

Chapter 3.07 – Title 1, *Housing Capacity*

REGIONAL FUNCTIONAL PLAN REQUIREMENTS

Title 1: ~~Housing Capacity~~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~~this title 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. [Ord. 97-715B, Sec. 1. Ord. 02-969B, Sec. 1. Ord. 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) of this section. A city or county may reduce its minimum zoned capacity in other locations under subsections (c), (d) or (e) of this section.
- (b) Each city and county ~~shall~~must 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(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~~must 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 zoned capacity by an equal or greater amount in other places where the increase is reasonably likely to be realized within the 20-year planning period of Metro’s last capacity analysis under ORS ~~197.299~~197A.350:
 - (1) Reduce the minimum dwelling unit density, described in subsection (b) of this section, for one or more zones;
 - (2) Revise the development criteria or standards for one or more zones; or
 - (3) Change its zoning map such that the city’s or county’s minimum zoned capacity would be reduced.

Action to reduce minimum zoned capacity may be taken any time within two years after action to increase capacity.

- (d) A city or county may reduce the minimum zoned capacity of a zone without increasing minimum zoned capacity in another zone ~~for one or more of the following purposes~~:
 - (1) To re-zone the area to allow industrial use under Title 4 of this chapter, Industrial and Other Employment Areas, or an educational or medical facility similar in scale to those listed in section 3.07.1340(d)(5)(B)(i) ~~of Title 13 of this chapter~~; or
 - (2) To protect natural resources pursuant to Titles ~~3 or 13~~ of this chapter, Water Quality and Flood Management, or pursuant to section 3.07.1330(h).

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- (e) A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city's or county's overall minimum zoned residential capacity.
- (f) A city or county may amend its comprehensive plan and land use regulations to transfer minimum zoned capacity to another city or county upon a demonstration that:
 - (1) A transfer between designated Centers, Corridors or Station Communities does not result in a net reduction in the minimum zoned capacities of the Centers, Corridors or Station Communities involved in the transfer; and
 - (2) The increase in minimum zoned capacity is reasonably likely to be realized within the 20-year planning period of Metro's last capacity analysis under ORS 197A.299362.
- (g) A city or county ~~shall~~ must authorize the establishment of at least one accessory dwelling unit for each detached single-family dwelling unit in each zone that authorizes detached single-family dwellings. The authorization may be subject to reasonable regulation for siting and design purposes. [Ord. 97-715B, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 02-969B, Sec. 1. Ord. 07-1137A, Sec. 1. Ord. 10-1244B, Sec. 2. Ord. 15-1357.]

Title 3: ~~Water Quality And Flood Management~~ WATER QUALITY AND FLOOD MANAGEMENT

3.07.310 Purpose and Intent

The Regional Framework Plan calls for maintaining watershed health to benefit people, fish and wildlife. It is the purpose and intent of this title to ~~To~~ protect the beneficial water uses, and functions and values of water resources, within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 05-1077C, Sec. 6.]

3.07.320 Applicability

- (a) ~~Title 3~~ This title applies to:
- (1) Development in Water Quality Resource and Flood Management Areas.
 - (2) Development which may cause temporary or permanent erosion on any property within the Metro ~~Boundary~~ boundary.
- (b) ~~Title 3~~ This title does not apply to work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that after the emergency has passed, adverse impacts are mitigated in accordance with the performance standards in ~~Section~~ section 3.07.340. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 05-1077C, Sec. 6.]

3.07.330 Implementation Alternatives for Cities and Counties

- (a) Cities and counties ~~shall~~ must comply with this title in one of the following ways:
- (1) Amend their comprehensive plans and implementing ordinances or regulations to: adopt all or part of the *Title 3 Model Ordinance* (adopted as Exhibit C to Metro Council Ordinance No. 98-730C) or code language that substantially complies with the performance standards in ~~Section~~ section 3.07.340 and the intent of this title; and adopt either the *Metro Water Quality and Flood Management Area Map* (adopted as Exhibit D to Metro Council Ordinance No. 98-730C) or a map ~~which that is~~ substantially complies with the Metro maps similar to that 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~~ Metro Water Quality and Flood Management Area 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*

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Management map ~~Map~~ 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* ~~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~~ must result in a locally adopted ~~Water Quality and Flood Management Areas map~~ Water Quality and Flood Management Areas map ~~which that~~:

- (i) Applies the ~~Title 10~~ definitions of “Protected Water Feature,” “Water Quality Resource Areas” and “Flood Management Areas” in Title 10 of this chapter, *Urban Growth Management Functional Plan Definitions*, to all those protected areas on the *Metro Water Quality and Flood Management Areas map* ~~Map~~ to show the specific boundaries of those protected areas on the a locally adopted ~~Water-water Quality-quality and Flood-flood Management-management Areas-areas map~~ 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 ~~and to correct errors in the a locally adopted Water-water Quality-quality and Flood-flood Management-management Areas-areas map~~ consistent with ~~Section section~~ section 3.07.330(d).
- (2) Demonstrate that existing city and county comprehensive plans and implementing ordinances or regulations substantially comply with the performance standards in ~~Section section~~ section 3.07.340 and the intent of this title.
- (3) Any combination of paragraphs (1) and (2) above that substantially complies with all performance standards in ~~Section section~~ section 3.07.340.
- (b) Cities and counties ~~shall~~ must hold at least one public hearing prior to adopting comprehensive plan amendments, ordinances or regulations and maps implementing the performance standards in ~~Section section~~ section 3.07.340 of this title or demonstrating that existing city or county comprehensive plans and implementing ordinances or regulations substantially comply with ~~Section section~~ section 3.07.340, to add ~~Protected-protected Water water Featuresfeatures~~ Protected Water Features, and wetlands ~~which that~~ meet the criteria in ~~Section section~~ section 3.07.340(e)(3), to their ~~Water-water Quality-quality and Flood-flood Management management Area-areas map~~ Water Quality and Flood Management Areas map. The proposed comprehensive plan amendments, implementing ordinances or regulations and maps shall be available for public review at least 45 days prior to the public hearing.
- (c) Cities and counties ~~shall~~ must conduct a review of their ~~Water-water Quality-quality and Flood-flood Management-management Areas-areas map~~ Water Quality and Flood Management Areas map concurrent with local periodic review required by ORS 197.629.

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- (d) Some areas which would otherwise be mapped as Protected Water Features, Water Quality Resource Areas and Flood Management Areas do not appear on the *Metro Water Quality and Flood Management Areas map* because streams had been culverted, wetlands had been filled or a fill permit had been approved, or the area was demonstrated to have existing conflicting water dependent uses, or existing plans or agreements for such uses, or the area was developed or committed to other uses.

Notwithstanding any other provision of this title, cities and counties are not required to establish Protected Water Features, Water Quality Resource Areas and Flood Management Areas through adopted code provisions or mapping for areas which were examined but not included on the *Metro Water Quality and Flood Management Areas map* adopted by the Metro Council. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 15-1357.]

3.07.340 Performance Standards

- (a) Flood Management Performance Standards.

- (1) The purpose of ~~these standards~~ this subsection (a) is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.
- (2) All development, excavation and fill in the Flood Management Areas ~~shall~~ must conform to the following performance standards:
 - (A) Development, excavation and fill ~~shall~~ must be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.
 - (B) All fill placed at or below the design flood elevation in Flood Management Areas ~~shall~~ must be balanced with at least an equal amount of soil material removal.
 - (C) Excavation ~~shall~~ must not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.
 - (D) Minimum finished floor elevations for new habitable structures in the Flood Management Areas ~~shall~~ must be at least one foot above the design flood elevation.
 - (E) Temporary fills that were permitted during construction ~~shall~~ must be removed.
 - (F) Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality (DEQ) in the Flood Management Area ~~shall~~ must be prohibited.
- (3) The following uses and activities are not subject to the requirements of this subsection ~~(2)~~:

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- (A) Excavation and fill necessary to plant new trees or vegetation.
 - (B) Excavation and fill required for the construction of detention facilities or structures, and other facilities such as levees specifically designed to reduce or mitigate flood impacts. Levees ~~shall~~ must not be used to create vacant buildable lands.
 - (C) New culverts, stream crossings, and transportation projects may be permitted if designed as balanced cut and fill projects or designed to not significantly raise the design flood elevation. Such projects ~~shall~~ must be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossing ~~shall~~ must be as close to perpendicular to the stream as practicable. Bridges ~~shall~~ must be used instead of culverts wherever practicable.
- (b) Water Quality Performance Standards.
- (1) The purpose of ~~these standards~~ this subsection (b) is to: 1-) protect and improve water quality to support the designated beneficial water uses as defined in Title 10, Urban Growth Management Functional Plan Definitions, of this chapter; and 2-) protect the functions and values of the Water Quality Resource Areas which include, but are not limited to:
 - (A) Providing a vegetated corridor to separate Protected Water Features from development;
 - (B) Maintaining or reducing stream temperatures;
 - (C) Maintaining natural stream corridors;
 - (D) Minimizing erosion, nutrient and pollutant loading into water;
 - (E) Filtering, infiltration and natural water purification; and
 - (F) Stabilizing slopes to prevent landslides contributing to sedimentation of water features.
 - (2) Local codes ~~shall~~ must require all development in Water Quality Resource Areas to conform to the following performance standards:
 - (A) The Water Quality Resource Area is the vegetated corridor and the ~~Protected-protected Water-water Featurefeature~~. The width of the vegetated corridor is specified in Table 3.07-3, Protected Water Features. At least three slope measurements along the water feature, at no more than 100-foot increments, ~~shall~~ must be made for each property for which development is proposed. Depending on the width of the property, the width of the vegetated corridor will vary.
 - (B) Water Quality Resource Areas ~~shall~~ must be protected, maintained, enhanced or restored as specified in ~~Section 3.07.340(b)(2)~~ this paragraph (2).
 - (C) Prohibit development that will have a significant negative impact on the functions and values of the Water Quality Resource Area, which

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- cannot be mitigated in accordance with ~~subsection paragraph (2)(F)~~ of this subsection.
- (D) Native vegetation ~~shall must~~ be maintained, enhanced or restored, if disturbed, in the Water Quality Resource Area. Invasive non-native or noxious vegetation may be removed from the Water Quality Resource Area. Use of native vegetation ~~shall must~~ be encouraged to enhance or restore the Water Quality Resource Area. This ~~shall does not~~ preclude construction of energy dissipaters at outfalls consistent with watershed enhancement, and as approved by local surface water management agencies.
- (E) Uncontained areas of hazardous materials as defined by DEQ in ~~the a~~ Water Quality Resource Area ~~shall must~~ be prohibited.
- (F) Cities and counties may allow development in Water Quality Resource Areas provided that the governing body, or its designate, implements procedures which:
- (i) Demonstrate that no practicable alternatives to the requested development exist which will not disturb the Water Quality Resource Area; and
 - (ii) If there is no practicable alternative, limit the development to reduce the impact associated with the proposed use; and
 - (iii) Where the development occurs, require mitigation to ensure that the functions and values of the Water Quality Resource Area are restored.
- (G) Cities and counties may allow development for repair, replacement or improvement of utility facilities so long as the Water Quality Resource Area is restored consistent with ~~Section paragraph (2)(D)~~ 3.07.340(b)(2)(D) of this subsection.
- (H) The performance standards of ~~Section paragraph 3.07.340(b)(2) of~~ this subsection do not apply to routine repair and maintenance of existing structures, roadways, driveways, utilities, accessory uses and other development.
- (3) For lots or parcels which are fully or predominantly within the Water Quality Resource Area and are demonstrated to be unbuildable by the vegetative corridor regulations, cities and counties ~~shall must~~ reduce or remove vegetative corridor regulations to assure the lot or parcel will be buildable while still providing the maximum vegetated corridor practicable. Cities and counties ~~shall must~~ encourage landowners to voluntarily protect these areas through various means, such as conservation easements and incentive programs.

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(c) Erosion and Sediment Control.

- (1) The purpose of this subsection (c) is to require erosion prevention measures and sediment control practices during and after construction to prevent the discharge of sediments.
- (2) Erosion prevention techniques ~~shall~~ must be designed to prevent visible and measurable erosion as defined in Title 10 of this chapter, *Urban Growth Management Functional Plan Definitions*.
- (3) To the extent erosion cannot be completely prevented, sediment control measures ~~shall~~ must be designed to capture, and retain on-site, soil particles that have become dislodged by erosion.

(d) Implementation Tools to Protect Water Quality and Flood Management Areas.

- (1) Cities and counties ~~shall~~ must either: adopt land use regulations, which authorize transfer of permitted units and floor area to mitigate the effects of development restrictions in Water Quality and Flood Management Areas; ~~or~~ adopt other measures that mitigate the effects of development restrictions.
- (2) Metro encourages ~~local governments~~ cities and counties to require that approvals of applications for partitions, subdivisions and design review actions be conditioned upon one of the following:
 - (A) Protection of Water Quality and Flood Management Areas with a conservation easement;
 - (B) Platting Water Quality and Flood Management Areas as common open space; or
 - (C) Offer of sale or donation of property to public agencies or private non-profits for preservation where feasible.
- (3) Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development in the Water Quality and Flood Management Area may be allowed provided that:
 - (A) The addition, alteration, rehabilitation or replacement is not inconsistent with applicable city and county regulations; ~~and~~
 - (B) The addition, alteration, rehabilitation or replacement does not encroach closer to the Protected Water Feature than the existing structures, roadways, driveways or accessory uses and development; ~~and~~
 - (C) The addition, alteration, rehabilitation or replacement satisfies Section the requirements in subsection (c) 3.07.340(c) of this section ~~title~~.
 - (D) In determining appropriate conditions of approval, the affected city or county ~~shall~~ must require the applicant to:

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- (i) Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; ~~and~~
 - (ii) If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
 - (iii) Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.
- (4) Cities and counties may choose not to apply the Water Quality and Flood Management Area performance standards of ~~Section 3.07.340~~ this section to development necessary for the placement of structures when it does not require a grading or building permit.
- (5) Metro encourages cities and counties to provide for restoration and enhancement of degraded Water Quality Resource Areas through conditions of approval when development is proposed, or through incentives or other means.
- (6) Cities and counties ~~shall~~ must apply the performance standards of this title to Title 3 Wetlands as shown on the *Metro Water Quality and Flood Management Areas Map* and locally adopted ~~Water-water Quality-quality and Flood-flood Management-management Areas-areas~~ maps. Cities and counties may also apply the performance standards of this title to other wetlands.
- (e) Map Administration.

Cities and counties ~~shall~~ must amend their comprehensive plans and implementing ordinances ~~or regulations~~ to provide a process for each of the following:

 - (1) Amendments to city- and ~~county-county-~~adopted ~~Water-water Quality-quality and Flood-flood Management-management Area-area~~ maps to correct the location of Protected Water Features, Water Quality Resource Areas and Flood Management Areas. Amendments ~~shall~~ must be initiated within 90 days of the date the city or county receives information establishing a possible map error.
 - (2) Modification of the Water Quality Resource Area upon demonstration that the modification will offer the same or better protection of water quality, the ~~Water-water Quality-quality and Flood-flood Management-management Area~~ area and ~~Protected-protected Water-water Featurefeature~~.
 - (3) Amendments to city and county adopted ~~Water-water Quality-quality and Flood-flood Management-management Area-area~~ maps to add Title 3

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Wetlands when the city or county receives significant evidence that a wetland meets any one of the following criteria:

- (A) The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size; or

The wetland qualifies as having "intact water quality function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

- (B) The wetland is in the Flood Management Area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet; or

The wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

- (C) The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of "water quality limited" water body in Oregon Administrative Rules (OAR) Chapter 340, Division 41.

Examples of significant evidence that a wetland exists that may meet the criteria above are a wetland assessment conducted using the 1996 Oregon Freshwater Wetland Assessment Methodology, or correspondence from the Oregon Division of State Lands that a wetland determination or delineation has been submitted or completed for property in the city or county.

- (4) Cities and counties are not required to apply the criteria in Section paragraph 3.07.340(e)(3) of this subsection to water quality or stormwater detention facilities. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 05-1077C, Sec. 6. Ord. 15-1357.]

3.07.350 Fish and Wildlife Habitat Conservation Area [Repealed Ord. 05-1077C, Sec. 6.]

3.07.360 Metro Model Ordinance Required

Metro ~~shall~~ must adopt a *Water Quality and Flood Management Areas Model Ordinance* and *Water Quality and Flood Management Areas map*. The *Model Ordinance* ~~shall~~ must represent one method of complying with this title. The *Model Ordinance* ~~shall~~ must be advisory, and cities and counties are not required to adopt the *Model Ordinance*, or any part thereof, to substantially comply with this title. However, cities and counties which adopt the *Model Ordinance* in its entirety and ~~a~~ the *Water Quality and Flood Management Areas Map* ~~shall~~ must be deemed to have substantially complied with the requirements of this title. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 2. Ord. 00-839, Sec. 1. Ord. 05-1077C, Sec. 6.]

3.07.370 Variances [Repealed, Ord. 05-1077C, Sec. 6]

Table 3.07-3, *Protected Water Features*

(Section Referenced in paragraph (2)(A) of subsection 3.07.340(b)(2)(A))

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

¹ Primary Protected Water Features include: all rivers, perennial streams, and streams draining greater than 100 acres, Title 3 ~~W~~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% ~~percent~~ slope (see slope measurement in the Appendix to Exhibit A to Metro Council Ordinance No. 98-730C).

⁴ A maximum reduction of 25 feet may be permitted in the width of vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% ~~percent~~ (top of ravine).

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- ⁵ Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the *uphill* direction from the protected water feature. [Ord. 98-730C, Sec. 1.]

Title 6: Centers, Corridors, Station Communities and Main Streets
CENTERS, CORRIDORS, STATION COMMUNITIES AND MAIN STREETS

3.07.610 Purpose and Intent

The Regional Framework Plan (RFP) identifies three types of Centers – the Central City, Regional Centers and Town Centers – Corridors, Main Streets and Station Communities throughout the region on the 2040 Growth Concept Map and recognizes them as the principal centers of urban life in the region. Pursuant to Oregon Administrative Rules (OAR) 660-012-0012(4)(d), ~~Title 6~~this title requires cities and counties to define the boundaries of Centers for which they have adopted urban land use plan designations in their comprehensive plans. To enhance the intended role of the Centers, Corridors, Main Streets and Station Communities in the region, ~~Title 6~~this title also calls for voluntary actions and investments by cities and counties, complemented by regional investments. A “regional investment” is: an investment in a new high-capacity transit line; or a designated regional investment in a grant or funding program that is either administered by Metro or subject to Metro’s approval. [Ord. 97-715B, Sec. 1. Ord. 98-721A, Sec. 1. Ord. 02-969B, Sec. 7. Ord. 10-1244B, Sec. 5. Ord. 24-1523.]

3.07.615 Adoption of Boundaries for Centers

- (a) By December 31, 2025, each city and county must adopt boundaries for all Centers identified on the 2040 Growth Concept Map for which the city or county has adopted urban land use designations in their comprehensive plan, unless portions of the Center have boundaries already adopted by another city or county with planning jurisdiction for the Center.
- (b) Each city and county must adopt boundaries for any other Center identified on Metro’s 2040 Growth Concept Map when the city or county designates the area of that Center for urban land uses in their comprehensive plan, unless portions of the Center have boundaries already adopted by another city or county with planning jurisdiction for the Center.
- (c) Identified boundaries for Centers that are adopted pursuant to ~~Section~~this section 3.07.615 must be located in the general area of the Center as identified on the 2040 Growth Concept Map.
- (d) By February 1, 2026, cities and counties must identify to Metro the boundaries of each Center that they have adopted pursuant to ~~Section~~this section 3.07.615 as of December 31, 2025. After December 31, 2025, cities and counties must notify Metro of any new or revised Center boundaries within 31 days of adopting those new or revised Center boundaries.
- (e) Cities and counties must comply with the requirements of this section notwithstanding the generally applicable two-year ~~functional plan~~Urban Growth Management Functional Plan compliance deadline in ~~Subsection~~ 3.07.810(b). [Ord. 24-1523.]

