- (a) A land use regulation or zoning map amendment that allows higher residential density in the area than allowed by regulations in effect at the time of addition of the area to the UGB;

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- (b) A land use regulation or zoning map amendment that allows commercial or industrial uses not allowed under regulations in effect at the time of addition of the area to the UGB;
- (c) A land division or partition that would result in creation of a lot or parcel less than 20 acres in size, except for public facilities and services as defined in section 3.07.1010 of this chapter, or for a new public school;
- (d) In an area designated by the Metro Council in the ordinance adding the area to the UGB as Regionally Significant Industrial Area:
 - (1) A commercial use that is not accessory to industrial uses in the area; and
 - (2) A school, a church, a park or any other institutional or community service use intended to serve people who do not work or reside in the area.

(Ordinance 98-772B, Sec. 2. Ordinance 99-818A, Sec. 3. Ordinance 10-1238A, Sec. 5. Ordinance 11-1252A, Sec. 1.)

~~3.07.1140 Applicability~~

~~Section 3.07.1110 becomes applicable on December 31, 2011.~~

~~(Ordinance 772B, Sec. 2. Amended by Ordinance 99-818A, Sec. 3; Ordinance 10-1238A, Sec. 5; Ordinance 11-1252A, Sec. 1.)~~

Title 12: Protection of Residential Neighborhoods

3.07.1210 Purpose and Intent

Existing neighborhoods are essential to the success of the 2040 Growth Concept. The intent of Title 12 of the Urban Growth Management Functional Plan is to protect the region's residential neighborhoods. The purpose of Title 12 is to help implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of public services.

(Ordinance 02-969B, Sec. 3.)

3.07.1220 Residential Density

Metro shall not require any city or county to authorize an increase in the residential density of a single-family

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neighborhood in an area mapped solely as ~~an Inner or Outer Neighborhood pursuant to Metro Code Section 3.07.130 prior to May 22, 2002.~~

(Ordinance 02-969B, Sec. 3.)

3.07.1230 Access to Commercial Services

- (a) In order to reduce air pollution and traffic congestion, and to make commercial retail services more accessible to residents of ~~Inner and Outer~~ Neighborhoods, a city or county may designate in its comprehensive plan and land use regulations one or more Neighborhood Centers within or in close proximity to Inner and Outer Neighborhoods to serve as a convenient location of commercial services.
- (b) To ensure that commercial development serves the needs of the residents of ~~Inner and Outer~~ Neighborhoods but does not generate excessive traffic, noise or air pollution, a city or county that designates a Neighborhood Center shall adopt limitations on the scale of commercial services in Neighborhood Centers. In a Neighborhood Center, a city or county shall not approve:
 - (1) A commercial retail use with more than 20,000 square feet of gross leasable area in a single building; or
 - (2) Office commercial uses with more than 10,000 square feet of gross leasable area in a single building or on a single lot or parcel.

(Ordinance 02-969B, Sec. 3.)

3.07.1240 Access to Parks and Schools

- (a) Each city and county shall, within two years following adoption by the Metro Council of a process and criteria for such standards, establish a level of service standard for parks and greenspaces that calls for a park facility within a specified distance of all residences.
- (b) To make parks and greenspaces more accessible to residents of ~~Inner and Outer~~ Neighborhoods and all residents of the region, each city and county shall provide for access to parks and greenspaces by walking, biking and transit, where transit is available or planned.

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dispute resolution process, consistent with state law.

(h) Reducing Regional Density and Capacity Requirements to Allow Habitat Protection.

- (1) Notwithstanding the provisions of Metro Code Section 3.07.12040(A)(2), cities and counties may approve a subdivision or development application that will result in a density below the minimum density for the zoning district if:
 - (A) The property lot or parcel was within the Metro UGB on January 1, 2002;
 - (B) An area of the property lot or parcel to be developed has been identified as regionally significant fish and wildlife habitat on the Metro Inventory Map or as a significant resource on a local Goal 5 riparian, wetlands, or wildlife resource inventory map that had been acknowledged by the LCDC prior to December 28, 2005; and
 - (C) Such a decision will directly result in the protection of the remaining undeveloped regionally significant fish and wildlife habitat or significant resource located on the property lot or parcel, such as via a public dedication or a restrictive covenant.
- (2) The amount of reduction in the minimum density requirement that may be approved under this subsection (h) of this section shall be calculated by subtracting the number of square feet of regionally significant fish and wildlife habitat or significant resource that is permanently protected under subsection (h)(1)(C) of this section from the total number of square feet that the city or county otherwise would use to calculate the minimum density requirement for the property.
- (3) If a city or county approves a subdivision or development application that will result in a density below the minimum density for the zoning district pursuant to subsection (h)(1) of this section, then such city or county shall:
 - (A) Be permitted an offset against the capacity specified for that city or county in Table 3.07-1 of the Metro Code. The amount of such offset shall be calculated by subtracting the

