

TITLE III

PLANNING

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* Formerly "Urban Growth Boundary Amendment Procedures"; renamed by Ordinance No. 96-655E, Sec. 1.

** Chapter 3.02 was originally adopted by the Columbia Region Association of Governments (CRAG) prior to the 1979 merger of CRAG and the Metropolitan Service District. All rules adopted by CRAG continue in effect until superseded or repealed by Metro pursuant to 1977 Or. Laws, ch. 665, sec. 25. References in the CRAG rule to "CRAG" and the CRAG "Board" have been changed to "Metro" and the Metro "Council."

*** Chapter 3.08 formerly called Affordable Housing Technical Advisory Committee (repealed Ord. 00-860A §2)

CHAPTER 3.01

URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

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3.01.005 Purpose

This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:

(a) Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment;

(b) Major amendments to address short-term needs that were not anticipated at the time of legislative amendments; and

(c) Minor adjustments to make small changes to make the UGB function more efficiently and effectively.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1089A, Sec. 1)

3.01.010 Definitions

(a) "Council" has the same meaning as in Chapter 1.01 of the Metro Code.

(b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.

(c) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.

(d) "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of properties.

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

(f) "Public facilities and services" means sewers, water service, stormwater services and transportation.

(g) "UGB" means the Urban Growth Boundary for Metro.

(h) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 97-711, Sec. 2; Ordinance No. 99-818A, Sec. 1; Ordinance No. 00-871A, Sec. 3; Ordinance No. 01-929A, Sec. 7; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1089A, Sec. 1.)

3.01.012 Urban Reserve Areas

(a) Purpose. This section establishes the process and criteria for designation of urban reserve areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.

(b) Designation of Urban Reserve Areas.

- (1) The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.

- (2) The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.
- (3) The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.
- (4) The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.

(c) Plans For Urban Reserve Areas. Cities and counties may plan for urban reserve areas, consistent with the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.

(Ordinance No. 96-655E, Sec. 1. Amended by Ordinance No. 98-772B, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 05-1089A, Sec. 1.)

3.01.015 Legislative Amendment - Procedures

(a) The 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 chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.

(c) Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.

(d) Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The Chief Operating Office shall 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 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.

(e) The Council shall base its final decision on information received by the Council during the legislative process.

(f) The Council may amend the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code to the land until the effective date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to Section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No 98-772B, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 02-964, Sec. 1; Ordinance No. 02-972A, Sec. 1; Ordinance No. 03-1003, Sec. 2; Ordinance No. 05-1089A, Sec. 1.)

3.01.020 Legislative Amendment - Criteria

(a) The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.

(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

- (1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population 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 Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better 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 farm and forest land outside the UGB.

(d) If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:

- (1) Equitable and efficient distribution of housing and employment opportunities throughout the region;
- (2) Contribution to the purposes of Centers;
- (3) Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- (4) Avoidance of conflict with regionally significant fish and wildlife habitat; and
- (5) Clear transition between urban and rural lands, using natural and built features to mark the transition.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 97-711, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 00-871A, Sec. 3; Ordinance No. 02-972A, Sec. 1; Ordinance No. 02-969B, Sec. 10; Ordinance No. 05-1089A, Sec. 1.)

3.01.025 Major Amendments - Procedures

(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 Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1).

(b) Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall 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 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 explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a vote of five members of the full Council.

(c) With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall 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 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 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 Chief Operating Officer 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 Chief Operating Officer 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 Chief Operating Officer 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 3.01.050 of this chapter.

(g) The Chief Operating Officer shall 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 Chief Operating Officer to be used at the hearing shall 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, then the Chief Operating Officer shall

prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in Section 3.01.015(d).

(i) An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer 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 be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.

(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 indicate the date of the meeting at which the organization adopted the position presented.

(k) Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant the burden of demonstrating that the proposed amendment complies with the criteria.

(l) The hearings officer will 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 be conducted in the following order:

- (1) Presentation of the report and recommendation of the Chief Operating Officer;

- (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.

(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 be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall 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 be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

(p) Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall 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 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 prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, 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 submit a proposed order, with findings of

fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.

(t) Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

(u) The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

(v) The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-929A, Sec. 3; Ordinance No. 02-964, Sec. 2; Ordinance No. 02-972A, Sec. 1; Ordinance No. 03-1003, Sec. 3; Ordinance No. 05-1089A, Sec. 1.)

3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under

ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 01-929A, Sec. 4; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1089A, Sec. 1.)

3.01.033 Minor Adjustments - Procedures

(a) A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by Section 3.01.025(d).