3.07.620 Actions and Investments in Centers, Corridors, Station Communities and Main Streets

- (a) In order to be eligible for a regional investment in a Center, Corridor, Station Community or Main Street, or a portion thereof, a city or county must take the following actions:
 - (1) Establish a boundary for the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to ~~Subsection 3.07.620(b)~~;
 - (2) Perform an assessment of the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to ~~Subsection 3.07.620(c)~~; and
 - (3) Adopt a plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street, or portion thereof, pursuant to ~~Subsection 3.07.620(d)~~.
- (b) The boundary of a Center, Corridor, Station Community or Main Street, or portion thereof, must:
 - (1) Be consistent with the general location shown in the 2040 Growth Concept Map except, for a proposed new Station Community, be consistent with Metro's land use final order for a light rail transit project;
 - (2) For a Corridor with existing high-capacity transit service, include at least those segments of the Corridor that pass through a Regional Center or Town Center;
 - (3) For a Corridor designated for future high-capacity transit in the Regional Transportation Plan (RTP), include the area identified during the system expansion planning process in the RTP; and
 - (4) Be adopted and may be revised by the city council or county board following notice of the proposed boundary action to the Oregon Department of Transportation and to Metro in the manner set forth in ~~Subsection~~ section 3.07.820(a) of this chapter.
- (c) An assessment of a Center, Corridor, Station Community or Main Street, or portion thereof, must analyze the following:
 - (1) Physical and market conditions in the area;
 - (2) Physical and regulatory barriers to mixed-use, pedestrian-friendly and transit-supportive development in the area;
 - (3) The city or county development code that applies to the area to determine how the code might be revised to encourage mixed-use, pedestrian-friendly and transit-supportive development;
 - (4) Existing and potential incentives to encourage mixed-use pedestrian-friendly and transit-supportive development in the area; and
 - (5) For Corridors and Station Communities in areas shown as ~~Industrial Area or Regionally Significant Industrial Area~~ Industrial Area or Regionally Significant Industrial Area under Title 4 on the

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Title 4 Industrial and Other Employment Areas Map, barriers to a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP.

- (d) A plan of actions and investments to enhance the Center, Corridor, Station Community or Main Street must consider the assessment completed under ~~Subsection~~ subsection 3.07.620(c) of this section and include at least the following elements:
 - (1) Actions to eliminate, overcome or reduce regulatory and other barriers to mixed-use, pedestrian-friendly and transit-supportive development;
 - (2) Revisions to its comprehensive plan and land use regulations, if necessary, to allow:
 - (A) In Regional Centers, Town Centers, Station Communities and Main Streets, the mix and intensity of uses specified in ~~Section~~ section 3.07.640; and
 - (B) In Corridors and those Station Communities in areas shown as ~~Industrial Area or Regionally Significant Industrial Area or Industrial Area~~ in Title 4 of this chapter on the Title 4 Industrial and Other Employment Areas Map, a mix and intensity of uses sufficient to support public transportation at the level prescribed in the RTP;
 - (3) Public investments and incentives to support mixed-use pedestrian-friendly and transit-supportive development; and
 - (4) A plan to achieve the non-SOV mode share targets, adopted by the city or county pursuant to ~~Subsections~~ sections 3.08.230(a) and (b) of chapter 3.08, the RTP Regional Transportation Functional Plan, that includes:
 - (A) The transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1, Transportation System Design, of ~~the RTP~~ chapter 3.08;
 - (B) A transportation system or demand management plan consistent with ~~Section~~ section 3.08.160 of the RTP chapter 3.08; and
 - (C) A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with ~~Section~~ section 3.08.410 of the RTP chapter 3.08.
- (e) A city or county that has completed all or some of the requirements of ~~Subsections~~ subsections 3.07.620(b), (c), and (d) of this section may seek recognition of that compliance from Metro by written request to the COO.
- (f) Compliance with the requirements of this section is not a prerequisite to:
 - (1) Investments in Centers, Corridors, Station Communities or Main Streets that are not regional investments; or

- (2) Investments in areas other than Centers, Corridors, Station Communities and Main Streets. [Ord. 97-715B, Sec. 1. Ord. 98-721A, Sec. 1. Ord. 02-969B, Sec. 7. Ord. 10-1244B, Sec. 5. Ord. 24-1523.]

3.07.630 Eligibility Actions for Lower Mobility Standards and Trip Generation Rates

- (a) A city or county is eligible to use the higher volume-to-capacity standards in Table 7 of the 1999 Oregon Highway Plan when considering an amendment to its comprehensive plan or land use regulations in a Center, Corridor, Station Community or Main Street, or portion thereof, if it has taken the following actions:
- (1) Established a boundary pursuant to ~~Subsection~~section 3.07.620(b); and
 - (2) Adopted land use regulations to allow the mix and intensity of uses specified in ~~Section~~section 3.07.640.
- (b) A city or county is eligible for an automatic reduction of 30 percent below the vehicular trip generation rates reported by the Institute of Traffic Engineers when analyzing the traffic impacts, pursuant to OAR 660-012-0060, of a plan amendment in a Center, Corridor, Main Street or Station Community, or portion thereof, if it has taken the following actions:
- (1) Established a boundary pursuant to ~~Subsection~~section 3.07.620(b);
 - (2) Revised its comprehensive plan and land use regulations, if necessary, to allow the mix and intensity of uses specified in ~~Section~~section 3.07.640 and to prohibit new auto-dependent uses that rely principally on auto trips, such as gas stations, car washes and auto sales lots; and
 - (3) Adopted a plan to achieve the non-SOV mode share targets adopted by the city or county pursuant to ~~Subsections~~sections 3.08.230(a) and (b) of ~~the RTFP~~chapter 3.08, that includes:
 - (A) Transportation system designs for streets, transit, bicycles and pedestrians consistent with Title 1, *Transportation System Design*, of ~~the RTFP~~chapter 3.08;
 - (B) A transportation system or demand management plan consistent with ~~Section~~section 3.08.160 of ~~the RTFP~~chapter 3.08; and
 - (C) A parking management program for the Center, Corridor, Station Community or Main Street, or portion thereof, consistent with section 3.08.410 of ~~the RTFP~~chapter 3.08. [Ord. 97-715B, Sec. 1. Ord. 98-721A, Sec. 1. Ord. 02-969B, Sec. 7. Ord. 10-1244B, Sec. 5. Ord. 24-1523.]

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

- (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 amenities identified in the most current version of the *State of the Centers: Investing in Our Communities*, 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 housing types to be vibrant and successful. The following mix of housing types is recommended for each:
 - (1) The types of housing identified as “needed housing” in ORS 197.303(1)(a)-to (e);
 - (2) The types of housing identified in the city’s or county’s housing need analysis completed pursuant to ORS 197.296 or Statewide Planning Goal 10, *{Housing}*; and
 - (3) Accessory dwellings pursuant to ~~Section section 3.07.120 of this chapter~~. [Ord. 97-715B, Sec. 1. Ord. 98-721A, Sec. 1. Ord. 02-969B, Sec. 7. Ord. 10-1244B, Sec. 5. Ord. 15-1357. Ord. 24-1523.]

3.07.650 Title 6 Centers, Corridors, Station Communities and Main Streets Map

- (a) The 2040 Growth Concept Map’s depiction of Centers, Corridors, Station Communities and Main Streets Map is incorporated in this title as the “*Title 6 Centers, Corridors, Station Communities and Main Street Map*” and is Metro’s representation of their boundaries. The map shows the boundaries established pursuant to this title.

Chapter 3.07 – Title 6, Centers, Corridors, Station Communities and Main Streets

- (b) A city or county may revise the boundary of a Center, Corridor, Station Community or Main Street so long as the boundary is consistent with the general location on the 2040 Growth Concept Map in the RFP and the revision is made consistent with all other requirements of this title. The city or county must provide notice of its proposed revision as prescribed in ~~Subsection~~ section 3.07.620(b).
- (c) The COO must revise the *Title 6 Centers, Corridors, Station Communities and Main Streets Map*, as well as the 2040 Growth Concept Map and any other relevant maps, by order to conform such maps to establishment or revision of a boundary under this title. [Ord. 02-969B, Sec. 7; Ord. 10-1244B, Sec. 5; Ord. 11-1264B, Sec. 1. Ord. 24-1523.]

Title 6 Centers, Corridors, Station Communities and Main Streets Map as of March 5, 2025 [COO Order 12-073. COO Order 21-001.]

HELD FOR TITLE 6 MAP

Title 7: ~~Housing Choice~~HOUSING CHOICE

3.07.710 Purpose and Intent

The Regional Framework Plan (RFP) calls for establishment of voluntary affordable housing production goals to be adopted by local governments and assistance from local governments on reports on progress towards increasing the supply of affordable housing. It is the purpose and intent of Title 7~~this title~~ to implement these policies of the ~~Regional Framework Plan~~RFP. [Ord. 97-715B, Sec. 1. Ord. 00-882C, Sec. 2. Ord. 06-1129B, Sec. 2. ~~3.07.720~~
~~Voluntary Affordable Housing Production Goals~~

~~Each city and county within the Metro region should adopt the Affordable Housing Production Goal indicated in Table 3.07-7, as amended over time, as a guide to measure progress toward increasing housing choices and meeting the affordable housing needs of households with incomes between 0 percent and 50 percent of the regional median family income. Ord. 97-715B, Sec. 1. Ord. 00-882C, Sec. 2. Ord. 03-1005A. Ord. 06-1129B, Sec. 2. Ord. 00-882C, Sec. 2.]~~

Chapter 3.07 – Title 7, Housing Choice

Table 3.07-7

Five-Year Voluntary Affordable Housing Production Goals
(Section 3.07.720)

Jurisdiction	2001-2006 Affordable Housing Production Goals		
	Needed new housing units for households earning less than 30% of median household income	Needed new housing units for households earning 30-50% of median household income	Total
Beaverton	427	229	656
Cornelius	40	10	50
Durham	6	4	10
Fairview	42	31	73
Forest Grove	55	10	65
Gladstone	43	10	53
Gresham	454	102	556
Happy Valley	29	28	57
Hillsboro	302	211	513
Johnson City	0	0	0
King City	5	0	5
Lake Oswego	185	154	339
Maywood Park	0	0	0
Milwaukie	102	0	102
Oregon City	123	35	158
Portland	1,791	0	1,791
Rivergrove	1	1	2
Sherwood	67	56	123
Tigard	216	103	319
Troutdale	75	56	131
Tualatin	120	69	189

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Jurisdiction	2001-2006 Affordable Housing Production Goals		
	Needed new housing units for households earning less than 30% of median household income	Needed new housing units for households earning 30-50% of median household income	Total
West Linn	98	71	169
Wilsonville	100	80	180
Wood Village	16	1	17
Clackamas County, Urban, Unincorporated	729	374	1,103
Multnomah County, Urban, Unincorporated*	81	53	134
Washington County, Urban Unincorporated	1,312	940	2,252
Total	6,419	2,628	9,047

* ~~Strategies and implementation measures addressing these housing goals are in the Progress Reports of the Cities of Portland, Gresham and Troutdale.~~

3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance or Regulation Changes

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

- (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. [Ord. 97-715B, Sec. 1. Ord. 00-882, Sec. 2. Ord. 03-1005A, Sec. 1. Ord. 06-1129B, Sec. 2.]

3.07.740 Inventory and Progress Reports on Housing Supply

- (a) Local governments ~~shall~~ must assist Metro in the preparation of a biennial affordable housing inventory by fulfilling the reporting requirements in subsection (b) of this section.

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- (b) Local governments ~~shall~~must 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) of this section. Local governments ~~shall~~must submit their first progress reports on July 31, 2007, and by April 15 every two years following that date. Progress reports ~~shall~~must 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~~on Metro's form;
 - (2) The number and types of units of affordable housing built and income groups served during the reporting period;
 - (3) Affordable housing built and preserved in Centers and Corridors; and
 - (4) City or county resources committed to the development of affordable housing, such as fee waivers and property tax exemptions. [Ord. 00-882C, Sec. 2. Ord. 03-005A, Sec. 1. Ord. 06-1129B, Sec. 2. Ord. 15-1357.]

3.07.750 Technical Assistance

Cities and counties are encouraged to take advantage of the programs of technical and financial assistance provided by Metro to help achieve the goal of increased production and preservation of housing choices and affordable housing and to help fulfill the monitoring and reporting requirements of this title. [Ord. 00-882C, Sec. 2. Ord. 03-1005A, Sec. 1. Ord. 06-1129B, Sec. 2.]

3.07.760 Recommendations to Implement Other Affordable Housing Strategies

[Repealed, Ord. 06-1129B, Sec. 2.]

Title 8: ~~Compliance Procedures~~ COMPLIANCE PROCEDURES

3.07.810 Compliance ~~With~~ with the Urban Growth Management Functional Plan

- (a) The purposes of this ~~chapter title~~ are to: establish a process for ensuring city or county compliance with requirements of this chapter ~~the Urban Growth Management Functional Plan~~; and for evaluating and informing the region about the effectiveness of those requirements. Where the terms "compliance" and "comply" appear in this title, the terms ~~shall~~ have the meaning given to "substantial compliance" in section 3.07.1010.
- (b) Cities and counties ~~shall must~~ amend their comprehensive plans and land use regulations to comply with the functional plan this chapter, ~~or and to an amendment to the functional plan this chapter~~, within two years after acknowledgement of the ~~functional plan this chapter~~ or its amendment, or after any later date specified by the Metro Council in the ordinance adopting or amending the functional plan this chapter. The COO ~~shall must~~ notify cities and counties of the acknowledgment date and compliance dates described in subsections (c) and (d) of this section.
- (c) After one year following acknowledgment of a ~~functional plan~~ requirement of this chapter, cities and counties that amend their comprehensive plans and land use regulations ~~shall must~~ make such amendments in compliance with the new ~~functional plan~~ requirement of this chapter.
- (d) Cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement ~~shall must~~, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO ~~shall must~~ notify cities and counties of the date upon which ~~functional plan~~ Urban Growth Management Functional Plan (UGMFP) requirements become applicable to land use decisions at least 120 days before that date. For the purposes of ~~this subsection~~ (d) of this section, "land use decision" ~~shall have~~ has the meaning of that term as defined in ORS 197.015(10).
- (e) An amendment to a city or county comprehensive plan or land use regulation ~~shall be~~ is deemed to comply with the functional plan this chapter upon the expiration of the appropriate appeal period specified in ORS 197.830 or 197.650 or, if an appeal is made, upon the final decision on appeal. Once the amendment is deemed to comply, the ~~functional plan~~ requirement of this chapter ~~shall will~~ no longer apply to land use decisions made in conformance with the amendment.
- (f) An amendment to a city or county comprehensive plan or land use regulation ~~shall be~~ is deemed to comply with the functional plan this chapter as provided in subsection (e) of this section only if the city or county provided notice to the COO as required by ~~subsection (a) of section 3.07.820(a)~~. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 4. Ord. 00-839, Sec. 1. Ord. 00-882C, Sec. 2. Ord. 01-925E, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 05-1077C, Sec. 6. Ord. 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~~must submit the proposed amendment to the COO at least 35 days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county ~~shall~~must submit, an analysis of compliance of the amendment with ~~the functional plan~~this chapter. If the COO submits comments on the proposed amendment to the city or county, the comment ~~shall~~must 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~~this chapter. The COO ~~shall~~must send a copy of their 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~~this chapter, the COO ~~shall~~must 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~~this chapter; or
 - (3) Seek an exception pursuant to section 3.07.840. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 5, 6, 7. Ord. 98-727C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 00-882C, Sec. 2. Ord. 01-925E, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 10-1244B, Sec. 7. Ord. 15-1357.]

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 of this chapter. The city or county ~~shall~~must file an application for an extension on a form provided by the COO. Upon receipt of an application, the COO ~~shall~~must notify the city or county and those persons who request notification of applications for extensions. Any person may file a written comment in support of or opposition to the extension.
- (b) The COO may grant an extension by order if the city or county is making progress toward compliance or there is good cause for failure to meet the deadline for compliance. Within 30 days after the filing of a complete application for an extension, the COO ~~shall~~must issue an order granting or denying the extension. The COO ~~shall~~may not grant more than two time extensions of time. The COO ~~shall~~must send the order to the city or county and any person who filed a written comment.
- (c) The COO may establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the ~~functional plan~~requirement of this chapter. A term or condition must relate to the requirement of ~~the functional plan~~this chapter to which the COO has granted the extension.
- (d) The city or county, ~~applicant~~ or any person, ~~who~~that filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after

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receipt of the order. If an appeal is filed, the Metro Council ~~shall~~must hold a hearing to consider the appeal. After the hearing, the Metro Council ~~shall~~must issue an order granting or denying the extension and ~~shall~~must send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Metro Council's order as a land use decision described in ORS 197.015(10)(a)(A). [Ord. 97-715B, Sec. 1. Ord. 98-727C, Sec. 2. Ord. 01-925E, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 10-1244B, Sec. 7.]

3.07.840 Exception from Compliance

- (a) A city or county may seek an exception from compliance with a ~~functional plan~~ requirement of this chapter by filing an application on a form provided by the COO. Upon receipt of an application, the COO ~~shall~~must notify the city or county and those persons who request notification of requests for exceptions. Any person may file a written comment in support of or opposition to the exception.
- (b) Except as provided in subsection (c) of this section, the COO may grant an exception by order if:
 - (1) It is not possible to ~~achieve~~satisfy the requirement due to topographic or other physical constraints or due to an existing development pattern;
 - (2) ~~This~~The exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;
 - (3) The exception will not reduce the ability of another city or county to comply with the requirement; and
 - (4) The city or county seeking the exception has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.
- (c) The COO may grant an exception to the housing capacity requirements in section 3.07.120 by order if:
 - (1) The city or county has completed the analysis of capacity for dwelling units required by section 3.07.120;
 - (2) It is not possible to comply with the requirements due to topographic or other physical constraints, an existing development pattern, or protection of natural resources pursuant to Titles 3, Water Quality and Flood Management, or Title 13, Nature in Neighborhoods, ~~of this chapter~~; and
 - (3) ~~This~~The exception and other similar exceptions will not render the ~~targets~~ objective of the requirement unachievable region-wide.
- (d) The COO may establish terms and conditions for ~~the an~~ exception granted pursuant to section 3.07.840 in order to ensure that ~~it a requirement of this chapter~~ does not undermine the ability of the region to achieve the purposes of the requirement. A term or condition in the COO order granting an exception must relate to the

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requirement of ~~the functional plan~~this chapter to which the COO grants the exception. The COO ~~shall~~must ~~incorporate~~identify the terms and conditions ~~into the order on the exception~~in the exception order.

- (e) The city or county, ~~applicant or any person, who that~~ filed a written comment on the requested exception may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Metro Council ~~shall~~must hold a hearing to consider the appeal. After the hearing, the Metro Council ~~shall~~must issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Metro Council's order as a land use decision described in ORS 197.015(10)(a)(A). -[Ord. 97-715B, Sec. 1. Ord. 01-925E, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 10-1244B, Sec. 7.]

3.07.850 Enforcement of ~~Functional Plan~~the UGMFP

- (a) The Metro Council may initiate enforcement of a requirement of this chapter if a city or county has failed to meet a deadline for compliance with ~~a functional plan~~the requirement or if the Metro Council has good cause to believe that a city or county is engaged in a pattern or a practice of decision-making that is inconsistent with ~~the functional plan~~this chapter, ordinances or regulations adopted by the city or county to implement ~~the plan~~this chapter, or the terms or conditions in an extension or an exception granted pursuant to sections 3.07.830 or 3.07.840, respectively. The Metro Council may consider whether to initiate enforcement proceedings upon the request of the COO or a Metro Councilor. The Metro Council ~~shall~~must consult with the city or county before it determines there is good cause to proceed to a hearing under subsection (b) of this section.
- (b) If the Metro Council decides there is good cause, the Metro Council President ~~shall~~must set the matter for a public hearing before the Metro Council within 90 days of its decision. The COO ~~shall~~must publish notice of the hearing ~~in a newspaper of general circulation in the city or county~~on Metro's website and send notice to the city or county, MPAC and any person who requests a copy of such notices.
- (c) The COO ~~shall~~must prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the Metro Council. The COO ~~shall~~must publish the report at least 14 days prior to the public hearing and send a copy to the city or county and any person who requests a copy.
- (d) At the conclusion of the hearing, the Metro Council ~~shall~~must adopt an order that dismisses the matter if it decides the city or county complies with the requirement. If the Metro Council decides the city or county has failed to meet a deadline for compliance with ~~a functional plan~~requirement of this chapter or has engaged in a pattern or a practice of decision-making that is inconsistent with ~~the functional plan~~this chapter, ordinances or regulations adopted by the city or county to implement ~~the plan~~this chapter, or terms or conditions of an extension or an exception granted pursuant to sections 3.07.830 or 3.07.840, respectively, the Metro Council may adopt an order that:

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- (1) Directs changes in the city or county ordinances or regulations necessary to remedy the pattern or practice; or
- (2) Includes a remedy authorized in ORS 268.390(7).
- (e) The Metro Council ~~shall~~ must 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. [Ord. 97-715B, Sec. 1. Ord. 01-925E, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 10-1244B, Sec. 7.]