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(i.e., producing, distributing, selling or servicing goods);

- 3) Draws service recipients (e.g., students, patients) from all reaches of the region and beyond;
 - 4) Relies on capital infrastructure that is so large or specialized as to render its relocation infeasible; and
 - 5) Has a long-term campus master plan that has been approved by the city or county in which it is located.
- (5) Cross-Referencing Habitat Class With Urban Development Value. City and county verification of the locations of High, Moderate, and Low Habitat Conservation Areas shall be consistent with Tables 3.07-13a and 3.07-13b.

(Ordinance 05-1077C, Section 5.)

3.07.1350 Claims Pursuant to ORS ~~197.352~~195.305—(Ballot Measure—~~3749~~)

- (a) The purpose of this section is to provide for Metro to accept potential liability for claims filed against cities and counties pursuant to ORS ~~197.352~~195.305 (Ballot Measure—~~3749~~) as a result of the cities' and counties' good faith implementation of Metro Code Sections 3.07.1310 through 3.07.1370. 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 indemnify a city or county for any claim made against a city or county based on its implementation of the requirements of Metro Code Sections 3.07.1310 through 3.07.1370. In order to receive the benefits of this provision, a city or county must:
 - (1) Upon receipt of a written demand for compensation pursuant to ORS ~~197.352~~195.305, 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

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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 amendment or land use regulation that is the basis of the demand made pursuant to ORS ~~197.352~~195.305; and
- (3) Substantially concur with Metro's recommendation regarding disposition of the claim, which disposition may include, but not be limited to, a cash payment or other compensation, a decision to modify, remove, or not apply the regulation, dismissal of the claim, and the imposition of appropriate conditions. Metro shall forward to the city or county Metro's recommended disposition of the claim within 120 days of Metro's receipt of notice of the claim from the city or county; provided, however, that if Metro does not provide such recommendation within the 120 day deadline then the city or county may dispose of the claim as it determines appropriate and Metro will neither indemnify the city or county for the claim nor use the city's or county's decision on the claim as a basis for finding that the city or county is not in compliance with this title. A city or county may also satisfy this requirement by entering into an intergovernmental agreement with Metro in order to grant Metro sufficient authority to implement, on the city or county's behalf, Metro's recommendation regarding the disposition of the claim.

(Ordinance 05-1077C, Section 5.)

3.07.1360 Program Objectives, Monitoring and Reporting

This section describes the program performance objectives, the roles and responsibilities of Metro, cities, counties, and special districts in regional data coordination and inventory maintenance, monitoring and reporting, and program evaluation.

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TITLE 14: URBAN GROWTH BOUNDARY

3.07.1405 Purpose

The Regional Framework Plan (RFP) calls for a clear transition from rural to urban development, an adequate supply of urban land to accommodate long-term population and employment, and a compact urban form. Title 14 prescribes criteria and procedures for amendments to the urban growth boundary (UGB) to achieve these objectives.

(Ordinance 10-1244B, Sec. 12.)

3.07.1410 Urban Growth Boundary

- (a) The UGB for the metropolitan area is incorporated into this title and is depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Cities and counties within the Metro boundary shall depict the portion of the UGB, if any, that lies within their boundaries on their comprehensive plan maps. Within 21 days after acknowledgment of an amendment to the UGB under this title, the COO shall submit the amended UGB to the city and county in which the amended UGB lies. The city and county shall amend their comprehensive plan maps to depict the amended UGB within one year following receipt of the amendment from the COO.
- (b) Urban and Rural Reserves are depicted on the Urban Growth Boundary and Urban and Rural Reserves Map. Amendments to the UGB made pursuant to this title shall be based upon this map.

(Ordinance 10-1244B, Sec. 12. Ordinance 11-1264B, Sec. 3.)

Title 14 Urban Growth Boundary Map as of October 29, 2014

(Ordinance 14-1336.)

