

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO 98-770
FIRST TIER AND URBAN RESERVE)
PLANNING REQUIREMENTS FOR) Introduced by Council Growth
URBAN GROWTH BOUNDARY) Management Committee
AMENDMENTS)

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 3.01 is amended in Section 3.01.012 to read as set forth in attached Exhibit A. These Amendments constitute amendments to the current acknowledged Metro Code Chapter 3.01 Urban Growth Boundary and Urban Reserve Procedures, as well as amendments to Appendix B of the Regional Framework Plan, adopted by Ordinance 97-715B.

2. A new Title 11, attached as Exhibit B, is hereby added to the Urban Growth Management Functional Plan adopted by Ordinance 96-647C and is also added to Appendix A of the Regional Framework Plan adopted by Ordinance 97-715B.

3. The text of the Regional Framework Plan adopted by Ordinance 97-715B is amended to read as set forth in Exhibit C.

ADOPTED by the Metro Council this ____ day of _____ 1998.

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

Exhibit A
Amendments to Metro Code Chapter 3.01

3.01.012 Urban Reserve Areas

(a) **Purpose.** The purpose of this section is to comply with ORS 197.298 by identifying lands designated urban reserve land by Metro as the first-priority land for inclusion in the Metro Urban Growth Boundary.

(b) **Amount of Land Required.**

- (1) The areas designated as urban reserves shall be sufficient to accommodate expected urban development for a 30 to 50 year period, including an estimate of all potential developable and redevelopable land in the urban area.
- (2) Metro shall estimate the capacity of the urban reserves consistent with the procedures for estimating capacity of the urban area as defined in section 3.01.010.
- (3) The minimum residential density to be used in calculating the need for urban reserves, estimating the capacity of the areas designated as urban reserves and required in concept plans shall be at least 10 dwelling units per net developable acre.
- (4) Metro shall designate the amount of urban reserves estimated to accommodate the forecast need.
- (5) Metro may designate a portion of the land required for urban reserves in order to phase designation of urban reserves.

(c) **Mapped Urban Reserves.**

- (1) Metro has designated as urban reserve areas those lands indicated on the 2040 Growth Concept map as part of the Regional Urban Growth Goals and Objectives.
- (2) Urban growth boundary amendments shall include only land designated as urban reserves unless designated urban reserve lands are inadequate to meet the need. If land designated as urban reserves is inadequate to meet the need, the priorities in ORS 197.298 shall be followed.
- (3) Within one year of Metro Council adoption of the urban reserve ordinance, the Metro Council shall modify the Metro 2040 Growth Concept to designate regional design types consistent with the Metro 2040 Growth Concept for all designated urban reserves.

(d) First Tier. First tier urban reserves shall be ~~considered for inclusion~~ included in the Metro Urban Growth Boundary prior to other urban reserves unless a special land need is identified which cannot be reasonably accommodated on first tier urban reserves. The Council may add other urban reserve lands to the Urban Growth Boundary after taking into consideration the criteria established in Metro Code Sections 3.01.020 or 3.01.030, as appropriate.

(e) Urban Reserve Plan Required. ~~Except~~ as provided in subsection 3.01.012(e)(14), conceptual land use plan and concept map which demonstrates compliance with the RUGGO and the 2040 Growth Concept design types and any applicable functional plan provisions shall be required for all major amendment applications and legislative amendments of the urban growth boundary including at least the following, when applicable:

- (1) Provision for either annexation to a city and any necessary service districts at the time of the final approval of the urban growth boundary amendment consistent with 3.01.065 or an applicable city-county planning area agreement which requires at least the following:
 - (A) City or county agreement to adopt comprehensive plan provisions for the lands added to the urban growth boundary which comply with all requirements of urban reserve plan conditions of the urban growth boundary approval;
 - (B) City and county agreement that lands added to the urban growth boundary shall be rezoned for urban development only upon annexation or agreement for delayed annexation to the city and any necessary service district identified in the approved Concept Plan or incorporation as a new city; and
 - (C) County agreement that, prior to annexation to the city and any necessary service districts, rural zoning that ensures a range of opportunities for the orderly, economic, and efficient provision of urban services when these lands are included in the urban growth boundary remains in place until city annexation and the adoption of urban zoning.
- (2) Notwithstanding (1) above, the Metro Council may approve a major or legislative amendment to the urban growth boundary if the proposed amendment is required to assist the region to comply with the 2040 Growth Concept or to assist the region, a city or county in demonstrating compliance with statute, rule, or statewide goal requirements for land within the urban growth boundary. These requirements include HB 2709, ORS 197.303, the statewide planning goals and Regional Urban Growth Goals and Objectives. An urban services agreement consistent with ORS 195.065 shall be required as a condition of approval for any amendment under this subsection.
- (3) The areas of Urban Reserve Study Areas #11, 14 and 65 are so geographically distant from existing city limits that annexation to a city is