3.07.860 ~~Citizen~~ Public 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 with this chapter, to request Metro participation in ~~the local~~ a city or county process, or to request the COO to appeal a ~~local city or county~~ enactment for which notice is required pursuant to ~~subsection (a) of section 3.07.820(a)~~. Such contact may be oral or in writing and may be made at any time.
- (b) In addition to considering requests as described in subsection (a) of this section above, the Metro Council ~~shall~~ must at every regularly scheduled meeting provide an opportunity for people to address the Metro Council on any matter related to this functional plan. The COO ~~shall~~ must maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and ~~shall~~ must send requested documents as provided in this chapter.
- (c) Cities, counties and the Metro Council ~~shall~~ must comply with their own adopted and acknowledged public involvement requirements, such as those adopted pursuant to Statewide Land Use Planning Goal 1 “Citizen Involvement”, ~~Requirements (Citizen Involvement)~~ in all decisions, determinations and actions taken to implement and comply with this functional plan chapter. The COO ~~shall~~ must publish a citizen-public involvement fact sheet, after consultation with the Metro Public Engagement Review Committee (PERC), that describes opportunities for citizen-public involvement in Metro’s growth management procedures as well as the implementation and enforcement of this functional plan chapter. [Ord. 97-715B, Sec. 1. Ord. 01-925E, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 10-1244B, Sec. 7. Ord. 15-1357.]

3.07.870 Compliance Report

- (a) The COO ~~shall~~ must submit a report to the Metro Council by ~~March 1~~ January 31 of each calendar year on the status of compliance by cities and counties with the requirements of the ~~Urban Growth Management Functional Plan~~ this chapter. The COO ~~shall~~ must send a copy of the report to MPAC, JPACT, 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 Metro Council by written request to the COO. The Metro Council ~~shall~~ must notify the requestor, all cities and counties, MPAC, JPACT, PERC, the Department of Land Conservation and

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Development and any person who requests notification of the review. The notification ~~shall~~ must state that the Metro 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 of this chapter if those amendments already comply pursuant to ~~subsections (e) and (f) of sections 3.07.810(e) and (f);~~ 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~~ this chapter.
- (c) Following its review at a public hearing, the Metro Council ~~shall~~ must adopt an order that determines whether the city or county complies with the ~~functional plan~~ requirement of this chapter raised in the request. The order ~~shall~~ must be based upon the COO's compliance report and testimony received at the public hearing. The COO ~~shall~~ must 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 Metro Council's order as a land use decision described in ORS 197.015(10)(a)(A). -[Ord. 01-925E, Sec. 2. Ord. 02-972A, Sec. I. Ord. 10-1244B, Sec. 7. Ord. 15-1357.]

3.07.875 Title 4 Industrial and Other Employment Areas Report

By January 31 of each year, the COO must submit a written report to the Metro Council and MPAC regarding the cumulative effects on industrial and other employment lands in the region of the amendments to the *Title 4 Industrial and Other Employment Areas Map* made pursuant to section 3.07.450 during the preceding year. The report must include any recommendations the COO deems appropriate on measures the Metro Council might take to address the effects.

TITLE 10: URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN DEFINITIONS

3.07.1010 Definitions

For the purpose of this ~~functional plan~~ chapter, the following definitions shall apply:

Archaeological site has the meaning provided in Oregon Administrative Rules (OAR) 660-023-0210(1)(a).

Balanced cut and fill means no net increase in fill within the floodplain.

COO means Metro's Chief Operating Officer.

Comprehensive plan means the ~~all~~all-inclusive, generalized, coordinated land use map and policy statement of cities and counties defined in ORS 197.015(5).

Cultural areas has the meaning provided in OAR 660-023-0210(1)(b).

DBH means the diameter of a tree measured at breast height.

Design flood elevation means the elevation of the 100-year storm as defined in Federal Emergency Management Agency (FEMA) Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped flood prone soils or similar methodologies.

Design ~~type~~Type means the conceptual areas described in the Metro 2040 Growth Concept text and ~~m~~Map in Metro's regional goals and objectives the Regional Framework Plan (RFP), and includes ~~ing the~~ the ~~e~~Central ~~e~~City, ~~r~~Regional ~~e~~Centers, ~~t~~Town ~~e~~Centers, ~~s~~Station ~~e~~Communities, ~~e~~Corridors, ~~m~~Main ~~s~~Streets, ~~n~~Neighborhoods, Regionally Significant Industrial Areas (RSIAs), ~~i~~Industrial ~~a~~Areas, and ~~e~~Employment ~~a~~Areas.

Designated beneficial water uses means the same as the term as defined by the Oregon Department of Water Resources, which is: an instream public use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stockwater and wildlife uses.

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 of this chapter, *Water Quality and Flood Management*, except that 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 removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas (HCAs) on the lot is defined as development, for the purpose of Title 13 of this chapter, *Nature in Neighborhoods*. 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

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subject to the requirements of Titles 3, *Water Quality and Flood Management*, and Title 13, *Nature in Neighborhoods*, ~~of this functional plan~~; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

Development application means an application for a land use decision, limited land decision including expedited land divisions, but excluding partitions as defined in ORS 92.010(7) and ministerial decisions such as a building permit.

Division means a partition or a subdivision as those terms are defined in ORS chapter 92.

Ecological functions means the biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.

Emergency means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

Enhancement means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

Fill means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.

Flood Areas means those areas contained within the 100-year floodplain and floodway as shown on the ~~Federal Emergency Management Agency~~ FEMA Flood Insurance Maps and all lands that were inundated in the February 1996 flood.

Flood Management Areas means all lands contained within the 100-year floodplain, flood area and floodway as shown on the ~~Federal Emergency Management Agency~~ FEMA Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

Floodplain means land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events.

Growth Concept Map means the ~~conceptual map demonstrating the 2040 Growth Concept design types attached to this plan~~ of the RFP¹.

Habitat Conservation Area or and HCA means an area identified on the *Habitat Conservation Areas Map* (adopted as Exhibit C, Attachment 1 to Metro Council Ordinance

¹ On file in the Metro Council office.

No. 05-1077C with any subsequent amendments) and subject to the performance standards and best management practices described in ~~Metro Code~~ section 3.07.1340.

Habitat-friendly development means a method of developing property that has less detrimental impact on fish and wildlife habitat than does traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.

Habitats of Concern means the following unique or unusually important wildlife habitat areas, as identified based on cite specific information provided by local wildlife or habitat experts: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

Hazardous materials means materials described as hazardous by Oregon Department of Environmental Quality.

Implementing ordinances or regulations means any city or county land use regulation as defined by ORS 197.015(11) which includes zoning, land division or other ordinances or regulations which establish standards for implementing a comprehensive plan.

Invasive non-native or noxious vegetation means plants listed as nuisance plants or prohibited plants on the *Metro Native Plant List*, as adopted by Metro Council ~~resolution~~ Resolution No. 98-2708 and any subsequent amendments, because they are plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities.

Land Conservation and Development Commission ~~or~~ and **LCDC** means the Oregon Land Conservation and Development Commission.

Land use regulation means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance or regulation establishing standards for implementing a comprehensive plan, as defined in ORS 197.015.

Large-format retail commercial buildings means a building intended for retail commercial use with more than 60,000 square feet of gross leasable area, or that amount or more of retail sales area on a single lot or parcel, or that amount or more on contiguous lots or parcels including lots or parcels separated only by a transportation right-of-way.

Local program effective date means the effective date of a city's or county's new or amended comprehensive plan and implementing ordinances or regulations adopted to comply with Title 13 of the Urban Growth Management Functional Plan, Metro Code sections 3.07.1310 to 3.07.1370. If a city or county is found to be in substantial compliance with Title 13, *Nature in Neighborhoods*, without making any amendments to its comprehensive plan or land use regulations, then the local program effective date ~~shall be~~ is December 28, 2005. If a city or county amends its comprehensive plan or land use regulations to comply with Title 13, then the local program effective date ~~shall be~~ is the effective date of the city's or county's amendments to its comprehensive plan or land use

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

Metro means the regional government of the metropolitan area, the elected Metro Council as the policy setting body of the government.

Metro boundary means the ~~jurisdictional~~ boundary of Metro, ~~the elected regional government of the metropolitan area as a metropolitan service district.~~

MPAC means the Metropolitan Policy Advisory Committee established pursuant to Metro Charter, ~~C~~hapter V, ~~S~~ection ~~27~~26.

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~~ HCAs.

Mixed use means comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.

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 and definition of minor incidental, accessory land uses allowed within large, single-use developments should be determined by cities and counties through their comprehensive plans and implementing ordinances or regulations.

Native vegetation ~~or and~~ **native plant** means any vegetation listed as a native plant on the Metro Native Plant List as adopted by Metro Council resolution and any other vegetation native to the Portland metropolitan area provided that it is not listed as a nuisance plant or a prohibited plant on the Metro Native Plant List.

Net acre means an area measuring 43,560 square feet which excludes:

- Any developed road rights-of-way through or on the edge of the land; and
- Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected under ~~statewide~~ Statewide planning Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a Federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the

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transfer of the allowable density or use to another area or to development elsewhere on the same site; and

- All publicly-owned land designated for park and open spaces uses.

Net developed acre consists of 43,560 square feet of land, after excluding present and future rights-of-way, school lands and other public uses.

Net vacant buildable land means all vacant land less all land that is: (1) within Water Quality Resource Areas; (2) within ~~Habitat Conservation Area~~ HCAs; (3) publicly owned by a local, state or federal government; (4) burdened by major utility easements; and (5) necessary for the provision of roads, schools, parks, churches, and other public facilities.

Perennial streams means all primary and secondary perennial waterways as mapped by the U.S. Geological Survey.

Performance measure means a measurement derived from technical analysis aimed at determining whether a planning policy is achieving the expected outcome or intent associated with the policy.

Person-trips means the total number of discrete trips by individuals using any mode of travel.

Persons per acre means the intensity of building development by combining residents per acre and employees per acre.

Practicable means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. As used in Title 13 of this chapter, *Nature in Neighborhoods*, 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.

Primarily developed means areas where less than 10% percent of parcels are either vacant or underdeveloped.

Property owner means a person who owns the primary legal or equitable interest in the property.

Protected Water Features. Primary Protected Water Features ~~shall~~ include:

- Title 3 ~~w~~Wetlands; and
- Rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow); and
- Streams carrying year-round flow; and
- Springs which feed streams and wetlands and have year-round flow; and
- Natural lakes.
- Secondary Protected Water Features ~~shall~~ include intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

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Public facilities and services means sewers, water service, stormwater services and transportation.

Redevelopable land means land on which development has already occurred, which due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period.

Regionally significant fish and wildlife habitat means those areas identified on the *Regionally Significant Fish and Wildlife Habitat Inventory Map*, [adopted as Exhibit A to Metro Council Ordinance No. 05-1077C, subsequently amended and described in Metro Code section 3.07.1320] as regionally significant natural resource sites.

Restoration means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

Retail means activities which include the sale, lease or rent of new or used products to the general public or the provision of product repair or services for consumer and business goods.

Riparian area means the water influenced area adjacent to a river, lake or stream consisting of the area of transition from a hydric ecosystem to a terrestrial ecosystem where the presence of water directly influences the soil-vegetation complex and the soil-vegetation complex directly influences the water body. It can be identified primarily by a combination of geomorphologic and ecologic characteristics.

Rural reserve means an area designated rural reserve by Clackamas, Multnomah or Washington County pursuant to OAR chapter 660, Division-division 27.

Significant negative impact means an impact that affects the natural environment, considered individually or cumulatively with other impacts on ~~the~~ a Water Quality Resource Area, to the point where existing water quality functions and values are degraded.

Straight-line distance means the shortest distance measured between two points.

Stream means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

Substantial compliance means a city and county comprehensive plans and implementing ordinances or regulations, on the whole, conforms with the purposes of the performance standards in ~~the functional plan~~ this chapter and any failure to meet individual performance standard requirements is technical or minor in nature.

Title 3 Wetlands means wetlands of metropolitan concern as shown on the *Metro Water Quality and Flood Management Area Map*, as adopted as Exhibit D to Metro Council Ordinance No. 98-730C, and other wetlands added to city or county adopted ~~W~~ water ~~Q~~ quality and ~~F~~ flood ~~M~~ management ~~A~~ area maps consistent with the criteria in ~~Title 3~~,

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section 3.07.340(e)(3). Title 3 ~~w~~Wetlands does not include artificially constructed and managed stormwater and water quality treatment facilities.

Top of bank means the same as "bankfull stage" defined in OAR 141-085-0510(56).

Urban development value means the economic value of a property ~~lot or parcel~~ as determined by analyzing three separate variables: its assessed land value, its value as a property that could for generate generating jobs (i.e., its "employment value"), and the Metro 2040 is design type designation of property according to the 2040 Growth Concept Map. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro-Habitat Urban Development Value Map adopted as Exhibit C, Attachment 4 to Metro Council Ordinance No. 05-1077C, with any subsequent amendments and referenced in ~~Metro Code~~ section 3.07.1340(e).

~~"UGB" means an urban growth boundary adopted pursuant to ORS chapter 197.~~

Underdeveloped parcels means those parcels of land with less than 10 percent of the net acreage developed with permanent structures.

Urban growth boundary and UGB mean the urban growth boundary adopted pursuant to ORS chapter 197A.

Urban reserve means an area designated urban reserve by the Metro Council pursuant to OAR chapter 660, Division ~~division~~ 27.

Utility facilities means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television.

Vacant land means land identified in ~~the a~~ Metro or local government inventory as undeveloped land.

Variance means a discretionary decision to permit modification of the terms of an implementing ordinance or regulation based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.

Visible or measurable erosion includes, but is not limited to:

- Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
- Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
- Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.

Water feature means all rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and

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have year-round flow, Flood Management Areas, wetlands, and all other bodies of open water.

Water Quality and Flood Management Area means an area defined on the *Metro Water Quality and Flood Management Area Map*, ~~to be attached hereto~~² adopted as Exhibit D to Metro Council Ordinance No. 98-730C. These are areas that require regulation in order to mitigate flood hazards and to preserve and enhance water quality. This area has been mapped to generally include the following: stream or river channels, known and mapped wetlands, areas with flood-prone soils adjacent to the stream, floodplains, and sensitive water areas. The sensitive areas are generally defined as 50 feet from top of bank of streams for areas of less than 25 percent slope, and 200 feet from top of bank on either side of the stream for areas greater than 25 percent slope, and 50 feet from the edge of a mapped wetland.

Water Quality Resource Areas means vegetated corridors and the adjacent water feature as established in Title 3, *Water Quality and Flood Management*.

Wetlands mean those areas inundated or saturated by surface or ground water at a frequency and duration 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).

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. [Ord. 97-715B, Sec. 1. Ord. 98-721A, Sec. 1. Ord. 98-730C, Sec. 10. Ord. 00-839, Sec. 1. Ord. 00-869A, Sec. 2. Ord. 02-972A, Sec. 1. Ord. 05-1077C, Sec. 6. Ord. 10-1244B, Sec. 9. Ord. 15-1357.]

² ~~On file in Metro Council office.~~

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~~this title to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of ~~Title 11~~this title 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. [Ord. 99-818A, Sec. 3. Ord. 02-969B, Sec. 11. Ord. 10-1238A, Sec. 5. Ord. 11-1252A, Sec. 1.)

3.07.1110 Planning for Areas Designated Urban Reserve

- (a) The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, ~~shall~~must, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435 of this chapter. The date for completion of a concept plan and the area of urban reserves to be planned will be jointly determined by Metro and the county and city or cities.
- (b) A local government, in creating a concept plan to comply with this section, ~~shall~~must consider actions necessary to achieve the following outcomes:
 - (1) If the plan proposes a mix of residential and employment uses:
 - (A) A mix and intensity of uses that will make efficient use of the public systems and facilities described in subsection (c) of this section;
 - (B) A development pattern that supports pedestrian and bicycle travel to retail, professional and civic services;
 - (C) A range of housing of different types, tenure and prices addressing the housing needs in the prospective UGB expansion area in the context of the housing needs of the governing city, the county, and the region if data on regional housing needs are available, in order to help create economically and socially vital and complete neighborhoods and cities and avoiding the concentration of poverty and the isolation of families and people of modest means;
 - (D) Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
 - (E) Well-connected systems of streets, bikeways, parks, recreational trails and public transit that link to needed housing so as to reduce the combined cost of housing and transportation;

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- (F) A well-connected system of parks, natural areas and other public open spaces;
 - (G) Protection of natural ecological systems and important natural landscape features; and
 - (H) Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.
- (2) If the plan involves fewer than 100 acres or proposes to accommodate only residential or employment needs, depending on the need to be accommodated:
- (A) A range of housing of different types, tenure and prices addressing the housing needs in the prospective UGB expansion area in the context of the housing needs of the governing city, the county, and the region if data on regional housing needs are available, in order to help create economically and socially vital and complete neighborhoods and cities and avoiding the concentration of poverty and the isolation of families and people of modest means;
 - (B) Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
 - (C) Well-connected systems of streets, bikeways, pedestrian ways, parks, natural areas, recreation trails;
 - (D) Protection of natural ecological systems and important natural landscape features; and
 - (E) Avoidance or minimization of adverse effects on farm and forest practices and important natural landscape features on nearby rural lands.
- (c) A concept plan ~~shall~~must:
- (1) Show the general locations of any residential, commercial, industrial, institutional and public uses proposed for the area with sufficient detail to allow estimates of the cost of the public systems and facilities described in paragraph (2) of this subsection;
 - (2) For proposed sewer, park and trail, water and stormwater systems and transportation facilities, provide the following:
 - (A) The general locations of proposed sewer, park and trail, water and stormwater systems;
 - (B) The mode, function and general location of any proposed state transportation facilities, arterial facilities, regional transit and trail facilities and freight intermodal facilities;

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- (C) The proposed connections of these systems and facilities, if any, to existing systems;
 - (D) Preliminary estimates of the costs of the systems and facilities in sufficient detail to determine feasibility and allow cost comparisons with other areas;
 - (E) Proposed methods to finance the systems and facilities; and
 - (F) Consideration for protection of the capacity, function and safe operation of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.
- (3) If the area subject to the concept plan calls for designation of land for industrial use, include an assessment of opportunities to create and protect parcels 50 acres or larger and to cluster uses that benefit from proximity to one another;
- (4) If the area subject to the concept plan calls for designation of land for residential use, ~~the concept plan will~~ describe the goals for meeting the housing needs for the concept planning area in the context of the housing needs of the governing city, the county, and the region if data on regional housing needs are available. As part of this statement of objectives, the concept plan ~~shall~~ must identify the general number, price and type of market and nonmarket-provided housing. The concept plan ~~shall~~ must also identify preliminary strategies, including fee waivers, subsidies, zoning incentives and private and nonprofit partnerships, that will support the likelihood of achieving the outcomes described in subsection (b) of this section;
- (5) Show ~~w~~Water ~~q~~Quality ~~r~~Resource ~~a~~Areas, ~~f~~Flood ~~m~~Management ~~a~~Areas and ~~habitat~~ Habitat conservation ~~Conservation areas~~ Areas that will be subject to performance standards under Titles 3, Water Quality and Flood Management, and Title 13, Nature in Neighborhoods 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 applying an

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urban land use plan designation 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; and
 - (11) Include written findings demonstrating how the concept plan satisfies the relevant requirements of this subsection (c).
- (d) Concept plans ~~shall~~ must guide, but not bind:
- (1) The designation of 2040 Growth Concept ~~design~~ Design types ~~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.
- (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) of this section, then the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS chapter 197A-299 to ensure the UGB has sufficient capacity to accommodate forecasted growth. -[Ord. 98-772B, Sec. 2. Ord. 99-818A, Sec. 3. Ord. 02-969B, Sec. 11. Ord. 06-1110A, Sec. 1. Ord. 10-1238A, Sec. 5. Ord. 11-1252A, Sec. 1. Ord. 15-1357.]