3.07.1420 Legislative Amendment to UGB - Procedures

- (a) Legislative amendments follow periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment. The Metro Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

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must demonstrate compliance with this purpose and these limitations.

- (b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b)B, (c)C, D(d), E(e), and F(f) ~~and G~~ of section 3.07.1425. The applicant shall also demonstrate that:
 - (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
 - (2) If the amendment would add land for public school facilities, the coordination required by subsection (c)(5) of section 3.07.1120 of this chapter has been completed; and
 - (3) If the amendment would add land for industrial use pursuant to section 3.07.1435, a large site or sites cannot reasonably be created by land assembly or reclamation of a brownfield site.
- (c) If the application was filed under section 3.07.1435, the applicant shall demonstrate that the amendment is consistent with any concept plan for the area developed pursuant to section 3.07.1110 of this chapter.
- (d) To facilitate implementation of the Metropolitan Greenspaces Master Plan of 1992, the Council may add land to the UGB in a trade that removes a nearly equal amount of land from the UGB. If the Council designates the land to be added for housing, it shall designate an appropriate average density per net developable acre.

(Ordinance 10-1244B, Sec. 12.)

3.07.1445 Minor Adjustments - Procedures

- (a) Minor adjustments make small changes to the UGB so that land within the UGB functions more efficiently and effectively. A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special

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cumulatively, are consistent with and help achieve the 2040 Growth Concept.

(Ordinance 10-1244B, Sec. 12.)

3.07.1455 Conditions of Approval

- (a) Land added to the UGB pursuant to sections 3.07.1420, 3.07.1430 and 3.07.1435 shall be subject to the requirements of sections 3.07.1120 and 3.07.1130 of this chapter.
- (b) If the Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it shall:
 - (1) In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11 of this chapter. If local governments have an agreement in a concept plan developed pursuant to Title 11 that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
 - (2) Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate an appropriate average density per net developable acre consistent with the need for which the UGB is expanded.
 - (3) Establish the boundaries of the area that shall be included in the planning required by Title 11. A planning area boundary may include territory designated urban reserve, outside the UGB.
 - (4) Establish the time period for city or county compliance with the requirements of Title 11, which shall be two (2) years following the effective date of the ordinance adding the area to the UGB unless otherwise specified.
- (c) If the Council amends the UGB pursuant to any of the sections ~~3.07.1420, 3.07.1430 or 3.07.1435~~ of this title, it may establish other conditions it deems necessary to ensure the addition of land complies with

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the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.850 of this chapter.

(Ordinance 10-1244B, Sec. 12.)

3.07.1460 Fees

- (a) Each application submitted by a property owner or group of property owners pursuant to this title shall be accompanied by a filing fee in an amount to be established by the Council. Such fee shall not exceed Metro's actual cost to process an application. The fee may include administrative costs, the cost of a hearings officer and of public notice.
- (b) The fee for costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.
- (c) Before a hearing is scheduled, an applicant shall submit a fee deposit. In the case of an application for a minor adjustment pursuant to section 3.07.1445, the applicant shall submit the fee deposit with the application.
- (d) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit prior to final action by the Council.
- (e) The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

(Ordinance 10-1244B, Sec. 12.)

3.07.1465 Notice Requirements

- (a) For a proposed legislative amendment under section 3.07.1420, the COO shall provide notice of the public hearing in the following manner:
 - (1) In writing to the Department of Land Conservation and Development and local governments of the Metro region at least 4535 days before the first public hearing on the proposal; and

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- (2) To the general public at least 4535 days before the first public hearing by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.
- (b) For a proposed major amendment under sections 3.07.1430 or 3.07.1435, the COO shall provide notice of the hearing in the following manner:
 - (1) In writing at least 4535 days before the first public hearing on the proposal to:
 - (A) The applicant;
 - (B) The director of the Department of Land Conservation and Development;
 - (C) The owners of property that is being considered for addition to the UGB; and
 - (D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
 - (2) In writing at least 30 days before the first public hearing on the proposal to:
 - (A) The local governments of the Metro area;
 - (B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and
 - (3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.
- (c) The notice required by subsections (a) and (b) of this section shall include:
 - (1) A map showing the location of the area subject to the proposed amendment;