difficult to achieve. If the county and affected city and any necessary service districts have signed an urban service agreement or an urban reserve agreement coordinating urban services for the area, then the requirements for annexation to a city in (1)(B) and (1)(C) above shall not apply.

- (4) Provision for residential densities of at least 10 dwelling units per net developable residential acre.
- (5) Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.
- (6) Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.
- (7) Provision for sufficient commercial and industrial development for the needs of the area to be developed and the needs of adjacent land inside the urban growth boundary consistent with 2040 Growth Concept design types.
- (8) A conceptual transportation plan consistent with the Regional Transportation Plan, and consistent with protection of natural resources as required by Metro functional plans.
- (9) Identification, mapping and a funding strategy for protecting areas from development due to wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. 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 cost estimates to implement a strategy to fund resource protection.
- (10) A conceptual public facilities and services plan, including rough cost estimates for the provision of sewer, water, storm drainage, transportation, fire and police protection facilities and parks, including financing strategy for those costs.

- (11) A conceptual school plan which provides for the amount of land and improvements needed for school facilities. Estimates of the need shall be coordinated among affected school districts, the affected city or county, and affected special districts consistent with the procedures in ORS 195.110(3), (4) and (7).
- (12) An Urban Reserve Plan map showing, at least, the following, when applicable:
- (A) Major roadway connections and public facilities;
 - (B) Location of unbuildable lands including but not limited to steep slopes, wetlands, floodplains and riparian areas;
 - (C) General locations for commercial and industrial lands;
 - (D) General locations for single and multi-family housing;
 - (E) General locations for public open space, plazas and neighborhood centers; and
 - (F) General locations or alternative locations for any needed school, park or fire hall sites.
- (13) The urban reserve plan shall be coordinated among the city, county, school district and other service districts, including a dispute resolution process with an MPAC report and public hearing consistent with RUGGO Objective 5.3. The urban reserve plan shall be considered for local approval by the affected city or by the county, if subsection (3), above, applies in coordination with any affected service district and/or school district. Then the Metro Council shall consider final adoption of the plan.
- (14) (A) A variance to the requirements of subsections 3.01.012(e) 1, 2, or 3 may be approved where the Council finds that it is feasible to satisfy those requirements in a timely manner and the approval of the Urban Growth Boundary expansion is accompanied by the adoption of an Urban Growth Management Functional Plan requirement that no comprehensive plan or implementing ordinance amendments may be approved until the territory is either annexed to a city or all urban service agreements required under ORS 195.065 have been approved.
- (B) A variance to the requirements of subsections 3.01.012(e) (4) through (13) may be approved, where the Council finds that it is feasible to satisfy those requirements in a timely manner and the approval of the Urban Growth Boundary expansion is accompanied by the adoption of an Urban Growth Management Functional Plan requirement that no comprehensive plan or implementing ordinance amendments may be approved until a completed urban reserve plan in compliance with this section has been adopted.

Exhibit B
Metro Code 3.07.11

TITLE 11: URBAN GROWTH BOUNDARY AMENDMENT REQUIREMENTS

3.07.11.010 Interim Protection of Areas Brought Inside Urban Growth Boundary

Prior to the approval by the Metro Council and adoption by all local governments having jurisdiction over any territory added to the urban growth boundary of a plan meeting all requirements of the urban growth boundary Amendment Master Planning requirements set forth in Section 2 of this Title, a city or county shall not approve of:

- a. any land use regulation or map amendments allowing higher residential density than allowed by acknowledged provisions in effect prior to the adoption of the urban growth boundary amendment;
- b. any land use regulation or map amendments allowing commercial or industrial uses not allowed under acknowledged provisions in effect prior to the adoption of the urban growth boundary Amendment;
- c. any land division or partition that would result in the creation of any new parcel which would be less than 20 acres in total size.