3.07.1120 Planning for Areas Added to the UGB

- (a) The county or city responsible for comprehensive planning of an area, as specified by the intergovernmental agreement adopted pursuant to section 3.07.1110(c)(7) or the ordinance that added the area to the UGB, ~~shall~~ must adopt comprehensive plan provisions and land use regulations for the area to address the requirements of subsection (c) of this section by the date specified by the ordinance or by section 3.07.1455(b)(4) ~~of this chapter~~.
- (b) If the concept plan developed for the area pursuant to section 3.07.1110 assigns planning responsibility to more than one city or county, the responsible local governments ~~shall~~ must provide for concurrent consideration and adoption of proposed comprehensive plan provisions unless the ordinance adding the area to the UGB provides otherwise.
- (c) Comprehensive plan provisions for the area ~~shall~~ must include:
 - (1) Specific plan designation boundaries derived from and generally consistent with the boundaries of design type designations assigned by the Metro Council in the ordinance adding the area to the UGB;
 - (2) Provision for annexation to a city and to any necessary service districts, including Metro as a metropolitan service district, prior to, or simultaneously with, application of city land use regulations ~~intended to comply with this subsection~~ applying an urban land use plan designation;

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- (3) Provisions that ensure zoned capacity for the number and types of housing units, if any, specified by the Metro Council pursuant to section 3.07.1455(b)(2) ~~of this chapter~~;
- (4) Provision for affordable housing consistent with Title 7 of this chapter, ~~*Housing Choice*, of this chapter~~ if the comprehensive plan authorizes housing in any part of the area.
- (5) Provision for the amount of land and improvements needed, if any, for public school facilities sufficient to serve the area added to the UGB in 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~~ must meet the standards for street connections in Metro Code chapter 3.08, the Regional Transportation Functional Plan; and
- (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 a method consistent with a Goal 14 analysis, within 30 days after adoption of new land use regulations for the area. [Ord. 98-772B, Sec. 2. Ord. 99-818A, Sec. 3. Ord. 01-929A, Sec. 8. Ord. 02-964, Sec. 5. Ord. 05-1077C, Sec. 6. Ord. 05-1089A, Sec. 2. Ord. 07-1137A, Sec. 3. Ord. 10-1238A, Sec. 5. Ord. 11-1252A, Sec. 1. Ord. 15-1357.]~~

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~~ may 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;
- (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;

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- (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. -[Ord. 98-772B, Sec. 2. Ord. 99-818A, Sec. 3. Ord. 10-1238A, Sec. 5. Ord. 11-1252A, Sec. 1.]

Title 12: ~~Protection of Residential Neighborhoods~~ 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~~ this title is to protect the region's residential neighborhoods. The purpose of ~~Title 12~~ this title 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. -[Ord. 02-969B, Sec. 3.]

3.07.1220 Residential Density

Metro ~~shall~~ may not require any city or county to authorize an increase in the residential density of ~~a single-family neighborhood in an area mapped solely as~~ a 2040 Growth Concept Map Design Type of Neighborhood. -[Ord. 02-969B, Sec. 3. Ord. 15-1357.]

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 Neighborhoods, a city or county may designate in its comprehensive plan and land use ordinances or regulations one or more Neighborhood Centers within or in close proximity to Neighborhoods to serve as a convenient location of commercial services.
- (b) To ensure that commercial development serves the needs of the residents of Neighborhoods but does not generate excessive traffic, noise or air pollution, a city or county that designates a Neighborhood Center ~~shall~~ must adopt limitations on the scale of commercial services in Neighborhood Centers. In a Neighborhood Center, a city or county ~~shall~~ may 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. -[Ord. 02-969B, Sec. 3. Ord. 15-1357.]

3.07.1240 Access to Parks and Schools

- (a) Each city and county ~~shall~~ must, 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.

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- (b) To make parks and greenspaces more accessible to residents of Neighborhoods and all residents of the region, each city and county ~~shall~~must provide for access to parks and greenspaces by walking, biking and transit, where transit is available or planned.
- (c) To make parks and schools more accessible to neighborhood residents, to reduce traffic, and to use land more efficiently, cities, counties, park providers and school districts ~~shall~~must, where appropriate, provide for shared use of school facilities for park purposes and of park facilities for school purposes.
- (d) To make public schools more accessible to neighborhood residents, cities, counties and school districts ~~shall~~must prioritize school sites that are near concentrations of population and are connected to those concentrations by safe and convenient walking, biking and, where transit is available or planned, transit facilities. -[Ord. 02-969B, Sec. 3. Ord. 15-1357.]

Title 13: ~~Nature in Neighborhoods~~ NATURE IN NEIGHBORHOODS

3.07.1310 Purpose and Intent

The purpose ~~and intents~~ of this ~~program~~ this title 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 and regulations 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. -[Ord. 05-1077C, Sec. 5.]

3.07.1320 Inventory and Habitat Conservation Areas

The purpose of this section is to describe the geographic information system (GIS) data and maps that form the basis of Metro's fish and wildlife habitat protection and restoration program. ~~This~~ These data and maps are referenced in various ways in this title, but may or may not be relevant within a city or county depending upon which implementation alternative the city or county chooses pursuant to ~~Metro Code Section~~ section 3.07.1330(b). The maps referred to in this title are representations of data contained within Metro's GIS system, operated by the Metro Data Resource Center, and references to such maps ~~shall~~ must be interpreted as references to the maps themselves and to the underlying GIS data that the maps represent.

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- (a) The *Regionally Significant Fish and Wildlife Habitat Inventory Map* (hereinafter the "*Metro Habitat Inventory Map*"), ~~attached hereto~~¹ adopted as Exhibit A to Metro Council Ordinance No. 05-1077C with any subsequent amendments, identifies the areas that have been determined to contain regionally significant fish and wildlife habitat. The *Metro Habitat Inventory Map* divides habitat into two general categories, riparian and upland wildlife, and further differentiates each habitat category into low, medium, and high value habitats.
- (b) The *Habitat Conservation Areas Map*, ~~attached hereto~~² adopted as Exhibit C, Attachment 1 to Metro Council Ordinance No. 05-1077C with any subsequent amendments, identifies the areas that are subject to the performance standards and best management practices described in ~~Metro Code Section 3.07.1340~~, to the extent that a city or county chooses to comply with ~~Metro Code Section 3.07.1330~~ by using the *Habitat Conservation Areas map* ~~Map~~, or a map that substantially complies with the *Habitat Conservation Areas map* ~~Map~~. For such cities and counties, the *Habitat Conservation Areas Map* further identifies, subject to the map verification process described in ~~Metro Code Sections 3.07.1330(g) and 3.07.1340(d)~~, 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, *Method for Identifying Habitat Conservation Areas (HCAs)*, describes how ~~(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, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, located within the Metro boundary on December 28, 2005, were designated as high, moderate, and low Habitat Conservation Areas (HCAs).
 - (2) Table 3.07-13b, *Method for Identifying Habitat Conservation Areas (HCAs) in Future Metro UGB Expansion Areas*, describes how Class I and II riparian habitat areas and Class A and B upland wildlife areas brought within the Metro UGB after December 28, 2005, will be designated as high, moderate, and low ~~Habitat Conservation Areas~~HCAs. ~~Metro Code Section 3.07.1360~~ describes the procedures for how Table 3.07-13b and ~~Metro Code Section 3.07.1340~~ shall must be applied in such areas.
- (c) Exempt International Marine Terminals
 - (1) Marine dependent properties which would otherwise have been mapped as ~~Habitat Conservation Areas~~HCAs 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

¹ On file in the Metro Council office and copies available from the Metro Data Resource Center.

² On file in the Metro Council office and copies available from the Metro Data Resource Center.

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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 paragraph (2) (c)(2)~~ of this ~~subsection~~ to conclude that the following properties should not be considered ~~Habitat Conservation Areas~~ HCAs:

- (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. -[Ord. 05-1077C, Sec. 5.]

3.07.1330 Implementation Alternatives for Cities and Counties

- (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~~ must apply the requirements of this title with respect to areas identified as riparian habitat on the *Metro Habitat Inventory Map* and areas identified as upland wildlife habitat on the *Metro Habitat Inventory Map*, according to the compliance deadlines established in ~~Metro Code Section 3.07.810~~, rather than applying the requirements of ~~division 23 of chapter 660 of the Oregon Administrative Rules ("OAR") chapter 660, division 23, promulgated by LCDC~~, except that:
- (1) A city or county shall apply the requirements of ~~division 23 of OAR chapter 660, division 23~~ in order to adopt comprehensive plan amendments or land use regulations that: (i) ~~would otherwise require compliance with division 23 of OAR chapter 660, division 23~~ but for the adoption of this title (i.e., amendments or regulations adopted to protect Statewide Planning Goal 5 resources); and (ii) ~~will limit development in areas not identified as riparian habitat on the Metro Habitat Inventory Map, unless such provisions:~~ (a) ~~are part of a program intended to comply with Metro Code Section section 3.07.1330(b)(3) and apply only to areas identified as upland wildlife habitat on the Metro Habitat Inventory Map (i.e., they do not apply to areas not identified as habitat); or (b) apply to areas identified as Class A or B upland wildlife habitat on the Metro Habitat Inventory Map that are brought~~

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within the UGB after December 28, 2005. Such a city or county shall seek acknowledgement of such provisions from LCDC or treat such provisions as post-acknowledgement plan amendments under ORS chapter 197;

- (2) A city or county that, prior to December 28, 2005, adopted any comprehensive plan amendments or land use regulations that: ~~(aA)~~ apply to areas identified as upland wildlife habitat on the *Metro Habitat Inventory Map* but not identified as riparian habitat on the *Metro Habitat Inventory Map*; ~~(bB)~~ limit development in order to protect fish or wildlife habitat; and ~~(cC)~~ were adopted in compliance with ~~division 23 of OAR chapter 660~~, division 23, ~~shall~~ may not repeal such amendments or regulations, nor ~~shall~~ may it amend such provisions in a manner that would allow any more than a de minimis increase in the amount of development that could occur in areas identified as upland wildlife habitat; and
 - (3) After a city or county has demonstrated that it is in substantial compliance with the requirements of this title, if the city or county wishes to adopt comprehensive plan amendments or land use regulations applicable to areas identified as riparian habitat on the *Metro Habitat Inventory Map* that have the effect of imposing greater limits on development than those imposed by provisions that are in substantial compliance with the requirements of this title, such a city or county shall comply with the provisions of ~~division 23 of OAR chapter 660~~, division 23, and ~~shall~~ must seek acknowledgement of such provisions from LCDC or treat such provisions as post-acknowledgement plan amendments under ORS chapter 197.
- (b) Each city and county in the region ~~shall~~ must either:
- (1) Amend its comprehensive plan and implementing ordinances or regulations to adopt the *Title 13 Model Ordinance adopted as Exhibit E to Metro Council Ordinance No. 05-1077C* and the *Metro-Habitat Conservation Areas Map*, and demonstrate compliance with the provisions of: ~~(aA) Metro Code Section section 3.07.1340(a)(5)~~, related to enhanced fish and wildlife protection and management of publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development; and ~~(bB) Metro Code Section section 3.07.1340(a)(8)~~, related to the restoration of ~~Habitat Conservation Area~~ HCAs when developed property is undergoing significant redevelopment;
 - (2) Demonstrate that its existing or amended comprehensive plan and existing, amended, or new implementing ordinances or regulations substantially comply with the performance standards and best management practices described in ~~Metro Code Section 3.07.1340~~, and that maps that it has adopted and uses substantially comply with the *Metro-Habitat Conservation Areas Map*;
 - (3) Demonstrate that it has implemented a program based on alternative approaches that will achieve protection and enhancement of Class I and II riparian habitat areas, and of Class A and B upland wildlife habitat areas in

territory added to the Metro-UGB after December 28, 2005, substantially comparable with the protection and restoration that would result from the application of a program that complied with ~~Metro Code Sections 3.07.1330(b) paragraphs (b)(1) or (b)(2) of this subsection.~~ A city or county developing such a program:

- (A) ~~Shall~~ Must demonstrate that its alternative program will provide a certainty of habitat protection and enhancement to achieve its intended results, such as by using proven programs and demonstrating stable and continuing funding sources sufficient to support elements of the program that require funding;
- (B) May assert substantial compliance with this provision by relying on either or both the city's or county's comprehensive plan and implementing ordinances or regulations and on the use of incentive based, voluntary, education, acquisition, and restoration programs, such as:
 - (i) An existing tree protection ordinance or regulation;
 - (ii) A voluntary program for tree protection, tree replacement, and habitat restoration;
 - (iii) Habitat preservation incentive programs, such as programs that provide reduced development or storm water management fees and property taxes in return for taking measures to protect and restore habitat (including, for example, the Wildlife Habitat Special Tax Assessment Program, ORS 308A.400 through 308A.430, and the Riparian Habitat Tax Exemption Program, ORS 308A.350 through 308A.383);
 - (iv) Habitat-friendly development standards to reduce the detrimental impact of storm water run-off on riparian habitat;
 - (v) A local habitat acquisition program; and
 - (vi) Maintaining and enhancing publicly-owned habitat areas, such as by:
 - a) Using habitat-friendly best management practices, such as integrated pest management programs, in all regionally significant habitat areas within publicly-owned parks and open spaces;
 - b) Ensuring that publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development are managed to maintain and enhance the quality of fish and wildlife habitat that they provide; and
 - c) Pursuing funding to support local park, open space, and habitat acquisition and restoration, such as with local

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bond measures, ~~System-system Development development Charge-charge (SDC)~~ programs, Federal Emergency Management Act (FEMA) grants, or other funding mechanisms.

(4) District Plans

- (aA) Adopt one or more district plans that apply over portions of the city or county, and demonstrate that, for the remainder of its jurisdiction, the city or county has a program that complies with either ~~Metro Code Section paragraphs 3.07.1330(b)(b)(1) or Metro Code Section 3.07.1330(b)(2) of this subsection.~~ If a city or county adopts one or more district plans pursuant to this paragraph (4), it ~~shall~~ must demonstrate that, within each district plan area, the district plan complies with ~~Metro Code Section paragraph 3.07.1330(b)(b)(3) of this subsection.~~ District plans ~~shall~~ must be permitted under this ~~subsection paragraph (4)~~ only for areas within a common watershed, or which are within areas in adjoining watersheds that share an interrelated economic infrastructure and development pattern. Cities and counties that choose to develop district plans are encouraged to coordinate such district plans with other entities whose activities impact the same watershed to which the district plan applies, including other cities and counties, special districts, state and federal agencies, watershed councils, and other governmental and non-governmental agencies.
- (bB) The City of Portland ~~shall~~ must develop a ~~District district Plan plan~~ that complies with ~~Metro Code Section paragraph 3.07.1330(b)(b)(4)(aA) of this subsection,~~ in cooperation with the Port of Portland, that applies to West Hayden Island; or

- (5) For a city or county that is a member of the Tualatin Basin Natural Resources Coordinating Committee (~~the "TBNRCC,"~~) – which includes Washington County and the cities of Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin) –, amend its comprehensive plan and implementing ordinances or regulations to comply with the maps and provisions of the TBNRCC Statewide Planning Goal 5 Program, attached hereto³ and incorporated herein by reference, adopted by the TBNRCC on April 4, 2005 (the "Tualatin Basin Program"), subject to the intergovernmental agreement entered into between Metro and the TBNRCC. All other provisions of this ~~Metro Code Section 3.07.1330,~~ as well as ~~Metro Code Section 3.07.1360,~~ ~~shall~~ must still apply to each city and county that is a member of the TBNRCC. In addition, in order for a city or county that is a member of the TBNRCC to be in compliance with this ~~functional plan~~ chapter, the following conditions must be satisfied:

³ ~~On file in the Metro Council office and copies available from the Metro Planning, Development and Research Department.~~

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- (aA) Within the compliance timeline described in ~~Paragraph~~ paragraph 6 of the Intergovernmental Agreement entered into between Metro and the TBNRCC, the TBNRCC and its members comply with the six ~~(6)~~ steps identified in section B of ~~Chapter~~ chapter 7 of the Tualatin Basin Program;
- (bB) Clean Water Services approves and begins implementing its Healthy Streams Plan;
- (cC) The TBNRCC members agree to renew and extend their partnership to implement the projects on the Healthy Streams Project List and target projects that protect and restore Class I and II Riparian Habitat, including habitat that extends beyond the Clean Water Services "vegetated corridors," and the TBNRCC ~~shall~~ must continue to coordinate its activities with Metro and cooperate with Metro on the development of regional public information about the Nature in Neighborhoods Initiative;
- (dD) The city or county has adopted provisions to 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~~ Metro Habitat Inventory Map. Table 3.07-13c, Habitat-Friendly Development Practices, provides examples of the types of habitat-friendly development practices that ~~shall~~ must be encouraged and considered;
- (eE) The city or county has adopted provisions to allow for the reduction of the density and capacity requirements of Title 1 of this chapter, Housing Capacity, of the Urban Growth Management Functional Plan, Metro Code Sections 3.07.110 to 170, consistent with Metro Code Section section 3.07.1330(h). Particularly, the provisions ~~shall~~ must:
 - (1i) apply only to properties that were within the ~~Metro urban growth boundary~~ UGB on January 1, 2002; (2ii) require the protection of regionally significant habitat on the property, such as via a public dedication or restrictive covenant; and (3iii) allow only for a reduction in the minimum number of units required to be built based on the amount of area protected as provided in preceding part (2ii) of this paragraph. ~~In addition, cities and counties will be required to report to Metro as provided in Metro Code Section 3.07.1330(h)(3);~~
- (fF) The city or county complies with the provisions of ~~Metro Code Section paragraphs 3.07.1330(b)(1) to (b)(3) of this subsection~~ as those provisions apply to upland wildlife habitat in territory added to the ~~Metro urban growth boundary~~ UGB after December 28, 2005. For example, ~~(1) each city and county shall~~ must either: (i) adopt and apply Metro's the Title 13 Model Ordinance to upland wildlife habitat in new urban areas; ~~(2ii) substantially comply with the requirements~~

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of ~~Metro Code Section 3.07.1340~~ as it applies to upland wildlife habitat in new urban areas, ~~or (3iii)~~ demonstrate that it has implemented an alternative program that will achieve protection and enhancement of upland wildlife habitat in new urban areas comparable with the protection and restoration that would result from one of the two previous approaches described in this sentence; and

(gG) The TBNRCC and the city or county complies with the monitoring and reporting requirements of ~~Metro Code Section 3.07.1360~~.

(c) The comprehensive plan and implementing ordinances or regulations relied upon by a city or county to comply with this title ~~shall~~ must contain clear and objective standards. A standard ~~shall be~~ is considered clear and objective if it ~~meets any one of the following criteria~~ is:

- (1) ~~It is a~~ A fixed numerical standard, such as fixed distance (e.g. "50 feet") or land area (e.g. "~~1~~ one acre");
- (2) ~~It is a~~ A nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or
- (3) ~~It is a~~ A performance standard that describes the outcome to be achieved, specifies the objective criteria to be used in evaluating outcome or performance, and provides a process for application of the performance standard, such as a conditional use or design review process.

(d) In addition to complying with subsection (c) of this section, the comprehensive plan ~~and or~~ implementing ordinances or regulations that a city or county relies upon to satisfy the requirements of this title may include an alternative, discretionary approval process that is not clear and objective, provided that ~~the comprehensive plan and implementing ordinance provisions of such a~~ discretionary approval process:

- (1) ~~Specify~~ Specifies that property owners have the choice of proceeding under either the clear and objective approval process, which each city or county must have pursuant to subsection (c) of this section, or under the alternative, discretionary approval process; and
- (2) ~~Requires~~ a level of protection for, or enhancement of, the fish and wildlife habitat that meets or exceeds the level of protection or enhancement that would be achieved by following the clear and objective standards ~~described in~~ required by subsection (c) of this section.