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- (2) The time, date and place of the hearing;
 - (3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;
 - (4) A statement that interested persons may testify and submit written comments at the hearing;
 - (5) The name of the Metro staff to contact and telephone number for more information;
 - (6) A statement that a copy of the written report and recommendation of the COO on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
 - (7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;
 - (8) For proposed major amendments only:
 - (A) An explanation of the proposed boundary change;
 - (B) A list of the applicable criteria for the proposal; and
 - (C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
 - (9) For the owners of property described in subsection (b) (1) (C) of this section, the information required by ORS 268.393(3).
- (d) For a proposed minor adjustment under section 3.07.1445, the COO shall provide notice in the following manner:
- (1) In writing to the director of the Department of Land Conservation and Development at least ~~45~~³⁵ days before the issuance of an order on the proposal;
 - (2) In writing at least 20 days before the issuance of an order on the proposal to:
 - (A) The applicant and the owners of property subject to the proposed adjustment;

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 15-1357, FOR THE PURPOSE OF ADOPTING HOUSEKEEPING AMENDMENTS TO THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Date: September 1, 2015

Prepared by: Tim O'Brien
Principal Regional Planner

BACKGROUND

The Urban Growth Management Functional Plan (Functional Plan) was adopted by the Metro Council in 1996 and amended and codified as Metro Code Chapter 3.07 in 1997. The Functional Plan provides tools and guidance for local jurisdictions to implement regional policies and achieve the goals set out in the region's 2040 Growth Concept. The original Functional Plan contained ten titles, three of which have been repealed, Title 2 Regional Parking Policy, Title 5 neighbor Cities and Rural Reserves and Title 9 Performance Measures. Four titles have been added to the Functional Plan since 1999 including Title 11 Planning for New Urban Areas, Title 12 Protection of Residential Neighborhoods, Title 13 Nature in Neighborhoods and Title 14 Urban Growth Boundary. Over time the titles have been amended by adding or removing sections as well as referencing code sections from other titles. Unfortunately, some cross references were not updated as needed when the amendments occurred.

Title 8 Compliance Procedures establishes a process for ensuring city or county compliance with requirements of the Functional Plan. A city or county proposing an amendment to a comprehensive plan or land use regulation is required to submit the proposed amendment to Metro 45 days prior to the first evidentiary hearing on the amendment. The 45 day notice requirement was adopted to be consistent with the Department of Land Conservation and Development's (DLCD) 45 day notice requirement, providing one notification date for local jurisdictions to meet. DLCD changed their 45 day notice requirement to 35 days effective January 1, 2012; however the Functional Plan still requires 45 days, resulting in two notification dates for local jurisdictions.

PROPOSAL

Adopt housekeeping amendments to address code section inconsistencies and update the notification requirements as summarized below. Text to be deleted is ~~striktthrough~~ and text to be added is underlined. Proposed amendments are provided in code section form in Exhibit A to the ordinance.

The outline format of the Metro Code is inconsistent. Chapter 3.07 is amended to reflect the following outline format (a)(1)(A)(i)1 rather than the current format of A.1.a.i. to align this chapter with the other chapters of the Metro Code. This outline format is reflected in the specific Title amendments below.

Title 1 Housing Capacity

- Amend Code Section 3.07.120(b) by replacing (~~hh~~) with (gg) to reflect re-lettering of Title 10 Definitions due to the deletion of a definition as noted below in Title 10 Definitions.

Title 3 Water Quality and Flood Management

- Amend the footnote of Table 3.07-3 to add rivers to the definition of primary protected water feature to match the definition of primary protected water feature contained in Title 10 Definitions.

- Amend Metro Code Sections 3.07.330(a)(1)(B) and 3.07.330(a)(1)(B)(ii) by deleting ~~updated according to Section 3.07.370, and as required by Section 3.07.370 and~~ respectively as Section 3.07.370 was repealed in 2005 with the adoption of Title 13.

Title 6 Centers, Corridors, Station Communities and Main Streets

- Amend Code Section 3.07.640(b)(1) by replacing ~~land uses listed in~~ with amenities identified in the most current version of the as amenities not land uses are listed in the State of the Centers Report. Also delete ~~January, 2009~~ as we expect the report will be updated to a web based platform by the end of 2015, which will allow for updates to occur more regularly in the future.

Title 7 Housing Choice

- Amend Code Section 3.07.740(a) by deleting ~~subsection 3.07.120D of Title 1 (Requirements for Housing and Employment Accommodation) and~~ and Code Section 3.07.740(b) by deleting ~~Local governments may report their progress as part of the capacity reports required by subsection 3.07.120D of Title 1 (Requirements for Housing and Employment Accommodation)~~ as there is no reporting requirement in Code Section 3.07.120(d).