(b) The Chief Operating Officer will determine whether an application is complete and shall notify the applicant of the determination within ten working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The Chief Operating Officer 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 be provided as prescribed in Section 3.01.050 of this chapter.

(d) The Chief Operating Officer shall review the application for compliance with the criteria in Section 3.01.035 of this chapter and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall 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 Council and any person who requests a copy.

(e) The applicant or any person who commented on the application may appeal the Chief Operating Officer'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 Council may request in writing within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or 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 Council hearing on a proposed minor adjustment to the UGB shall be provided as prescribed in Section 3.01.050 of this chapter.

(g) Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall 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.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 98-732, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-902, Secs. 1 and 3; Ordinance No. 01-929A, Sec. 5; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1089A, Sec. 1.)

3.01.035 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 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 policies applicable to minor adjustments.

(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 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 more efficient or less costly;
- (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 currently designated for agriculture or forestry pursuant to a statewide planning goal.

(d) To approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall 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.

(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 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 acres of land available for housing to the UGB, Metro shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept designation for the area.

(g) The Chief Operating Officer shall submit a report to the 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.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 98-732, Sec. 2; Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-902, Sec. 2; Ordinance No. 01-929A, Sec. 6; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1089A, Sec. 1.)

3.01.040 Conditions of Approval

(a) Land added to the UGB by legislative amendment pursuant to Section 3.01.015 or by major amendment pursuant to Section 3.01.025 shall be subject to the requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07.1105, et seq.).

(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when the Council adopts a legislative or major amendment to the UGB, the Council shall:

- (1) In consultation with affected local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
- (2) Establish the 2040 Growth Concept design type designations applicable to the land added to the

UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.

- (3) Establish the boundaries of the area that shall be included in the planning required by Title 11. The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) Establish the time period for city or county compliance with the requirements of Title 11, which shall not be less than two years following the effective date of the ordinance adding the area to the UGB.

(c) When it adopts a legislative or major amendment to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in Section 3.07.870 of the Urban Growth Management Functional Plan.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-929A, Sec. 9; Ordinance No. 02-972A, Sec. 1; Ordinance No. 02-969B, Sec. 10; Ordinance No. 1089A, Sec. 1.)

3.01.045 Fees

(a) Each application submitted by a property owner or group of property owners pursuant to this chapter shall be accompanied by a filing fee in an amount to be established by resolution of the Council. Such fees shall not exceed the actual costs of Metro to process an application. The filing fee shall include administrative costs and the cost of hearings officer and of public notice.

(b) The fees for costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.

(c) Before a hearing is scheduled, an applicant shall submit a fee deposit.

(d) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit prior to final action by the Council.

(e) The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 01-929A, Sec. 9; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1089A, Sec. 1.)

3.01.050 Notice Requirements

(a) For a proposed legislative amendment under Section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;
- (2) In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and
- (3) To the general public by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

(b) For a proposed major amendment under Section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:

- (1) In writing at least 45 days before the first public hearing on the proposal to:
 - (A) The applicant;

- (B) The director of the Department of Land Conservation and Development;
 - (C) The owners of property that is being considered for addition to the UGB; and
 - (D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
- (2) In writing at least 30 days before the first public hearing on the proposal to:
- (A) The local governments of the Metro area;
 - (B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and
- (3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

(c) The notice required by subsections (a) and (b) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) The time, date and place of the hearing;
- (3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference if available;

- (4) A statement that interested persons may testify and submit written comments at the hearing;
- (5) The name of the Metro staff to contact and telephone number for more information;
- (6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
- (7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings;
- (8) For proposed major amendments only:
 - (A) An explanation of the proposed boundary change;
 - (B) A list of the applicable criteria for the proposal; and
 - (C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (9) For the owners of property described in paragraph (b)(1)(C) of this section, the information required by ORS 268.393(3).

(d) For a proposed minor adjustment under Section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 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 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.

(e) The notice required by subsection (d) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) 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;
- (3) A statement that interested persons may submit written comments and the deadline for the comments;
- (4) The name of the Metro staff to contact and telephone number for more information; and
- (5) A list of the applicable criteria for the proposal.

(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 99-818A, Sec. 1; Ordinance No. 01-929A, Sec. 9; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1089A, Sec. 1.)

3.01.055 Regular Review of Chapter

The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 02-972A, Sec. 1; Renumbered and amended by Ordinance No. 05-1089A, Sec. 1.)

3.01.060 Severability

Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional, the remainder of this chapter shall continue in full force and effect.

(Ordinance No. 92-450A, Sec. 1. Renumbered and amended by Ordinance No. 05-1089A, Sec. 1.)