(e) Use of Habitat-Friendly Development Practices ~~in in~~ Regionally Significant Fish ~~And~~ and Wildlife Habitat.

- (1) Each city and county in the region ~~shall~~ must:
 - (A) Identify provisions in the city's or county's comprehensive plan and implementing ordinances or regulations that prohibit or limit the use

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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 or regulations to remove the barriers identified pursuant to ~~subsection (e)(1)(a) of this section~~ paragraph (1)(A) of this subsection, and ~~shall remove such barriers~~ so that such habitat-friendly development practices may be used, where practicable, in all regionally significant fish and wildlife habitat; provided, however that such practices ~~shall may~~ not be permitted if their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Clean Water Act, 33 U.S.C. §§1251 et seq., or the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit.
- (2) Metro ~~shall must~~ provide technical assistance to cities and counties to comply with the provisions of this subsection (e) ~~of this section~~.
- (f) Cities and counties ~~shall must~~ hold at least one public hearing prior to adopting comprehensive plan amendments, implementing ordinances or regulations, and maps implementing this title or demonstrating that existing city or county comprehensive plans, implementing ordinances or regulations, and maps substantially comply with this title. The proposed comprehensive plan amendments, implementing ordinances or regulations, and maps ~~shall must~~ be available for public review at least ~~45~~ 35 days prior to the public hearing.
- (g) The comprehensive plan provisions and implementing ordinances or regulations that each city or county amends, adopts, or relies on to comply with this title ~~shall~~ must provide property owners with a reasonable, timely, and equitable process to verify the specific location of habitat areas subject to the provisions of the city's or county's comprehensive plan and implementing ordinances or regulations. It is the intent of this requirement that, in the majority of cases, the process be as simple and straightforward as possible and not result in a change that would require an amendment to the city's or county's comprehensive plan. Such a process shall must:
 - (1) Allow a property owner, or another person with the property owner's consent, to confirm the location of habitat on a lot or parcel at any time, whether or not the property owner has submitted a specific request for a development permit, provided, however, that a city or county may impose a fee to cover the actual staff, equipment and other administrative costs of providing such a service;
 - (2) As often as reasonably possible, provide a simple, default approach that allows a property owner to verify the location of habitat on a lot or parcel without having to hire an environmental consultant and without having to pay a significant processing or application fee;

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- (3) Allow a property owner to present detailed documentation to verify the location of habitat on a lot or parcel, such as information collected and analyzed by an environmental consultant; and
 - (4) Ensure that the process provides adequate opportunities for appeals and a fair and equitable dispute resolution process, consistent with state law.
- (h) Reducing Regional Density and Capacity Requirements to ~~Allow~~ Facilitate Habitat Protection.
- (1) Notwithstanding ~~the any contrary provisions of Metro Code Section 3.07.120~~, cities and counties may approve a ~~subdivision and division~~ or development application for a property that will result in a density below the minimum density ~~otherwise required for~~ in 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 having regionally significant fish and wildlife habitat on the ~~Metro~~ Metro Habitat Inventory Map or as having a significant resource on a local Statewide Planning 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~~ by way of 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~~ is calculated by subtracting the number of square feet of regionally significant fish and wildlife habitat or significant resource that is permanently protected under ~~subsection paragraph (h)(1)(C) of this subsection~~ 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 difference between the number of dwelling units that the city or county approved to be built pursuant to subsection (h)(1) of this section and the minimum number of dwelling units that would have otherwise been required to be built on the property pursuant to the applicable minimum density requirements for~~

~~the zoning district where the property is located; and~~

~~(B) Report to Metro by April 15 of every year the number of approvals made pursuant to this subsection (h) of this section, including documentation that the factors in subsection (h)(1) had been satisfied for each such approval, and the capacity offsets that the city or county shall be afforded as a result of such approvals. [Ord. 05-1077C, Sec. 5. Ord. 15-1357.]~~

3.07.1340 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 or regulations to comply, in whole or in part, with ~~Metro Code Section~~ section 3.07.1330(b)(2):

- (a) City and county comprehensive plans and implementing ordinances or regulations ~~shall~~ must conform to the following performance standards and best management practices:
 - (1) ~~Habitat Conservation Area~~HCAs ~~shall~~ must be protected, maintained, enhanced, and restored as specified in this ~~Metro Code Section 3.07.1340~~, 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 to 3.07.360~~ shall continue to apply.
 - (3) ~~The~~ However, the performance standards and best management practices of this ~~Metro Code Section 3.07.1340~~ shall do not apply:
 - (A) When the application of such standards and practices would restrict or regulate farm structures or farming practices in violation of ORS 215.253 or ORS 561.191; or
 - (B) In areas outside of the ~~Metro~~-UGB but within the Metro boundary at the effective date of this title:
 - (i) 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
 - (ii) 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 or regulations that are approved pursuant to

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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).

- (4) The performance standards and best management practices of this ~~Metro Code Section 3.07.1340~~ shall also do 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~~ 10 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.
- (5) ~~Habitat Conservation Area~~ HCAs within publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development shall must be protected and managed so that the quality of fish and wildlife habitat that they provide is maintained and enhanced, and that habitat-friendly best management practices, such as integrated pest management programs, are used in such areas.
- (6) Invasive non-native or noxious vegetation shall may not be planted in any ~~Habitat Conservation Area~~ HCA. The removal of invasive non-native or noxious vegetation from ~~Habitat Conservation Area~~ HCAs shall must be allowed. The planting of native vegetation shall must be encouraged in ~~Habitat Conservation Area~~ HCAs.
- (7) Except as provided in ~~subsection paragraph (a)~~ (8) of this subsection, routine repair, maintenance, alteration, rehabilitation, or replacement of existing structures, roadways, driveways, utilities, accessory uses, or other development within ~~Habitat Conservation Area~~ HCAs 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~~ HCA 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) Notwithstanding ~~subsection paragraph (a)~~ (7) of this subsection, when a city or county exercises its discretion to approve zoning changes to allow a

developed property that contains an ~~Habitat Conservation Area~~HCA to ~~(1)change from an industrial or heavy commercial zoning designation to a residential or mixed-use/residential designation, or (2)to increase the type or density and intensity of development in any area, then the city or county shall~~must apply the provisions of this ~~Metro Code Section 3.07.1340~~, or provisions that will achieve substantially comparable habitat protection and restoration as do the provisions of this section. 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) Any activity within ~~Habitat Conservation Area~~HCA 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~~may be allowed provided that mitigation for any such projects is completed in compliance with mitigation requirements adopted pursuant to ~~subsections paragraphs (b)(1), (b)(2)(C), and (b)(3) of this section 3.07.1340(b).~~ In addition, habitat mitigation for any development within ~~Habitat Conservation Area~~HCA on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, ~~shall~~may be permitted at any property located within the same 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.
- (10) Within ~~Habitat Conservation Area~~HCA 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 and flood control facilities, and existing 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 applicable to existing facilities and required to be undertaken pursuant to ~~ORS Chapters chapters~~ 547 or 554 or Titles 33 or 44 of the Code of Federal Regulations, ~~shall~~may be allowed provided that:
 - (A) The project is consistent with all other applicable local, state, and federal laws and regulations;

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- (B) The project does not encroach closer to a surface stream or river, wetland, or other body of open water than existing operations and development;
 - (C) Disturbed areas are replanted with vegetation and no bare soils remain after project completion; the planting of native vegetation and removal of invasive non-native or noxious vegetation is encouraged; and invasive non-native or noxious vegetation shall not be planted; and
 - (D) Each district submits an annual report, to all local permitting agencies in which the district operates, describing the projects the district completed in the previous year and how those projects complied with all applicable federal and state laws and requirements.
- (b) City and county comprehensive plans and implementing ordinances or regulations shall ~~must~~ contain review standards applicable to development in all ~~Habitat Conservation Area~~HCAs that include:
- (1) Clear and objective development approval standards consistent with ~~Metro Code Section 3.07.1330(c)~~ that protect ~~Habitat Conservation Area~~HCAs but which allow limited development within ~~High Habitat Conservation Area~~HCAs, slightly more development in Moderate ~~Habitat Conservation Area~~HCAs, and even more development in Low ~~Habitat Conservation Area~~HCAs. Such standards shall ~~must~~ 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 Area~~HCAs, 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 Area~~HCAs, shall ~~must~~ be allowed, encouraged, or required to the extent that cities and counties can develop clear and objective standards for their use, unless their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Clean Water Act, 33 U.S.C. §§1251 et seq., or the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit. The clear and objective development standards required by this paragraph also shall ~~must~~ require that all development in ~~Habitat Conservation Area~~HCAs 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~~paragraph and ~~Metro Code Section 3.07.1330(c)~~ are provided in ~~Section~~section (7) of the ~~Metro Title 13 Model Ordinance~~⁴; and

⁴ On file in the Metro Council office and copies available from the Metro Planning, Development and Research

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- (2) Discretionary development approval standards consistent with ~~Metro Code Section 3.07.1330(d)~~ that comply with ~~subsections paragraphs (b)(2)(A), (b)(2)(B), and (b)(2)(C) of this subsection (b).~~ Standards that meet the requirements of ~~this subsection paragraph (b)(2)~~ and ~~Metro Code Section 3.07.1330(d)~~ are provided in ~~Section section (8) of the Metro Title 13 Model Ordinance.~~ In the alternative to adopting the model ordinance, the local approval standards must achieve the following:

(A) ~~Avoid Habitat Conservation AreaHCAs, as follows:-~~

- (i) Development may occur within an ~~Habitat Conservation AreaHCA~~ only if a property owner demonstrates that no practicable alternatives to the requested development exist which will not disturb the ~~Habitat Conservation AreaHCA~~;
- (ii) When implementing this requirement to determine whether a practicable alternative exists, cities and counties ~~shall~~ must include consideration of the type of ~~Habitat Conservation AreaHCA~~ that will be affected by the proposed development. For example, High ~~Habitat Conservation AreaHCAs~~ 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 AreaHCAs~~ 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~~ must allow flexibility in the application of local code requirements that may limit a property owner's ability to avoid development in ~~Habitat Conservation AreaHCAs~~, such as setback and landscaping requirements or limits on clustering and the transfer of development rights on-site. Property owners ~~shall~~ must 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~~ must be part of the alternatives analysis to determine whether any alternative to development within the ~~Habitat Conservation AreaHCA~~ is practicable; and

(B) ~~Minimize Impacts on Habitat Conservation AreaHCAs and Water~~ water Quality, as follows:

- (i) If there is no practicable alternative, limit the development to minimize, to the extent practicable, the detrimental impacts on ~~Habitat Conservation AreaHCAs~~ associated with the proposed development;

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- (ii) When implementing this requirement to determine whether development has been minimized to the extent practicable, cities and counties ~~shall~~must include consideration of the type of ~~Habitat Conservation Area~~HCA that will be affected by the proposed development. For example, High ~~Habitat Conservation Area~~HCAs 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 Area~~HCAs 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 paragraph (b)(2)(A)(iii)~~ of this ~~subsection (b)~~subsection ~~shall~~must be used to demonstrate that development within an ~~Habitat Conservation Area~~HCA has been minimized. In addition, the magnitude of the impact of development within ~~Habitat Conservation Area~~HCAs also ~~shall~~must be minimized, such as by use of the habitat-friendly development practices described in Table 3.07-13c, unless the use of such practices is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Clean Water Act, 33 U.S.C. §§1251 et seq., or the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit; and
- (C) Mitigate Impacts on ~~Habitat Conservation Area~~HCAs and ~~Water~~water ~~Quality~~quality, as follows:
 - (i) 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.
- (3) When development occurs within delineated wetlands, then the mitigation required under ~~subsections paragraphs (b)(1) and (b)(2)~~ of this ~~subsection (b)~~subsection ~~title shall~~may not require any additional mitigation than the mitigation required by state and federal law for the fill or removal of such wetlands.
- (c) City and county comprehensive plans and implementing ordinances or regulations ~~shall~~must include procedures to consider claims of hardship and to grant hardship variances for any property demonstrated to be converted to an unbuildable lot or parcel by application of any provisions implemented to comply with the requirements of this title.

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- (d) As for administering the *Habitat Conservation Areas Map* and *Site-Level level Verification-verification of Habitat-habitat Location-location*:
- (1) Each city and county ~~shall be~~ is responsible for administering the *Habitat Conservation Areas Map*, or the city's or county's map that has been deemed by Metro to be in substantial compliance with the *Habitat Conservation Areas Map*, within its jurisdiction, as provided in this subsection (d) ~~of this section~~.
 - (2) The comprehensive plan and implementing ordinances or regulations amended, adopted or relied upon to comply with this subsection (d) ~~of this section~~ shall comply with ~~Metro Code section 3.07.1330(g)~~.
 - (3) ~~Verification of the Location of Habitat Conservation Areas~~. Each city and county ~~shall~~ must establish a site-level verification process consistent with ~~subsections paragraphs (d)(4) through (d)(6) of this subsection~~. The site-level verification of ~~Habitat Conservation Area~~ HCAs is a three-step process. The first step is determining the boundaries of the habitat areas on the property, as provided in ~~subsection paragraph (d)(4) of this subsection~~. The second step is determining the urban development value of the property, as provided in ~~subsection paragraph (d)(5) of this subsection~~. The third step is cross-referencing the habitat classes with the urban development value of the property to determine whether the property contains High, Moderate, or Low ~~Habitat Conservation Area~~ HCAs, or none at all, as provided in ~~subsection (d) paragraph (6) of this subsection~~.
 - (4) As for locating *Habitat-habitat Boundaries-boundaries*:
 - (A) Locating riparian habitat and determining its habitat class is a five-step process, as follows:
 - (i) Step 1. Locate the water feature that is the basis for identifying riparian habitat:
 - 1) Locate the top of bank of all streams, rivers, and open water within 200 feet of the property;
 - 2) Locate all flood areas within 100 feet of the property (areas that were mapped as flood areas but were filled to a level above the base flood level prior to the local program effective date, consistent with all applicable local, state, and federal laws and regulations shall no longer be considered habitat based on their status as flood areas); and
 - 3) Locate all wetlands within 150 feet of the property based on the Local-local Wetland-wetland Inventory inventory map (if completed) and on the *Metro 2004 Wetland Inventory Map* adopted as Exhibit C, Attachment 3 to Metro Council Ordinance No. 05-10778B ~~(available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-~~

797-1742). Identified wetlands ~~shall~~must be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.

- (ii) Step 2. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas:
 - 1) Vegetative cover status ~~shall~~must be as identified on the *Metro Vegetative Cover Map*, ~~attached hereto⁵ and incorporated herein by reference~~originally adopted as Exhibit C, Attachment 5 to Metro Council Ordinance No. 05-1077B. The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs; and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as "forest canopy" the forested area had to be part of a larger patch of forest of at least one acre in size; and
 - 2) In terms of mapping the location of habitat, the only allowed corrections to the vegetative cover status of a property are those based on an area being developed prior to the local program effective date and those based on errors made at the time the vegetative cover status was determined based on analysis of the aerial photographs used to create the *Metro Vegetative Cover Map* (for the original map, the aerial photos used were Metro's summer 2002 photos) and application of the vegetative cover definitions provided in the footnotes to Table 3.07-13d, *Locating Boundaries of Class I and II Riparian Areas*.
- (iii) Step 3. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than ~~25%~~percent (using the methodology described in the Appendix to Exhibit A to Metro Council Ordinance No. 00-839 re-adopting Title 3 of the Urban Growth Management Functional Plan).
- (iv) Step 4. Identify the habitat class (Class I, Class II, or none) of the areas within up to 200 feet of the identified water feature, consistent with Table 3.07-13d. Note that areas that have been identified as ~~habitats~~Habitats of concern~~Concern~~, as depicted

⁵ ~~On file in the Metro Council office and copies available from the Metro Data Resource Center.~~

on the ~~Metro~~ *Habitats of Concern Map*, attached hereto⁶ and incorporated herein by reference adopted as Exhibit C, Attachment 6 to Metro Council Ordinance No. 05-1077B with any subsequent amendments, are all classified as Class I riparian habitat.

- (v) Step 5. Confirm that the development and vegetative cover status of areas within up to 200 feet of the identified water feature has not been altered without the required approval of the city or county since the local program effective date and, if it has, then verify the original habitat location using the best available evidence of its location on the local program effective date.
- (B) For territory brought within the Metro UGB after December 28, 2005, the location of upland wildlife habitat and its habitat class ~~shall~~ must be as identified ~~in Metro's habitat inventory~~ *Metro Habitat Inventory Map* of such territory performed pursuant to ~~Metro Code~~ Section 3.07.1370. The only factors that may be reviewed to verify the location of upland wildlife habitat ~~shall~~ may be:
 - (i) For territory that was within the Metro boundary on December 28, 2005, whether regionally significant fish and wildlife habitat was removed, consistent with all other applicable local, state, and federal laws and regulations, prior to the date that the property was brought within the Metro UGB and, if so, then areas where habitat was removed ~~shall~~ may not be identified as ~~Habitat Conservation Area~~ HCAs;
 - (ii) Whether errors were made at the time the vegetative cover status was determined based on: (1) analysis of the aerial photographs used to determine the vegetative cover status;⁷ and (2) application of the vegetative cover definitions provided in the footnotes to Table 3.07-13d; and
 - (iii) Whether there are discrepancies between the locations of property lot lines and the location of ~~Habitat Conservation Area~~ HCAs, as shown on the *Habitat Conservation Areas Map*.
- (e5) ~~Urban Development Value of the Property.~~ The urban development value of property designated as regionally significant habitat is depicted on the ~~Metro Habitat Urban Development Value Map~~, attached hereto⁷ and incorporated herein by reference adopted as Exhibit C, Attachment 4 to Metro Council Ordinance No. 05-1077B with any subsequent amendments. The ~~Metro Habitat Urban Development Value Map~~ is based on an assessment of three variables, the land value of property, the employment value of property, and the Metro 2040 Design Type designation of property. Cities and counties

⁶—On file in the Metro Council office and copies available from the Metro Data Resource Center.

⁷—On file in the Metro Council office and copies available from the Metro Data Resource Center.

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~~shall~~must make an upward adjustment of a property's urban development value designation (i.e., from low to medium or high, or from medium to high) if:

- (A) The Metro 2040 Design Type designation has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. Properties in areas designated as the Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas are considered to be of high urban development value; properties in areas designated as Main Streets, Station Communities, ~~Other~~ Industrial Areas, and Employment ~~Centers~~ Areas are of medium urban development value; and properties in areas designated as Neighborhoods and Corridors are of low urban development value; or
- (B) The property, or adjacent lots or parcels, is owned by a ~~regionally~~ Regionally significant ~~Significant educational~~ Educational or ~~medical~~ Medical facility 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~~ people of the region.
 - (i) The following facilities are ~~regionally~~ Regionally significant ~~Significant educational~~ Educational or ~~medical~~ Medical facilities Facilities, as further identified on the *Regionally Significant Educational or Medical Facilities Map*, ~~attached hereto~~⁸ adopted as Exhibit C, Attachment 6 to Metro Council Ordinance No. 05-1077B:
 - 1) Clackamas Community College, 19600 S. Molalla Ave., Oregon City;
 - 2) Lewis & Clark College, 0615 SW Palatine Hill Rd., Portland;
 - 3) Marylhurst University, 17600 Hwy 43, in Lake Oswego;
 - 4) Mt. Hood Community College, 26000 SE Stark St., Gresham;
 - 5) Oregon Health Sciences University, 3181 SW Sam Jackson Park Rd., Portland;
 - 6) Oregon Health Sciences University, Portland South Waterfront, Portland;
 - 7) Oregon Health Sciences University /Oregon Graduate Institute, 20000 NW Walker, Hillsboro;
 - 8) Pacific University, 2043 College Way, Forest Grove;

⁸ ~~On file in the Metro Council office.~~

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- 9) Portland Community College, Rock Creek Campus, 17865 NW Springdale Rd., Portland;
- 10) Portland Community College, Sylvania Campus, 12000 SW 49th Ave., Portland;
- 11) Providence St. Vincent Medical Center, 9115 SW Barnes Rd., Portland;
- 12) Reed College, 3203 SE Woodstock Blvd., Portland;
- 13) University of Portland, 5000 N. Willamette Blvd., Portland; and
- 14) Veterans Hospital, 3710 SW U.S. Veterans Hospital Rd., Portland.