3.07.11.020 Urban Growth Boundary Amendment Master Planning Requirements

All territory that is added to the Metro region urban growth boundary as either a major amendment or a legislative amendment pursuant to Metro Code Chapter 3.01 shall be subject to an urban growth boundary Master Plan approved by the Metro Council and adopted by all cities and counties having jurisdiction over the territory prior to any urban development occurring in the territory. urban growth boundary Master Plans shall contain a conceptual land use plan and concept map which demonstrates compliance with the RUGGO and the 2040 Growth Concept design types and any applicable functional plan provisions shall be required for all major amendment applications and legislative amendments of the urban growth boundary including at least the following, when applicable:

- (1) Provision for either annexation to a city and any necessary service districts at the time of the final approval of the urban growth boundary amendment consistent with 3.01.065 or an applicable city-county planning area agreement which requires at least the following:
 - (A) City or county agreement to adopt comprehensive plan provisions for the lands added to the urban growth boundary

which comply with all requirements of urban reserve plan conditions of the urban growth boundary approval;

- (B) City and county agreement that lands added to the urban growth boundary shall be rezoned for urban development only upon annexation or agreement for delayed annexation to the city and any necessary service district identified in the approved Concept Plan or incorporation as a new city; and
 - (C) County agreement that, prior to annexation to the city and any necessary service districts, rural zoning that ensures a range of opportunities for the orderly, economic, and efficient provision of urban services when these lands are included in the urban growth boundary remains in place until city annexation and the adoption of urban zoning.
- (2) Notwithstanding (1) above, the Metro Council may approve a major or legislative amendment to the urban growth boundary if the proposed amendment is required to assist the region to comply with the 2040 Growth Concept or to assist the region, a city or county in demonstrating compliance with statute, rule, or statewide goal requirements for land within the urban growth boundary. These requirements include HB 2709, ORS 197.303, the statewide planning goals and Regional Urban Growth Goals and Objectives. An urban services agreement consistent with ORS 195.065 shall be required as a condition of approval for any amendment under this subsection.
 - (3) The areas of Urban Reserve Study Areas #11, 14 and 65 are so geographically distant from existing city limits that annexation to a city is difficult to achieve. If the county and affected city and any necessary service districts have signed an urban service agreement or an urban reserve agreement coordinating urban services for the area, then the requirements for annexation to a city in (1)(B) and (1)(C) above shall not apply.
 - (4) Provision for residential densities of at least 10 dwelling units per net developable residential acre.
 - (5) Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.

- (6) Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.
- (7) Provision for sufficient commercial and industrial development for the needs of the area to be developed and the needs of adjacent land inside the urban growth boundary consistent with 2040 Growth Concept design types.
- (8) A conceptual transportation plan consistent with the Regional Transportation Plan, and consistent with protection of natural resources as required by Metro functional plans.
- (9) Identification, mapping and a funding strategy for protecting areas from development due to wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. 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 cost estimates to implement a strategy to fund resource protection.
- (10) A conceptual public facilities and services plan, including rough cost estimates for the provision of sewer, water, storm drainage, transportation, fire and police protection facilities and parks, including financing strategy for those costs.
- (11) A conceptual school plan which provides for the amount of land and improvements needed for school facilities. Estimates of the need shall be coordinated among affected school districts, the affected city or county, and affected special districts consistent with the procedures in ORS 195.110(3), (4) and (7).
- (12) An Urban Reserve Plan map showing, at least, the following, when applicable:

- (A) Major roadway connections and public facilities;
 - (B) Location of unbuildable lands including but not limited to steep slopes, wetlands, floodplains and riparian areas;
 - (C) General locations for commercial and industrial lands;
 - (D) General locations for single and multi-family housing;
 - (E) General locations for public open space, plazas and neighborhood centers; and
 - (F) General locations or alternative locations for any needed school, park or fire hall sites.
- (13) The urban reserve plan shall be coordinated among the city, county, school district and other service districts, including a dispute resolution process with an MPAC report and public hearing consistent with RUGGO Objective 5.3. The urban reserve plan shall be considered for local approval by the affected city or by the county, if subsection (3), above, applies in coordination with any affected service district and/or school district. Then the Metro Council shall consider final adoption of the plan.

3.07.11.030 Implementation of Master Planning Requirements

Cities and counties shall adopt urban growth boundary Master Plans as a component of their adopted comprehensive plans. The adopted urban growth boundary Master Plan shall be the conceptual plan and concept map that shall govern comprehensive plan, land use regulation and map amendments that implement the urban growth boundary Master Plan after the territory is included in the urban growth boundary.