Title 8 Compliance Procedures

- Amend Code Section 3.07.820(a) by replacing ~~45~~ with 35 to be consistent with DLCD requirements.
- Amend Code Section 3.07.860(c) by replacing ~~Committee for Citizen Involvement~~ with Public Engagement Review Committee (PERC) to reflect new name of Metro's citizen advisory committee.
- Amend Code Section 3.07.870(a) by adding al at the end of Function to accurately reference the Functional Plan.
- Amend Code Section 3.07.870(a) and (b) by replacing ~~MCCI~~ with PERC.

Title 10 Definitions

- Delete ~~"MCCI" means the Metro Committee for Citizen Involvement~~ definition and adjust lettering in Title 10.
- Amend Code Section 3.07.1010 (sss) "Wetlands" by adding and the Regional Supplemental to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Range (Version 2.0), (May 2010) to the end of the definition as the regional supplemental provides specific regional information that would take precedence if a difference occurred with the delineation manual.

Title 11 Planning for New Urban Areas

- Amend Code Section 3.07.1110 by replacing the second reference to ~~B. & C.~~ with (d) & (e) to provide consistent lettering of code section.
- Amend Code Section 3.07.1120(d) by replacing ~~the~~ with a and ~~in section 3.07.120~~ with consistent with a Goal 14 analysis as there is no residential capacity methodology in 3.07.120.
- Delete Code Section 3.07.1140 Applicability in its entirety as that section was included in Title 11 only to clarify that the 2011 UGB amendments adopted by the Metro Council did not need to address Metro Code Section 3.07.1110 Planning for Areas Designated Urban Reserve.

Title 12 Protection of Residential Neighborhoods

- Amend Code Section 3.07.1220 by deleting ~~an Inner or Outer~~ and ~~pursuant to Metro Code Section 3.07.130 prior to May 22, 2002~~ to reflect previous removal of Inner and Outer from the 2040 Growth Concept Map.
- Amend Code Sections 3.07.1230(a) & (b) and 3.07.1240(b) by deleting ~~Inner and Outer~~.

Title 13 Nature in Neighborhoods

- Amend Code Section 3.07.1330(h)(1) by replacing 3.07.140(A)(2) with 20 as there is no section 3.07.140(A)(2) and 3.07.120 is the entire section addressing reductions to zoned capacity.
- Amend Code Sections 3.07.1350 and 3.07.1350(a) by replacing ~~197.352~~ with 195.305 and ~~37~~ with 49 as the statute was renumbered in 2007.
- Amend Code Sections 3.07.1350(b)(1) and 3.07.1350(b)(2) by replacing ~~197.352~~ with 195.305 as the statute was renumbered in 2007.

Title 14 New Urban Area Planning

- Amend Code Section 3.07.1410(a) by inserting acknowledgement of between *within 21 days after* and *an amendment to the UGB*.
- Amend Code Section 3.07.1440B. by replacing ~~B-C-D-E-F~~ with (b) (c) (d) (e) (f) to reflect new outline format, insert and between (e) (f) and delete ~~and G~~ as there is no section G.
- Amend Code Section 3.07.1455(c) by inserting any of the after pursuant to, deleting ~~3.07.1420, 3.07.1430 or 3.07.1435~~ and inserting of this title after sections to allow the Metro Council to establish conditions on a minor adjustment of the UGB petition that is appealed to the Metro Council for review. Under the minor adjustment procedures the Metro Chief Operating Officer issues an order approving or denying a petition, which can be appealed to the Council for review.
- Amend Code Sections 3.07.1465(a)(1) & (2) and (b)(1) and 3.07.1465(d)(1) by replacing ~~45~~ with 35 to be consistent with DLCD requirements.

ANALYSIS/INFORMATION

Known Opposition: There is no known opposition to this application.

Legal Antecedents: Metro Code Chapter 3.07 Urban Growth Management Functional Plan is the primary regional policy tool for achieving the goals set out in the 2040 Concept Plan.

Anticipated Effects: Adoption of Ordinance No. 15-1357 will make housekeeping changes to various titles of the Functional Plan to remove code section inconsistencies and update notification requirements.

Budget Impacts: There is no budget impact.

RECOMMENDED ACTION

Staff recommends adoption of Ordinance No. 15-1357.