(ii) The Metro Council may add a property to the list of facilities identified in ~~subsection paragraph (d)~~(5)(B)(i) of this subsection in the future by adopting an ordinance amending that section if the Metro Council finds that the use of the property:

- 1) Supports the 2040 Growth Concept by providing a mixed-use environment that may include employment, housing, retail, cultural and recreational activities, and a mix of transportation options such as bus, bicycling, walking, and auto;
- 2) Provides, as a primary objective, a service that satisfies a public need rather than just the consumer economy (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.

~~(f6) Cross-Referencing Habitat Class With Urban Development Value. City and county verification of the locations of High, Moderate, and Low Habitat Conservation Area HCA shall must be consistent with Tables 3.07-13a and 3.07-13b. -[Ord. 05-1077C, Section 5.]~~

3.07.1350 Claims Pursuant to ORS 195.305 (Ballot Measure 49)

- (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 195.305 (Ballot Measure 49) 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

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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~~ will 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 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 reduces the fair market value of the property, a city or county ~~shall~~ must forward a copy of the demand to Metro no later than seven ~~(7)~~ days following receipt of the demand; and
 - (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 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~~ must 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. -[Ord. 05-1077C, Section 5. Ord. 15-1357-].]

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.

- (a) The following program objectives are established:
- (1) Performance objectives:

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- (A) Preserve and improve streamside, wetland, and floodplain habitat and connectivity;
 - (B) Preserve large areas of contiguous habitat and avoid habitat fragmentation;
 - (C) Preserve and improve connectivity for wildlife between riparian corridors and upland wildlife habitat; and
 - (D) Preserve and improve special habitats of concern, such as native oak habitats, native grasslands, wetlands, bottomland hardwood forests, and riverine islands.
- (2) Implementation objectives:
 - (A) Increase the use of habitat-friendly development throughout the region; and
 - (B) Increase restoration and mitigation actions to compensate for adverse effects of new and existing development on ecological function.
- (b) Program Monitoring and Evaluation.
 - (1) Metro will monitor the region's progress toward meeting the vision of conserving, protecting, and restoring the region's fish and wildlife habitat and the intent of this title by:
 - (A) Developing and monitoring regional indicators and targets ~~as set forth in Table 3.07-13e~~ to evaluate progress in achieving the four performance objectives described in subsection (a)(1) of this section;
 - (B) Developing and monitoring regional indicators ~~as set forth in Table 3.07-13e~~ to evaluate progress in achieving the two implementation objectives described in subsection (a)(2) of this section; and
 - (C) Collaborating with local, state, and federal agencies and non-governmental organizations in carrying out field studies and data sharing to increase understanding of the health of the region's watersheds and to identify restoration opportunities and priorities; ~~and,~~
 - (D) Preparing and presenting monitoring and program evaluation reports ~~to Metro Council no later than December 31, 2006, and by December 31 of each even-numbered year thereafter~~ when directed by the Metro Council.
 - (2) Metro will practice adaptive management by using the results of monitoring studies and the availability of new information to assess whether the goals, objectives, and targets of this title are being achieved.
- (c) Reporting Requirements for Cities and Counties.

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- (1) ~~Cities and counties shall report to Metro 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~~
- (21) At least ~~45-35~~ days prior to a city's or county's ~~final~~ first public hearing on a proposed new or amended ordinance or regulation relating to protection of, or mitigation of damage to, habitat, trees or other vegetation, cities and counties ~~shall~~ must mail written notice of the proposed ordinance or regulation to Metro. Cities and counties that require applications for land use approvals or building, grading, or tree removal permits to include documentation that the development meets habitat, tree, or vegetation protection and mitigation requirements adopted by a special district, including any county service district established pursuant to ORS chapter 451, ~~shall~~ must mail written notice to Metro of any proposed new or amended ordinance or regulation relating to protection of, or mitigation of damage to, trees or other vegetation that is proposed by such a special district at least ~~45-35~~ days prior to the special district's ~~final~~ first public hearing on the proposed new or amended ordinance or regulation.
- (d) Regional Data Coordination and Maintenance.

 - (1) Metro will act as the regional coordinator for Geographic Information System (GIS) data used to create and maintain the ~~Regionally Significant Fish and Wildlife Habitat~~ Metro Habitat Inventory Map and other data relevant to program implementation, monitoring, and evaluation. To carry out this role cities and counties shall provide Metro with local data in a timely fashion and in a form compatible with Metro's GIS program. To the extent that such data is collected by county service districts established pursuant to ORS chapter 451, then the county in which the county service district operates ~~shall~~ must comply with this section. Such data ~~shall~~ must include:

 - (A) Adopted and revised ~~L~~local ~~W~~wetland ~~I~~inventories approved by the Division of State Lands and those determined to be locally significant under ORS 197.279(3)(b);
 - (B) Wetland mitigation sites approved by the Division of State Lands or U.S. Army Corps of Engineers;
 - (C) For cities and counties that have not carried out ~~L~~local ~~W~~wetland ~~I~~inventories, wetland boundaries delineated using accepted protocols by Division of State Lands or U.S. Army Corps of Engineers;
 - (D) Revised or updated local surface stream inventories;
 - (E) Revised or updated 100-year Federal Emergency Management Act (FEMA) flood area maps or revisions to the 1996 area of inundation maps to incorporate FEMA-approved floodplain map revisions or floodplain fills approved by the U.S. Army Corps of Engineers;
 - (F) Completed restoration and enhancement projects; and

- (G) Revised or updated ~~Metro~~Habitats of Concern data layer.
- (2) Metro will periodically update its ~~Regionally Significant Fish and Wildlife Habitat~~Metro Habitat Inventory Map for use in program monitoring and evaluation. Metro will maintain a study area boundary one mile beyond the perimeter of the Metro boundary and ~~Metro Urban Growth Boundary~~UGB.
[Ord. 05-1077C, Sec. 5. Ord. 15-1357.]

3.07.1370 Future Metro Urban Growth Boundary Expansion Areas

The *Metro Habitat Inventory Map* identifies regionally significant fish and wildlife habitat within the entire Metro boundary, including areas outside of the ~~Metro~~UGB at the time this title was adopted. As described in ~~Metro Code~~ Section 3.07.1320, the Metro Council has designated as ~~Habitat Conservation Area~~HCAs the regionally significant fish and wildlife habitat that has been identified as riparian Class I and II habitat within the Metro boundary. In addition, the Metro Council has also determined that the regionally significant fish and wildlife habitat identified as upland wildlife Class A and B habitat that is currently outside of the ~~Metro~~UGB ~~shall~~must be designated as ~~Habitat Conservation Area~~HCAs at such time that those areas are brought within the ~~Metro~~UGB. Territory where the ~~Metro~~UGB may expand includes both areas within the current Metro boundary and areas outside of the current Metro boundary.

- (a) New Urban Territory that was Previously Within the Metro Boundary.

The *Metro Habitat Inventory Map* already identifies the regionally significant upland wildlife Class A and B habitat in territory within the current Metro boundary but outside the current ~~Metro~~UGB. ~~At the time such~~After the territory is brought within the ~~Metro~~UGB, ~~consistent with Title 11 of this functional plan, Metro Code Sections 3.07.1110 et seq., and before the area is planned pursuant to section 3.07.1120, Metro, by order of the COO, shall~~must update its inventory of regionally significant fish and wildlife habitat ~~and Metro Habitat Inventory Map~~ for such territory using the same methodology used by Metro to establish the *Metro Habitat Inventory Map*. Based on the updated *Metro Habitat Inventory Map*, Metro, ~~by order of the COO, shall~~must ~~prepare a~~update the *Habitat Conservation Areas Map* for such new territory, as described in ~~Metro Code~~ Section 3.07.1320(b)(c), using the 2040 Design Types that are assigned to such territory to determine the area's urban development value.

- (b) New Urban Territory that was Previously Outside of the Metro Boundary.

~~At the time~~After such territory is brought within the ~~Metro~~UGB, ~~consistent with Title 11 of this functional plan, Metro Code Sections 3.07.1110 et seq., and before the area is planned pursuant to section 3.07.1120, Metro, by order of the COO, shall~~must ~~prepare a~~update its inventory of regionally significant fish and wildlife habitat ~~and Metro Habitat Inventory Map~~ for such territory using the same methodology used by Metro to establish the *Metro Habitat Inventory Map*. ~~Upon adoption of such inventory, Metro shall update its Metro Inventory Map to include such information.~~ Based on the updated *Metro Habitat Inventory Map*, Metro, ~~by order of the COO, shall~~must ~~prepare a~~update the *Habitat Conservation Areas Map* for such new territory, as described in ~~Metro Code~~ Section 3.07.1320(b), using the

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2040 Design Types that are assigned to such territory to determine the area's urban development value.

- (c) Metro recognizes that the assigned 2040 Design Types may change as planning for territory added to the Metro UGB progresses, and that the relevant ~~Habitat Conservation Area~~HCA designations will also change as a result of the 2040 Design Type changes during such planning. Updates to the *Metro Habitat Inventory Map* or to the *Habitat Conservation Areas Map* may be made by order of the COO in order to reflect changes in 2040 Design Type designations. -[Ord. 05-1077C, Sec. 5.]

Table 3.07-13a: Method for Identifying Habitat Conservation Areas ("HCAs")

Fish & wildlife habitat classification	High Urban development value¹	Medium Urban development value²	Low Urban development value³	Other areas: Parks and Open Spaces, no design types outside UGB
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
Class A Upland Wildlife	No HCA	No HCA	No HCA	No HCA / High HCA ⁵ / High HCA+ ⁴
Class A Upland Wildlife	No HCA	No HCA	No HCA	No HCA / High HCA ⁵ / High HCA+ ⁴

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 ~~Metro Code Section 3.07.1340(e)(5)~~.

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

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

³ ~~Tertiary 2040 design~~ Design types ~~Types~~: Neighborhoods, Corridors

⁴ Cities and counties ~~shall~~ must give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas even greater protection than that afforded to High Habitat Conservation Areas (HCAs), as provided in ~~Metro Code Section 3.07.1340(a)(5)~~.

⁵ All Class A and B upland wildlife habitat in publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, ~~shall be considered~~ are High HCAs.

Table 3.07-13b: Method for Identifying Habitat Conservation Areas ("HCAs") in Future Metro Urban Growth Boundary/UGB Expansion Areas

Fish & wildlife habitat classification	High Urban development value ¹	Medium Urban development value ²	Low Urban development value ³	Other areas: Parks and Open Spaces, no design types outside UGB
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
Class A Upland Wildlife	Low HCA	Moderate HCA	Moderate HCA	High HCA / High HCA ⁵ / High HCA ⁴
Class B Upland Wildlife	Low HCA	Low HCA	Moderate HCA	Moderate HCA / High HCA ⁵ / High HCA ⁴

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 ~~Metro Code Section 3.07.1340(e)(5) of subsection 3.07.1340(e).~~

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

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

³ Tertiary 2040 ~~design~~ Design types ~~Types~~: Neighborhoods, Corridors

⁴ Cities and counties ~~shall~~ must give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas even greater protection than that afforded to High Habitat Conservation Areas (HCAs), as provided in ~~Metro Code Section 3.07.1340(a)(5).~~

⁵ All Class A and B upland wildlife habitat in publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, ~~shall be considered~~ are High HCAs.

Table 3.07-13c--: ~~Habitat-friendly~~ Friendly Development Practices

<i>Part (a): Design and Construction Practices to Minimize Hydrologic Impacts</i>	
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 rights-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 rights-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.

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

Table 3.07-13d: Locating Boundaries of Class I and II Riparian Areas

Distance from Water Feature	Development/Vegetation Status ¹			
	Developed areas not providing vegetative cover ²	Low structure vegetation or open soils ³	Woody vegetation (shrub and scattered forest canopy) ⁴	Forest Canopy (closed to open forest canopy) ⁵
Surface Streams				
0-50'	Class II ⁶	Class I ⁷	Class I	Class I
50'-100'		Class II ⁶	Class I	Class I
100'-150'		Class II if slope > <u>25% percent</u> ⁶	Class II if slope > <u>25% percent</u> ⁶	Class II ⁶
150'-200'		Class II if slope > <u>25% percent</u> ⁶	Class II if slope > <u>25% percent</u> ⁶	Class II if slope > <u>25% percent</u> ⁶
Wetlands (Wetland feature itself is a Class I Riparian Area)				
0-100'		Class II ⁶	Class I	Class I
100'-150'				Class II ⁶
Flood Areas				
Within 300' of river or surface stream		Class I	Class I	Class I
More than 300' from river or surface stream	⁸	Class II ⁶	Class II ⁶	Class I
0-100' from edge of flood area			Class II ^{6,9}	Class II ⁶

¹ Development/vegetative cover status is identified on the *Metro Vegetative Cover Map* (on file in the Metro Council office). The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs; and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged.

² "Developed areas not providing vegetative cover" are areas that lack sufficient vegetative cover to meet the one-acre minimum mapping unit for any type of vegetative cover.

³ "Low structure vegetation or open soils" means areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of

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open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).

- ⁴ "Woody vegetation" means areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% ~~percent~~ crown closure) located within 300 feet of a surface stream.
- ⁵ "Forest canopy" means areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% ~~percent~~ or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.
- ⁶ Areas that have been identified as ~~habitats~~ Habitats of concern ~~Concern~~, as designated on the ~~Metro Habitats of Concern Map (on file in the Metro Council office and copies available from the Metro Data Resource Center)~~, ~~shall~~ must be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify ~~habitats~~ Habitats of concern ~~Concern~~ as described in Metro's Technical Report for Fish and Wildlife. Examples of ~~habitats~~ Habitats of concern ~~Concern~~ include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.
- ⁷ Except that areas within 50 feet of surface streams ~~shall~~ must be treated as Class II riparian areas if their vegetation status is "Low structure vegetation or open soils," and if they are high gradient streams. High gradient streams are identified on the *Metro Vegetative Cover Map*. If a property owner believes the gradient of a stream was incorrectly identified, then the property owner may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro's Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to ~~this ordinance~~ Metro Council Ordinance No. 05-1077C.
- ⁸ If development prior to the effective date of ~~this title~~ Metro Council Ordinance No. 05-1077C within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area ~~shall~~ must also be considered a developed flood area and ~~shall~~ may not be identified as habitat.
- ⁹ Only if within 300 feet of a river or surface stream.

Table 3.07-13e: Performance and Implementation**Objectives and Indicators**

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
<p>Performance Objective 1:</p> <p>Preserve and improve streamside, wetland, and flood area habitat and connectivity.</p>	<p>1a. <u>10% increase in forest and other vegetated acres within 50 feet of streams</u> (on each side) and wetlands in each sub-watershed over the next 10 years (2015).</p>	<p>1a. 2004 Baseline Condition (regional data):</p> <p>64% vegetated</p> <p>14,000 vegetated acres</p>	<p>Percentage of acres within 50 feet of streams (on each side) and wetlands with any vegetation</p>
		<p>10% increase:</p> <p>70% vegetated</p> <p>1,400 acre increase in vegetation over 10 years</p>	<p>Percentage of acres within 50 feet of streams (on each side) and wetlands with forest canopy</p>
	<p>1b. <u>5% increase in forest and other vegetated acres within 50 to 150 feet of streams</u> (on each side) and wetlands in each subwatershed over the next 10 years (2015).</p>	<p>1b. 2004 Baseline Condition (regional data):</p> <p>59% vegetated</p> <p>15,250 vegetated acres</p>	<p>Percentage of acres between 50 and 150 feet of streams (on each side) and wetlands with any vegetation</p>
		<p>5% increase:</p> <p>62% vegetated</p> <p>760 acre increase in vegetation over 10 years</p>	<p>Percentage of acres between 50 and 150 feet of streams (on each side) and wetlands with forest canopy</p>
	<p>1c. No more than <u>10% increase in developed flood area acreage</u> in each subwatershed over the next 10 years (2015).</p>	<p>1c. 2004 Baseline Condition (regional data):</p> <p>10% of all flood area acres are developed</p> <p>3,450 total acres of developed flood areas</p>	

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Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
		10% increase: 3,800 total acres of developed flood areas	Number of acres of Class I and II Riparian Habitat Percentage of flood area acres that are developed* * "Developed" for purposes of this indicator means the methodology used in Metro's Fish and Wildlife Inventory to identify developed flood areas.
<p>Performance Objective 2: Preserve large areas of contiguous habitat and avoid fragmentation.</p>	2a. <u>Preserve 75% of vacant Class A and B</u> upland wildlife habitat in each subwatershed over the next 10 years (2015).	2a. 2004 Baseline Condition: 15,500 acres of vacant Class A and B upland wildlife habitat	<p>Number of acres of Class A habitat Number of acres of Class B habitat Number of wildlife habitat patches that contain 30 acres or more of upland wildlife habitat</p>
		5% retention: 11,600 acres of vacant Class A and B upland wildlife habitat remaining	
	2b. Of the upland habitat reserved, retain 80% of the number of patches 30 acres or larger in each subwatershed over the next 10 years (2015).	2b. 2004 Baseline Condition: 23,400 acres of upland habitat in 133 patches that contain 30 acres or more of upland wildlife habitat	

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Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
		80% retention: 106 upland habitat patches that contain 30 acres or more of upland habitat	
<p>Performance Objective 3:</p> <p>Preserve and improve connectivity for wildlife between riparian corridors and upland wildlife habitat.</p>	<p>3a. <u>Preserve 90% of forested wildlife habitat acres located within 300 feet of surface streams</u> in each subwatershed over the next 10 years (2015).</p>	<p>3a. 2004 Baseline Condition:</p> <p>28,300 acres within 1,453 patches of forested wildlife habitat located within 300 feet of surface streams</p>	<p>Number and miles of all wildlife corridors</p> <p>Corridor quality: % of habitat acres within corridors with a vegetative width of 200 ft</p>
		<p>90% retention:</p> <p>25,500 acres of forested wildlife habitat located within 300 feet of surface streams</p>	<p>Acres of wildlife patches with a connectivity score of 3 or greater</p> <p>Acres and number of forested wildlife habitat patches (forest canopy or wetland with a total combined size greater than 2 acres) within 300 feet of surface streams compared to acres of the patches located outside of 300 feet of surface streams.</p>

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Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
Performance Objective 3 (continued):	3b. Preserve 80% of non-forested wildlife habitat acres located within 300 feet of surface streams in each subwatershed over the next 10 years (2015).	<div>3b. 2004 Baseline Condition: 14,400 acres within 1,633 patches of non-forested wildlife habitat located within 300 feet of surface streams</div> <div>80% retention: 11,500 acres of non-forested wildlife habitat located within 300 feet of surface streams</div>	Acres and number of non-forested wildlife patches (shrub or low structure/open soils with a total combined size greater than 2 acres) located within 300 feet of a surface streams.
Performance Objective 4: Preserve and improve special habitats of concern.	4a. Preserve 95% of habitats of concern acres in each subwatershed over the next 10 years (2015).	<div>4a. 2004 Baseline Condition: 33% of all habitat designated as HOCs 26,700 total acres of HOCs</div> <div>95% retention: 25,400 total acres of HOCs</div>	Number of acres of wetland Number of acres of white oak woodland Number of acres of bottomland hardwood forest Number of acres of vegetated riverine islands Number of acres of key connector habitat (list out HOC connectors)
Implementation Objectives	Example Indicators		

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Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
<p>Implementation Objective A:</p> <p>Increase the use of habitat-friendly development throughout the region</p>	<p>Number of jurisdictions that allow or require LID</p> <p>Number of jurisdictions providing LID incentives</p> <p>Percentage of region in forest canopy</p> <p>Percentage of impervious area</p> <p>B-IBI (benthic index of biological integrity) scores</p>		
<p>Implementation Objective B:</p> <p>Increase restoration and mitigation actions to compensate of adverse effects of new and existing development on ecological function</p>	<p>Number of restoration projects in one year</p> <p>Number of mitigation projects in one year</p> <p>Acres and distribution by resource class of habitat inventory</p> <p>Number of culverts that need improvement</p> <p>Number of watersheds in region with adopted action plans</p>		

[Ord. 05-1077C, Sec. 5.]