3.07.11.040 Effective Date and Notification Requirements

The provisions of this Title 11 are effective immediately. Prior to making any amendment to any comprehensive plan or implementing ordinance for any territory that has been added to the urban growth boundary after the effective date of this code amendment, a city or county shall comply with the notice requirements of Section 3.07.830 and include in the required staff report an explanation of how the proposed amendment complies with the requirements of this Title 11 in addition to the other requirements of this functional plan.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 98-770, FOR THE PURPOSE OF AMENDING FIRST TIER AND URBAN RESERVE PLANNING REQUIREMENTS FOR URBAN GROWTH BOUNDARY AMENDMENTS

Date: July 30, 1998

Introduced by: Growth Management Committee

Proposed Action:

The Council is asked to adopt this ordinance, which amends the first tier and urban reserve planning requirements for amendments to the urban growth boundary.

Background:

State law requires Metro to expand its urban growth boundary to accommodate half of the 20-year need for housing units and jobs by the end of December 1998. Land to accommodate the other half of the need must be brought in by December 1999. Metro has determined that enough land for 32,400 housing units and 2900 jobs must be brought in to accommodate the 20-year need.

Metro has certain requirements that must be met before urban reserve land can be brought into the boundary. For example, first tier lands must be brought in before other lands unless a special need is shown, the land have a conceptual plan and map which addresses specific state land use planning goals and the 2040 design type designations, and governance and/or urban services agreements be in place.

A review by an outside consultant shows that while concept planning is underway in some first tier areas, few if any of those plans will be completed in time to meet the state-imposed deadline. The consultant also found that a few non-first tier urban reserves will have their concept plans completed before December 1998. In addition, a separate independent study due out in September is expected to find that as much as 5000 acres will have to be brought in by December 1998 to meet the housing need. In sum, an insufficient number of acres will have the requirements of concept planning and governance resolved prior to December 1998.

Thus, in order to meet the state law requirement, the Growth Management Committee has proposed this ordinance to provide more flexibility in moving the urban growth boundary.

Analysis:

This ordinance is made up of three exhibits. Exhibit A makes changes to the Metro Code. Exhibit B amends the Functional Plan to provide regulatory controls over local jurisdictions regarding the code changes. Exhibit C will contain conforming amendments to the Regional Framework Plan.

A. Exhibit A essentially makes three changes to the Metro Code regarding the requirements for amending the urban growth boundary:

(1) amends the requirement that first tier land be included prior to other lands so that the Council may add other urban reserve lands to the UGB after considering the legislative amendment criteria in the code which addresses state goals 2 and 14;

(2) allows the Council to grant a variance with respect to the governance and urban services agreement requirements, as long as the Council determines that it is feasible to satisfy those requirements in a timely manner and subject to a Functional Plan requirement that no comprehensive plan or implementing ordinance amendments be approved prior to the resolution of the governance or urban service agreement issues; and

(3) allows the Council to grant a variance for the concept plan and map requirements, as long as the Council determines that it is feasible to satisfy those requirements in a timely manner, and subject to a Functional Plan requirement that no comprehensive plan or implementing ordinance amendments be approved until a completed urban reserve plan is adopted.

B. Exhibit B creates a new title, Title 11, in the Urban Growth Management Functional Plan. The purpose of this new title is to provide regulatory protections for land that is brought into the boundary prior to completion of the concept plan.

Section 2 of this Title sets forth a new Urban Growth Boundary Amendment Master Plan requirement. Before any development is allowed on land brought into the urban growth boundary, the Metro Council and all local governments with jurisdiction over the territory must adopt a Master Plan. The Master Plan is the concept plan and map, and provision for governance or urban services agreements, as described in the Metro Code.

Section 1 of Title 11 provides that prior to approval by the necessary entities of the Urban Growth Boundary Amendment Master Plan, a city or county shall not approve any land use regulation allowing higher density or new commercial or industrial uses, or any land division or partition that would result in the creation of any new parcel less than 20 acres in size.

Section 3 of Title 11 requires cities and counties to make the adopted Master Plan part of their comprehensive plans.

Section 4 of Title 11 provides that it takes effect immediately and that following its adoption, cities and counties must provide adequate notice to Metro of any comprehensive plan or implementing ordinance for any territory that has been added to the UGB.

C. Exhibit C is in the process of being completed. It will be amended into the ordinance later to provide the necessary conforming changes to the Regional Framework Plan.