TITLE 14: ~~_____~~URBAN GROWTH BOUNDARY

3.07.1405 Purpose and Intent

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~~This title prescribes criteria and procedures for amendments to the urban growth boundary (UGB) to achieve these objectives. [Ord. 10-1244B, Sec. 12.]

3.07.1410 Metro Urban Growth Boundary

- (a) The Metro UGB ~~for the metropolitan area~~ is incorporated into this title and is depicted on the *Title 14 Urban Growth Boundary and ~~Urban and Rural~~ Reserves Map*. Cities and counties within the Metro boundary ~~shall~~must 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~~must submit the amended UGB to the city and county in which the amended UGB lies. The city and county ~~shall~~must 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~~rural ~~Reserves~~reserves are depicted on the *Title 14 Urban Growth Boundary and ~~Urban and Rural~~ Reserves Map*. Amendments to the UGB made pursuant to this title ~~shall~~must be based upon this map. [Ord. 10-1244B, Sec. 12. Ord. 11-1264B, Sec. 3. Ord. 15-1357.]

Title 14 Urban Growth Boundary and Reserves Map as of March 5, 2025. [Ord. 79-77. Ord. 02-969B. Ord. 04-1040B. Ord. 10-1244B. Ord. 11-1255. Ord. 11-1264B. Ord. 14-1336. Ord. 17-1407. Ord. 18-1427. Ord. 23-1488. Ord. 24-1520.]

HELD FOR TITLE 14 MAP

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.
- (b) Except as otherwise provided in this title, the Metro Council ~~shall~~ must make legislative amendments to the UGB by ordinance in the manner prescribed for ordinances in ~~Chapter~~ chapter VII of the Metro Charter. For each legislative amendment, the Metro Council ~~shall~~ must establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC, other advisory committees and the general public.
- (c) Notice to the public of a proposed legislative amendment of the UGB ~~shall~~ must be provided as prescribed in section 3.07.1465.
- (d) Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the COO ~~shall~~ must prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The COO ~~shall~~ must provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report ~~shall~~ must address:
 - (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
 - (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
 - (3) The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces. [Ord. 10-1244B, Sec. 12.]

3.07.1425 Legislative Amendment to the UGB – --Criteria

- (a) This section sets forth the factors and criteria for amendment of the UGB from state law and the ~~Regional Framework Plan~~ RFP. Compliance with this section ~~shall~~ constitutes compliance with ~~statewide~~ Statewide planning Planning Goal 14, {Urbanization}, and the ~~Regional Framework Plan~~ RFP.
- (b) The Metro Council ~~shall~~ must determine whether there is a need to amend the UGB. In determining whether a need exists, the Metro Council may specify characteristics, such as lot/parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Metro Council's determination ~~shall~~ must be based upon:

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- (1) Demonstrated need to accommodate future urban population, consistent with a 20-year population range forecast coordinated with affected local governments; and
 - (2) Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
 - (3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.
- (c) If the Metro Council determines there is a need to amend the UGB, the Metro Council ~~shall~~must evaluate areas designated urban reserve for possible addition to the UGB and ~~shall~~must determine which areas better meet the need considering the following factors:
- (1) Efficient accommodation of identified land needs;
 - (2) Orderly and economic provision of public facilities and services;
 - (3) Comparative environmental, energy, economic and social consequences; and
 - (4) Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.
 - (5) Equitable and efficient distribution of housing and employment opportunities throughout the region;
 - (6) Contribution to the purposes of Centers and Corridors;
 - (7) Protection of farmland that is most important for the continuation of commercial agriculture in the region;
 - (8) Avoidance of conflict with regionally significant fish and wildlife habitat; and
 - (9) Clear transition between urban and rural lands, using natural and built features to mark the transition.
- (d) If the Metro Council determines there is a need to amend the UGB for housing, in addition to consideration of the factors listed in subsection (c) of this section, the Metro Council ~~shall~~must also consider the following factors in determining which urban reserve areas better meet the housing need:
- ~~Whether the area is adjacent to a city with an acknowledged housing needs analysis that is coordinated with the Metro regional growth forecast and population distribution in effect at the time the city's housing needs analysis or planning process began;~~

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- (1) Whether the area has been concept planned consistent with section 3.07.1110 ~~of this chapter~~;
 - (2) Whether the city responsible for preparing the concept plan has demonstrated progress toward the actions described in section 3.07.620 ~~of this chapter~~ in its existing urban areas;
 - (3) Whether the city responsible for preparing the concept plan has implemented best practices for preserving and increasing the supply and diversity of affordable housing in its existing urban areas; and
 - (4) Whether the city responsible for preparing the concept plan has taken actions to advance Metro's ~~"Six desired outcomes, Characteristics of a Successful Region"~~ set forth in Chapter One of the ~~Regional Framework Plan RFP~~, which are:
 - (A) People live, work and play in vibrant communities where their everyday needs are easily accessible;
 - (B) Current and future residents benefit from the region's sustained economic competitiveness and prosperity;
 - (C) People have safe and reliable transportation choices that enhance their quality of life;
 - (D) The region is a leader in minimizing contributions to global warming;
 - (E) Current and future generations enjoy clean air, clean water and healthy ecosystems;
 - (F) The benefits and burdens of growth and change are distributed equitably.
- (e) The Metro Council may not add land designated rural reserve to the UGB.
- (f) The Metro Council may not amend the UGB in such a way that would create an island of urban land outside the UGB or an island of rural land inside the UGB. [Ord. 10-1244B, Sec. 12; Ord. 17-1408.]

3.07.1427 Mid-Cycle Amendments – Procedures

- (a) The Metro Council may consider a mid-cycle amendment to the UGB for residential needs between legislative UGB amendments, as provided in ORS 197A.299 ~~362(5)(6)~~. Cities may initiate a mid-cycle amendment to the UGB for areas adjacent to the city by filing a proposal on a form provided by Metro.
- (b) The COO will accept proposals from cities for mid-cycle UGB amendments during the period that is between 24 and 30 months after the date of the Metro Council's adoption of its most recent analysis of the regional buildable land supply under ORS 197.296 ~~197A.350~~.

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- (c) The COO ~~shall~~must provide written notice of the deadline for proposals for mid-cycle amendments not less than 90 days before the first date proposals may be accepted to each city and county within the Metro region and to anyone who has requested notification.
- (d) Proposals must indicate that they have the support of the governing body of the city making the proposal.
- (e) As part of any proposal, the city ~~shall~~must provide the names and addresses of property owners for notification purposes, consistent with section 3.07.1465.
- (f) The proposing city ~~shall~~must provide a concept plan for the urban reserve area that includes the proposed expansion area consistent with section 3.07.1110.
- (g) The proposing city ~~shall~~must provide written responses to the criteria listed in section 3.07.1428(b).
- (h) Proposals from cities under this section ~~shall~~must be initially reviewed by the COO and the Metro Planning, Development and Research Department. No later than 60 days after the final date for receiving proposals under subsection (b) of this section, the COO ~~shall~~must submit a recommendation to the Metro Council regarding the merits of each proposal, including consideration of the criteria listed in Section 3.07.1428.
- (i) The Metro Council is not obligated to take action on proposals submitted by cities or on the recommendation of the COO. If the Metro Council chooses to expand the UGB in accordance with one or more of the proposals, it may add no more than 1,000 acres total.
- (j) If the Metro Council elects to amend the UGB under this section, it ~~shall~~must be accomplished by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each mid-cycle amendment, the Metro Council ~~shall~~must establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC, other relevant advisory committees, and the public.
- (k) Any decision by the Metro Council to amend the UGB under this section must be adopted not more than four years after the date of the Metro Council's adoption of its most recent analysis of the regional buildable land supply under ORS ~~197.296~~197A.350.
- (l) Notice to the public of a proposed amendment to the UGB under this section ~~shall~~must be provided as prescribed in section 3.07.1465. [Ord. 17-1408.]

3.07.1428 Mid-Cycle Amendments – Criteria

- (a) In reviewing city proposals for mid-cycle UGB amendments, the Metro Council ~~shall~~must determine whether each proposal demonstrates a need to revise the most recent analysis of the regional buildable land supply as described in ORS

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~~197.299(5)~~197A.350. The Metro Council's decision ~~shall~~must include consideration of:

- (1) Need to accommodate future population, consistent with the most recently adopted 20-year population range forecast; and
 - (2) Need for land suitable to accommodate housing and supporting public facilities and services, schools, parks, open space, commercial uses, or any combination thereof.
- (b) If, after revising its most recent analysis of the buildable land supply under ~~paragraph subsection~~ (a) of this subsection, the Metro Council concludes that expansion of the UGB is warranted, the Metro Council ~~shall~~must evaluate those areas that have been proposed by cities for possible addition to the UGB. Any expansion(s) under this section may not exceed a total of 1,000 acres. Cities proposing mid-cycle UGB amendments ~~shall~~must demonstrate that:
- ~~(1)~~ — The city has an acknowledged housing needs analysis that was completed in the last six years and is coordinated with the Metro regional growth forecast and population distribution in effect at the time the city's housing needs analysis or planning process began;
 - ~~(2)~~(1) The housing planned for the city's proposed UGB expansion area is likely to be built in fewer than 10 years. As part of any proposal, cities must provide a concept plan that is consistent with section 3.07.1110 of this chapter. Cities may also provide evidence of property owner support for the proposed UGB expansion, and/or other evidence regarding likelihood of development occurring within 10 years;
 - ~~(3)~~(2) The city has demonstrated progress toward the actions described in section 3.07.620 of this chapter in its existing urban areas;
 - ~~(4)~~(3) The city has implemented best practices for preserving and increasing the supply and diversity of affordable housing in its existing urban areas. Such practices may include regulatory approaches, public investments, incentives, partnerships, and streamlining of permitting processes; and
 - ~~(5)~~(4) The city has taken actions in its existing jurisdiction as well as in the proposed expansion area that will advance Metro's ~~"Six desired outcomes,~~ Characteristics of a Successful Region" set forth in Chapter One of the Regional Framework Plan RFP and in section 3.07.1425(d)(4).
- (c) The land proposed for UGB expansion must be a designated urban reserve area.
- (d) Mid-cycle UGB amendments made under this section are exempt from the boundary location requirements described in Statewide Planning Goal 14. [Ord. 17-1408.]

3.07.1430 Major Amendments – Procedures

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- (a) A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The COO will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Metro Council is completing its analysis of buildable land supply under ORS ~~197.299~~ 197A.350. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may accept an application at other times by a vote of five members of the Metro Council.
- (b) Except for that calendar year in which the Metro Council is completing its analysis of buildable land supply, the COO ~~shall~~ must give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline ~~on Metro's website in a newspaper of general circulation in Metro~~ and in writing to each city and county in Metro and anyone who has requested notification. The notice ~~shall~~ must explain the consequences of failure to file before the deadline and ~~shall~~ must specify the Metro representative from whom additional information may be obtained.
- (c) With the application, the applicant ~~shall~~ must provide the names and addresses of property owners for notification purposes, consistent with section 3.07.1465. The list ~~shall~~ must be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.
- (d) The applicant ~~shall~~ must provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Metro Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.
- (e) The COO will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The COO will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.
- (f) Within 14 days after receipt of a complete application, the COO will:
 - (1) Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
 - (2) Notify the public of the public hearing as prescribed in section 3.07.1465 ~~of this title~~.
- (g) The COO ~~shall~~ must submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the COO

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to be used at the hearing ~~shall~~must be available to the public at least seven days prior to the hearing.

- (h) If the proposed major amendment would add more than 100 acres to the UGB, the COO ~~shall~~must prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in ~~subsection (d) of~~ section 3.07.1420(d).
- (i) An applicant may request postponement of the hearing within 20 days after filing a complete application. The COO may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application ~~shall~~will be considered withdrawn and the COO will return the unneeded portion of the fee deposit assessed pursuant to section 3.07.1460.
- (j) Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.
- (k) Failure of the applicant to appear at the hearing ~~shall~~will be grounds for dismissal of the application unless the applicant requests a continuance prior to the hearing. The applicant has the burden of demonstrating that the proposed amendment complies with the criteria.
- (l) The hearings officer ~~shall~~must provide the following information to participants at the beginning of the hearing:
 - (1) The criteria applicable to major amendments and the procedures for the hearing;
 - (2) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
 - (3) A statement that failure to raise an issue in a manner sufficient to afford the hearings officer and participants an opportunity to respond to the issue precludes appeal of that issue.
- (m) The hearing ~~shall~~must be conducted in the following order:
 - (1) Presentation of the report and recommendation of the COO;
 - (2) Presentation of evidence and argument by the applicant;
 - (3) Presentation of evidence and argument in support of or opposition to the application by other participants; and
 - (4) Presentation of rebuttal evidence and argument by the applicant.

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- (n) The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing ~~shall~~must be continued to a date, time and place certain at least seven ~~(7)~~ days from the date of the initial evidentiary hearing. A reasonable opportunity ~~shall~~must be provided at the continued hearing for persons to present and rebut new evidence.
- (o) If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record ~~shall~~must be left open for at least seven ~~(7)~~ days. Any participant may respond to new evidence during the period the record is left open.
- (p) Cross-examination by parties ~~shall~~must be by submission of written questions to the hearings officer, who ~~shall~~must give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.
- (q) A verbatim record ~~shall~~must be made of the hearing, but need not be transcribed unless necessary for appeal.
- (r) The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer ~~shall~~must prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participants, and allocate the charges on the basis of cost incurred by each applicant.
- (s) Within 15 days following the close of the record, the hearings officer ~~shall~~must submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the COO, who ~~shall~~must make it available for review by participants.
- (t) Within seven ~~(7)~~ days after receipt of the proposed order from the hearings officer, the COO ~~shall~~must set the date and time for consideration of the proposed order by the Metro Council, which date ~~shall~~must be no later than 40 days after receipt of the proposed order. The COO ~~shall~~must provide written notice of the Metro Council meeting to the hearings officer and participants at the hearing before the hearings officer, and ~~shall~~must post notice of the hearing ~~at~~on Metro's website, at least 10 days prior to the meeting.
- (u) The Metro Council ~~shall~~must consider the hearings officer's report and recommendation at the meeting set by the COO. The Metro Council will allow oral and written argument by those who participated in the hearing before the hearings officer. Argument must be based upon the record of those proceedings. Final Metro Council action ~~shall~~must be as provided in section 2.05.045 of the Metro Code. The Metro Council ~~shall~~must adopt the order, or ordinance if the Metro Council decides

to expand the UGB, within 15 days after the Metro Council's consideration of the hearings officer's proposed order. [Ord. 10-1244B, Sec. 12.]

3.07.1435 Major Amendments – Expedited Procedures

- (a) The COO may file an application at any time to add land to the UGB for industrial use, ~~pursuant to section 3.07.460~~, by major amendment following the expedited procedures in this section. The application under this section remains subject to subsections (c), (d), (h), (m) and (q) of section 3.07.1430.
- (b) Within 10 days after receipt of a complete application, the Metro Council President will:
 - (1) Set the matter for a public hearing before the Metro Council for a date no later than 55 days following receipt of a complete application; and
 - (2) Notify the public of the public hearing as prescribed in section 3.07.1465.
- (c) The COO ~~shall~~ must submit a report and recommendation on the application to the Metro Council not less than 15 days before the hearing and send copies to those who have requested copies. Any subsequent report by the COO to be used at the hearing ~~shall~~ must be available to the public at least seven ~~(7)~~ days prior to the hearing.
- (d) Participants at the hearing need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must show the date of the meeting at which the organization adopted the position presented and authorized the person to represent it.
- (e) The Metro Council President ~~shall~~ must provide the following information to participants at the beginning of the hearing:
 - (1) The criteria applicable to major amendments and the procedures for the hearing;
 - (2) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal.
- (f) The Metro Council President may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the Metro Council President grants a continuance, the hearing ~~shall~~ must be continued to a date, time and place certain at least seven ~~(7)~~ days from the date of the initial evidentiary hearing. A reasonable opportunity ~~shall~~ must be provided at the continued hearing for persons to present and rebut new evidence.
- (g) If new evidence is submitted at the continued hearing, the Metro Council President may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the Metro Council President grants the request, the record ~~shall~~ must be left open for at least seven ~~(7)~~ days. Any participant may respond to new evidence during the period the record is left open.

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- (h) The Metro Council President may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.
- (i) Within 15 days following the close of the record, the Metro Council ~~shall~~must adopt:
 - (1) An ordinance, with findings of fact and conclusions of law, that amends the UGB to add all or a portion of the territory described in the application; or
 - (2) A resolution adopting an order, with findings of fact and conclusions of law that denies the application. [Ord. 10-1244B, Sec. 12.]

3.07.1440 Major Amendments – --Criteria

- (a) The purpose of the major amendment process is to provide a mechanism to address needs for land that cannot wait until the next analysis of buildable land supply under ORS ~~197.299~~197A.350. Land may be added to the UGB under sections 3.07.1430 and 3.07.1440 only for public facilities and services, public schools, natural areas and other non-housing needs and as part of a land trade under subsection (d) of this section. An applicant under section 3.07.1430 must demonstrate compliance with this purpose and these limitations.
- (b) The applicant ~~shall~~must 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), (c), (d), (e), and (f) of section 3.07.1425. The applicant ~~shall~~must 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 (e)(5) of section 3.07.1120(c)(5) 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~~must 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 Metro Council may add land to the UGB in a trade that removes a nearly equal amount of land from the UGB. If the Metro Council designates the land to be added for housing, it ~~shall~~must designate an appropriate average density per net developable acre. [Ord. 10-1244B, Sec. 12. Ord. 15-1357.]

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

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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~~must 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~~must also include the positions on the application of appropriate local governments and special districts, in the manner required by ~~subsection (d) of section 3.07.1430(d)~~.

- (b) The COO will determine whether an application is complete and ~~shall~~must notify the applicant of the determination within ~~ten~~10 working days after the filing of the application. If the application is not complete, the applicant ~~shall~~must complete it within 14 days of notice of incompleteness. -The COO will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.
- (c) Notice to the public of a proposed minor adjustment of the UGB ~~shall~~must be provided as prescribed in section 3.07.1465.
- (d) The COO ~~shall~~must review the application for compliance with the criteria in section 3.07.1450 and ~~shall~~must issue an order with analysis and conclusions within 90 days of receipt of a complete application. The COO ~~shall~~must send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Metro Council and any person who requests a copy.
- (e) The applicant or any person who commented on the application may appeal the COO's order to the Metro Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Metro Council may request in writing within 14 days of receipt of the order that the decision be reviewed by the Metro Council. The Metro Council ~~shall~~must consider the appeal or Metro Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral.
- (f) Notice to the public of a Metro Council hearing on a proposed minor adjustment to the UGB ~~shall~~must be provided as prescribed in section 3.07.1465.
- (g) Following the hearing, the Metro Council ~~shall~~must uphold, deny or modify the COO's order. The Metro Council ~~shall~~must issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy. [Ord. 10-1244B, Sec. 12.]

3.07.1450 Minor Adjustments – Criteria

- (a) The purpose of this section is to provide a mechanism to make small changes to the UGB in order to make land within it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and ~~Regional Framework Plan~~RFP policies applicable to minor adjustments.

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- (b) Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.
- (c) To make a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro ~~shall~~must find that:
 - (1) The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;
 - (2) Adjustment of the UGB will make the provision of public facilities and services easier or more efficient;
 - (3) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
 - (4) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
 - (5) The adjustment will help achieve the 2040 Growth Concept;
 - (6) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and
 - (7) If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is designated rural reserve or for agriculture or forestry pursuant to a statewide planning goal.
- (d) To approve a minor adjustment to make the UGB coterminous with property lines, or natural or built features, Metro ~~shall~~must find that:
 - (1) The adjustment will result in the addition of no more than two net acres to the UGB;
 - (2) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
 - (3) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
 - (4) The adjustment will help achieve the 2040 Growth Concept; and
 - (5) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

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- (e) Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro ~~shall~~must find that:
 - (1) The delineation was done by a professional engineer registered by the State of Oregon;
 - (2) The adjustment will result in the addition of no more than 20 net acres to the UGB;
 - (3) The adjustment will help achieve the 2040 Growth Concept; and
 - (4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.
- (f) If a minor adjustment adds more than two ~~(2)~~ acres of land available for housing to the UGB, Metro ~~shall~~must designate an appropriate average density per net developable acre for the area.
- (g) The COO ~~shall~~must submit a report to the Metro Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept. [Ord. 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 or~~ 3.07.1435 shall be is subject to the requirements of sections 3.07.1120 and 3.07.1130 ~~of this chapter.~~
- (b) If the Metro Council amends the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435, it ~~shall~~must:
 - (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, *Planning for New Urban Areas*, 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 Metro Council ~~shall~~must assign responsibility according to the agreement.;
 - (2) ~~Establish~~ Designate the 2040 Growth Concept ~~design~~ Design type ~~Type~~ designations applicable to the land added to the UGB, ~~including~~ considering the specific land need, if any, that is the basis for the amendment. If the ~~design~~ Design type ~~Type~~ designation authorizes housing, the Metro Council ~~shall~~must designate an appropriate average density per net developable acre consistent with the need for which the UGB is expanded.;

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- (3) Establish the boundaries of the area that ~~shall~~must be included in the planning required by Title 11. A planning area boundary may include territory designated urban reserve, outside the UGB; and
 - (4) Establish the time period for city or county compliance with the requirements of Title 11, which ~~shall~~ will be two ~~(2)~~ years following the effective date of the ordinance adding the area to the UGB unless otherwise specified.
- (c) If the Metro Council amends the UGB pursuant to any of the sections of this title, it may establish other conditions it deems necessary to ensure the addition of land complies with state planning laws and the Regional Framework Plan ~~RFP~~. If a city or county fails to satisfy a condition, the Metro Council may enforce the condition after following the notice and hearing process set forth in section 3.07.850 of this chapter. [Ord. 10-1244B, Sec. 12. Ord. 15-1357.]

3.07.1460 Fees

- (a) Each application submitted by a property owner or group of property owners pursuant to this title ~~shall~~must be accompanied by a filing fee in an amount to be established by the Metro Council. Such fee ~~shall~~ may not exceed Metro's actual cost to process an application. The fee may include administrative costs, and the cost of a hearings officer and ~~of~~ public notice.
- (b) The fee for costs ~~shall~~must 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 (DLCD) and other interested persons.
- (c) Before a hearing is scheduled, an applicant ~~shall~~must submit a fee deposit. In the case of an application for a minor adjustment pursuant to section 3.07.1445, the applicant ~~shall~~must submit the fee deposit with the application.
- (d) The unexpended portion of an applicant's deposit, if any, ~~shall~~ will 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~~must pay to Metro an amount equal to the costs in excess of the deposit prior to final action by the Metro Council.
- (e) The Metro 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. [Ord. 10-1244B, Sec. 12.]

3.07.1465 Notice Requirements for Proposed Amendments by Amendment Type

- (a) For a proposed legislative amendment under section 3.07.1420, the COO ~~shall~~must provide notice of the public hearing ~~in the following manner~~:
 - (1) In writing to ~~the Department of Land Conservation and Development~~ DLCD and local governments of the Metro region at least 35 days before the first public hearing on the proposal; and

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- (2) To the general public at least 35 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's website.~~
- (b) For a proposed mid-cycle amendment under section 3.07.1427, the COO ~~shall~~ must provide notice of the first public hearing on the proposal ~~in the following manner:~~
 - (1) In writing at least 35 days before the first public hearing on the proposal to:
 - (A) ~~The Department of Land Conservation and Development~~ DLCD;
 - (B) The owners of property that is being proposed for addition to the UGB; and
 - (C) 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~~ region;
 - (B) A neighborhood association, community planning organization, or other organization for ~~citizen~~ public 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
 - (C) Any other person who requests notice of amendments to the UGB.
 - (3) To the general public by posting notice on ~~the Metro's~~ website at least 30 days before the first public hearing on the proposal.
- (c) For a proposed major amendment under ~~the Sections~~ 3.07.1430 or 3.07.1435, the COO ~~shall~~ must provide notice of the hearing ~~in the following manner:~~
 - (1) In writing at least 35 days before the first public hearing on the proposal to:
 - (A) The applicant;
 - (B) The director of ~~the Department of Land Conservation and Development~~ DLCD;
 - (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

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if it is designed 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~~region;
 - (B) A neighborhood association, community planning organization, or other organization for ~~citizen~~public 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 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
 - (C) To the general public by posting notice on ~~the Metro's~~ website at least 30 days before the first public hearing on the proposal.
- (d) The notice required by subsections (a), (b) and (c) of this section ~~shall~~must include:
 - (1) A map showing the location of the area subject to the proposed amendment;
 - (2) A description of the area subject to the proposed amendment reasonably expected to give notice as to its actual location, with street address or other easily understood geographical reference if available~~The time, date and place of the hearing;~~
 - (3) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings~~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) The time, date and place of the hearing on the proposed amendment~~A statement that interested persons may testify and submit written comments at the hearing;~~
 - (5) A statement that interested persons may testify and submit written comments at the hearing~~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) The name of the Metro staff to contact, an email address and telephone number for more information~~A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;~~

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- (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 paragraph~~ (c)(1)(C) of this section, the information required by ORS 268.393(3).
- (e) For a proposed minor adjustment under section 3.07.1445, the COO ~~shall~~ must provide notice ~~in the following manner~~:
 - (1) In writing to the director of ~~the Department of Land Conservation and Development~~ DLCD at least 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;
 - (B) The owners of property within 500 feet of the property subject to the proposed adjustment;
 - (C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;
 - (D) Any neighborhood association, community planning organization, or other organization for ~~citizen~~ public involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and
 - (E) Any other person requesting notification of UGB changes.
- (f) The notice required by subsection (e) of this section ~~shall~~ must include:
 - (1) A map showing the location of the area subject to the proposed amendment;
 - (2) A description of the ~~property area subject to the proposed amendment~~ reasonably calculated expected to give notice as to its actual location, with street address or other easily understood geographical reference if available;
 - (3) ~~A list of the applicable criteria for the proposal~~ A statement that interested persons may submit written comments and the deadline for the comments;

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- (4) A statement that interested persons may submit written comments and the deadline for the comments~~The name of the Metro staff to contact and telephone number for more information; and~~
- (5) The name of the Metro staff to contact, an email address and telephone number for more information~~A list of the applicable criteria for the proposal.~~

3.07.1470 Notice of Amendment Hearing to Tribes and Request for Information

- (a) At least 45 days prior to the first evidentiary hearing on a proposed amendment to the UGB, notice of the proposed amendment must be provided to Tribes with an ancestral connection to land within the Metro district or the UGB. The Tribes with an ancestral connection to this land are those identified as having ancestral connection to this land on a list obtained from the Legislative Commission on Indian Services.
- (b) The notice to Tribes required by subsection (a) of this section must include:
 - (1) A map showing the location of the area subject to the proposed amendment;
 - (2) A description of the area subject to the proposed amendment reasonably expected to give notice as to its actual location, with street address or other easily understood geographical reference if available;
 - (3) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;
 - (4) Information on accessing any concept plan for an area proposed to be added to the UGB as part of the amendment;
 - (5) A request for information on potential conflicts between future urbanization of a proposed UGB expansion area on cultural areas;
 - (6) The time, date and place of the hearing on the proposed amendment;
 - (7) A statement that interested persons may testify and submit written comments at the hearing;
 - (8) A statement of when any written report and recommendation of the COO on the proposed amendment will be available and how it may be obtained; and
 - (9) The name of the Metro staff to contact, an email address, and telephone number for more information.
- (c) When Metro receives information describing a potential conflict with an archaeological site, it must inform the Oregon State Historic Preservation Office (SHPO) of the information prior to adoption of the UGB amendment and follow SHPO's direction for managing information on known or suspected archaeological sites, including information that is exempt from public records disclosure under ORS 192.345(11). Metro must convey the responses to the notice required by

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subsection (a) of this section from a Tribe to the city or county responsible for comprehensive planning of the UGB expansion area consistent with SHPO's direction.

3.07.1475 Notice of Adopted Amendments

The COO ~~shall~~must notify each county and city in the Metro district of each adopted amendment of the UGB. [Ord. 10-1244B, Sec. 12. Ord. 15-1357; Ord. 17-1408.]

Chapter 3.09 – Local Government Boundary Changes

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3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS 268.347 to 268.354. This chapter applies to boundary changes within the ~~boundaries of Metro~~ Metro boundary or of urban reserves designated by Metro and any annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend ~~the region Metro's Urban-urban Growth-growth Boundary-boundary~~ (UGB). [Ord. 98-791, Sec. 1. Ord. 07-1165A, Sec. 1. Ord. 10-1244B, Sec. 14. Ord. 12-1276, Sec. 1.]

3.09.020 Definitions

“Adequate level of urban services” means a level of urban services adequate to support the higher number of dwelling units and jobs specified for the appropriate ~~Design~~ Type in section 3.07.640(a) of Title ~~6 of the Urban Growth Management Functional Plan, the~~ Metro Code or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.

Affected entity means a county, city or district for which a boundary change is proposed or is ordered.

Affected territory means territory described in a petition.

Boundary change means a major or minor boundary change involving affected territory lying within the ~~jurisdictional boundaries of Metro~~ Metro boundary or the boundaries of urban reserves designated pursuant to ORS 195.137 to 195.145.

Deliberations means discussion among members of a reviewing entity leading to a decision on a proposed boundary change at a public meeting for which notice was given under this chapter.

District means a:

- (a) Domestic water supply district organized under ORS chapter 264;

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- (b) Park and recreation district organized under ORS chapter 266;
- (c) Metropolitan service district organized under ORS chapter 268;
- (d) Sanitary district organized under ORS 450.005 to 450.245;
- (e) Sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989; or
- (f) District formed under ORS 451.410 to 451.610 to provide water or sanitary service.

Final decision means the action by a reviewing entity, adopted by ordinance, resolution or other means, that determines compliance of the proposed boundary change with applicable criteria and requires no further discretionary action by the reviewing entity other than any required referral to electors. Final decision does not include resolutions, ordinances or other actions whose sole purpose is to refer the boundary change to electors, to declare the results of an election, or to defer or continue deliberations on a proposed boundary change.

Major boundary change means the formation, merger, consolidation or dissolution of a city or district.

Metro boundary means the boundary of Metro as a metropolitan service district.

Minor boundary change means an annexation or withdrawal of territory to or from a city or district or from a county to a city. Minor boundary change also means an extra-territorial extension of water or sewer service by a city or district. Minor boundary change does not mean withdrawal of territory from a district under ORS 222.520.

Necessary party means any county; city; district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory; Metro; or any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory.

Petition means any form of action that initiates a boundary change.

Reviewing entity means the governing body of a city, county or Metro, or its designee.

“Urban reserve” means land designated by Metro pursuant to ORS 195.137 et seq. for possible addition to the UGB.

Urban services means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. [Ord. 98-791, Sec. 1. Ord. 99-803, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 07-1165A, Sec. 1. Ord. 10-1244B, Sec. 14. Ord. 12-1276, Sec. 1.]

3.09.030 Notice Requirements

- (a) The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS ~~Chapters chapters~~ 197, 198, 221 and 222 and any city or county charter provision on boundary changes.

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- (b) Within 45 days after a reviewing entity determines that a petition is complete, the entity ~~shall~~ must set a time for deliberations on a boundary change. The reviewing entity ~~shall~~ must give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice ~~shall~~ must be mailed and posted at least 20 days prior to the date of deliberations. Notice ~~shall~~ must be published as required by state law.
- (c) The notice required by subsection ~~(B)~~ (b) of this section ~~shall~~ must:
 - (1) Describe the affected territory in a manner that allows certainty;
 - (2) State the date, time and place where the reviewing entity will consider the boundary change; and
 - (3) State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.
- (d) A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 days after the time stated in the original notice, notice ~~shall~~ must be reissued in the form required by subsection ~~(B)~~ (b) of this section at least five days prior to the continued date of decision.
- (e) A reviewing entity's final decision ~~shall~~ must be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro ~~shall~~ must include payment to Metro of ~~the any~~ filing fee required pursuant to section 3.09.060. [Ord. 98-791, Sec. 1. Ord. 99-803, Sec. 1. Ord. 07-1165A, Sec. 1.]

3.09.040 Requirements for Petitions

- (a) A petition for a boundary change must contain the following information:
 - (1) The jurisdiction of the reviewing entity to act on the petition;
 - (2) A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
 - (3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and
 - (4) For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.
- (b) A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter. [Ord. 98-791, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 07-1165A, Sec. 1.]

3.09.45 Expedited Decisions

- (a) The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of ~~one hundred~~ 100 percent of property owners and at least ~~fifty~~ 50 percent of the electors, if any, within the affected territory. No public hearing is required.
- (b) The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice ~~shall~~ must state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.
- (c) At least seven days prior to the date of decision the city or Metro ~~shall~~ must make available to the public a report that includes the following information:
 - (1) The extent to which urban services are available to serve the affected territory, including any extra-territorial extensions of service;
 - (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
 - (3) The proposed effective date of the boundary change.
- (d) To approve a boundary change through an expedited process, the city ~~shall~~ must:
 - (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.065;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
 - (5) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities or services.
- (e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB. A city that annexes a lot or parcel lying partially within and partially outside the UGB must provide Metro with

a legal description and map of the portion of the lot or parcel within the UGB if the territory is also annexed to the Metro boundary pursuant to section 3.09.070(g). [Ord. 99-803, Sec. 1. Ord. 07-1165A, Sec. 1. Ord. 10-1244B, Sec. 14.]

3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

- (a) The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS ~~Chapters~~ chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.
- (b) Not later than 15 days prior to the date set for a hearing the reviewing entity ~~shall~~ must make available to the public a report that addresses the criteria identified in subsection ~~(D)~~ (d) of this section and includes the following information:
 - (1) The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;
 - (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
 - (3) The proposed effective date of the boundary change.
- (c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.
- (d) To approve a boundary change, the reviewing entity ~~shall~~ must apply the criteria and consider the factors set forth in ~~subsections (D) and (E)~~ of section 3.09.045 ~~(d) and (e)~~. [Ord. 98-791, Sec. 1. Ord. 99-803, Sec. 1. Ord. 02-964, Sec. 4. Ord. 07-1165A, Sec. 1.]

3.09.060 Process to Make Boundary Change Effective

- (a) After a reviewing entity makes a final decision on a boundary change, the entity and Metro ~~shall~~ must follow the process set forth below:
 - (1) The reviewing entity ~~shall~~ must send its final decision, with the map, legal description and other supporting materials required by law, to the Oregon Department of Revenue (DOR);
 - (2) The DOR will review the materials to determine whether they are in final approval form and notify the reviewing entity of its determination;
 - (3) The reviewing entity ~~shall~~ must send its final decision, with supporting materials and the DOR approval, to Metro;
 - (4) Metro ~~shall~~ must record and map the final decision, with supporting materials and DOR determination, and send it to the Secretary of State (SOS), the reviewing entity, the appropriate county assessor's and elections offices, making the final decision effective on the date of Metro's submittal;
 - (5) The SOS will send its filing letter to Metro;

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- (6) Metro ~~shall must~~ post the final decision, supporting materials, the DOR determination and the SOS filing letter ~~at on the~~ Metro's website.
- (b) If a reviewing entity notifies Metro that the entity needs expedited treatment of its final decision at the time the entity sends its decision to the DOR, Metro ~~will ensure it must~~ completes Step 4 in subsection-A (a) of this section within one working day of its receipt of the final decision and DOR determination from the entity.
- (c) The COO ~~shall may~~ establish a fee structure establishing the amounts to be paid by the reviewing entity with submittal of its final decision in Step 3 of subsection-A (a) of this section to cover Metro's costs for the services set forth in this section. The COO ~~shall must~~ file ~~the a~~ fee schedule they establish with the Clerk of the Metro Council and send it to all cities, counties and special districts in the Metro ~~region~~ boundary.
- (d) Metro ~~shall must~~ create and keep current maps of district boundaries and the boundaries of all cities and counties within the Metro boundary. The maps and any additional information requested that relates to boundary changes ~~shall must~~ be made available to the public at a price that reimburses Metro for its costs. [Ord. 98-791, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 07-1165A, Sec. 1. Ord. 10-1244B, Sec. 14. Ord. 12-1276, Sec. 1.]

3.09.070 Changes to the Metro's Boundary

- (a) Changes to the Metro's boundary may be initiated by Metro or the county responsible for land use planning for the affected territory, property owners and electors in the territory to be annexed, or other public agencies if allowed by ORS 198.850(3). Petitions ~~shall must~~ meet the requirements of section 3.09.040 ~~above~~. The COO ~~shall may~~ establish a filing fee schedule for petitions ~~that shall to~~ reimburse Metro for the expense of processing and considering petitions. The fee schedule established by the COO shall must be filed with the Clerk of the Metro Council.
- (b) Notice of proposed changes to the Metro boundary ~~shall must~~ be given as required pursuant to section 3.09.030, except that the weatherproof posting and newspaper publication are not required.
- (c) Hearings ~~shall must~~ be conducted consistent with the requirements of section 3.09.050.
- (d) Changes to the Metro boundary may be made pursuant to the expedited process set forth in section 3.09.045.
- (e) The following criteria ~~shall~~ apply in lieu of the criteria set forth in ~~subsection (D) of~~ section 3.09.050 ~~(d)~~. The Metro Council's final decision on a boundary change ~~shall must~~ include findings and conclusions to demonstrate that:
 - (1) The affected territory lies within the UGB;
 - (2) The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and

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- (3) The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS ~~Chapter~~ chapter 195 and any concept plan.
- (f) Changes to the Metro boundary that occur by operation of law pursuant to ORS 268.390(3)(b) are not subject to the procedures or criteria set forth in ~~this~~ subsections (a) through (e) of this section.
- (g) Annexations of territory within the UGB by a city under ORS chapter 222 are not subject to procedures or criteria set forth in subsections (a) through (e) of this section. When a city annexes territory under ORS chapter 222 and that territory is within the UGB, the territory is annexed into the Metro boundary without further proceedings. [Ord. 99-818A, Sec. 5. Ord. 02-972A, Sec. 1. Ord. 04-1033A, Sec. 1. Ord. 07-1165A, Sec. 1. Ord. 10-1244B, Sec. 14.]

3.09.080 Incorporation of a City that Includes Territory Within the Metro's Boundary

- (a) A petition to incorporate a city that includes territory within the Metro's boundary ~~shall~~ must comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, and the hearing and decision requirements in ~~subsections (A) and (C) of section 3.09.050(a) and (c),~~ except that the legal description of the affected territory required by section 3.09.040(a)(1)(2) need not be provided until after the ~~Board~~ board of ~~County~~ county ~~Commissioners~~ commissioners establishes the final boundary for the proposed city.
- (b) A petition to incorporate a city that includes territory within the Metro's ~~jurisdictional~~ boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory ~~shall~~ does not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code ~~Chapter~~ chapter 3.07.
- (c) The following criteria ~~shall~~ apply in lieu of the criteria set forth in section 3.09.050 ~~(D)(d)~~. An approving entity shall demonstrate that:
 - (1) Incorporation of the new city complies with applicable requirements of ORS 221.020, 221.031, 221.034 and 221.035;
 - (2) The petitioner's economic feasibility statement must demonstrate that the city's proposed permanent rate limit would generate sufficient operating tax revenues to support an adequate level of urban services, as defined in this chapter and required by ORS 221.031; and
 - ~~(3)~~ Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or has failed to act within the time specified in that statute. [Ord. 04-1033A, Sec. 1. Ord. 07-1165A, Sec. 1. Ord. 10-1244B, Sec. 14. ~~3.09.090~~ Extension of Services Outside UGB
 - ~~(4)~~ (3) Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB. Ord. 10-1244B, Sec. 14.]

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